2012:3

Joint Evaluation

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Joint Evaluation of Support to Anti-Corruption Efforts
Nicaragua Country Report

Sida

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Joint Evaluation of Support to Anti-Corruption Efforts

Nicaragua Country Report

June 2011

Submitted by
ITAD
in association with
LDP

Preface

Donor agencies have increasingly included the fight against corruption in their overall governance agenda. In preparation for this evaluation, a literature review[1] was undertaken which showed that our support for anti-corruption work has sometimes had disappointing results.

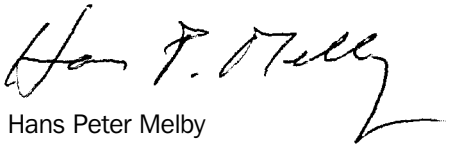
Has the donors' approach to anti-corruption work been adapted to circumstances in the countries? What are the results of support for combating different types of corruption, including forms that affect poor people and women in particular? These were some of the overarching questions that this evaluation sought to answer.

The evaluation provides insights for the debate, drawing on recent evidence from five countries. The main conclusions and recommendations are presented in the synthesis report. In addition, separate reports have been prepared for each of the case countries Bangladesh, Nicaragua, Tanzania, Viet Nam and Zambia.

The evaluation was managed by the Evaluation Department of the Norwegian Agency for Development Cooperation (Norad) and commissioned by this agency together with the Asian Development Bank (ADB), the Danish International Development Assistance (Danida), the Swedish Agency for Development Evaluation (SADEV), the Swedish International Development Co-operation Agency (Sida) and the UK Department for International Development (DFID).

The evaluation was carried out by consultants lead by the consultancy company ITAD. This company is responsible for the content of the reports, including the findings, conclusions and recommendations.

September, 2011



Hans Peter Melby
Acting Director of Evaluation

1 Anti-Corruption Approaches. A Literature Review. Study 2/2008. www.norad.no/evaluering

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Full responsibility for the text of this report rests with the authors. We have attempted to record and interpret the information from various sources up to our best capacity and without any bias within the constraints arising from the arrangements for the country visits. The views contained in this report do not necessarily represent those of the commissioning donors or of the people consulted.

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List of abbreviations and acronyms

AC	Anti-Corruption
ADB	Asian Development Bank
APDEL	Support for the Process of Decentralisation and Local Development Project
CENIDH	Nicaragua Centre for Human Rights
CFAA	Country Financial Accountability Assessment
CGR	Comptroller General of the Republic
CIET	Community Information, Empowerment and Transparency
CPAR	Country Procurement Assessment Review
CSCF	Civil Society Common Fund
CSO	Civil Society Organisation
Danida	Danish International Development Assistance
DFID	UK Department for International Development
EC	European Commission
EU	European Union
FAC	Anti-Corruption Trust Fund
FSLN	Sandinista National Liberation Front
GBS	General Budget Support
GII	Global Integrity Index
GoN	Government of Nicaragua
HQ	Headquarters
IACAC	Inter-American Convention against Corruption
IDB	Inter-American Development Bank
IEEPP	El Instituto de Estudios Estratégicos y Políticas Públicas (Public Policy Institute)
IMF	International Monetary Fund
LAPOP	Latin American Public Opinion Project
MARENA	Ministry for Natural Resources and the Environment
MESICIC	Mechanism for the Follow-up to IACAC
NDP	National Development Plan
NGO	Non-Governmental Organisation
Norad	Norwegian Agency for Development Cooperation
NPN	National Police of Nicaragua
OAS	Organization of American States
PAM	Performance Assessment Matrix
PASA	Danida Agricultural Sector Support Programme in Nicaragua
PASMA	Danida Environmental Support Programme in Nicaragua
PEFA	Public Expenditure and Financial Assessment

PER	Public Expenditure Review
PFM	Public Financial Management
PLC	Constitutionalist Liberal Party
PNI	National Integrity Plan
PRODEN	Programa de Apoyo a la Democracia y los Derechos Humanos en Nicaragua (Programme on Democracy and Human Rights)
PRORURAL	National Rural Development Plan
PRSP	Poverty Reduction Strategy Paper
PSTAC	Public Sector Reform Programme
RAAN	Autonomous Atlantic Region of Nicaragua
RAAS	Autonomous Region of the South Atlantic
SADEV	Swedish Agency for Development Evaluation
SDC	Swiss Agency for Development
Sida	Swedish International Development Cooperation Agency
SIGFA	Integrated Financial Management Information System
SWAp	Sector-Wide Approach
TRANSMUNI	Municipal Transfer System
UK	United Kingdom
UNCAC	UN Convention against Corruption
UNDP	United Nations Development Programme

Executive Summary

Executive summary

Introduction

S1 This evaluation is concerned with support to Anti-Corruption (AC)-related programmes in Nicaragua over the period 2002-10 by Denmark, Norway, Sweden and the United Kingdom (UK). It was produced on the basis of documentation review, interviews with stakeholders at the headquarters (HQ) and regional offices of the donors and in Managua, and a field visit. The visit to Nicaragua took place from 8 to 25 April 2010.

The context in Nicaragua

S2 Nicaragua is perceived to be amongst the most corrupt countries in the region with a Transparency International Corruption Perception Index rating of 2.6 (0-10 with 10 being *free of corruption*). The World Bank Control of Corruption Indicator also confirms Nicaragua's position as one of the most corrupt countries in the world. According to Freedom House, the quality of freedom in Nicaragua is at chronically low levels.

S3 The perception of corruption in Nicaragua is closely linked to the perception of legitimacy of the political system itself. The key drivers of corruption can be traced back to the country's conflict ridden past. Emerging from civil strife in the 1980s, Nicaragua tried to create political stability and peaceful coexistence between polarised forces. Political processes were however, characterised by a lack of transparency from the outset and driven by the interests of powerful players. Nicaraguan politics has been characterised by institutional capture, rent-seeking behaviour, poor civic culture, nepotism and corruption.

S4 Citizens' perceptions of corruption are high, but direct experience is low. The Global Corruption Barometer (2005), Latin America Public Opinion Poll (2009) and Nicaraguan Monitoring System of Public Opinion suggest that a large number of people perceive corruption as a problem, although few have paid bribes recently.

S5 The evaluation period spans three contrasting political regimes. In 2002, Enrique Bolaños came to power, replacing the former President Arnoldo Alemán. Bolaños instigated a wave of reforms including AC which donors actively supported. In 2007 the Sandinistas were re-elected under the leadership of Daniel Ortega. Since then, the relationship with the donors has progressively deteriorated. An optimistic assessment in 2008 showed positive revisions of the National Development

Plan (NDP): *"The new government brings a renewed commitment to poverty reduction to the table and it has a stronger focus on social policy"*,[2] and relatively sound economic policies. Despite this, a variety of factors including allegations of electoral fraud in the 2008 municipal elections, political capture of state institutions and the complex and non-transparent financial arrangements with Venezuela have combined to undermine donor confidence.

S6 Nicaragua has an AC legal framework in place and a series of strategies dating back to 1999, but many challenges remain with its actual implementation. Corruption in Nicaragua is systemic. The problem is not in the legal framework but in weak implementation.[3] An overall lack of mechanisms for accountability and transparency undermines citizens' ability to hold government and civil servants accountable. The civil society sector is active but the role of the media as a potential source of independent information and a watchdog is undermined by main media outlets being controlled by a few family companies and, in some cases, having clear ties with political parties.[4]

S7 The context in Nicaragua is complex and contradictory. The perception of corruption is high, yet the direct experience by ordinary citizens is relatively low. Political commitment has been strong enough to have enabled the development of a legal framework and institutions to tackle AC, but political capture of institutions undermines the working of the executive and the independence of the judiciary. This results in a difficult environment for donors to engage in.

Relevance of donor programmes

S8 Donor support to fighting corruption has three distinct strands. The main specific AC initiative has been support to an Anti-Corruption Trust Fund (FAC). The second area of support was through public sector reform, which included public financial management (PFM) and a relatively brief period of general budget support (GBS). Complementary actions included support to decentralisation and strengthening of municipal systems and financial management. The third area has been support for civil society, in the areas of election monitoring, governance and human rights. All three are assesssed as being of high or moderate relevance to AC as they deal with capacity building and systems which improve transparency, accountability and financial management.

S9 The changing national approach over the period clearly reflects the elements of international AC efforts and the guidelines of the Inter-American Convention against Corruption (IACAC) and UN Convention against Corruption (UNCAC). The most important improvement in the AC Strategy is the early change from a limited approach that began centred on a few government agencies[5] to the inclusion of civil society as well as extending coverage to the private sector and other branches of government.[6]

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2 GAP. 2007. *General Budget Support in 2008 and Beyond. An Appraisal of the Current Situation and Challenges (A oint Analysis of Norway, Finland, Swiss Cooperation and Department for International Development of the U)*.
3 Penailillo, M. and Saldomando, A. 2007. *Anti-Corruption Policy Making in Practice: Nicaragua – A Case Study*. U4 Report.
4 Ibid.
5 *Strategy and Plan for Anti-Corruption and Governance of the Executive Branch*. 2003.
6 *Comprehensive Strategy and National Plan for Transparency and Anti-Corruption*. October 2006.

S10 Sweden, joined later by Norway, has provided extensive support to the police for implementation of their national strategy. This has complemented work under the FAC and is considered relevant to AC. Work with civil society has been targeted at governance programmes through a multi-donor competitive fund, and long-term support to the Nicaragua Centre for Human Rights (CENIDH). Both are highly relevant for fostering demands for transparency and accountability.

Donor ways of working

S11 Project objectives of improving governance are extensive but dedicated indicators of change in corruption are few. Most indicators relate to broad outputs with no specific attention to measures of corruption nor to citizen's perceptions about changing performance in service delivery, although public satisfaction with the police is included. The design and specification of project objectives and indicators do not reflect the AC elements of many projects. A notable exception has been the support to the police, in which a solid attempt has been made to create an objectively verifiable framework for management monitoring and evaluation.

S12 Between 2002 and 2007, donors and the government of Nicaragua (GoN) cooperated well with general agreement amongst donors regarding approaches. A thematic discussion structure was established, with the United Nations Development Programme (UNDP) taking a facilitating role. Initially, there was good cooperation with the new Sandinista government in 2007. But there has been a lack of a substantial platform for dialogue since the withdrawal of many budget support donors in 2009. The Sandinista government has polarised donors with some withdrawing and others still maintaining it is productive to continue engagement. Coordination has become increasingly informal.

S13 One sector which has seen a more positive relationship is the Nicaraguan police. The donors and the police have created a permanent dialogue space to talk about the implementation of the programme and FAC. By comparison, the long and slow progress towards separation of the judiciary and the executive has made it difficult for donors to adopt a harmonised approach.

Effectiveness of selected programmes

S14 Significant progress has been made in establishing the administrative and institutional elements of an **AC system**. Citizens in both the capital city and remote municipalities now have greater access to justice mechanisms. Surveys show a decline in incidence of corruption in service delivery. An independent study confirms that the FAC has contributed to establishing a legal framework for access to information, as well as normative and penal legal framework for corruption, drugs traffic and money laundering. But process through the courts is not effective, with a high proportion of cases being dismissed on appeal with no major convictions.

S15 The Public Sector Reform Programme **(PSTAC)** has contributed to improvements in financial and human resource management. Improvements have occurred in improved budget preparation, including the development of multi-annual budgeting, budget transparency, comprehensiveness and credibility. Weaknesses remain in internal audit, state asset register and procurement. Incidence of direct contracting

has increased markedly under the present regime. Transparency and access to information have not improved. Complementary work has contributed to strengthening performance at municipal level, especially with regard to financial management.

S16 Lengthy and sustained support to the **police** has resulted in steady progress towards a more efficient and effective force. The force has a stronger and more effective presence in municipalities and rural areas. Coordination within the FAC remains a challenge but greater openness has led to statistics being made available about actions to tackle corruption within the force itself

S17 Over the period of the evaluation, there is a wealth of circumstantial evidence of corruption in the **natural resources** sector. Allegations have centred on poor financial management in municipalities, the provision of licences in the fisheries and forestry sectors as well as logging and fishing without licences. The evaluation examined two case study examples. In the case of fisheries it appears that communications between donors in the sector have not been good, especially concerning corruption. The experience of the government's 'Zero Hunger' project points up the danger of assuming corruption exists when the problem might just be mismanagement.

Conclusions

S18 The context in Nicaragua has been difficult for donor engagement owing to a large variation in the quality and trust in relationships between donors and government. Since 2002, there has been significant progress on AC issues. The architecture for the fight against corruption has been established both at national and regional levels and the population has been sensitised to AC work. Donors responded positively and logically to opportunities under the Bolaños regime and provided effective support in several key areas. In particular, it was the right decision to support the AC effort through existing institutions rather than to create a new, dedicated entity. Complementary work in PFM and public sector reform may also have strengthened governance systems and helped prevent corruption.

S19 The problem of political capture is not directly tackled in any AC convention or by any AC institution or programme including those supported by donors. There is widespread public perception of corruption in government institutions. Good progress made under programmes including the FAC, PSTAC and Support for the Process of Decentralisation and Local Development in Nicaragua project (APDEL) have contributed to improvements to laws and regulations and the creation of an architecture for AC. But political interference, seen through weak implementation, avoidance of procurement regulations and the performance of the judiciary all act to undermine the system. It is the major concern in Nicaragua and efforts to address and suggest solutions to the problem will be a major contribution to success in the AC effort. Continued support for capacity building and to stimulate citizens' demands for greater accountability are all relevant but present a dilemma for donors when enhanced capacity is prevented from improving institutional performance.

S20 Relatively little emphasis was placed on the importance of institutional monitoring of corruption. Reporting by CENIDH is credited with helping to pressurise the government to abide by the laws, work under APDEL has contributed to improved financial reporting and public information, and support to the police has included a more recent move to open performance data for public scrutiny. In contrast, there has been little progress in improving transparency in the reporting of findings by the Auditor General or the progress with corruption cases through the courts. Donor support has done relatively little to foster a culture of openness or to target forms of corruption affecting poor people and women beyond general improvements to society arising from work on public sector reform, public service delivery, and natural resource management. Dialogue between donors and government was effective during most of the period evaluated but has declined since underlying issues of governance and government policy began to dominate discussions at budget support meetings and donors withdrew from GBS.

Lessons

S21 Donor support in Nicaragua illustrates well two contrasting but successful strategies. Firstly, long-term and sustained support for institutions, both within government and outside, brings benefits. Secondly, responsiveness to government policy. Support for the FAC responded well to government policy at the time and has succeeded in developing aspects of the AC system.

S22 Approaching AC through established agencies rather than by creating a dedicated AC commission was shown to be possible and effective.

S23 The benefits of technical capacity building through the FAC were enhanced by working in combination with other instruments such as budget support which have greater impact at the political level.

S24 Different incentives such as donor assistance for economic reform and then budget support have been effective in the relationship between donors and the GoN at times during the period of the evaluation and have created opportunities for AC dialogue.

S25 The Nicaraguan Government has an AC Strategy. Donors have decided not to continue support for a variety of reasons including doubts concerning the government's commitment and political will to fight corruption, concerns over election fraud, and the government's role in the acquittal of former President Alemán. Whilst the perceived poor response by government to grand corruption is a contributory factor in withdrawal by some donors, especially from support to the FAC, that withdrawal is also a feature of changing policies in the donor HQs. The combination of donor withdrawal and discontinuation of budget support reduces the scope both for donor coordination and dialogue with government. In such an environment it is difficult to identify a potential catalyst for continuing support. Withdrawal from the FAC may prove a tactic that will harm progress against corruption by signalling that donors no longer treat this work as important, thus undermining the progress that has been made.

Recommendations

S26 Whilst donors must clearly be responsive to changing national policy and seize opportunities as they arise, AC is a slow process and requires long-term and consistent engagement. Donors need to have clear long- or medium-term AC strategies within which short-term tactical decisions can be taken.

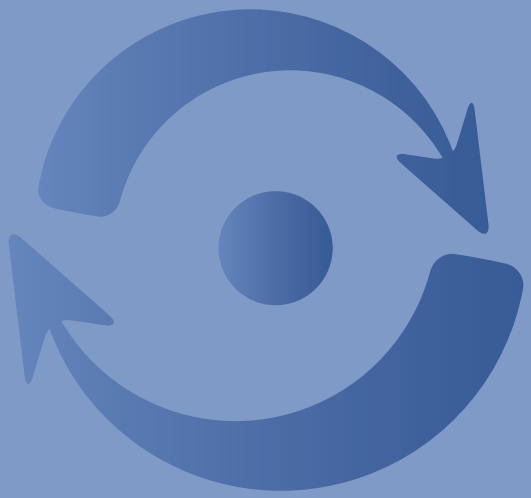
S27 Nicaragua illustrates a situation where the change of political regime led to deteriorating communication and relationship between the government and some donors. Government has retained an AC policy which seems to be having an effect on petty corruption, but there is no dialogue with donors over grand corruption and the effects of political capture. Despite the risks of political interference and dilemma of government undermining its own laws and regulations, donors should maintain support for AC despite the currently poor relations. Several different ways of engagement can be pursued:

- Continue the long-term approach of support to national strategy through capacity building via the FAC.
- Improve the evidence base to provide a framework for both government and civil society to monitor progress, and set indicators that reflect performance of the AC system.
- At present, dialogue about the corruption arising from political capture is compromised because it is so politicised. Donors could support the establishment of a national evidence base on how political capture of state institutions is manifested that would be comparable with evidence on petty corruption and would help make the AC debate more objective. A start would be to develop objective measures of how political capture is manifest.
- Continue to work with civil society to empower citizens and support demand side pressures against corruption.
- Donors have set high standards of integrity and a zero-tolerance approach to misuse of their funds. This must continue to be an over-riding concern.
- Multilateral and UN agencies may be viewed by government as more neutral than bilateral agencies. Donors could consider support to capacity building for governance and AC through the offices of the World Bank or the Inter-American Development Bank (IDB) and UNDP following the example of donors in Viet Nam.
-

S28 There is some evidence from government's participation in regional fora that the government is concerned about its relations with and standing among other countries in the region. Arguably, government might be more receptive to AC support through regional mechanisms and institutions such as the monitoring mechanism for the IACAC and the Caribbean Financial Accountability Task Force.

S29 Future progress would be helped by trying to establish as strong a consensus among those donors remaining in Nicaragua as possible and to bring other influential donors such as Spain into an AC policy dialogue.

Main Report



1. Introduction

Background

1.1. Corruption undermines democratic values and institutions, weakens efforts to promote gender equality, and hampers economic and social development. In recent years, donor agencies have increasingly made the fight against corruption part of their larger governance agenda.

1.2. Five development partners: the Asian Development Bank, the Danish International Development Assistance (Danida), the Swedish International Development Cooperation Agency (Sida), the UK Department for International Development (DFID), and the Norwegian Agency for Development Cooperation (Norad, lead agency), together with the Swedish Agency for Development Evaluation (SADEV) have commissioned a joint evaluation of anti-corruption (AC) efforts over the period 2002-09.

1.3. The evaluation is being implemented in 2009 and 2010, with case study fieldwork to take place in Nicaragua, Bangladesh, Tanzania, Viet Nam and Zambia.

1.4. The commissioning donors have paid considerable attention to AC in their development cooperation in recent years. Levels of corruption remain high in many countries, however, and there is a wish to find out how support in this area can become more effective. The primary audience for the evaluation is the agencies commissioning the work. Secondary audiences include interested parties in the case countries (national authorities, civil society and others), other countries and donor organisations. The purpose and objectives of the evaluation are presented in Box 1.1.

Box 1.1: Purpose and objectives of the evaluation

Purpose of the evaluation
The purpose is to obtain knowledge regarding the relevance and effectiveness of support to reduce corruption, both through specific AC efforts and in other programmes – in order to identify lessons learned regarding what kind of donor support may work (for poor people and women in particular), what is less likely to work and what may harm national efforts against corruption.

Objectives
The objectives are to obtain descriptive and analytic information related to actual results of the support provided by the five commissioning donors, both overall and for each of them in each of the selected countries, regarding:

- corruption diagnostic work (highlighting, where relevant, information disaggregated by gender)
- underlying theory, AC Strategy and expected results of their support to reduce corruption
- the implementation of support to specific AC interventions and achieved results
- other donor interventions or behaviour relevant for corruption and AC efforts, and achieved results in terms of corruption
- the extent of coherence of AC practice between specific AC activities and other programmes, for individual donors
- the extent of coherence of AC practice within the donor group
- the extent that gender and other forms of social exclusion have been taken into account in donor interventions.

The report

S30 This evaluation is concerned with support to Anti-Corruption (AC)-related programmes over the period 2002-10 by Denmark, Norway, Sweden and the United Kingdom (UK). It was produced on the basis of documentation review, interviews with stakeholders at the headquarters (HQ) and regional offices of the donors and in Managua, and a field visit. The visit to Nicaragua took place from 8 to 25 April 2010. The mission consisted of Derek Poate, Paul Harnett, Imran Ahmad, Jose Luis Velasquez and Mignone Vega. The team were ably supported for interpretation and translation by Adela Monge.

1.5. **Methodology** Reference to full details of the methodology can be found in the Synthesis Report. Details specific to the Nicaragua visit are set out in Chapter 2, with supporting material in Annexes. Norway facilitated arrangements for the country visit. The country evaluation is neither a primary evaluation in which original data are collected, nor a 'meta-evaluation' (in which findings from primary evaluation studies are synthesised). The approach was based on a review of available secondary data including evaluation reports and extensive interviews with a range of stakeholders, including donor country staff (past and present), government officials, non-governmental organisations (NGOs), and consultants. A list of persons consulted is given in Annex 3 and of documents in Annex 4.

1.6. **Limitations** Good preparations at country level had been made before the consultant's team arrived which resulted in a rapid start and few delays while appointments were organised with senior officials. The team met with present and

past senior political and administrative figures including a short encounter with President Daniel Ortega. Meetings were held with representatives of key line ministries but no interview was secured with the Ministry of Natural Resources. A brief visit was made to programmes in one province and the findings have been used to inform the evaluation but are not reported separately.

1.7. **Report Structure.** The report is structured as follows: Chapter 2 describes the methodology used. Chapter 3 looks at the country context for Nicaragua over the period. This leads to a review of the relevance of donor AC programmes in Chapter 4, where the programmes are examined against national needs and donor policies.[7] Chapter 5 looks at how donors have managed their programmes with specific reference to monitoring and evaluation, coordination and alignment with national strategies. In Chapter 6, evidence about the results of the programmes is reviewed with more detailed attention to a number of specific themes. Chapter 7 examines ways in which donors have tackled problems of corruption in the rural infrastructure sector and lessons are drawn from that experience. That leads into Chapter 8 where conclusions are identified, followed by broader lessons in Chapter 9 and some recommendations to the commissioning donors in Chapter 10.

7 In so far as documented evidence is available or the views of informants can be triangulated, the contribution of these different interventions to broader strategy objectives and key policy themes are also addressed.

2. Methodology and analytical framework

Methodology

2.1. The approach is characterised by: the use of an evaluation framework to set out the questions to be answered; a mapping of projects against the categories used by the UN Convention against Corruption (UNCAC); an analysis of projects to understand their intervention logic and evidence of effectiveness; and data collection tools for document review and interviews with key informants.

2.2. The definition of corruption used in this evaluation is *"the abuse of entrusted authority for illicit gain"*. The questions in the terms of reference have been rationalised and simplified into an evaluation framework that is reproduced at Annex 1. This provides a working structure for all analysis of documents and interviews with key respondents. In accordance with the requirements of the terms of reference, the framework deals only with the evaluation criteria of relevance and effectiveness.

2.3. In order to structure the diverse range of projects supported by the five donors, we use the categories in the UNCAC as an organising framework.[8]

2.4. Individual donor projects and programmes are the units of study under the evaluation.[9] In order to investigate their relevance and effectiveness, we have examined the intervention logic of each project and reviewed the statements of objectives and indicators. Understanding the intervention logic is essential if stakeholders are to agree on the purpose and measurement of performance within a programme. We have investigated the intervention logic in two ways: as part of the document review; and in discussion with informants.

2.5. We have described the way in which we have selected and reviewed projects as a 'table-top approach'. This means we have made a broad but 'thin' or 'light' review of all donor programmes in all five countries (the 'table top'), and then chosen major programmes or sectors to examine at greater depth (the 'table legs').[10]

2.6. Progress was made towards the table top prior to the country visit with a comprehensive overview of the contextual and situational analysis in each country (Annex 5), and a review of all relevant donor programmes in each country.

8 This has enabled the evaluators to understand the scope of coverage of the projects and identify any significant gaps in efforts to tackle corruption.
9 For simplicity, the words project and programme are used interchangeably in this report. Project is used as the default term for donor-supported interventions.
10 In practice, owing to the 'clustering' of projects around common themes, few projects were left on the table top.

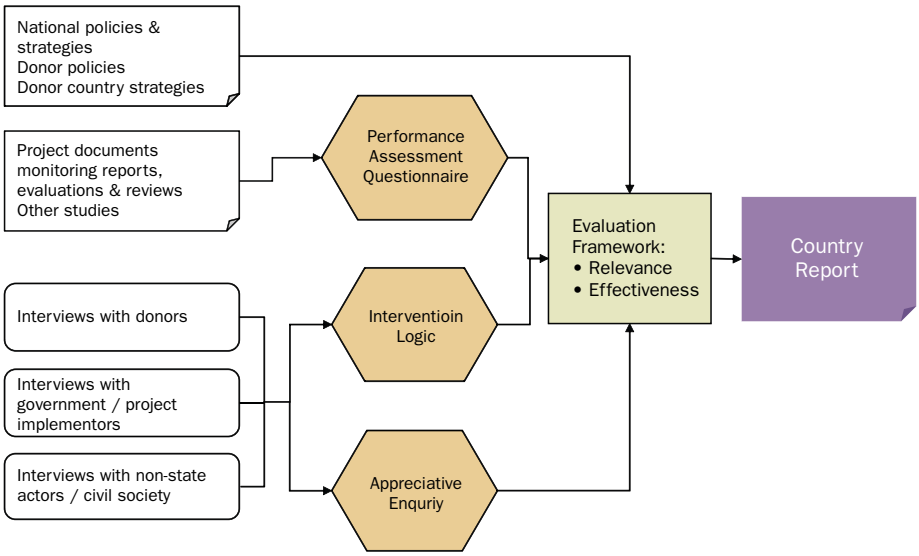
2.7. In addition to evaluating some major programmes, in accordance with the terms of reference, one other sector not dealing specifically with AC, was included for analysis. After discussion with the commissioning donors, support to the natural resources sector was chosen for Nicaragua.

Data collection tools

2.8. A number of conventional data collection tools were adapted for the specific requirements of this evaluation. First is the programme performance assessment questionnaire. This is a document review questionnaire that examines the logic and consistency of the project design, the nature of indicators and monitoring and evaluation. Results are cross-checked during interviews before the findings are finalised. An example of a completed form is at Annex 1.

2.9. Next are interview topic lists. These are used to ensure that interviews with respondents follow the issues as set out in the evaluation framework and are structured consistently by all members of the evaluation team (Annex 1). In addition, one participatory exercise was used in a group meeting of ministerial focal points for AC. Figure 2.1 illustrates how these tools combine to support the country report.

Figure 2.1: Joint external evaluation of anti-corruption – data collection flowchart



Application of the approach in Nicaragua

Donor mapping against UN Convention against Corruption

2.10. Mapping of projects against UNCAC is shown in Table 2.1. The projects were identified from three sources:

- scrutiny of donor websites and published lists of projects
- review of donor country strategy documents and, where available, progress reports against those strategies
- cross checking with donor staff in Nicaragua.

2.11. In reviewing the projects, we found that a significant number were supported by more than one donor; that many projects are follow-on support for which titles and specific objectives may change from phase to phase but the central features are unchanged; and that many projects contribute to more than one of the UNCAC categories, especially under the broad area of prevention.

2.12. Table 2.1 indicates how they were allocated into the table top or legs. Allocation was based on review of the documentation and discussion with donor staff in country. All major projects in the selected 'legs' were reviewed.[11]

11 Some smaller ones, or ones with little documentation available, or the 'older phases' in multi-phase projects, or where the project was supplementary to a larger project, were generally not reviewed in detail. For jointly-funded or jointly-supported organisations, such as financial management reform, documentation from only one of the donors was used.

Table 2.1: Selection of projects for study

Themes	UNCAC	Table Top	Table Legs
1) Establishing preventive AC policy and practices **High relevance** **Moderate donor support**	Articles 5 & 6		**UK, Denmark, Norway, Sweden** Joint Donor Anti-Corruption Trust Fund Nicaragua 2002-10 (several phases) **Denmark Transparencia y Justicia, Programa de Apoyo a la Democracia y los Derechos Humanos en Nicaragua (PRODEN) 2005-10, DKK 50 million (US$9 million)**
2) Dealing with corruption in the public sector **Moderate relevance** **High donor support**	Civil service reforms (Article 7)	**Norway** Support for Ministries and Departments: • Secretaría de Cooperación Externa, (Secretariat of External Cooperation), NOK 492,000 (US$86,645) • Secretaria Ejecutiva de la Presidencia, (Executive Secretariat of the President), NOK 6,684,000 (US$1,135,993) • Secretaría de Relaciones Económicas y Cooperación (Secretariat of Economic Relations and Cooperation), Phase I and II (2002-08) NOK 5,125,867 (US$877,800); Phase III (2008-10) NOK 3.2 million (US$548,000) **Norway** Instituto Nicaraguense de la Mujer (Nicaraguan Institute for Women), NOK 1,871,000 (US$318,012) **Norway** Support for the Oficina de Ética Publica, Public Ethics Office, NOK 1,014,000 (US$172,359)	Public Sector Reform Programme (PSTAC) 2004-09 – Multi-donor project monitored and supervised by the World Bank with support from **Sida, Danida, DFID** and the **Netherlands Development Cooperation**, total budget US$42.2 million **Denmark** Apoyo al Proceso de Descentralización y Desarrollo Local (APDEL) (Support for the Process of Decentralisation and Local Development in Nicaragua) **2004-09, DKK 125 million (US$24,66 million)**
	Procurement and Public Financial Management (PFM) (Article 9)	**Norway** Transparency in Government Procurement Nicaragua 2001-05, NOK 2,334,640 (US$396,915)	PSTAC 2004-09 – Multi-donor project monitored and supervised by the World Bank with support from **Sida, Danida, DFID** and the **Netherlands Development Cooperation**, total budget US$42.2 million
	Public reporting (Article 10)		

Themes	UNCAC	Table Top	Table Legs
3) Dealing with corruption in political processes **<u>High</u> relevance** **<u>Low</u> donor support**	Code of conduct for elected public officials (Article 8)	**Norway** *Ética y Transparencia* (Citizenship Participation and Election Monitoring) Nicaragua 2000-03, NOK 1,100,000 (US$116,886) **Denmark** Capacitación y Movilización de la Policía Electoral de Nicaragua, Elecciones Nacionales, 2006 (Capacitation and Mobilisation of Electoral Police for Nicaragua National Election 2006) C$ 1,404,000.00 **Denmark** OAS Electoral Observation Mission Nicaragua 2006 DKK 304,400,00 **Norway** Support for Consejo Supremo Electoral (Supreme Electoral Council), NOK 4,797,000 (US$815,179)	
4) Dealing with corruption in the private sector and financial institutions **<u>Moderate</u> relevance** **<u>No</u> donor support**	UNCAC Article 12 & 14 Asset Recovery		

Themes	UNCAC	Table Top	Table Legs
5) Participation of society (Demand side) **<u>High</u> relevance** **<u>Moderate to low</u> donor support**	UNCAC Article 13	**UK** Governance and Transparency Fund 010 –Water Aid 'Developing Southern Civil Society advocacy in Water and Sanitation in Sub-Saharan Africa, South Asia and Central America' 2008-12, total budget for Africa, Asia and Latin America GBP 5 million (US$7.7 million) **UK** Governance and Transparency Fund 334 –International Budget Project 2008-13, total budget for Asia, Africa and Latin America GBP 3.5 million (US$5.3 million) **UK** Governance and Transparency Fund 085 –Transparency International Anti-Corruption Delivering Change 2008-13, total funding for all countries GBP 4.6 million (US$7.1 million); Nicaragua funding: GBP 128,731 (US$197,531) **Denmark** Advocating from civil society on public policies related to migrant population 2003-05, US$162,542,00 **Norway** Support for Coordinadora Civil – umbrella organisation for individuals, civil society organisations (CSOs), networks of NGOs and social movements for democracy and sustainable development, NOK 692,000 (US$117,590) **UK Support to NGO policy forum 2004-06** **Sweden** *Comisión Permanente de Derechos Humanos* **(Human Rights Project) 2003-09, SEK 4,415,000 (US$639,285)** **Norway University of Central America Journalist Scholarship AC 2003-05, NOK 900,000 (US$152,981)**	**UK, Denmark, Norway, Sweden,** Support to the Civil Society Common Fund (CSCF) for Democratic Governance – allows Nicaraguan CSOs to apply for funding for governance projects **Norway** Support for CENIDH, approximately NOK 650,000 (US$98,500)

Themes	UNCAC	Table Top	Table Legs
6) Dealing with criminalisation and corruption in the judiciary and prosecution sectors **Very high relevance** **Moderate to low donor support**	UNCAC Article 11 Criminalisation	**Norway** Support for HR Ombudsman	**Norway** Access to Justice in Nicaragua, Restructuring & Institutional Strengthening of the National Police of Nicaragua 2007-10 NOK 12 million, US$2 million (joint with Sida) **Sweden Institutional and Technical support for National Police including work around gender and domestic violence 2006-11, SEK 85,000,000 (US$12,317,323)**

Themes	UNCAC	Table Top	Table Legs
Non-AC-specific sector: Natural resources		**Norway Oil for Development Initiative –** Assistance to the petroleum sector, including Good Governance and Corruption, Phase I (1993-1995); Phase II (1996-2000); Phase III (2002-04); Phase IV (2005-06); **Phase V (2008-09);** NOK 2.25 million (US$382,548) **Norway** FADCANIC/ADDAC Sustainable Agroforestry Development programme (SAD), Phase I 1999-04 NOK 12 million; Phase II, 2004-07 NOK 9 million (US$1,528,993) **Norway** Sectoral Assistance to the National Rural Development Plan (PRORURAL) 2006 onwards **Norway** Development of the Fisheries Sector in Nicaragua 2007 onwards (currently suspended) **Denmark** Environmental Support Programme in Nicaragua, (PASMA) 1999-2005, up to DKK 160 million; PASMA Phase II 2005-10, up to DKK 200 million (US$39.45 million) **Denmark** Agricultural Sector Support Programme in Nicaragua (PASA 2) initiated in 1999 and a second phase of the programme started in June 2004 – aligned with PRORURAL, total budget DKK 135 million (US$26.63 million) **Sweden Fonde Agro – technical support for smallholder farmers, Phase I 2001-04; Phase II 2004-09, SEK 190,000,000; Phase III 2009-10, SEK 48,610,000. Total: SEK 238,610,000 (US$34,551,960)** **Sweden** Support for the government's fund for Agricultural Development PRORURAL 2007-09, SEK 62,000,000 (US$8,977,920).	Fisheries sector Hambre Cero

2.13. UNCAC was ratified by Nicaragua in 2006, and was not a major factor in the approach taken to AC until late in the period of donor interventions that are under evaluation, namely from 2002-09. Of greater importance is Nicaragua's membership of the Inter-American Convention against Corruption (IACAC), which Nicaragua ratified in 1999. Nevertheless, the categories of AC activity that are set out in UNCAC are a useful framing tool in reviewing the AC donor support that has been provided.

Conduct of the country visit

2.14. The structure of meetings during the country visit and a list of people who were consulted appears at Annex 3. It should be noted that the ADB was not present as a donor in Nicaragua, DFID had already exited in 2008, Sweden was in the process of closing their programme after 30 years of cooperation, and Denmark announced their intended departure from Nicaragua during the mission. Subsequent to the country visit, Norway announced in October 2010 a plan to close their diplomatic mission to Nicaragua to free resources for missions elsewhere.[12]

2.15. Part of the visit included a field trip in which meetings were held with an NGO in the agricultural/CSO sector in Jinotega as well as a Departmental Development Council tasked with the social audit of local projects.

2.16. One morning in Managua was devoted to group discussion with Public Ethics focal points appointed in a wide range of government ministries and agencies. During that meeting a force field analysis exercise to examine the factors helping and holding back progress to reduce corruption was carried out.

2.17. A feedback session was held on 22 April 2010.

12 *Changes in Norway's Diplomatic Presence Abroad*. Retrieved 23 April 2011 from www.regjeringen.no/en/dep/ud/pressesenter/pressemeldinger/2010/naervaer_utlandet.html?id=620269

3. Country context

Summary of key points about country context

- The perception of corruption remains high in Nicaragua and appears to be a function of repeated state capture of institutions.
- There has been a gradual improvement in sectoral indicators of service delivery corruption in recent years.
- The period of the Bolaños government 2002-07, saw rapid progress in a number of AC areas such as the development of a draft AC Strategy and some aspects of institutional development as well as civil service and justice sector reform.
- The government's approach to AC has been episodic and tenuous, responsive to interactions with development partners in key areas and without a broad base of consultation and ownership domestically.

Introduction

3.1. Nicaragua experienced a turbulent political history throughout much of the 20th Century. The timeline diagram Table A1.1 of Annex 1, illustrates key national and political events since the start of Somoza's rule in 1936. The experience of autocratic rule and revolutionary extremism has left a situation in which political allegiances are deeply embedded, divisive and highly polarised. In the words of one interviewee, *"Idealistic youth after the revolution have turned into a less pragmatic middle-aged society"*.

3.2. Nicaragua is perceived to be amongst the most corrupt countries in the region with a Transparency International Corruption Perception Index rating of 2.6 (0-10 with 10 being *free of corruption*). The World Bank Control of Corruption Indicator also confirms Nicaragua's position as one of the most corrupt countries in the world, ranking amongst the lowest in terms of government effectiveness, rule of law and control of corruption, having fallen from slightly higher rankings in 2005. According to Freedom House, the quality of freedom in Nicaragua is at chronically low levels. On the *Map of Freedom* 2009, Nicaragua is rated as *partly free* owing to the centralisation of power of the government. Freedom House also notes that the political and civic climate is seriously affected by corruption, political pacts, violence and drug related crimes.[13]

3.3. The perception of corruption in Nicaragua is closely linked to the perception of legitimacy of the political system itself.[14] The key drivers of corruption can be traced

13 Freedom House. 2009. *Map of Freedom 2009*. Retrieved 23 April 2011 from www.freedomhouse.org/template.cfm?page=363&year=2009

14 Seligson, M. 1997. *Nicaraguans Talk about Corruption – A Study of Public Opinion*. Casals & Associates. Retrieved 23 April 2011 from http://sitemason.vanderbilt.edu/files/jXrZMQ/Nicaraguans%20Talk%20About%20Corruption%20March%201997.pdf

back to the country's conflict-ridden past. Emerging from civil strife in the 1980s Nicaragua tried to create political stability and peaceful coexistence between polarised forces. Political processes were however, characterised by a lack of transparency from the outset and driven by the interests of powerful players.[15] As a result, Nicaraguan politics has been characterised by institutional capture, rent-seeking behaviour, poor civic culture, nepotism and corruption. In Nicaragua, the capture of the state institutions (electoral and judiciary branches) by a powerful set of political interests is perceived by many as the highest form of corruption.[16] The perception of corruption is also intertwined with perceptions of transparency, and secrecy in government activities. A more detailed review of this context is presented in Annex 5.

3.4. Some observers characterise corruption as being systematic. This arises from arrangements underpinned by political deals that have allowed the use of institutions on the part of political parties for indirect gain, and for influential people to hold on to personal and patrimonial power with impunity. They have their most visible expression in the Pact of 2000 between the two main political parties – the Sandinista National Liberation Front (FSLN) and Constitutionalist Liberal Party (PLC). The Pact is reported as being intended to ensure the governance of the country by sanctioning presidential alternation and leadership impunity (CINCO, 2005). In other words, an agreement to carve up power between the two parties.

3.5. Peñailillo and Saldomando (2007, U4 Report 1:2007 Part 2C) characterise the expressions of such systematic corruption as being through bribery, embezzlement, influence peddling, abuse of authority, illicit enrichment, laundering of ill-gotten gains, concealment, obstruction of justice and political corruption (ibid, Annex 1). The most specific example quoted is the incident whereby high-ranking officials siphoned international assistance provided for 20,000 families who were victims of Hurricane Mitch in 1998. This example coincides with the year when alleged corrupt practices of the Alemán regime were exposed.

3.6. Citizens' perceptions of corruption are high, but direct experience is low. The Global Corruption Barometer (2005) shows that 75% of the population regards corruption as a problem yet less than 5% have actually paid a bribe over a 12 month period before the survey was taken. A Latin America Public Opinion Poll survey of 2009, as well as the Nicaraguan Monitoring System of Public Opinion (SISMO) survey of 2008 also suggest that a large number of people perceive corruption as a problem, although less than 1% have paid a bribe more than twice in their lives, with another 2% paying a bribe twice or less in their lifetime. The surveys also noted that when questioned on the major issues impacting the lives of the people in Nicaragua, fewer than 3% listed corruption as a major issue.

3.7. Community Information, Empowerment and Transparency (CIET), an internationally renowned social audit organisation, has been conducting targeted audits since 1998 (updated in 2003, 2006 and 2008). In contrast to the analysis of high level institutional corruption, survey findings about citizens' direct experience of cor-

15 *Business Anti-Corruption Portal*. Nicaragua Country Profile. Retrieved 23 April 2011 from www.business-anti-corruption.com/country-profiles/latinamerica-the-caribbean/nicaragua/general-information/

16 Examples include the 'Pacto' between Ortega and Alemán; coercion of opposition party deputies in the National Assembly to support the government; dismissal of civil servants and re-hiring on the basis of political allegiance.

ruption indicate an improving trend. CIET results show an improved corruption situation in most service delivery points, including education, health, police (though a modest reversal in 2008) and municipalities, with the judiciary being the only arm of the state consistently declining over the survey years. The survey results suggest that corruption at the lower levels in society seems to be relatively low and even improving in certain areas.

3.8. A significant difference can be discerned in the practices of the three governments since 2002. The year 2002 saw the end of the Alemán government, widely regarded as very corrupt. To overcome Arnoldo Alemán's inability to stand for election in 2002 under the constitution, a conservative politician, Enrique Bolaños, was nominated to lead the Liberal Party's campaign. Bolaños duly won the election (despite allegations of fraud by the Sandinistas), but decided to break with Alemán and legal processes to address the corruption of the Alemán regime were duly started. In fact, Alemán escaped prosecution on technicalities largely thanks to the Pact. In view of the prominence given to AC efforts and also the weakness of the Bolaños government within the National Assembly, a significant window of opportunity presented itself to the donors to assist with reform generally, and specifically in the area of AC.

3.9. The year 2007 saw the election of the Sandinistas under the leadership of Daniel Ortega. The relationship with the donors has progressively deteriorated in the short period since then. Not so much because of economic policies (95% of the GBS indicators have been achieved in recent years), but for a variety of reasons including: allegations of fraud in the 2008 municipal elections; allegations of harassment of foreign donors including the Swedish and American Ambassadors; and harassment of NGOs that were partners or beneficiaries of foreign aid. The Sandinista's alliance with Venezuela, together with an agreement with the International Monetary Fund (IMF), has given the regime greater financial independence, and therefore less reason to align with donor policies.[17] This occurred despite the view of many donors in 2008 that revisions of the National Development Plan (NDP) showed that "*The new government brings a renewed commitment to poverty reduction to the table and it has a stronger focus on social policy.*"[18]

3.10. Corruption in the history of Nicaragua is explained as a result of the combination of limited institutional and political development and long periods of time during which the use of power has been highly discretional. In this context, corruption has been conceived as the appropriation of the use of power which has resulted in the existence of a patrimonial State. Corruption is mainly attributed to the way in which power is wielded in Nicaragua and how this determines the set-up and the operations of Nicaraguan institutions.

17 Nicaragua benefits from a special arrangement whereby half the revenue from sale of Venezuelan oil is available at concessional rates for financing economic and social programmes. Critics complain that the funds are managed 'off-budget' and that there is little transparency about how they are allocated and managed.

18 GAP. 2007. *General Budget Support in 2008 and Beyond. An Appraisal of the Current Situation and Challenges (A oint Analysis of Norway, Finland, Swiss Cooperation and Department for International Development of the U).*

3.11. High-level corruption in Nicaragua is often referred to as state capture or political capture. There is little in the way of survey data or hard evidence to quantify how this takes place, but a number of examples illustrate the effects:

- The Office of Public Ethics was created by President Bolaños, to lead on major AC reforms, but it was given little political support and inadequate budget.
- Principal reforms under the National Integrity Plan (PNI) include laws on citizen participation, financial administration and penal code reform. But the laws are widely judged to suffer from shortcomings in their design or from loopholes that nullify their implementation.
- Laws on the civil service and on municipal and judiciary careers exist, but have never been put into practice.[19]
- The lower courts have a large majority of Sandinista judges and magistrates; the Supreme Court is balanced between the FSLN (with five members) and PLC (with four) but when the period of tenure of the FSLN members expired in April 2010, they refused to stand down until new appointments were confirmed.
- The Comptroller General has had a pre-eminent role in the government's AC programme, yet its highest-ranking officials are reportedly politicised and on occasions have spoken out publicly on issues still pending administrative action or prosecution.
- The Secretariat of Communications of the Presidency used surveys to measure corruption, but the surveys in 2003 and 2006 are alleged to have selectively omitted some regulators or bodies that granted concessions or decided on large investments, thus avoiding the Secretariat having to pursue politically sensitive issues.

3.12. There is a trend whereby institutions carry out reforms in a way that comply with the wishes of the dominant political and economic groups, and in some instances completely nullify the original intentions of the reform.

3.13. This problem of political capture is not directly tackled in any AC convention or by any AC institution or programme. Politically motivated capture of state institutions is therefore the major concern in Nicaragua, and how to address and suggest solutions to the problem is a major challenge for success in the AC effort.

3.14. Currently, donor/government dialogue appears to be at a low point. On the donor side, allegations of fraud during the 2008 municipal elections have resulted in reduced support for the regime (see Box 3.1). Many examples were cited in interviews including state allocation of property, lack of access to information, utilisation of the Venezuelan funds, prolonged delays in cases under investigation or before the courts, long delays in land titling and demarcation of indigenous people's land, and the early release from jail after conviction for drug-related offenses. Six of the original donors for the Anti-Corruption Trust Fund (abbreviated hereafter by its Spanish initials to FAC) have left the Fund and withdrawn from the country, citing the increase of corruption as a contributory reason for withdrawal.

19 The Judicial Career Law was implemented in a very minor way concerning appointment of judges to the Family Court in 2010.

Box 3.1: The 2008 municipal elections

Nicaraguan election observation group Ethics and Transparency (*Ética y Transparencia*) described the 2008 elections as "*the least transparent and most conflictive elections since 1996*". Election authorities refused to provide domestic election observation groups, such as *Ética y Transparencia*, with credentials in order to observe these elections as they had done before. Major international observation groups invited to observe previous elections, like the Organization of American States (OAS) and the European Union (EU), were not invited to send observers. The elections were overshadowed by allegations of irregularities and fraud. www.ndi.org/content/nicaragua

Ética y Transparencia estimated that at least 33 and probably around 40 mayors out of 146 were elected in a fraudulent way.[19] They also estimate the per capita cost of the election to have been US$27 compared with typically less than US$5 elsewhere in the region (personal communication).

Following the election, the United States and members of the EU suspended millions in international aid to Nicaragua in protest over the alleged electoral fraud, while civil society, religious leaders and opposition parties all demanded a full recount. The Ortega-controlled Supreme Electoral Council however blamed the situation on the media and ratified its contested results by swearing in the new mayors without a recount and without publishing the final vote tallies, as required by law. www.nicatimes.net/nicaarchive/2009_02/0220091.htm

Tackling corruption in Nicaragua

3.15. Formally, Nicaragua has an AC legal framework in place and a series of strategies dating back to 1999 (Table 1.3 of Annex 1), but many challenges remain with its actual implementation. Public institutions are constitutionally independent but often criticised for being highly politicised and corrupt. Nepotism and political affiliation are said to play a huge role in the appointment of civil servants, and those accused of corruption are rarely charged.[21] There is a widespread public perception of corruption in most government institutions particularly in the judiciary, the National Assembly, the Supreme Electoral Council, the Comptroller General, the Human Rights Ombudsman and the National Prosecutor.

3.16. In their case study of AC policymaking, Penailillo and Saldomando (2007) argue that corruption in Nicaragua is systemic. The problem is not in the legal framework, which has been assessed by the Global Integrity Index as recently as 2008 as being very strong, but in weak implementation.[22] They comment that the government lacks a clear and coordinated strategy that would enable the implementation of AC mechanisms. Its implementation is further affected by the lack of coercive powers on the part of the government.

3.17. Over the last decade, Nicaragua has carried out a wide-ranging public sector reform process. Among the aims are the reduction in the size of the government, the privatisation of state enterprises; the design and extension of an integrated

20 *Looking at the Ruins of a Defiled Electoral Process.* Published in Revista Envio No. 332, March 2009. Retrieved 23 April 2011 from www.envio.org.ni/articulo/3952

21 *Business Anti-Corruption Portal*. Nicaragua Country Profile Judicial System. Retrieved 23 April 2011 from www.business-anti-corruption.com/en/country-profiles/latin-america-the-caribbean/nicaragua/corruption-levels/judicial-system/

22 Penailillo, M. and Saldomando, A. 2007. *Anti-Corruption Policy Making in Practice: Nicaragua – A Case Study*. U4 Report.

financial management system across the public sector, including tools to track poverty reduction expenditures; the submission to the National Assembly of a Civil Service Law; and the reorganisation of the public sector institutions.

3.18. A principle objective was to strengthen the public sector's capacity to implement public policies and increase effectiveness, efficiency and transparency in the use of public financial resources, and to ensure the implementation of the Poverty Reduction Strategy. This reform also supported the government's efforts to address and reduce corruption by promoting good governance and institutional development. Specifically it supported Pillar IV of the Poverty Reduction Strategy Paper (PRSP) that focused on governance. Corruption has also been addressed as part of support to the Nicaraguan police.

3.19. However, some observers have argued that the government's approach to AC has been episodic and tenuous, responsive to interactions with development partners in key areas and without a broad base of consultation and ownership domestically. Specific examples from the period up to 2007 are listed by Penailillo and Saldomando (2007).[23] The evaluators consider that the same criticism holds for the present government.

- The set of structural reforms which initiated an AC Strategy that led to the PNI was stimulated primarily to enable Nicaragua to be included in the Heavily Indebted Poor Countries Debt Initiative.
- The government's main priorities were in economic policy and institutional reform. Social development and poverty reduction were pursued with the support of development partners, who were influential about the agenda that included improvements in service delivery of wide benefit to citizens. The positive benefits have been noted in declining experience of service delivery corruption.
- The original AC programme, the PNI, was developed with very little public consultation (mostly as a formality with the National Council for Economic and Social Planning, whose views were not reflected in the final version). Neither the National Assembly nor CSOs were involved in the design; and even within government, the Attorney General was seen as the sole entry point – no consultations took place with the Supreme Court, Public Prosecutor's Office; or the Comptroller General of the Republic (CGR), all of whom were unsupportive.
- The PNI was developed without a clear understanding of the nature of corruption from surveys and studies. As a result, components focused on areas such as civil servants' probity, citizen participation, the state financial system, access to information and reform of the penal code. But the PNI neglected corruption in the judiciary, privatisation, corporate practices, influence peddling and tax exemptions for the wealthy.

3.20. The underlying weakness of the approach can be seen in the choice of bodies for implementation: firstly the National Integrity Committee presided over by the vice president and with government and civil society members. It is notable for not being able to demonstrate any progress beyond drafting the plan itself. The National

23 Ibid.

Integrity Committee was initially absorbed into a newly created Office of Public Ethics, but after two years with little political or financial support, it was superseded by the Secretariat of Communications of the Presidency in 2004 to which it was to report.

3.21. The overall lack of mechanisms for accountability and transparency undermines citizens' ability to hold government and civil servants accountable. Furthermore, the role of the media as a potential source of independent information and watchdog is undermined by main media outlets being controlled by a few family companies and, in some cases, having clear ties with political parties.[24]

3.22. Since 2002, the main specific AC initiative of the commissioning donors has been support to the FAC which was designed at first to support the Attorney General's Office and the Presidency of the Republic, but was enlarged after 2007 to benefit five state institutions.

3.23. Another important component of the FAC was to encourage the government to participate in regional as well as international conventions against corruption as well as other related instruments. These include financing of the IACAC held in Managua in July 2004, and covering the 2003-04 membership of Nicaragua in the Caribbean Financial Accountability Task Force.

3.24. The disparity between the performance of the executive and the practice of politics is visible in the area of law enforcement. The police were commended by Interpol in 2009, arguing that the security situation is the best in the region although, as noted above, surveys show a reversal of the decline in police corruption in 2008.[25] The US State Department in the 2010 International Narcotics Control Strategy Report said that "*Nicaraguan law enforcement and military entities continued to excel in their respective counternarcotics efforts and strengthened their coordination with neighboring countries and U.S. law enforcement entities*". But the same report commented that "*… corruption and political interference continue to plague law enforcement and the judiciary. The continued politicization of the Nicaraguan judiciary and the Nicaraguan Supreme Court in particular, is a worrisome impediment to serious law enforcement efforts*".[26]

3.25. In the period since the first draft of this joint external evaluation report was prepared, a number of further actions have been taken by the government of Nicaragua (GoN). In October 2010, Law No. 735 (and its regulation Decree 70, 2010) was approved for prevention, investigation and persecution of organised crime and the administration of seized property, confiscated and abandoned. This law is one of the requirements of the monitoring process for IACAC (MESICIC) and is a comprehensive legislation that addresses the prevention, control, investigation and prosecution of organised crime offenses, and regulates the establishment and operation of the Seized Property Management Unit.

24 Ibid.
25 *"Población debe estar orgullosa de la Policía"*. Retrieved 23 April 2011 from www.elnuevodiario.com.ni/nacionales/44868
26 United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs. March 2010. *International Narcotics Control Strategy Report 2010 Volume 1.* (Nicaragua Country Report pp. 471-472).

3.26. The law and its rules contain a list of 27 offences typified as organised crime, and created the National Council Against Organised Crime with the Minister of Interior as the Chairman, Attorney General as Vice Chairman, and members including the executive, National Assembly, army, supreme court and the Super Intendancy of banks. After publication of the law, this council will replace the National Council Against Drugs, a counterpart of the FAC.

3.27. Also in October 2010, Law 737 – Management of Procurement for the Public Sector – which replaces the previous Law 323 for the State Procurement and Contracting, was approved. This new law has improved some of the proceedings in order to facilitate institutions to comply with a transparent and legal procurement process.

3.28. The context in Nicaragua is complex and contradictory. The perception of corruption remains high in Nicaragua and appears to be a function of repeated state capture of institutions. There has been a gradual improvement in sectoral indicators of service delivery corruption in recent years. Political commitment has been strong enough to have enabled the development of a legal framework and institutions to tackle AC, and the GoN has been responsive to the findings of the monitoring process for IACAC. But political capture of institutions undermines the working of the executive and the independence of the judiciary. This results in a difficult environment for donors to engage in.

3.29. An interesting assessment appears in the Netherlands Evaluation of GBS to Nicaragua, which was published after this report was first drafted. The relevant conclusions are reproduced in Box 3.2.

Box 3.2: General budget support and governance reform

This evaluation concludes that heavy risks could be identified at the start of the GBS process. First, the Bolaños government had no support in Parliament, so it was unlikely to carry out its governance modernisation agenda that pleased the donors so much. Donors were over-optimistic in thinking that by talking to and supporting this executive, they could change deep institutional and political structures in the country. Second, the donors had a far-too-rosy picture of the intentions of the Bolaños government itself. It was clear that this government did not give priority to investing in poverty reduction, and the results in this area confirm this.

After the change in government in 2007, new risks appeared. The Ortega government was far more interested in implementing policies that benefit the poor, but its main priority proved to be to consolidate its power – breaching liberal democratic principles, if considered necessary. While bilateral donors continued budget support in the first period, with the main purpose to 'improve the country's governance', they stopped disbursing budget support in the second because of 'a deterioration in governance'. This means that in both periods improving governance seems to have been the most important objective for budget support. This was based on the policy assumption, dominant at the time, that improving governance (in the direction of bringing about developed-country-like institutions) is a necessary condition for growth and poverty reduction. However, recent empirical evidence leads to questioning this assumption. Not all elements of the good governance agenda are equally necessary for growth and poverty reduction – although they may be objectives in themselves, especially in so far as democracy and human rights are concerned. This reveals a difficult trade-off between political and socio-economic human rights as international cooperation objectives. Whatever the judgment is, the fact is that the Ortega government's efforts – admittedly, politicised and perhaps not always effective – to increase productive capacities of the poor and to improve access of the poor to social services are no longer supported by GBS from bilateral donors.

Source: Ministry of Foreign Affairs, The Netherlands. 2010. *Evaluation of General Budget Support to Nicaragua 2005-08.* (pp. 12-13). IOB Evaluation No. 329. The Hague.

4. Relevance of the donor programmes

Summary of key points about relevance

- Donor-supported programmes are generally well founded on analysis of political economy and corruption. Analysis of how AC activities will support poverty reduction and attention to gender dimensions are treated less consistently.
- Clear links exist to national strategies. Stakeholders were generally consulted during project preparation but use of analysis by, and consultation with, non-state actors is less consistent, especially for projects directly supporting government institutions.
- Donors were flexible in responding to changing government strategy and political will to fight corruption.
- Ratification of UNCAC took place during the period of the Bolaños government and influenced government actions at that time, but commitments under the convention have not yet had a visible effect on furthering good governance.

4.1. This section examines the relevance of the four donors' programmes. Findings are presented in three parts. First the overall scope of donor programmes; secondly, the evolution of donor approaches to AC; and thirdly, growing donor support for AC-related activity.

Scope of donor programmes

4.2. Development partner AC interventions in Nicaragua are targeted at:

- helping the government build capacity in institutions with a key role in preventing or fighting corruption
- supporting *Ética y Transparencia* and other CSOs
- supporting essential reforms, notably (but not only) in relation to financial governance and civil service reforms.

4.3. Table 2.1 mapped the donor programmes against UNCAC Articles, grouped into seven themes. A total of 21 projects have been identified as having activities with a contributory orientation to supporting government programmes against corruption. Of these, eight were identified for more detailed analysis as being of more direct or close relevance to tackling corruption.

4.4. The single most relevant programme is the FAC. This project has been implemented in several phases with a varying range of partner organisations, described later in this chapter. It is highly relevant because it provides direct support to the government AC Strategy. It has received moderate donor support with a large number of donors withdrawing from the current phase. The largest single pro-

gramme is the PSTAC which is led by the World Bank with a contribution of US$29.5 million. An additional contribution of US$12.7 million from Sida, Danida, DFID and The Netherlands, results in a total budget of US$42.2 million. The project is of moderate relevance as although it tackles civil service reforms, and especially public financial management (PFM), tackling corruption was not a central feature of its design. It has received high donor support. Other major programmes include support for the Nicaraguan National Police and support to CSOs.

4.5. The widest-ranging portfolio of AC projects is with Norway. Norway's total portfolio of relevant projects over the evaluation period is about US$11 million and the projects cover six of the seven intervention themes.

4.6. The composition of projects reveals some clear trends. Significant support has been given to preventative activities, in particular to public sector reform and the FAC. However, many interventions have been piecemeal in nature, reflecting the non-comprehensive nature of the FAC and, in recent years, the reduction in many donors' support to the GoN.

Evolution of donor approaches to anti-corruption

4.7. The current approach to AC was largely initiated in 2002, but has seen a lack of impetus since 2007 as there has been a decline in high-level dialogue with the government, particularly since 2008 after the municipal elections and also as donors have withdrawn GBS. Key events include:

- President Bolaños' pledge to fight corruption in the wake of the Alemán regime, leading to the establishment of the FAC
- the signing of UNCAC by development partners and the host country, leading to a more holistic approach to AC and a renewed focus on revising Nicaragua's legislative framework
- the adoption of the PRSP in 2003 as the country's poverty reduction framework and development partners commitment to align to it
- the Paris Declaration principles, entailing:
  - donor alignment to PRSP objectives
  - a transition from projects to a programme-based approach including Sector-Wide Approaches (SWAps) and GBS; and development partners pledge to support the strengthening of the country's systems
  - the regular holding of GBS meetings covering high level dialogue and the targeting of reform indicators.

UN Convention against Corruption Articles 5 & 6 Preventive policies, practices and bodies: the Anti-Corruption Trust Fund

4.8. In 2002, Denmark, Germany, Norway, Sweden, Switzerland, the Netherlands, the UK and Finland decided to support the government's fight against corruption through the Joint Donor FAC. A few months later, the United Nations Development Programme (UNDP) also joined the fund and has been part of it ever since.

4.9. The evolution of the FAC in Nicaragua is closely linked to the IACAC and the Follow-Up Mechanism for its Implementation (MESICIC); UNCAC; the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; the

United Nations Convention against Transnational Organized Crime; and the International Convention for the Suppression of the Financing of Terrorism.

4.10. The Comprehensive Strategy and FAC provided for the implementation of the conventions, the elaboration of country reports on compliance and the update of the legal AC framework.[27]

- In Phase I – 2002-05 the relatively small sum of US$800,000 was committed by the 9 donors as a show of financial and moral support to the government's effort to put AC efforts on the development agenda of Nicaragua
- On 27 October 2005 a new agreement for Phase II of the programme for the period April 2005–October 2006 was signed. Subsequently, Phase II has been extended through six addenda. The last addenda extended the period of the fund up until 28 February 2010.
- From 2002 to date, approved total budget (all donors) for the programme is approximately US$4.6 million.

4.11. From 2002-07 the FAC only supported the Attorney General's Office and the Presidency of the Republic, a limitation that reduced its relevance and potential effectiveness. In 2008 the FAC was enlarged to benefit five state institutions 1) Attorney General's Office, 2) National Police, 3) Prosecutor General's Office (Public Ministry), 4) Office of Public Ethics, 5) Financial Analysis Committee of the National Council against Drugs, attached to the Ministry of Interior (Ministerio de Gobernación). Interestingly, it was not designed to support the Auditor General's Office. This was supported by donors outside of the fund, in particular by the Inter-American Development Bank (IDB) and through German assistance, though donors felt that a perception of marginalisation by the Comptroller General of the Republic (CGR) had contributed to difficult relations. In addition, a coordination unit was set up in the Attorney General's Office. Figure 4.1 charts the elements of the AC system.

4.12. Despite the expansion in coverage in 2008 there are significant gaps in the approach. Donors and other respondents highlighted the lack of an effective mechanism for asset recovery; absence of provisions for handling cases of grand corruption; limited support for the judiciary; and absence of effective whistleblower protection to support innovations in the public complaints system.

4.13. On the basis of the 2008 review's conclusions and recommendations a new plan for phase III was developed. In this plan the CGR and the Ministry of Education were added to the fund's activities. In a letter of intention, dated 10 December 2008, the donors indicated that they considered financing phase III (3 years) with approximately US$6,633,380. UK and Sweden were not included given their withdrawal from Nicaragua.

4.14. Then, in early 2009, Finland, Denmark and Germany withdrew their support for the programme, owing to doubts concerning the government's commitment and political will to fight corruption after, among others, the acquittal of the ex-President Alemán for corruption charges and reports of irregularities and fraud in the munici-

27 *Comprehensive Strategy and National Plan for Transparency and Anti-Corruption*. October 2006. (pp. 11, 14, 17, 20, 21, 26 and 31). And *National Strategy for Ethics and Governance*. Draft, October 2009.

pal elections of November 2008. In January 2010 the Netherlands followed suit and informed the Government that they were not willing any longer to continue financing the Fund.

Figure 4.1: Nicaragua: anti-corruption system

NICARAGUA: ANTI CORRUPTION SYSTEM				
ACF AREAS	*PREVENTION*	*INVESTIGATION*	*PROSECUTION*	*SANCTION*
INSTITUTIONS	OEP: Public Ethic Office	National Police	National Police	PJ: Judiciary Branch
	CGR: General Accounting Office	CGR: General Accounting Office	MP: Public Prosecutors Office	CGR: General Accounting Office
	PGR: Attorney General Office	PGR: Attorney General Office	PGR: Attorney General Office	
	MINED Ministry of Education	National Council for Anti-Drugs Fight		
		MP: Public Prosecutors Office		

4.15. All four withdrawing donors said that they will continue to support the fight against corruption, but only through NGOs. With the tighter financial situation resulting from the four donors withdrawing their support, it was agreed with the GoN to adjust the programme document to the available funds to be provided by the remaining donors (Norway, Switzerland and UNDP) and to reduce the financing period to 2 years. The reduced budget prevented the planned inclusion of the Auditor General's Office and the Ministry of Education.

4.16. Norway, Switzerland and UNDP have agreed to continue supporting the Fund on the basis of their commitments to the fight against corruption and the acknowledgment that supporting the government provides leverage on the corruption issue. It is the opinion of the Embassy of Norway that withdrawing support from the GoN will send a negative message about the importance given by Norway to the fight against corruption. While it is argued that support from several donors, as in the past, creates a better environment for dialogue, it is also thought that the total absence of support from donors will jeopardise the institutional gains attained so far. The Embassy believe that fighting corruption is a long term task which includes several consecutive stages such as institutional strengthening, improving of legal framework, change in civic values and effective application of the law. Cultural and political patterns developed over many years are not modified in a short time span. Experience shows that ups and downs are to be expected and that cutting losses by abandoning engagement is an undesirable option when dealing with corruption. The resources invested so far would not achieve full potential unless the cooperation continues.

4.17. The FAC was well based on situational analyses, among which were the Analysis of the Anti-Corruption Fight, presented to the President of the Republic by the National Economic and Social Council in 2003; the NDP; and the National Plan for Transparency and Anti-Corruption.

4.18. The problem of corruption was integrated in the NDP and therefore in related sectoral policies.[28] The NDP makes the fight against corruption an explicit goal. The FAC does not specifically address the issues of gender and poverty. However, the NDP and the National Plan for Transparency and Anti-Corruption included gender as a cross-cutting issue and the fight against poverty as its main objective.

4.19. It is possible to observe in the process, the steady introduction of all the elements of the international AC efforts and the guidelines of the UNCAC and IACAC. The most important improvement in the AC Strategy is the early change from a limited strategy that began centred on a few government agencies to the inclusion of the executive branch of government and civil society as well as extending coverage to the private sector and other branches of government. Finally, the most recent initiative proposes to include in the FAC regional and municipal levels of government and more general cross-cutting aims such as the fight against poverty, gender, youth, and the environment, with greater participation of civil society.

UN Convention against Corruption Article 7, the Public Sector: public sector reform programmes

4.20. PSTAC was developed at the beginning of the Bolaños administration in 2002. Priorities focused on two pillars of the NDP or PRSP; Pillar I related to economic growth and Pillar IV related to Governance. Both were perceived as central in facing the challenges confronting public administration at the time.[29]

4.21. PSTAC started as a Technical Assistance Credit for the Public Sector approved by the World Bank. PSTAC was a sectoral support programme as part of the Poverty Reduction Strategy from 2004 to 2008 (extended until 2009). During 2004, four bilateral donors – Denmark, Holland, Britain and Sweden – joined with additional funding of US$12.7 million, making a total of US$42.2 million. Currently, the World Bank is formulating a successor programme. In 2007, bilateral funds to PSTAC were suspended.

4.22. A Country Financial Accountability Assessment (CFAA), Country Procurement Assessment Review (CPAR) and Public Expenditure Review (PER) were conducted by the World Bank and other donors as part of the basis for the preparation of PSTAC. These assessments were the basis of the situation analysis and programme design to implement the action plans of the CFAA and CPAR and the recommendations of the PER, which in this case were intended to help improve governance and institutional strengthening. It is significant that the most recent Public Expenditure and Financial Assessment (PEFA) was in 2006 and PER in 2007. The current government has not yet agreed to update these assessments. The project aimed to improve transparency and accountability in public administration, and therefore the

28 *National Development Plan.* (p. 9 and see also pp. 69-78, 123, 160-169).
29 *National Development Plan 2006-10, Official Version*. (Chapter I: Citizens Participation, p. 7 and 13).

fight against corruption in the public sector. However, the project documents and the indicators do not reflect any obvious link to UNCAC. Gender issues similarly were not addressed though a broad analysis on poverty and public spending efficiency is included.

4.23. The PSTAC was formulated in light of the commitments made by the country under the Enhanced Strategy for Economic Growth and Poverty Reduction (PRSP) and the NDP. PSTAC is the third support credit for the modernisation of the public sector in Nicaragua.[30]

4.24. A major objective of PSTAC was to improve financial management, thereby paving the way for budget support. Likewise, PSTAC also included support for building capacity to meet the requirements of the process of Heavily Indebted Poor Countries debt relief, including consultation on the first version of the PRSP.

4.25. The project undoubtedly contributed to the larger goal as a corruption prevention project. The system generated SIGFA (an integrated financial management information system) which allowed for increased accountability between state institutions and institutions of control by making financial information more accessible and timely. For example, the CGR considers it as an important tool for control over state institutions. Likewise, the National Assembly has computer terminals that can analyse the execution of the budget online, and the analyses generated from Parliament are becoming more common in the National Media. Also in 2005, SIGFA was made available to CSOs and the media, which also promoted greater accountability of the budget within Nicaragua.

4.26. Denmark has a long history of supporting Nicaraguan decentralisation. This support initially aimed at the development of the municipalities of Estelí and Las Segovias (1994-98). A second phase (1999-2003) expanded its outreach and supported key national actors which included the Parliamentary Committee on Municipal Affairs, the Association of Municipalities of Nicaragua, the Nicaraguan Institute for Municipal Development and the municipalities of Region I and the Regional Government of the Autonomous Atlantic Region of Nicaragua (RAAN). These initiatives were consolidated into Support for the Process of Decentralisation and Local Development in Nicaragua project (APDEL)[31] which was implemented between 2004 and 2008.

4.27. The main objectives were 1) a national decentralisation and local development strategy to be elaborated and implemented, 2) the increase in capacity of municipal governments in Region I and RAAN, and 3) basic social and productive infrastructure improvements in those municipalities.[32]

4.28. The development objective of APDEL was "*local democracy and good governance strengthened, as well as improvements in the population's living conditions.*"

30 The World Bank. 2004. *Project Appraisal Report for Public Sector Technical Assistance 2004-10*. (p. 1). Washington, DC: The World Bank.
31 *Apoyo al Proceso de Descentralización y Desarrollo Local*.
32 APDEL. November 2003. *Support for The Process Of Decentralisation And Local Development In Nicaragua.* Programme Document. APDEL. (Ref.No.104.Nicaragua.812).

Moreover, the programme was structured in line with the objectives of the NDP (PRSP of Nicaragua), where decentralisation was one of the cross-cutting strategies as part of efforts to eradicate poverty.[33]

4.29. In this sense, the objectives and results of APDEL were relevant to contribute to the strengthening of municipal governments and the decentralisation of public services, creating greater transparency and accountability between different levels of government and between citizens and their governments.

4.30. Poverty reduction was addressed explicitly – of the 153 municipalities in Nicaragua, 31 were categorised as having people living in extreme poverty, all in regions where the programme was implemented.[34] The programme incorporates analysis on the situation of gender inequality from the perspective offered by the NDP. However, neither the poverty nor the gender analysis explored the effects of corruption. In the 2005 review it was suggested to have a policy of gender equality in the programme, however, there is no evidence that this has been implemented.

4.31. APDEL was developed to support the NDP. A mid-term review reoriented the objectives of the programme and in the transition to the new Ortega administration, in 2007, talks between the GoN and Denmark led to merging APDEL, PRODEN and PSTAC.[35]

4.32. APDEL did not show any explicit links to UNCAC, but strengthened decentralisation generated accountability and transparency in public resource management, building capacity in the Ministry of Finance to monitor municipal transfers, and developing an ongoing relationship of accountability between government and municipalities and vice versa.

UN Convention against Corruption Article 11, Criminalisation and law enforcement: police

4.33. The overall objective of the programme 'Restructuring and Institutional Strengthening of the National Police of Nicaragua' (NPN) is to strengthen democratic governance. Sweden has given support to the police since 1998. Between 2002 and 2005 a police reform programme was supported by the amount of SEK 43,775,000 including technical assistance provided by the Swedish National Police Board.[36] The objective of the programme was to strengthen democratic governance in Nicaragua through the restructuring of the police organisation, the improvement of the police training system at the Police Academy and through the extension of the territorial coverage of the police services at community level and in rural areas. In 2004, support to special police stations for women and children (Comisarias para la Mujer y la Niñez) was included. The Plan also considers that the institutional update of the NPN "*has to face the problems of providing safety to the citizenry and the new threats that confront the Central American Region such as corruption, crime and drug trafficking*."

33 Ibid.
34 Ibid.
35 *Evaluation of the Programme to Support the Process of Decentralization and Local Development (APDEL)*. For the Royal Danish Embassy in Nicaragua, Managua, 5 August 2008. (p. 35).
36 Embassy decision 47/02, 26/05 and 108/05.

4.34. In 2006, the NPN presented a proposal (Restructuring & Institutional Strengthening of the National Police of Nicaragua, Improved Community Services and Modernisation of the Training System 2006-10) for continued Swedish support, including technical assistance by the Swedish National Police Board. The overall objective of the programme was to strengthen democratic governance through the reinforcement and capacity development of the NPN focused on community police services and human resource development. It was designed to assist in the implementation of the NPN's strategic plan 2005-09 with special focus on improved public safety and legal security especially for poor and vulnerable groups. The nature of the project is of legal and institutional strengthening to increase effectiveness in the control of corruption and crime, within the framework of respect for human rights.

4.35. As part of this process, several donor meetings were called and the police, together with Sweden, began discussions with Norway, Denmark and the Netherlands to assess the possibility of creating a basket fund to support the NPN's strategic plan. Norway agreed to support the programme and agreements were signed and approved in March 2008. Financing was set at US$17.51 million, with a Sida contribution of US$11.44 million, the Swedish Police US$2.12 million, and a Norwegian contribution of US$2.1 million.

4.36. This programme is focused on police performance and it is not an AC programme per se though it is highly relevant to AC. The programme covers four of five components of the police strategic plan:

- strengthened community relations and increased public safety
- reinforced institutional capacity
- a modernised system for human resource development
- an update of legal framework.

4.37. Improved capacity and efficiency in police intervention, though a component of the police strategic plan, was not included in the programme. The Strategic Plan for the National Police 2005-09 is a far-reaching document that develops an extensive analysis of Nicaragua's social and political context, including gender as a cross-cutting issue and the fight against poverty as its main objective complementing the PRSP and NDP.

4.38. The support to the police contributed to UNCAC Articles on Prevention, Participation of Society and Public Sector. There is a direct association to IACAC by way of updating and upgrading the legal and regulatory framework of the NPN as complying with national and regional mandates.

4.39. There are also a number of links in the programme to the Central American and the Caribbean Security Framework (Tratado Marco de Seguridad Democratica) and to the Central American, Mexican and the Caribbean Chief of Police Network.

UN Convention against Corruption Article 13, Participation of society

4.40. In February 2006, a group of donors signed a Memorandum of Understanding for the creation of the Civil Society Common Fund (CSCF). The aim of the fund is to contribute to democratic governance in Nicaragua and its purpose is to improve the effectiveness of citizen participation and promote equity in public policy development. The founding donors were Denmark, the Swiss Agency for Development (SDC), the Netherlands, Finland and DFID. In the process three more cooperation agencies joined the initiative – Norway, Sweden and Luxembourg. Denmark was established as the lead agency to implement the Fund.

4.41. Administration was through a competitively tendered selection of a partnership formed under the leadership of Oxfam GB. After 2007, with the change of government, civil society-state relations were weakened due to the questioning of citizens' participation and the model of state-civil society relations that was being applied in Nicaragua. After this phase of implementation, the CSCF Technical Secretariat launched a phase of qualitative assessment of approved projects and their contribution to the objectives which led to a new strategy for a second phase scheduled for 2010.[37]

4.42. Citizens' participation was central to two strategies that were implemented during the Bolaños administration, as described in Pillar IV of the Poverty Reduction Strategy and the AC Strategy. CSCF became a powerful and effective tool to support reform and the role of civil society. However, after 2008, Nicaragua experienced deterioration in governance, transparency and democratic principles. The environment of antagonism between the government and organised civil society independent of the ruling party, brought orchestrated attacks, including questioning of the procedures and objectives of CSCF. NGOs participating in different projects, in particular a media think tank and a women's movement organisation, along with international NGOs were accused of money laundering and experienced intimidation on them and their staff.[38]

4.43. Access to CSCF is demand-driven. CSOs apply to the fund proposing priorities consistent with the objectives defined by the Programme Document. Civil society defines the areas in which they and the CSCF plan to intervene. So far, the area of AC and accountability comprises 20% of the projects being financed.

4.44. During the last 4 years the CSCF has supported 108 projects, mostly on citizen participation (41%), defence of human rights (23%), on social control (19%), and gender (18%). The assessments documented the relevance and effectiveness of projects supported. The group of Social Control Projects mostly refers to actions that promote Transparency and Access to Public Information and Social Audit processes at the municipal level mostly linked to monitoring infrastructure projects. One limitation revealed during interviews for this evaluation is that some CSOs said that they felt constrained in their work by the lack of access to public information. On the other hand, the financing of media reports has had very good results. Interview-

37 *Informe Final Misión de Evaluación de Medio T rmino*. Fondo Común. Febrero 2008 (p. 8).
38 Programme Memorandum. *Support to CSCF for Democratic and Governance in Nicaragua.* April 2009. (p. 4)

ees at the Central American University state that at least three investigations of corruption cases have made the front-page news in the national newspapers.[39]

4.45. Norway initiated cooperation with the Nicaragua Centre for Human Rights (CENIDH) in 1991 to assist in the promotion of human rights. Six contracts have since been implemented, with continued support from Norway. Recently, CENIDH has been implementing its 2005 institutional work plan, which included three components: Promotion, Defence and Reporting, and Incidence (see Box 4.1).

Box 4.1: Nicaragua Centre for Human Rights

CENIDH is the Nicaraguan organisation promoting human rights. It has been active for over 15 years. The strategic goal of CENIDH is "*to contribute to the reduction of impunity of human rights violation in Nicaragua".* The immediate objective is: "*to promote in the society the practice of defence and reporting of human rights violations and to demand from the state the protection to human rights within the laws, policy guidelines and norms".*

4.46. The project takes place in a context where Nicaraguans have little knowledge of their rights. As a result, there is a limited demand in terms of the proper protection that should be expected from the State. Institutions that impart justice or take care of complaints are mostly located in Managua, and the public has little confidence in them. In this respect, the work being done by CENIDH "*contributes to the reduction of impunity of the human rights violations in Nicaragua*", and also, helps in the promotion of the practice of defence and reporting of human rights violations within society and to demand from the State the protection provided by the laws of the country.

4.47. CENIDH covers a wide range of rights. Its Annual Report covers reports of cases of violence against women, labour and civil rights violations, and also corruption. Data presented in the report show the variety of cases recorded: 36% of cases are instances of violations by the State authorities, and 571 complaints, mostly related to cases of domestic violence, demands for food for children, conflicts around property rights and neighbourhood conflicts. The report also broadly restated the allegations and facts of corruption in Nicaragua (*Human Rights Report in Nicaragua*, 2008. p. 9)

4.48. The goals are consistent with commitments Nicaragua has made on human rights at the international level in the context of the United Nations in particular, with CENIDH producing reports on human rights for the United Nations, OAS, the Convention on the Elimination of all Forms of Discrimination against Women, etc. However, there are no direct links with UNCAC, despite its work on corruption.

4.49. CENIDH plays a coordinator role with another 23 civil society networks and organisations. The NPN considers that despite being one of the institutions where complaints of violation of rights are filed, the relationship with CENIDH is very pro-

39 Interviews at IEEPP and University of Central America.

ductive and they benefit from the training and follow-up of cases brought by CENIDH.[40]

Overview of donor approaches

4.50. The donors have been responsive to changes in the political environment in Nicaragua and seized opportunities to take forward the AC agenda presented by opportunities under the Bolaños administration, but the present Ortega administration has seen donors' support undermined by wider concerns about state governance. To some extent, the period of the evaluation has been characterised as the grasping of an opportunity between 2002-07 on the part of the donors as they tried to support national development of an AC Strategy and support relevant institutions under a regime that was keen to disassociate itself from the corruption of the Alemán era. The election of Ortega in 2007, however, was followed by a reduction in donor support, particularly after the 2008 municipal elections, so that only three of the original nine donors of the FAC are now offering support. Whilst this can partially be put down to rationalisation of aid at donors' headquarters (HQs), it is also a reflection of widespread disengagement from the Venezuelan-allied Sandinista regime.

Box 4.2: Inter-American Convention against Corruption

The IACAC was adopted by the member countries of the OAS on 29 March 1996; it came into force on 6 March 1997. Nicaragua ratified the Convention on 6 May 1999. IACAC was the first international convention to address the question of corruption.[40]

According to Article II of IACAC, it has two goals:

1. to promote and strengthen the development by each of the States Parties of the mechanisms needed to prevent, detect, punish and eradicate corruption
2. to promote, facilitate and regulate cooperation among the States Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance.

The IACAC's oversight mechanisms provide for a comprehensive system of inter-state monitoring and compliance assessments, including participation of civil society in the review process.

4.51. Because UNCAC was formulated in 2003 and ratified by Nicaragua in 2006, its influence is only seen directly in the later part of the evaluation period. However, the donors were cognisant of its provisions throughout the period and were therefore already working on AC interventions and also quick to support the implications of ratification. Of earlier and possibly greater significance is the IACAC, which Nicaragua ratified in 1999 (Box 4.2).

4.52. Reference to UNCAC was built into the activities of the FAC, police support and PSTAC. Article 7 of UNCAC, concerned with promoting public sector integrity

40 Consultant interview with the NPN.
41 Inter-American Convention against Corruption (English text). Retrieved 23 April 2011 from www.oas.org/juridico/english/treaties/b-58.html

has a direct bearing on the workings of the civil service. Sida, Danida and DFID have supported civil service reform in Nicaragua over the evaluation period. The World Bank-led PSTAC aims directly at fighting corruption, its goal being to *"implement or maintain effective, coordinated AC policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability"*.

4.53. The CENIDH and Police Support Programmes have clear objectives that are achievable with the resources available. In general, good quality analysis was carried out prior to programme design, taking poverty and, in particular gender, into account in identifying the problems to be addressed and the approach to be taken.

4.54. Commitments under the Paris Declaration were certainly an important element of donor policies during the Bolaños government as moves were made towards budget support. However, political considerations have seriously dented progress towards harmonisation with government strategies and procedures since 2007. It is less obvious that the analytical work of non-state actors was influential in shaping either donors' strategy and programmes, though consultation was made in the case of APDEL.

4.55. Programmes reviewed demonstrate that where national strategies exist they were extensively used in programme design. The PRSP is extensively relied on in the programme rationale. The Police Reform and Institutional Restructuring Programme was specifically designed to support the GoN's strategy on criminal justice.

5. Donor ways of working

Summary of key points on donor ways of working

- Few interventions have specific objectives to tackle corruption. Few indicators to measure changes in corruption are used – most deal with broader governance reforms or changes in government policy.
- There has been a lack of a platform for high level dialogue since 2008 and the Donor Group mechanism is regarded as ineffective.
- Support to reducing corruption in the public sector lacks both strong leadership and strong coordination among the donors, despite indications of progress in service delivery.
- Donors have introduced increasing financial and governance requirements on programme partners over the period and these are viewed generally as a positive step by partner CSOs and government.

5.1. This Chapter looks specifically at donors' ways of working with regard to programme design; monitoring and evaluation; coordination, harmonisation and alignment; and risk management. This Chapter complements Chapter 6, which focuses on results, by assessing the extent to which donor behaviour (including their commitments to the Paris Declaration) has an impact on AC efforts in the country.

Quality of donor monitoring and evaluation

5.2. Table 1.2 in Annex 1 presents an illustrative summary of indicators at goal and purpose level for seven of the projects. These show that, whilst objectives of improving governance are extensive, dedicated indicators of change in corruption are few. Most indicators relate to broad outputs with no specific attention to measures of corruption, although public satisfaction with the police is included. The quality of indicators is technically poor with few clear target values or time reference.

5.3. All the donors have formal procedures for routine reporting, monitoring and evaluation and these have largely been followed. Whilst many projects have comprehensive statements structured according to logframe results-chain principles the underlying results chain is poorly specified. There is no national framework from which performance objectives for fighting corruption can be drawn, so the project indicators present partial and fragmented observations of change. Little or no use has been made of independent perceptions surveys, such as those conducted by Transparency International or the social audits conducted since 1998 by CIET.

5.4. Some attempts can be seen to take a gender and poverty dimension into account on some projects. This was the case for elements of the CENIDH and police programmes.

5.5. Clearly, the design and specification of project objectives and indicators do not reflect the AC elements of many projects. A notable exception has been the support to the police, in which a solid attempt has been made to create an objectively verifiable framework for management, monitoring and evaluation. Box 5.1 summarises the work that has been done.

Box 5.1: Development and use of Indicators for the Police Institutional Strengthening

In 2009, it was agreed to monitor and evaluate the project at the beginning of 2010, based on a matrix of 33 indicators of high quality. The creation of this mechanism has been reported as one of the most important achievements of the project.

Those indicators have been already applied retroactively to evaluate result of the programme for 2008 and are used for follow-up and for the programme's final assessment at the end of 2010. Until now the donors and the NPN have disclosed only results for 2008.

The indicators constitute a comprehensive system with their respective sources of verification linked to the programme logic and to the different levels of intervention. The matrix for indicators measure elements for the assessment in the following order: strategic outcome, strategic purpose, indicator number, indicator, phenomenon that is actually measured, breakdown (by sex, national or provincial level, type of crime, etc.), formula for calculating the indicator, annual results indicator and source of data. According to the matrix, each purpose has to have its corresponding output and outcome indicator.

All indicators are differentiated according to sex and there is a combination of indicators measurable in more quantitative terms and indicators based on perception of performance by different groups of beneficiaries. Together, these should give a good picture of the overall performance of the programme. In short, the most important indicators related to the programme objective are:

- reduction of delinquency in the municipalities where the communitarian police model have been introduced
- improved satisfaction among the population regarding police services where the community police model has been introduced
- improved satisfaction of the public in general and the direct beneficiaries of police services with relation to police performance (e.g. accessibility, quality of services, respect of human rights)
- improved satisfaction among police employees regarding the police organisation, tasks, service quality and accessibility, institutional image, gender equality, etc.
- increased number of beneficiaries of police services
- reduced number of abuses and corruption within the NPN and number of complaints from the public.

Source: Sida-NPN. Annual Evaluation 2008. *Fortalecimiento y Reestructuración de la Policía Nacional de Nicaragua, Mejoramiento de sus Relaciones con la Comunidad y Modernización de su Sistema de Capacitación (2006-10).* Elaborado por: División de Desarrollo, Programas y Proyectos DDPP-NPN.

Donor coordination, harmonisation and alignment

5.6. The relationship between donors and the GoN has two distinct phases in the period covered by this evaluation: the years from 2002 to 2007, and the subsequent period under the Sandinista administration. During the first phase, there was a steady development of dialogue and relationship. As noted in Chapter 3, government

commitment to economic reform helped open the door to dialogue with development partners that included positive influence for the adoption of AC measures by the Alemán and Bolaños administrations. That process also helped reinforce national demands for transparency.

5.7. Donors were active in supporting the NDP and poverty reduction strategy, together with policies on decentralisation and local development, and citizen participation. However, there is a body of criticism among some sectors of civil society that these policies were driven more by the conditions of economic reform promoted by development partners rather than the demands and interests of civil society.[42]

5.8. Early in the period, the IDB commissioned a study into donor harmonisation. It found that it was difficult to ascertain whether donor programmes are aligned with government objectives; that donors were not well adapted to cycles in government, with few multi-year agreements; that technical assistance was poorly coordinated; and that donor staff based in country lacked the incentive to promote harmonisation.[43]

5.9. The situation started to improve when a structure of thematic discussion 'tables' was established, with UNDP taking a facilitating role. But the main boost to donor coordination came with GBS which provided a strong platform for dialogue.

5.10. Two major initiatives relevant to AC occurred during this period of productive consultation. The most important was the establishment of the FAC, supported jointly by nine donors, and the CSCTF, with eight donors.

5.11. Initially, there was good cooperation with the new Sandinista government in 2007 as evidenced by the Norwegian comments on governance and GBS:

> *Part of the challenge in the governance sector is due to the fact that the performance assessment matrix (PAM) for governance is the least developed, and it still needs improvement in order to measure progress and form a basis for a constructive dialogue with the Government of Nicaragua. This problem is a general problem with the PAM, and much work remains in order to improve the general budget support process and to integrate monitoring and evaluation of the PAM and the revised national development plan. The new government has expressed strong interest in making the government PAM more relevant and aligned to the new priorities. This is to be done in cooperation with the donors before the mid-year meeting.*[44]

5.12. But fairly quickly relations started to deteriorate. In addition to the concerns noted in Chapter 3 about the 2008 municipal elections, there were allegations of the government harassing foreign donors, in the case of the Swedish Ambassador, and the Nicaraguan foreign minister is said to have systematically threatened foreign diplomats (specifically threatening the American Ambassador) with a *persona*

42 Penailillo, M. and Saldomando, A. 2007. *Anti-Corruption Policy Making in Practice: Nicaragua – A Case Study*. U4 Report 1:2007 Part 2C. (p. 136).
43 HLSP Consulting. 2004. *Revisión de las experiencias de armonización en Nicaragua.* For the IDB.
44 Norwegian Embassy. *Annual Report on General Budget Support in Nicaragua 2007*.

non grata declaration. At the same time the GoN attacked the NGOs and CSOs that were partners or beneficiaries of foreign aid, i.e. CINCO and Oxfam. The independent NGOs were substituted by the state-sponsored Citizens Participation Councils, an example of the State taking action to override civil society.

5.13. Clearly, the Sandinista administration has a different approach to donor relations, wanting more independence, as characterised by the relationship with Venezuela. The decision by donors to withdraw from GBS in 2009 marked a shift in the relationship and removed the principal mechanism for dialogue: "*On February 20th 2009, the Budget Support Group announced to the government of Nicaragua that some members had suspended their disbursements owing to widespread doubts about irregularities in the 2008 municipal elections and the absence of decisive actions by the authorities to clarify the situation.*"[45] Swiss analysis suggested: "*The implications of the dialogue and the current situation are differentiated for three groups of members: 1) The World Bank and IDB 2) European Commission (EC) 3) bilateral donor countries. They share a common analysis but – on the basis of their varied mandates and internal functioning – emphasise different aspects and come to different conclusions as regards their budget support operations*."[46]

5.14. On the government side there has been much disillusionment with the position of most donors: "*The Minister of Finance ... pointed out that the government felt disillusioned with the donors for holding back funds in the current situation marked by the positive economic performance of the country, as proved by the continuation of the agreement with the IMF, the government's poverty reduction efforts, and not least the achievements of the budget support indicators*."[47]

5.15. The case of the American Millennium Challenge Account is illustrative of government strategy. American aid was rejected, arguing that Nicaragua did not need it because the same infrastructure projects could be built with the Venezuelan ALBA financing and solidarity, without compromising national pride and sovereignty.

5.16. It is hard not to conclude that the GoN has taken a deliberately divisive approach to donor relations that has resulted in a loss of the momentum built up during the Bolaños administration that led to broad support for both the FAC and the CSCF. The Sandinista government has polarised donors with some withdrawing and others still maintaining it is productive to continue engagement and build on what has been achieved.

5.17. Apart from the successes in establishing the FAC and CSCF, donors have struggled to maintain effective dialogue and coordination. Three examples illustrate the difficulties and one area of success.

5.18. The highly politicised nature of the Supreme Court has resulted in difficulties in overcoming political affiliations of judges. The lack of inter-connectivity between the institutions and actors in the justice sector over the period has not fostered har-

45 *Note on Political Dialogue with government and BSG's conclusions concerning future of GBS*. (15.6.09). Swiss Cooperation acting as Presidency (pro tempore) of the Budget Support group.
46 Ibid.
47 *Budget Support to Nicaragua*. Minutes of the half yearly meeting, Sept/Oct 2009.

monisation of support from development partners. It has not been easy to work with more than one line ministry on any one intervention, nor to link interventions. The long and slow progress towards separation of the judiciary and the executive has made it difficult for donors to adopt a harmonised approach.

5.19. Different ways of working undermine sharing of information and coordinated responses. Peñailillo and Saldomando (2007) argue that development partners do not routinely exchange information on planning and evaluation except among joint funders of programmes.[48] For example, there remains a belief that Denmark withdrew from the fisheries sector in 2007 for corruption reasons but that this was never shared with other donors, including Norway, who went ahead with their own programme in the sector in 2007.

5.20. One sector which has seen a more positive relationship is the Nicaraguan Police. The donors and the police have created a permanent dialogue space to talk about the implementation of the programme and FAC. This is to deal with problems of implementation, priorities of government and governance implications. Also, they included in the permanent dialogue scheme the other AC agencies of the government in order to coordinate actions in a coherent way.

5.21. No clear interpretation of the reasons underlying difficulties in a harmonious response from donors was forthcoming from interviews during the country visit. However, some insights can be gained from the independent evaluation of Dutch support to GBS, from which the following description is taken.[49]

5.22. A detailed account of the period 2005 to 2008 reveals there were long periods in which donors did collaborate in a harmonious way. The difficulties came with the advent of the Sandinista administration. As noted in earlier Chapters, while government policies were positive towards macro-economic stabilisation, continuation of PFM reforms and a high priority towards poverty reduction, there were concerns over a large number of governance and social issues including many related to aspects of tackling corruption such as decreasing transparency, allegations of concentration of power in the hands of the president and his wife, the slow progression of cases from the prosecutor general to the courts, slow approval of regulations for the Judicial Career Law, access to information, corruption in procurement and so on.

5.23. The problem was that different donors viewed the issues with different priorities. The World Bank and IDB did not consider governance issues a factor in continuing budget support. Sweden and Germany took the issue of therapeutic abortion more seriously; the Netherlands reacted more strongly to the exclusion of two political parties from the 2008 municipal elections. Sweden and the UK stopped budget support disbursement in 2008 but still spoke critically in the budget support group meetings (allegedly to the resentment of others). Finland stopped disbursement and the Netherlands reduced by half in 2008 at the instruction of their HQ without any discussions with other donors in country. After the 2008 elections, the EC, Finland

48 U4 Report 1:2007 Part 2C. (p. 135).
49 Netherlands Ministry of Foreign Affairs. 2010. *Evaluation of GBS to Nicaragua 2005-08*. IOB Evaluation No. 329 (pp. 55-57).

and Netherlands froze their support for 2009 leaving only Switzerland and Norway to consider disbursement and they both stopped in 2009.

5.24. The complexity of the policy issues and the balance between HQ and local decision-making were at the core of the difficulties. By 2010, donors did not agree on the demands to be forwarded to government nor on what exactly GoN would have to do to unfreeze disbursement.

5.25. Notwithstanding these problems donor coordination has worked best in the context of joint programmes. In the absence of substantive GBS Donor Group meetings, coordination has been increasingly informal. Nevertheless, meetings since February 2009 have noted continued progress: "*The donors noted with satisfaction that the government was on its way to achieve both indicators related to women's rights that of women receiving state support through the programme 'zero hunger' and the number of reception centres (Comisarias) being constructed for, amongst others, women who have experienced violence*."[50]

50 Ibid.

6. Effectiveness of selected programmes

6.1. This Chapter examines the effectiveness of donor AC efforts in selected programmes in Nicaragua. Each section assesses the performance of programmes against their objectives. Where possible, particular emphasis is given to effectiveness in fostering institutional monitoring and evaluation mechanisms; effectiveness in promoting a culture of openness, ethics and transparency; and effectiveness in dealing with forms of corruption affecting poor people and women – three key questions in the evaluation matrix.

Anti-Corruption Trust Fund

Summary of key findings on support to the Anti-Corruption Trust Fund (FAC)

- Significant progress has been made in establishing the administrative and institutional elements of an AC system.
- Citizens in both the capital city and remote municipalities now have greater access to justice mechanisms.
- Surveys show a decline in incidence of corruption in service delivery.
- An independent study confirm that the FAC has contributed to establishing a legal framework for access to information, as well as normative and penal legal framework for corruption, drugs traffic and money laundering.
- But process through the courts is not effective with a high proportion of cases being dismissed on appeal and no major convictions.

6.2. Generally it can be said that since 2002 there has been significant progress on AC issues in Nicaragua. Most importantly, the architecture for the fight against corruption has been established both at national and regional levels. The population has been sensitised to the issues of AC work, preventative measures have been taken, and prosecutions are able to be taken at all levels though few have been made thus far. The situation has become more complicated since the start of the present Sandinista administration. At one level, progress is still being made with laws, regulations and the administration of the national AC system. Examples were quoted in Chapter 3 of new laws passed during 2010 in response to monitoring of IACAC. However, at the same time, allegations of political capture have continued and a deterioration in governance, transparency and democratic principles has been noted in Chapter 4.

6.3. Although the government has continued with AC programmes, the value to donors of continuing to support work within the executive arms of government, whilst political interference negates the effectiveness of that work, is a major dilemma.

6.4. The finding of the FAC assessments show visible progress at least in five areas: the implementation of preventive AC measures, the development of an AC legal framework; the institutional reinforcement of AC bodies; the rise of levels of public awareness about the problems of corruption; and citizen participation and monitoring in FAC activities.

6.5. Two contrasting analyses of corruption are now available. There is one survey-based diagnostic which has been conducted by CIET and the Latin American Public Opinion Project[51] since 1998, and is centred on acts and perceptions of corruption.[52] The survey demonstrates an important reduction in trends of service delivery corruption in Nicaragua, at national and local level. Corruption was investigated by way of a survey of over 6,000 households throughout Nicaragua (almost 4,300 of those interviewed were female). Responses were given on real and perceived corruption at municipalities, educational and health establishments, the police, judiciary and other sites. This was the fourth such survey since 1998 and reaffirmed a decreasing trend of both actual and perceived corruption at most institutions. The exceptions were the police where the trend was in general downward but had slightly increased in 2009, and the judiciary where the trend was upward since 1998. About a third of the users of the justice system continue to pay bribes to individuals in the system. Perceptions of corruption were significantly higher than actual cases of people who had paid a bribe. Interestingly, interviewees were also asked whether they trusted the fight against corruption. Those who did increased from 49% in 2003 to 60% in 2009.

6.6. The second diagnostic is based on investigative reports of concrete corruption cases as well as an academic analysis of corruption in the country. It is markedly more critical of the situation in Nicaragua, though based more on secondary evidence than is the CIET report. In addition, it concentrates much of its premise of Nicaragua being a corrupt country on the period of the Alemán government before 2002. An example would be the investigative reports sponsored by Danida,[53] *Ética y Transparencia*[54] and the UNDP on the ex-President Arnoldo Alemán, et al.

6.7. An important concern is the extent to which there is a plausible cause and effect relationship between improving trends in service delivery corruption and the work of the FAC. The CIET survey is evidence of changes in corruption in Nicaragua, albeit not covering grand corruption. However, the areas where improvements have been recorded are not those affected directly by the work of the FAC. Clearly, wider factors such as public sector reform have been a significant influence. A weakness of the approach of the FAC is that the documentation does not contain any analysis of a likely process of change as a result of the Fund, nor is there any consideration of the timescale in which changes to the legal framework and national systems might result in changing behaviour. Indeed, in view of the analysis in Chapter 3 con-

51 LAPOP. 2004, 2006 and 2008. *Cultura Política de la Democracia en Nicaragua*. The Americas Barometer by the Latin American Public Opinion Project (LAPOP).
52 CIET-Nicaragua. *Cuarto Ciclo de medición: Percepción de Corrupción en Servicios P blicos Locales: Auditoria Social 1988-2009*. Project Report. PR-NI-corrupt4-09.
53 PRODENI-University of Central America. *La Guaca*. 2004; *Los Carros de Fuego*. 2004; *La Imagen de Nicaragua*. 2004; *Corruption in Nicaragua … of Facts, Files and Figure*s. Managua, June, 2005.
54 Fundación Grupo Cívico Ética Y Transparencia, Programa Transparencia/Anticorrupción. December 2006. *Estudio Anticorrupción de Nicaragua*.

cerning political capture (see for example paragraph 3.5), it is questionable whether the work of the FAC would have any direct effect on that type of grand corruption.

6.8. Self evaluation by the FAC reported in the 2009 Final Report[55] presents an extensive account of the FAC's achievements, the highlights being as follows:

- The FAC has contributed to changing the mentality around corruption, and putting corruption on the agenda of public institutions and mass media.
- Despite a general decentralisation of decision making and administration with the present Sandinista government (from January 2007), the FAC has fostered access to justice to poor people and women with the establishment of branches of the Prosecutor General's Office in every department of the country. Inter-institutional agreements have been signed or are in the process of being signed:
  - for social auditing and re-engineering of the National Health Council
  - to facilitate the participation of organised CSOs in implementation of the zero tolerance strategy of sexual crimes in the educational system
  - with the Supreme Court of Justice – to establish a dialogue facilitating citizens' access to justice
  - with the National Assembly – to use the system as a mechanism for consultation on laws
  - agreements for internships with public and private universities to promote youth involvement in the participation system. Agreement with American University Communications Research Center (*Centro de Investigaciones de la Comunicación*) signed on 10 April, 2010.
- An AC Strategy has been developed.
- Specialised AC units were created in the Prosecutor General's office, police and Public Ministry.
- There is better coordination between institutions working to combat corruption.
- The public accusation office now allows individuals to report suspicions of corruption also on the web.

6.9. At the local level, further achievements are outlined as follows:

- Before 2007, there were only five regional Attorney Generals' Offices, resulting in difficulties in investigating accusations of corruption. Now there are 19 offices all over the country. This has contributed to "*corruption being investigated in every part of the country, no matter how far away the place is*".
- Today, about one third of all cases are being reported, investigated and sanctioned at the regional/local level.
- Better level of coordination, also at the local level. All relevant justice institutions meet up once a month to plan and collaborate on the investigation and prosecution of corruption cases.
- Attorneys travel to Managua once a month for advice, and to update new information.

6.10. Nevertheless, gaps still remain in AC work. The most recent analysis by Peñailillo and Saldomando (2007) concludes that:

55 Informe Fondo Anticorrupción. 2009. *Programa de Apoyo al Fortalecimiento Institucional a la Gestión del Ministerio P blico en la persecución de los delitos de Corrupción y Crimen Organizado*. Informe Final FASE. Fondo Anticorrupción Fase.

In short, the FAC in Nicaragua suffers from many leaks at each stage, dispersion, lack of broadness, common vision, and effectiveness in prevention budgetary problems, lack of coordination in detection low efficiency, speed and coordination in research little sensitivity to the phenomenon in the field of prosecution and a single exit door (the judiciary branch) for punishment, blocked by endogenous and exogenous affectations.

6.11. There is limited knowledge of corruption at the local level. Corruption cases are often linked to the findings in official audits, however, these are carried out infrequently and often linked to the previous administration. In many instances, there is just one attorney in each office and the office has to close when the attorney has to travel to remote areas. In many cases, one attorney has to cover all penal cases (where the State is the offended part), such as corruption, environmental damages, land entitlements, falsification of documents, money-laundering, narco-trafficking, etc. Generally, it is a great problem that a high number of cases end up being appealed and therefore effectively stopped. However, this is less of a problem at the local level. This criticism reflects the observation in Chapter 3 that to some extent, government policy appears to have been to create laws and regulations and accept improved systems, but then to manage them sub-optimally so they are ineffective.

6.12. A review of the FAC's Phase II carried out in June/July 2008 by consultants found weaknesses in the planning and follow up of the Fund, but it also confirmed important positive results, for example,

The fund has contributed to a gradual change in the mentality of the citizens and civil servants in respect to the damage caused to the country by corruption. Corruption has to a greater extent been put on the agenda of the public institutions and the mass media. The fund has contributed strongly to the establishment of the Prosecutor General's Office branches in every department of the country and has stimulated the preparation of a draft of the National Anti-Corruption Strategy. The institutional capacities have been strengthened by the creation of new specialised units working on corruption issues. Particularly during the last year, the fund has strongly supported the inter-institutional coordination among the institutions of the judicial system.

Another achievement of the fund, according to the review, is an increase in public information around national legislation related to corruption and the setting up of a national office and web page where the public can denounce actions of corruption in public offices.

6.13. An independent study *Fondo Anticorrupción en Nicaragua (FAC): Un caso exitoso?* (2009) published by U4 and written by Maria Luisa Babini looked at the experience with the fund from the beginning (2002) up to date. The study argues that the fund has been successful in promoting an AC Strategy (in the period of the previous government) and in increasing the capacities of the institutions working to combat corruption. The fund, the study argues, has also contributed to the elabora-

tion of a legal framework regarding access to information, as well as normative and penal legal frameworks for corruption, drugs traffic and money laundering.[56]

6.14. A clear message comes from the various reviews, and is amplified in an evaluation of the support to the National Police by Sida, that the most critical weakness in the system is at the level of 'Sanction' (see Figure 4.1) and the politicisation of the Supreme Court.

> *Although the law provides for an independent judiciary, the judicial system is susceptible to corruption and political influence. udges' political sympathies or acceptance of bribes or influence from political leaders often influence judicial actions and findings. Both lower courts and the Supreme Court have lately rendered controversial judgments dismissing evidence and convictions against international drug traffickers. The judicial system constitutes an important obstacle for social equity and democratic development. The impartiality and functioning of the judicial systems is questionable the inaccessibility of justice due to economic obstacles, mistrust and lack of information create a situation of lawlessness for poor people.*[57]

6.15. Evidence of the actual legal process dealing with corruption issues supports these judgements. During Phase II of the FAC in 2009, the Attorney General of Nicaragua received 28 corruption cases, plus 70 cases pending from previous years, totalling 98, which were addressed as follows:

- 53 cases accused and charged with corruption crimes before courts of justice
- 36 resolutions of lack of merit
- 3 resolutions of dismissal
- 6 extensions of information to the Nicaraguan police and Auditor General
- 0 records in default.[58]

6.16. Few defendants have been convicted of corruption crimes by the Nicaraguan Courts of Justice. This illustrates that major problems exist at the summit of the AC prosecution process, specifically with the judiciary branch of government. Courts dismiss the majority of prosecutions. Support to the judiciary has possibly been the weakest area for the FAC but some improvements can be recorded. For example, judges are now predominantly former lawyers, a Penal Process Code has been established, there is a Judicial Career Law and most recently four new appointments of judges have been made to the Family Court following transparent and meritocratic-based procedures.

6.17. However, major shortcomings exist with the Supreme Court which is divided on political lines. It is unsurprising that the American Chamber of Commerce, working with their Nicaraguan equivalent, are developing a parallel arbitration system for commercial disputes to try and resolve differences outside the legal system. Observers characterise the legal system failings as a triangle of immunity, impunity and amnesty.

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56 Babini, M. L. 2009. *Fondo anticorrupción en Nicaragua (FAC): Un caso exitoso?* U4 Practice Insight 2009:4. Retrieved 23 April 2011 from www.u4.no/document/publication.cfm?3511-fondo-anticorrupcion-en-nicaragua-fac

57 Janson Landin, S. 2006. *First Secretary: Support to the National Police of Nicaragua 2006-10*. Embassy of Sweden Managua. 28 August 2006.

58 Informe Fondo Anticorrupción. Informe Final FASE. 2009. *Programa de Apoyo al Fortalecimiento Institucional a la Gestión del Ministerio P blico en la persecución de los delitos de Corrupción y Crimen Organizado*. Fondo Anticorrupción Fase. (p. 5).

Public sector reform

Summary of key findings on support to public sector reform

- PSTAC has contributed to improvements in financial and human resource management.
- Improvements have occurred in improved budget preparation, including the development of multi-annual budgeting, budget transparency, comprehensiveness and credibility.
- Weaknesses remain in internal audit, state asset register and procurement. Incidence of direct contracting has increased markedly under the present regime.
- Transparency and access to information have not improved.
- Work under APDEL has contributed to strengthening performance at municipal level, especially with regard to financial management.
- Citizens' perceptions of municipal services are comparable to other countries in the region.

6.18. According to the final evaluation report completed in 2009, the PSTAC project contributed positively in areas such as financial and human resource management. However, as far as institutional reforms were concerned, the project saw little progress. In terms of increasing and strengthening the planning and participatory monitoring of public policies, the report suggests that many of the changes made were not supported by the current administration so in this regard, the impacts are difficult to assess.[59] [60]

6.19. Progress on financial management is corroborated by advances identified in the 2006 PEFA and IMF letters of intent. These include improved budget preparation, including the development of multi-annual budgeting, budget transparency, comprehensiveness and credibility. However, weaknesses remain in internal audit, state asset register and procurement. Human resource management indicators were linked to the implementation of the Civil Service Act. Performance exceeded the plan with 5,000 accredited civil servants. Some 30 institutions with job classifications and the registration of public servants will be completed in 2009, according to the final evaluation.

6.20. Procurement indicators were difficult to access by the consultant team, though the Comptroller General, Dr. Guillermo Arguello Poesi, argued in an interview with the consultant team that "*the problem at the core remains in procurement ... It is the most important area to intervene ... but the hardest area to intervene*".

6.21. This issue was emphasised by the Public Policy Institute (IEEPP)[61] suggesting that a sensitive issue at present is the number of exclusions from competitive procedures for procurement and contracting by the State. The amount of direct purchases approved by the Auditor General is unprecedented in comparison to the previous government administration, with US$359 million contracted under exclusions between 2007 and 2008. This circumvention of the rules was highlighted in interviews with donors as being an important area of concern. The head of budget in the

59 PEM Consult. 2009. Evaluation Report PSTAC. (p. 5).
60 A World Bank Implementation Completion Report mission was reviewing PSTAC during the fieldwork for this evaluation. Prior to the mission the project had been rated as 'Unsatisfactory' for development effectiveness in the World Bank monitoring reports.
61 IEEPP. 2009. *Contraciones sin Control.*

Ministry of Finance, defended these actions as those of a government without close links to the traditional business houses of Nicaragua, thereby rendering it difficult to always find three competing quotes. In addition, many of the contracts were for small amounts under programmes such as Hambre Cero.

6.22. PSTAC also encouraged the implementation of the Civic Engagement Act, assisting in the establishment of Departmental Development Councils, which emerged as a public-private space in the framework of the Participation Act, thereby facilitating a degree of engagement from civil society in the Public Investment Planning process, by way of consultation and social audit. Consultant interviews with the Departmental Development Councils of Jinotega confirmed this engagement though it is unclear to what extent this still continues as social audits can be regarded as a threat to government priorities.

6.23. Institutional reforms saw no evidence of improvement in the report despite targets of changing 30 administrative procedures to achieve at least a 10% increase in productivity, thereby saving 6% of Gross Domestic Product (GDP) and generating a 20% improvement in public satisfaction with selected public services.

6.24. PSTAC also *"aimed to enhance capacity to monitor and improve the poverty reduction strategy and disseminate research results among stakeholders and promote their participation and involvement*." The independent evaluation states that *"... it is difficult to assess where we have succeeded in this goal, since the change of government has meant a break in most of the subcomponents of component three."* The exception is the Public Investment System, where progress in planning and monitoring investments can be verified. The processes of consultation and participation spaces, the overall strategic communications operation reported significant progress in the implementation of the laws of participation and access to public information, also in the construction of the NDP at the local level.

6.25. The programme did not develop measurement tools to improve transparency and corruption, although this was a major objective. Or it may be, that the instruments with which progress on transparency, and the modernisation of the State were measured have not been made available to the reviewers and the public. Nevertheless, the CIET study on corruption at service delivery level in the public sector does indicate reductions in corruption levels as noted above. Some of the monitoring indicators appear to have been discontinued when the government administration changed in 2007. For example, in the case of the perception of effectiveness of public services baseline, evaluators in 2009 reported that it existed, but were unable to access it.[62]

6.26. The final evaluation of the APDEL programme indicates that the Ministry of Finance has made significant progress in monitoring the fiscal sustainability of the decentralisation process, with an emphasis on municipal budgets. The most important advances are:[63]

62 PEM Consult. 2009. *Final Report*. (p. 2).
63 *Evaluation of the Programme to Support the Process of Decentralization and Local Development (APDEL)*. For the Royal Danish Embassy in Nicaragua, Managua, 5 August 2008. (p. 23).

- analysis of the municipal debt, the quality of spending in two municipal services (roads and solid waste), the application process for disbursements of transfers, and the situation of fiscal decentralisation
- the proposal for reform of the Municipal Law and its regulations and the Transfer Law
- the fiscal neutrality of the transfers
- online access by the municipalities to the disbursements of the transfers and the monitoring of the use of the transfers through the development of the Municipal Transfer System (TRANSMUNI)
- making public information available regarding the use of the transfers through the public page of TRANSMUNI.

6.27. Support to the regional government has been completed. The evaluation report concluded, however, that Denmark's support couldn't be measured because the current Director is new and comparable information was not available. It is assumed that the high level of development of the Ministry of Municipal Affairs in the RAAN compared with the Autonomous Region of the South Atlantic (RAAS) is an indicator of the work done by the technical advisory support.

6.28. Cross-cutting issues of poverty and gender were included in the revised programme in 2005. However, the evaluations did not address gender as the counterparts felt there had been no implementation in this area. The focus on poverty was evaluated, and it is argued that policies and strategies promoted within the framework of APDEL, had been directed at overcoming poverty in the local context and that they promote a proactive role by the local governments in this regard.[64] Studies claim that 26% of investments were in the social sector (*Assessment Report 2008*).

6.29. Nevertheless, the programme has undergone an independent assessment that reviewed the evidence of progress on project results. The most important results were:

- The National Decentralisation Policy Directed Towards Local Development was endorsed on 5 May 2006 and was approved on 17 June 2006.
- Preparation of the National Decentralisation Strategy, was developed under wide consultation.
- The approval of draft bills, such as the Municipal Contracting Law, the Urban Development Bill, the Coastal Zones Bill and the Municipal Tax Bill, and a reform of Article 6 of Law 40 and 261 referring to municipal authorities.
- In 2006, a quantitative and qualitative study were conducted to analyse the use of the FONIM funds. This was important to review the Transfer Law and its planning process.
- The Finance Ministry witnessed significant progress in monitoring the fiscal sustainability of the decentralisation process.

6.30. Both PSTAC and APDEL have registered some successes in creating new laws, procedures and processes. To a large extent, delivery of outputs under the

64 Ibid (p. 26).

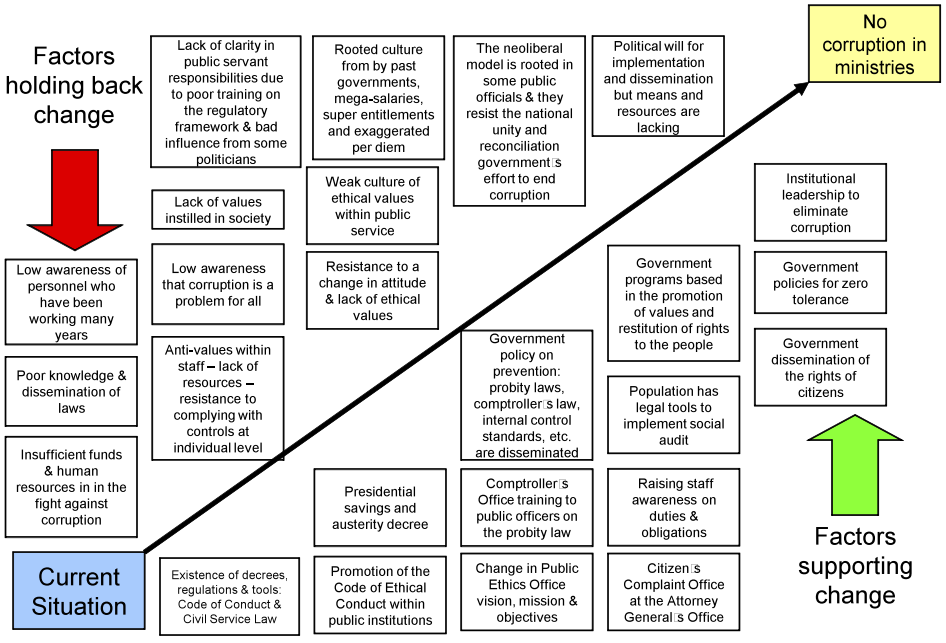
projects has been quite successful, but information about performance or changes in behaviour are either non-existent, or not available. As noted in Chapter 3, one of the characteristics of political capture is the abuse of systems for illicit gain. So that even where reforms have been made, they do not result in the intended benefits. That is happening in Nicaragua. The question for donors is whether it is effective in the long run to continue to support development of the public administration, thereby laying a foundation for future progress, whilst benefits are not achieved in the short term.

Challenges to reducing corruption in the public service

6.31. From an AC workshop organised by the consultants with focal point Ethics Officers led by the Attorney General's Office, a Force Field Analysis of Factors for and Against Reducing Corruption in Ministries in Nicaragua was elaborated for this evaluation (Figure 6.1).

6.32. The participants at the workshop were able to identify AC problems and obstacles along the lines of: values, cultural driven behaviours, leadership, AC legal framework, institutional arrangement and attitudes towards change. The perceived factors holding back change were: low AC awareness, weak ethical culture, lack of knowledge of the AC legal framework and lack of resources. The perceived factors supporting change were: government AC leadership, existence of an AC policy, updated AC legal framework and government's efforts to increase public awareness.

Figure 6.1: Force field analysis of factors for and against reducing corruption in ministries in Nicaragua



6.33. Although ethical problems are recognised as a major negative factor, there is a clear sense that there is a need to improve people's awareness about the law and their rights, and to have appropriate regulations and tools. Although such 'technical'

interventions would not directly tackle political capture, they are something that can be done within an environment of weak governance and would help establish demand for, and the elements of, an effective system.

The police

Summary of key findings on support to the Nicaraguan police

- Lengthy and sustained support to the police has resulted in steady progress towards a more efficient and effective force.
- The force has a stronger and more effective presence in municipalities and rural areas.
- Coordination within the FAC remains a challenge.
- Statistics are available about actions to tackle corruption within the force itself

6.34. Support to the police has been systematically evaluated over the period of this evaluation. Progress during 2002-05 was assessed as being effective.[65] There was a high level of accomplishment of most of the project's results and objectives, specifically related to modernising the management system; strengthening strategic and operative planning; increasing the use of technology in the institution; improving the Police Academy and police training; increasing municipal and rural coverage; restructuring some work processes including patrolling systems, reception of crime reporting, witness interviews, accidents coverage and police investigation. The image of the police had been improved with a growing perception that police have become more professionalised and modernised, and that public security has been increased. Opinion polls were starting to be conducted to assess the public's opinion of the police.

6.35. Contributions provided by technical assistance from the Swedish police have been very important for police development. This assistance has been concentrated on models that bring police forces closer to the community, operative analysis, handling of sources, conceptualisation and computerised systematisation, simulations, implementation of a 'Police Model' in District VI and Puerto Cabezas, and introduction and implementation of the concept of 'Intelligent Police'. In spite of the fact that activities were carried out to promote an increased mainstreaming of gender issues, an explicit strategy on this issue was not defined within the project.

6.36. Human rights and community participation were taken into account in the project in two ways: (i) internally by means of improving labour conditions and by providing better human conditions for detained people, and (ii) externally by means of creating better conditions to address such issues within the population, as well as increasing public participation.

6.37. The subsequent Sida-NPN Annual Evaluation for 2008[66] emphasised continuing progress, with strong results in a number of areas including: strengthening of

65 Sida Evaluation 06/01 by Fajardo, R., Sacasa Gurdián, E., Lila Gaitán Jara, A., Cru R. *Apoyo Sueco a la Policía Nacional de Nicaragua 2002-05*.

66 Sida-NPN. Annual Evaluation 2008. *Fortalecimiento y Reestructuración de la Policía Nacional de Nicaragua, Mejoramiento de sus Relaciones con la comunidad y Modernización de su sistema de capacitación (2006-10)*. Elaborado por: División de Desarrollo, Programas y Proyectos DDPP-NPN.

police work in rural areas and municipalities with high extreme poverty rates; successful introduction of the Communitarian Police Model and Preventive Police Model that allows gradual progress in the reduction and treatment of violence and violations of law committed by children, adolescents and young people; strengthened access to justice.

6.38. Attitudes within the police have been changed by promoting institutional values and principles aimed at good behaviour with the community, resulting in a decrease in crimes and offenses committed by police personnel. The supervision and control of the police force to prevent and redress abuses and inappropriate behaviour efforts have been improved. The gender approach has been enforced in the institution, based on training and the sensitisation of both women and men.

6.39. Some weaknesses were also identified, especially poor knowledge of the reforms among lower ranking officers, budget constraints and uncertainty about future external cooperation. In an interview with the High Command of the police, the commissioners reiterated the achievements outlined above but also highlighted issues directly related to AC work such as the positive relationship with Sida and Norad and their contribution to continuous dialogue for the decision making process through the creation and implementation of the 'Instance for Dialogue'[67] in the context of evaluation and monitoring of the programme, since 2009. Other achievements are:

- improvement in the areas of intelligence for AC activities and investigation of corrupt activities in the civil service. The quality of the investigation and the production of proof have increased and the time for presenting charges has been reduced.
- the establishment and consolidation of the Registry and Follow-up Office for cases of corruption and the construction of an AC data base that is shared by all the AC agencies
- important advances in education and training for members of the police on issues of corruption.

6.40. Some supporting perceptions about improving performance by the police can be found in two external instances. The IDB gave an award for the gender work of the police which can plausibly be interpreted as directly relevant to the project support described here. The National Police was also commended by Interpol for having the best security situation in the region, and was given international recognition for it.[68]

6.41. An assessment in draft at the time of this evaluation was summarised by Sida staff in country that the programme has achieved 60% of its objectives and purpose. Whilst many support the annual report, of concern are findings that the programme does not show improvements in the coordination of the FAC and that progress in inter-agency coordination is also assessed as being poor.

67 A formal review and discussion process.
68 www.gtzgenero.org.ni/premio and www.elnuevodiario.com.ni/nacionales/44868 (Retrieved 23 April 2011).

6.42. It is also important to note that in the CIET surveys quoted in Chapter 3 and elsewhere, a trend of declining experience of police corruption among citizens since 1998 saw a reversal in 2008. The projects reported here did not have direct AC objectives but it is still disappointing that the positive evaluations are not reflected in the continuing decline in corruption.

6.43. Progress with internal AC of the police is becoming transparently available. The Internal Affairs Division of the National Police is the agency responsible for registering and investigating complaints against police officers for alleged human rights violations, corruption and serious infractions of disciplinary regulations, the purpose of determining administrative responsibility. During the period January-December 2009, it recorded 2,283 complaints, opening 1,686 Files of Administrative Investigation (Expedientes de Investigacion Administrativa), in which 2,817 police officers were investigated, and as results of investigations conducted by the Internal Affairs Division, 899 police officers were subjected to disciplinary measures.

- Of the 1,686 Files of Administrative Investigation opened in 2009, 15.12% were related to issues of transparency and integrity. From 255 acts of corruption investigated, in which 471 police officers were involved, 118 police officers were found guilty of administrative responsibility and 6 cases were pending before courts.
- According to the Internal Affairs Division of the National Police, during the previous four years, denunciations regarding internal corruption had decreased by 12%.

6.44. There is no baseline against which an estimate of change can be made, but the availability of data is a positive step towards public scrutiny of the police.

7. Tackling corruption in the natural resources sector

Summary of key points about the natural resources sector

- There are many allegations of corruption in the sector but little supporting evidence.
- Concerns about corruption have centred on poor financial management at local government level and in the issuing of licences for forestry and fishing.
- The experience of Hambre Cero points up the danger of assuming corruption exists when the problem might just be mismanagement. Ongoing dialogue between government and donors can also improve such mismanagement.
- Communication has been poor about corruption issues, both among donors and with government.

7.1. Nicaragua is one of the poorest countries in Latin America, with a per capita income of only US$703 (2003). Of the rural population, 68% live in conditions of poverty.[69] Minority groups are the most affected by this situation,[70] as are the rural populations living in the east and north of the country.

7.2. There is an enormous inequity in the distribution of income, consumption and land tenure, with poverty associated with high unemployment rates, low fertility rates and limited access to basic services and infrastructure. Relatively high agricultural prices have encouraged production in recent years though this has been mainly in the commercial sector (coffee, cotton, beef, beans and cocoa) rather than smallholders, with the exception of some smallholder coffee.

7.3. In general, the rural population lives in marginal zones with a high risk of natural disasters. The most significant threats are earthquakes, volcanic eruptions, hurricanes and tropical storms, floods, mudslides and drought.

7.4. Nicaragua faces a number of environmental problems. Among the most serious are an accelerated loss of forest cover and biodiversity, the degradation of watersheds and soil erosion, growing and recurring periods of drought that alternate with flooding and mudslides, and the pollution of important water bodies. The lack of access to drinking water is also a serious problem for a significant part of the population. The low level of solid waste management is an issue in many parts of the country. Nicaragua has made considerable progress over the past decade in terms of creating a policy and legal framework for the environment, with the passing

69 Nicaragua National Institute of Statistics and Census Bureau (INEC). *Living Conditions Survey 2001.*
70 INEC. 2001. *Seventy-seven percent of the rural population on the Atlantic Coast are counted as poor.*

of laws, regulations and instruments for its application, assisted by donor programmes.

7.5. In general, and in particular in rural areas, there is a vicious circle of environmental degradation and poverty. Recent years have seen the landless destroy significant forest resources using rudimentary slash–and-burn techniques. Cattle-ranchers follow and buy the land which is then soon exhausted, providing an incentive for more slash-and-burn. The government granted a number of logging concessions in the mid- to late-1990s, which significantly increased forest degradation, and led to the President banning the logging of cedar, mahogany and bombax trees in 1998 for a 5-year period. Existing logging permits for these species were cancelled. However, illegal logging continued apace and it is estimated that about half of total timber production is illegal. The government approved a new moratorium in 2006, which imposed a 10-year ban on new permits for logging mahogany, cedar, bombax and mangrove. The military are supposed to enforce the ban by patrolling Nicaragua's protected areas, and forests along the borders with Costa Rica and Honduras, common smuggling routes. However, researchers and timber companies again raised concerns about the effectiveness of such a ban, particularly as government-approved logging has not been monitored and previous measures to combat the illegal trade have not been enforced. Corruption has prevented effective solutions to date and the trade has known links to criminal syndicates and gangs.[71]

7.6. The issue of illegal licences for fishing has been an issue in the past. But of more recent concern is illegal fishing methods and their control by the authorities. Blast fishing is considered an environmental crime under Nicaraguan law, punishable by up to 4 years in prison. Prosecutors can increase jail time by tacking on illegal weapons possession charges. But prosecuting cases is difficult because evidence is easily destroyed at sea. Reports indicate that while fishermen are currently being processed for alleged blast fishing, cases fail to proceed through the courts. Widespread corruption among local police officers hinders enforcement efforts, police investigator Gomez said. Many fishermen say police officers routinely take bribes from bomb manufacturers and their distributors.[72]

7.7. The natural resources sector is largely under the aegis of the Ministry of Agriculture and Forestry, and the Ministry for Natural resources and the Environment (MARENA). Both ministries have received significant support by the commissioning donors over the course of the review period as demonstrated in Table 7.1.

71 www.illegal-logging.info/approach.php?a_id=78 (Retrieved 23 April 2011).
72 www.illegal-fishing.info/item_single.php?item=news&item_id=3985&approach_id=18 (Retrieved 23 April 2011).

Table 7.1: Donor interventions in the natural resources sector[73]

Danida PASMA 1999-2005 Up to DKK 160 million (US$35 million)	• decentralisation of MARENA • institutional strengthening of the Ministry of Industry and Trade • strengthening the Office of the Environmental Attorney • management of water resources and the Estelí river watershed • small projects • environmental education • sustainable management of El Castillo buffer zone
Danida PASMA Phase II 2005-10 Up to DKK 200 million (US$39.45 million)	• support to the enforcement of the legal, political and institutional frameworks of environmental management in Nicaragua • strategic development of MARENA as the governing body in the sector, and support to the process of de-concentration and decentralisation of environmental management with a view to strengthening the enforcement of the environmental laws and regulations • strengthening of the Natural Resources Division at the Ministry of Industry and Trade, which administrates state-owned natural resources, with the aim of promoting quality, transparency and decentralised management of natural resources • strengthening the Office of the Environmental Attorney, in order to make it more efficient while increasing coverage • harmonise with PRORURAL SWAp
DanidaPASA 1999-2004 DKK 85 million (a little over DKK 71 million disbursed)	• policy development • institutional development (national, regional and local) • extension services (particularly to smallholders and coffee producers) • rural credit • regulation of pesticides • seed technology transfer • agricultural development in Region 1
DanidaPASA II 2005-09 DKK 135 million (US$27 million)	• sectoral policy development • rural credit/financial services • agricultural technology • harmonising with PRORURAL SWAp
Sweden Smallholder development 2001-, million	• rural credit/financial services • policy development • institutional development
Sweden PRORURAL Fondo Común (CSCF basket funding) approximately US$9 million 2007-09	• policy development • institutional strengthening • infrastructural development • sustainable forestry development • commercialisation of forestry and fisheries • phytosanitary development • Hambre Cero

73 Of the commissioning donors, DFID did not have direct assistance to the natural resources sector during the review period.

Norway FADCANIC/ADDAC Phase I – 1999-2003 NOK 12 Million (US$1.5 million) Phase II – 2004-08 NOK 9 million (US$1.2 million) Phase III – 2009-13 NOK 33 million (US$4.98 million)	• development of a model for local sustainable development with equality based on agroforestry systems in the humid tropics of Nicaragua
Norway PRORURAL Fondo Común (CSCF basket funding)	See above for Sweden
Norway Support to the Development of the Fisheries Sector in Nicaragua 2005-08 (suspended in 2009) NOK 9.78 million (US$1.3 million)	• fisheries management and administration • fisheries research and assessment • institutional capacity building • cross-cutting issues (gender, environment, indigenous population, and nutrition)

7.8. The natural resources sector, as with AC initiatives and donor support in general, is similarly characterised by three distinct periods within the review period:

i. 2002-07: A period of close collaboration with the Bolaños regime, though assistance in the sector was fragmented, particularly at the outset, due to a lack of a strong guiding sector strategy. Towards the end of the period saw the emergence of basket funding in the sector, with donors either directly funding PRORURAL or harmonising existing initiatives with the new mode of basket funding.

ii. 2007-08: A period of close partnership with the GoN, with a renewed emphasis on smallholders within the sector rather than commercial interests. The PRORURAL round table was seen to be harmonious and effective. Donors aligned themselves with a coherent GoN policy, though national systems were not adopted to a great extent with the exception of PRORURAL basket funding. Donor finance was mostly directed to wages and salaries rather than items open to government procurement systems. Reporting was carried out by the GoN including a regular 'mesa' (round table), annual reports, financial reports and, more recently, external audits.

iii. 2009-10: Growing disillusionment with the Sandinista regime with EC countries in particular withdrawing from the sector in the wake of the 2008 municipal elections and lack of transparency regarding the role of Venezuelan oil proceeds in the sector, particularly with respect to the Hambre Cero initiative. Although Norway remains a strong supporter of PRORURAL, it has suspended funding to the fisheries sector in the wake of alleged corruption (see the next section in this Chapter).

7.9. In terms of size of financial support, the Danida programmes are the most significant over the period. The relation between the Agricultural Sector Support Programme (PASA) and Environmental Support Programme (PASMA) was complementary in nature as both programmes worked in collaboration to promote environmental issues in agricultural production. Particular concerns related to the adequate use of agro-chemicals and promotion of integrated pest management.

7.10. In 2007, Danida made great efforts to align the second phases of PASA and PASMA with PRORURAL. The latter is characterised by a production-oriented approach to the agricultural sector, including support to MARENA in order to help ensure that the environmental aspect is adequately taken into account under PRORURAL.

7.11. Regarding corruption, some attention was drawn to this in programme documents. The PRORURAL programme has two Memoranda of Understanding which include AC clauses, in addition to paragraphs on the topic in bilateral contracts. PASMA II included text in its programme design stating: "*There is a risk related to unintended use of the funds by the municipalities (corruption). This risk is shared with Danida's decentralisation programme, APDEL. The mitigating actions are principally to secure that all municipalities are audited annually. A multi-donor initiative in this sense is under way.*" As yet, there is no evidence of such corruption occurring, presumably referring to weak procurement and false invoices. This is potentially a reflection of the nature of corruption in Nicaragua which is more associated with the capture of institutions rather than small-scale misuse of public funds. It is for this reason that Hambre Cero was regarded as potentially a vehicle for patronage from the government to its supporters, as detailed later. In addition to concerns about the misuse of funds, arrangements under PASMA included a focus on improved natural sector management, enforcement and transparency.

7.12. Over the period of the evaluation, there is a wealth of circumstantial evidence of corruption in the natural resources sector, mostly detailed in the press. Allegations have centred on the provision of licences in the fisheries (in particular regarding fake fishing permits granted to Honduran vessels) and forestry sectors as well as logging and fishing without licences. There have been no other documented types of corruption in the sector other than the generalised types found in the country, such as weak procurement, false invoices, and patronage regarding employment. This may be exacerbated in the natural resources sector as much funding is channelled through the local offices of the relevant ministries and also the municipalities which generally display weaker financial controls than the central ministries. In the fisheries sector, it is also alleged that the importance of the fake licenses has recently receded as the remuneration from fishing, particularly for small fishermen, is very low compared to the potential earnings from cooperating with cocaine traffickers.

7.13. As indicated, there is little documented evidence of such corruption in the sector, in particular since the assumption to power of the Sandinista government in

2007. What follows therefore, is the exploration of two important cases where corruption was alleged in the press, one in the fisheries sector and the other in the agricultural sector under the Hambre Cero programme. Both have relevance to donor assistance, in particular regarding Norway's assistance to the fisheries sector, and a wider donor group's (including Norway, Sweden and Denmark) assistance to the agriculture sector under the PRORURAL basket fund (SWAp).

Fisheries

7.14. In 2007, with the advent of the Sandinista government, responsibility for fisheries was moved from ADPESCA under the Ministry of Finance to INPESCA, an autonomous organisation under the President's Office. At that time, Danida stopped their assistance to the fisheries sector, retaining sectoral support instead exclusively to the Ministry of Agriculture. There were questions at the time regarding the reason for Danida's withdrawal and whether there were concerns about corruption, though this is denied by the Embassy.

7.15. Norway remained engaged in the sub-sector. But by February 2009, an email from a Norwegian journalist posed the question *"A lack of trust and lack of a capacity assessment on the part of INPESCA led the Danish to withdraw their support for INPESCA in 2007. Why did not the Norwegian government come to the same conclusion, given the money was transferred through the same institute?"*[74] The response of the Embassy in Managua was: "*The reasons for the Danish withdrawal have not been made fully official.*" The mid-term review report says two things about the Danish withdrawal: on page 14 it says that "*Denmark withdrew their support to INPESCA in 2007 for reasons that remain confidential*", and then on page 17 it says that "*Given there is no significant anti-corruption measures in place for the Norwegian Assistance to the Norad program, there is a general feeling that having such measures in place would be a good way to protect INPESCA and the Technical Committee's good reputation, especially after Danida withdrew their support to the fishery sector in 2007 (partly because anti-corruption measures were lacking).*"[75]

7.16. In the 2006 programme document of the Support by Norway to the Development of the Fisheries Sector in Nicaragua, there is no AC element of the programme design (as mentioned in the email quoted above). This is despite the inclusion of a PAM covering assumptions for the success of the programme which identified corruption as a risk to the achievement of objectives. The bilateral contract for the programme included AC elements and the project document presented by the government was assessed by the Norwegian Embassy in terms of risk elements.

7.17. In 2009, Norway conducted a mid-term review of its Support to the Development of the Fisheries Sector in Nicaragua. During the course of this review, staff from INPESCA provided the mid-term review consultants with documentary evidence of potential corruption regarding the use of funds targeted for oil purchases and other small items, as well as the appointment of many INPESCA staff outside of

74 Consultant interviews with senior INPESCA staff and an expert within the sector also indicate that the Danish withdrew for reasons associated with corruption.
75 Email seen by the evaluation team.

GoN regulations, including under-qualified staff in Internal Audit, furthering a lack of transparency and control of finances.

7.18. As a result, these allegations were published in the mid-term review and subsequently in the press. The Norwegian country office decided to curtail disbursements immediately. It also paid for a special audit of INPESCA to be carried out under the auspices of the Controleria General de La Republica. Investigations are still underway and the results of the audit are awaited (in fact now audits are required not only from 2007 and 2008 but also 2009) before deciding whether or not to restart disbursements under the programme. A key issue will be whether any of the Norwegian aid funds were misused. The Central Control Unit in the Oslo Ministry of Foreign Affairs has been alerted in this regard though made little headway in its investigations in Nicaragua. Interestingly, no discussions were held with other donors to discuss the issue of corruption in INPESCA, possibly a reflection of the lack of harmony amongst the development partners.

7.19. There does not seem to be a simple lesson to be learned from this episode. However, it illustrates the weaknesses of corruption assessment and the use of that information during programme design. It is also clear that communications within the donor community were not effective.

Hambre Cero

7.20. The accusations of corruption in the management of the Hambre Cero (Zero Hunger) programme leave even less of a conclusion. Hambre Cero is the latest initiative to alleviate poverty in Nicaragua, by way of targeting mainly poor women with the provision of animals or seeds. The programme's funding is largely sourced from the proceeds of Venezuelan oil revenues, though the management of the programme is carried out by the Ministry of Agriculture and Forestry. As such, the source of funding is cloaked in a lack of transparency as Albanisa (the vehicle for the collection and distribution of about US$500 million of proceeds from the sale of Venezuelan oil) does not reveal accounts nor is it subject to audit. According to IEEPP "*There exists an additional budget financed with Venezuelan funds, amounting to about 310 million Cordobas (approximately US$16.5 million) for Hambre Cero, which are not subject to any type of legislative or public fiscal approval, as there are no instruments which would permit this*."[76]

7.21. There is some implicit donor assistance to Hambre Cero, albeit minimal, given that development partners fund PRORURAL, a SWAp in the agricultural sector, which covers aspects of the sector's management, including staff salaries. In this regard it is interesting to note that since 2007 there have been no technical staff in the sector receiving top-up salaries, an initiative of the present government. Corruption allegations have been made regarding the targeting of beneficiaries and the procurements of the programme.

7.22. Hambre Cero is responsible for the majority of 'emergency' GoN direct procurements since 2007. Inadequate preparation and a shortage in supply of animals

76 El Instituto de Estudios Estratégicos y Políticas Públicas (IEEPP). *Presupuesto Ciudadano*. Year 2, No. 3.

resulted in many purchases being made at local level with rural vendors without competition and without receipts associated with larger businesses. Furthermore, animals were transported to recipients, often over long distances, with resulting deterioration in quality. At beneficiary level, there was scope for patronage in targeting with the Ministry of Agriculture and Forestry and the FSLN local committees being instrumental in making beneficiary decisions. Overall, the programme was not transparent in its procurement or targeting of beneficiaries.

7.23. As a result of the perceived vulnerabilities of Hambre Cero, a study was conducted by IEEPP in 2009[77] to analyse benefits accruing to beneficiaries, including whether corruption had impacted on such benefits. One conclusion of this study indicates that although the management of the programme was weak in many municipalities, and that lack of transparency was prevalent, there was no evidence of institutionalised corruption.[78] Such conclusions were also borne out by several donor field visits to Hambre Cero beneficiaries (and non-beneficiaries) including the Swiss and Swedish missions.[79] Mismanagement appeared to be the conclusion rather than systemic corruption

7.24. The IEEPP study did indicate that some potential beneficiaries in extreme poverty were prone to exclusion given the criteria used for selection. However, there was no systematic evidence that beneficiaries were chosen on the basis of political party affiliation or kinship, despite the targeting process being less than transparent, and dominated by party (FSLN) and government bodies.

7.25. Meetings with donor representatives of PRORURAL revealed that dialogue with the government had generally improved since 2007,[80] presumably reflecting the increased poverty focus of the new regime.[81] However, this improvement had waned in late 2009 as GoN/donor dialogue deteriorated across all sectors. Given that corruption was mentioned explicitly in the PRORURAL Memorandum of Understanding, the donors have taken great interest in the allegations regarding Hambre Cero. They have received a number of GoN written annual reports for PRORURAL but no mention of corruption has been made. It is now the intention of development partners that the forthcoming Memorandum of Understanding will have a specific AC focus.

7.26. It was also stated in the PRORURAL meeting that the management of the programme had improved year on year. Audit reports in 2007 and 2008 of the Ministry of Agriculture and Forestry and el Instituto de Desarrollo Rural (Institute for Rural Development), the two agencies responsible for the sector, had revealed weaknesses which resulted in a change in the Head of Hambre Cero. Nevertheless, it should be emphasised that the irregularities identified in the audit reports were not substantially different to those under the previous regime, and reflected poor

77 IEEPP. 2009. *Las Voces de "Hambre Cero"*.
78 Corroborated by interview with Claudia Pineda of IEEPP, 22 April 2010.
79 Interviews with Sida, Peter Bischof and Jose Luis Sandino, 22 April 2010.
80 Consultant meeting with PRORURAL donor representatives, 21 April 2010.
81 *General Budget Support in 2008 and Beyond: An appraisal of the current situation and Challenges,* (Joint analysis of Norway, Finland, Swiss and DFID) states: *"…the Sandinista government is revising the NDP to ensure that small and medium producers become an increasingly important force…The new government brings a renewed commitment to poverty reduction to the table and it has a stronger focus on social policy."*

management rather than evidence of corruption.[82] The World Bank also indicated that SIGFA had now brought the Hambre Cero programme within the budget process, somewhat improving prospects for transparency.

7.27. A consultant mission to Jinotega interviewed the Director of Strategic development of the NGO Cuculmeca on 19 April 2010. Allegations were made that Hambre Cero targeting was prone to corruption. It was alleged that the lists of beneficiaries provided by the Ministry of Agriculture and Forestry (after scrutiny by both the local FSLN and the FSLN Municipality) were faulty in that 40% of beneficiaries could not be identified by Cuculmeca from the addresses and registration details provided. Firm conclusions cannot be drawn given the partisan nature of Jinotega politics and the inability of the consultants to triangulate accusations.

7.28. Hambre Cero has been riddled with management inefficiencies and a lack of transparency since 2007. Such issues have improved over time under the watchful gaze of donors, the public and the media. Corruption to any significant degree has never been uncovered, and certainly does not appear systemic. Audits have been carried out, management of Hambre Cero has been changed and improved, though the main source of funding still is clouded in lack of transparency. On the positive side, tens of thousands of beneficiaries have benefitted from the programme, mostly poor and female. The real question is whether the impact is value for money.

Conclusion

7.29. The case of the fisheries sector is instructive concerning the extent of communication between the Danish and Norwegians on the issue of corruption, both to forewarn Norwegian initiatives in the sector, but also to provide a platform to respond to future instances of corruption. In that regard there have been no formal meetings called by the Norwegians to provide information regarding their experience, though the issue has been extensively covered in the press and the Spanish, EU and Japanese are now re-considering their presence in the sector. Irregularities were found in the 'Fisheries Fund', which is based on proceeds from license fees and fines, not donor funding. Norway has encouraged the GoN to provide institutional audits. Audits of donor funding programmes have not revealed misuse of funds. Dialogue between the GoN and Norway has also been weak, despite the 'softer' stance adopted by the Norwegians vis-a-vis the GoN and corruption issues (compared to EC members for example). This is probably a result of the delicate political dimension of the corruption allegations but has resulted in an impasse until now despite the Norwegians being regarded as a relatively friendly donor.

7.30. Regarding Hambre Cero, it appears that the development partners have jointly expressed concerns regarding lack of transparency and potential corruption. Meetings with the GoN have been productive, management and transparency have increased (the Head of Hambre Cero was replaced) and the common conclusion is that the programme has been mismanaged rather than corrupt. Coordinated donor action coupled with public and media concern has resulted in improved management, though it is likely that the government was not averse to such an improve-

82 Rios, F. (on behalf of the Norwegian Embassy) *Monthly Analysis of 2007 Budget Execution Audit Reports*. September 2009.

ment anyway. It is in their interests to improve efficiency in what is a flagship programme. Nevertheless, lack of transparency regarding Venezuela's Albanisa funding remains.

7.31. In summary it can be asserted that there is not a common approach in Nicaragua towards corruption in the sector. Interventions are rarely designed with corruption safeguards in mind. Despite the relative success of the PRORURAL 'mesa', donors are not coordinated nor approaching the GoN with a single voice. Nevertheless, there are signs that donor concerns can be addressed, though not if Sandinista political alliances are threatened.

8. Conclusions

8.1. This Chapter develops conclusions from the Nicaragua country study that will be synthesised with those from other studies in the final report. The context in Nicaragua has been difficult for donor engagement owing to a large variation in the quality and trust in relationships between donors and the GoN during recent administrations.

8.2. Generally it can be said that since 2002 there has been significant progress on AC issues in Nicaragua. Most importantly, the architecture for the fight against corruption has been established both at national and regional levels. The population has been sensitised to the issues of AC work, preventative measures have been taken, and prosecutions are able to be taken at all levels though few have been made thus far. The challenge for donors has been how to respond to significant shifts between different political regimes.

8.3. Analysis of relevance found that donor-supported programmes are generally well-founded on analysis of political economy and corruption, but analysis of how AC activities will support poverty reduction and attention to gender dimensions are treated less consistently. Clear links exist to national strategies. Stakeholders were generally consulted during project preparation but use of analysis by, and consultation with, non-state actors is less consistent, especially for projects directly supporting government institutions.

8.4. Donors were flexible in responding to changing government strategy and the political will to fight corruption. Donors responded positively and logically to opportunities under the Bolaños regime and provided effective support in several key areas. In particular, it was the right decision to support the AC effort through existing institutions rather than to create a new, dedicated entity. Complementary work in PFM and public sector reform, whilst not directly linked to AC, may also have strengthened governance systems and helped prevent corruption, especially in service delivery not supported directly by work under the FAC.

8.5. The period has seen the steady introduction of all the elements of the international AC efforts and the guidelines of the UNCAC and IACAC. There has been a steady change in approach from a limited strategy that began centred on a few government agencies to the most recent initiative which proposes to include in the FAC regional and municipal levels of government and more general cross-cutting aims,

such as the fight against poverty, gender, youth and the environment, with greater participation of civil society. Ratification of UNCAC took place during the period of the Bolaños government and influenced government actions at that time, but commitments under the convention have not yet had a visible effect on furthering good governance.

8.6. Significant gaps still exist, especially in three areas: dealing with corruption in political processes and electoral reform (UNCAC Article 8); corruption in the private sector and asset recovery (Articles 12 and 14); and corruption in the judiciary and prosecution services. Exactly how these are handled when UNCAC is reviewed will determine whether entry points can be found for new ways to assist reform. The role of the UN in the review process is potentially important in this aspect.

8.7. The response by donors to changing policies under the Ortega administration and the discredited Municipal Elections of 2008 resulted in a decline in engagement with the GoN. Whilst the perceived poor response by the GoN to grand corruption is a contributory factor in withdrawal by some donors, especially from support to the FAC, that withdrawal is also a feature of changing policies in the donor HQs. Since the field visit was undertaken, Norway has become the fourth donor to announce plans to withdraw. The combination of donor withdrawal and discontinuation of budget support reduces the scope both for donor coordination and dialogue with government. In such an environment it is difficult to identify a potential catalyst for continuing support.

8.8. Whilst there is evidence that petty corruption has seen a decline in some sectors, analysis indicates a continuing high degree of political capture of state institutions with an associated potential for grand corruption. The problem of political capture is not directly tackled in any AC convention or by any AC institution or programme. Good progress made under programmes including the FAC, PSTAC and APDEL have contributed to improvements to laws and regulations and the creation of an architecture for AC. But political interference, seen through weak implementation, avoidance of procurement regulations and the performance of the judiciary act to undermine the system. It is a major concern in Nicaragua and efforts to address and suggest solutions to the problem will be a major contribution to success in the AC effort. Continued support for capacity building and to stimulate citizens' demands for greater accountability are all relevant but present a dilemma for donors when enhanced capacity is prevented from improving institutional performance. In view of the difficulties of dealing directly with political capture, what strategy should development partners pursue? Is it worth supporting a mechanism such as the FAC which is geared to regulations and systems, when the GoN undermines their operation and the sanction processes are ineffective? Whilst the effect of systems and regulations being undermined is negative towards AC, there is some value in creating an AC framework than can be effective in operation when political orientation is more positive. Continued work on PFM is such an example.

8.9. It is clear that the driving force behind the progress made with the FAC has been external; vested either in political leadership (the President) or on donors that provide resources. It is not possible to identify an internal drive for the Nicaraguan

civil service to promote the FAC or AC Strategy. In the highly politicised and polarised context of Nicaragua, the combination of external influence, the lack of resources, the reduction of the presence and dialogue with donors on AC issues, the strong ideological preferences of top political leadership and the low coordination of AC at the branches of government, especially the judiciary, makes it likely there will be stagnation or further politicisation of the FAC and its strategy. Withdrawal of donors, a key driver in support to the FAC, will not help progress against corruption.

8.10. Support to public sector reform through PSTAC, APDEL and the FAC has demonstrated some success and shown that capacity building can be effective. But donors need to be realistic about the pace of change.

8.11. Credible independent think tanks and CSOs exist in Nicaragua and can be supported further to maintain a transparent public dialogue about the extent to which citizens are affected by corruption. The valuable work by CIET needs to be continued and brought together with other diagnostic studies to understand how political capture is manifest in corrupt decisions and actions.

8.12. Donors have set high standards of integrity and a zero-tolerance approach to the misuse of their funds. This must continue to be an over-riding concern. Commitments under the Paris Declaration to work through national systems should not, for example, prevent donors building in procedures to circumvent the use of politically motivated 'direct purchase procurement' exclusions.

8.13. Conclusions in response to the main questions of effectiveness in the evaluation terms of reference:[83]

How effective have donor interventions been in fostering institutional monitoring and evaluation mechanisms to fight corruption?

8.14. Donor supported programmes were not well designed for subsequent monitoring and evaluation and the specification of indicators was poor. Relatively little emphasis was placed on the importance of institutional monitoring of corruption. Work under APDEL has contributed to improved financial reporting and public information but there has been little progress in improving transparency in the reporting of findings by the Auditor General or the progress with corruption cases through the courts. One significant exception is the use of indicators for institutional strengthening of the police. Whilst not specifically an AC programme, this illustrates that better specification is possible.

8.15. The main contribution by donors has been in two areas: support to civil society through the CSCF; and support to *Ética y Transparencia* and work with CENIDH and other CSOs dealing with advocacy, community participation and monitoring. The strength of this work has been the willingness of donors to provide support to organisations' own strategies without imposing unnecessary constraints. A weakness has been the relative isolation of projects and the lack of linkages. None of

83 As reformulated during the Inception Phase.

the projects had explicit AC objectives and were designed around more diverse aims. The second area is support to the police, where a solid attempt has been made to create an objective framework of indicators for management.

How effective have donor interventions been in fostering a culture of openness and supporting progress in the area of transparency, ethics and public reporting?

8.16. Few donor programmes have highlighted work in these areas. The most significant contribution was the support for the Public Ethics Office under the FAC, but this only took place over a very short period of time. Work with the police has also been beneficial in this area. There has been virtually no support for the media. Limited benefits have come from the publication of expenditure tracking and review studies but these were conducted under the previous government. Donors have not engaged with the National Assembly.

How effective have donor interventions been in dealing with the forms of corruption affecting poor people and women in particular?

8.17. The most specific work on AC through the Fund did not have any orientation towards the needs of the poor and women. Programmes that were planned in support of the PRSP and NDP built on gender and poverty analysis in those plans, but there are few examples of project design responding to social analysis. Support for the poor can be found in programmes in natural resources and the social sectors, but those reviewed by the evaluation team do not have explicit provision to tackle corruption issues.

How effective have donor interventions been in using dialogue as a tool for coordinated donor response in monitoring and fighting corruption?

8.18. Dialogue between donors and government improved steadily during the period 2002 to 2007 and was most effective when many donors contributed to GBS. Since then, formal interaction has reduced. Donors have maintained an effective informal communication, but independent observers contend that donors do not share information among themselves and one significant example was found where information about corruption that might have affected a donor's decision to support a sector, was not shared.

8.19. Donor dialogue was effective under both the FAC and CSCF projects and arguably led to some common, but divided, reactions, both to withdraw support from the FAC on the part of some donors and for others to continue to support it. Evidence to explain the different decisions was not readily forthcoming, but it appears that decision-making by donor representatives in country was more important than decisions by their HQs.

9. Lessons

9.1. This chapter draws together some general lessons that have emerged from the evaluation and indicates what has worked where there is sufficient evidence to provide cautious guidance arising from experience in the Nicaraguan context.

9.2. Donor support in Nicaragua illustrates well two contrasting but successful strategies. Firstly, long-term and sustained support for institutions, both within government and outside, brings benefits. Both the police and CENIDH have developed into more effective organisations and have made substantial contributions to work against corruption. Secondly, responsiveness to government policy. Support for the FAC responded well to government policy at the time and has succeeded in developing aspects of the AC system.

9.3. Approaching AC through established agencies, rather than by creating a dedicated AC commission, was shown to be possible and effective. A multi-institution, multi-donor fund means that work can proceed on many fronts in a coordinated and harmonised fashion with potential for improved collaboration between the institutions. Donor support provided a stimulus for closer partnership working, such as between the police and Attorney General. Working with separate agencies meant support could build on local areas of competence without the political interference associated with some dedicated AC commissions. But working with so many agencies brings a risk of efforts being spread thinly and of leaving key areas unreformed. It is notable that the improved performance of the police stands out because the police benefitted from other additional project support as well as through the FAC. But working with agencies was not sufficient to improve performance of the courts and judiciary. Donors were unable to engage in an effective bilateral way with several parts of the AC system, such as the Auditor General and the judiciary, owing to their politicisation.

9.4. Different incentives have been effective in the relationship between donors and the GoN at times during the period of the evaluation and have created opportunities for AC dialogue. Initially, government receptiveness to donor assistance to economic reform created a conducive environment to introduce AC measures. Budget support was valued by the GoN and helped to maintain the relationship. But access to funds from Venezuela under the present regime has reduced Nicaragua's dependency on aid and corresponding willingness to work with donors on AC. That situation might change if budget support from other donors or international financial institutions is withdrawn and the GoN seeks further assistance from the EU or bilateral donors.

9.5. The GoN has an AC Strategy. Donors have decided not to continue support for a range of reasons discussed in Chapter 4. But by withdrawing support, scope for dialogue is reduced. The FAC is essentially a capacity building programme. This is an area where UNDP has extensive experience and their internal policy guidelines include the advice that capacity building is a long-term process and needs to be maintained under difficult circumstances. Citizens and many people in the executive want to see effective AC measures in Nicaragua. Withdrawal from the FAC may prove a tactic that will harm progress against corruption by signalling that donors no longer treat this work as important, thus undermining the progress that has been made.

9.6. The change in government in 2007 had repercussions in the process of dialogue and the setting of the agenda. In terms of how to create incentives to open a dialogue, experiences at provincial level such as Jinotega where CSOs and the private sector have managed to maintain the Departmental Development Council with the support of a group of municipal councils, mainly led by opposition parties, provide a case to study and explore at greater depth than was possible in this evaluation. The continuing functioning of the Departmental Development Council is in doubt as it may be seen as a threat to government priorities.

9.7. An important aspect of monitoring efforts is to identify clear targets and indicators to monitor performance in achieving objectives. Civil society has a key role to play in monitoring AC, either by actively participating in monitoring processes or by producing independent reports. Public participation and access to public information were two aspects of corruption prevention that PSTAC had as central elements of the strategy for poverty reduction through state reform. But, this remains an unfinished agenda, as progress stopped with the advent of the current government. This needs to be reinstated in future public sector reform.

9.8. Sustained support, transparency in the relationship with donors, the overlap in the goals among actors and the network of organisations, were central to achieving CENIDH's institutional goals, and achieving the strengthening and sustainability of a CSO that is considered permanent and with national legitimacy.

9.9. The CENIDH reports on Human Rights Violations are an independent and alternative voice to understand the situation in Nicaragua. In turn, these have served as advocacy strategies to achieve democratic openness, transparency and progress in terms of rights. One example is the recent revision of the Universal Periodic Review from the United Nations in Regard to Civil and Political Rights. In terms of the recommendations to member countries and Nicaragua in particular, the alternative report that CENIDH prepared has turned out to be essential. In this case, the recommendations made to Nicaragua built on key inputs from that report.

10. Recommendations for donors

10.1. Despite the fact that none of the four commissioning donors working in the country plans to maintain a future presence, there are general recommendations relevant to the work of all donors and well as specific recommendations for continued support in Nicaragua.

Key recommendations

10.2. Whilst donors must clearly be responsive to changing national policy and seize opportunities as they arise, AC is a slow process and requires long-term and consistent engagement. Donors need to have clear long- or medium-term AC strategies within which short-term tactical decisions can be taken. This is particularly important where changing political administrations can lead to big changes on policy and donor engagement. Capacity building programmes are by their nature, long-term investments

10.3. Nicaragua illustrates a situation where change of political regime led to deteriorating communication and relationship between the government and some donors. The GoN has retained an AC policy which seems to be having an effect on petty corruption, but there is no dialogue with donors over grand corruption and the effects of political capture. The evaluation has covered a period in which three different political administrations governed, so it is reasonable to assume power will not remain with any one party indefinitely. There is a large constituency of CSOs and citizens who want to see an improvement in governance and a reduction in corruption. Despite the risks of political interference and dilemma of government undermining its own laws and regulations, donors should maintain support for AC despite the currently poor relations. Several different ways of engagement can be pursued:

- Continue the long-term approach of support to national strategy through capacity building via the FAC. The FAC mechanism provides entry points for dialogue with a wide range of agencies. Progress is unlikely to be the same across the agencies and there is a trade-off between dealing with many or concentrating on a few receptive organisations, such as the police. Working with all has the scope to improve inter-agency coordination and partnership working. There is clearly a dilemma about the GoN undermining systems through political capture and the way in which laws and regulations are implemented, but that does not necessarily negate capacity building to put systems in place.
- Improve the evidence base by first developing a theory of change for the AC Strategy that can provide a framework for both government and civil society to monitor progress, and set indicators that reflect performance of the AC system.

- At present, dialogue about the corruption arising from political capture is compromised because it is so politicised. Donors could support the establishment of a national evidence base on how political capture of state institutions is manifested that would be comparable with evidence on petty corruption and would help make the AC debate more objective. Influential studies such as those cited from U4 contain few objective measures of political capture. A first step would be to develop indicators of political capture that illustrate behaviour in a way that can establish trends over time.
- Continue to work with civil society to empower citizens and support demand side pressures against corruption. In addition to mechanisms such as the ongoing CSCF, this could include support for think tanks and research organisations, such as Funides.[84]
- Donors have set high standards of integrity and a zero-tolerance approach to the misuse of their funds. This must continue to be an overriding concern.
- Multilateral and UN agencies may be viewed by the GoN as more neutral than bilateral agencies. If there is limited progress in dialogue between bilateral donors and government, donors could consider support to capacity building for governance and AC through the offices of the World Bank or IDB and UNDP following the example of donors in Viet Nam. That has led to wider engagement with government at both national and provincial levels, and has been influential in the legal sector.

10.4. There is some evidence from the GoN's participation in regional fora that the GoN is concerned about its relations with and standing among other countries in the region. Arguably, the GoN might be more receptive to AC support through regional mechanisms and institutions, such as the monitoring mechanism for the IACAC and the Caribbean Financial Accountability Task Force.

Other reforms related to anti-corruption

10.5. Working through established agencies is positive in the sense of avoiding some of the problems associated with dedicated AC commissions, such as the duplication of functions. But working with multiple implementing agencies places a burden on donors, especially where programmes are small in size. In such cases it is important to identify critical points where linkages are weak, capacity is limited or new approaches are necessary for AC systems to work. The judiciary is such a component in Nicaragua, as also is the processing of cases through the Public Ministry. Support to the police benefitted from partnership working with Swedish police. A similar approach could be considered for the judiciary using the incentive of international standards and recognition as an entry point.

10.6. Work in support of institutional reform, such as with the police, or public sector and PFM all have the potential to contribute to reducing corruption. But to be managed towards that end, clear AC objectives and indicators need to be established in their design.

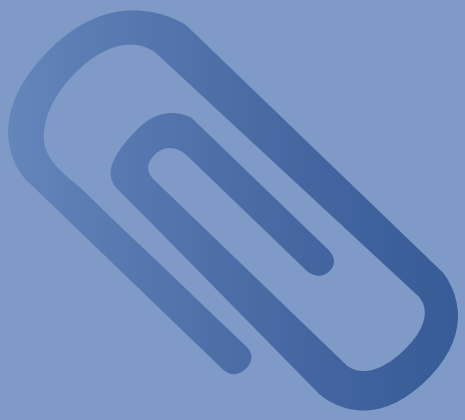
84 Fundación Nicarag enses para el Desarrollo Económico y Social, currently supported by USAID.

Broadening donor harmonisation

10.7. In the period until it closes its mission in Managua, Norway had made a clear commitment to continue to try and work with the GoN and enduring partners in the FAC. Future progress would be helped by trying to establish as strong a consensus among those donors remaining in Nicaragua as possible and to bring other influential donors such as Spain into an AC policy dialogue.

10.8. As part of trying to develop broader and more consistent donor engagement, Norway could consider promoting a more prominent role for the UN. In an environment where traditional relationships with bilateral donors is reducing or in decline, the UN has the potential to play a growing role as a neutral party and one with a role to help countries meet their commitments under international treaties and conventions.

Annexes



ANNEX 1:
Definitions, data & survey instruments

Definitions

Working definitions used in this evaluation:

- **Corruption** – "*the abuse of entrusted authority for illicit gain*".
- Our understanding of corruption versus governance is that an act of corruption is intrinsically linked to a specific transaction between two (or more) parties.
- By contrast, **governance** can be defined as "*The traditions and institutions by which authority in a country is exercised*".
- It is recognized that donors are increasingly working on a programme basis, but for simplicity Project and Programme are used interchangeably with Project being the default term to describe donor-funded activities.

Joint External Anti-Corruption Evaluation Framework

a) Relevance: Are the approaches employed by the five donors to address corruption (including its negative effects on poor people and women in particular) appropriate to country circumstances, and how could they be made more relevant?					
	Revised questions	**ToR questions**	**Evidence/ indicators**	**Sources of data**	**Data collection tools**
1.	Are approaches responsive to country circumstances?				
	a) Was a state of corruption and political economy mapping and analysis done prior to AC interventions, and if so, what was the quality of this work? Were entry points and major obstacles clearly identified? Were gender and poverty taken into account?	2	Clear references to analysis in programme design documents	Donor programme and project documents	Performance assessment questions 1.2; 1.3
	b) How far did donors use national strategies as well as analytical work carried out by non-state actors to support their choice of AC specific interventions? Were their AC-specific interventions designed in discussion with the government and non-state actors?	3	Clear references to analysis in programme design documents	Donor programme and project documents	Performance assessment questions 1.4; 1.5
	c) Did donor approach to address corruption in the country change over the evaluation period? And did this match changes in the country context?	1	Changes in approach identified from timeline analysis	Donor policy documents Interviews with donor policy-makers and planners	Country context and donor policy timelines
	d) Was the UN Convention Against Corruption used and promoted as a binding legal and political international commitment to further good governance?	5	Reference to UNCAC and structuring of interventions in line with UNCAC articles	Donor policy documents Interviews with donor policy-makers and planners	Donor interview questions
2.	How coherent are donor approaches?				
	a) Have donors been coherent and complementary in their choice of AC interventions? Are there any gaps in terms of funding? Was sufficient attention given to platforms for donor coordination and dialogue with government and non-state actors?	4	Gaps/ overlaps between context analysis and areas of donor support	Donor programme and project documents Interviews with donor planners Interviews with state and non-state actors	Donor mapping Interview questions

	b) How far do donors assess the risk of misuse of donor money across their entire programme? How far did they follow a zero-tolerance policy to corruption?	2	Document-ed analysis	Donor programme and project documents Interviews with donor policy-makers and planners	Performance assessment question 1.8
3.	Are approaches responsive to implementation experience?				
	a) To what extent did donors monitor and evaluate the performance in their AC interventions? What was the quality of the indicators used? Were they in line with national indicators? Were gender and poverty taken into account?	7	Existence of review, monitoring and evaluation documents with appropriate indicator quality and coverage	Donor programme and project documents Interviews with donor policy-makers and planners	Performance assessment questions 2.1-2.5
	b) Have there been changes in the donors' AC agenda, implementation, and result monitoring as a result of observed problems (or success) in the implementation of existing activities?	8	Changes to donor programme composition and content	Donor programme and project documents Interviews with donor policy-makers and planners	Performance assessment question 2.6 Donor interview questions

b) Effectiveness: How effective have donor interventions been in addressing different types of corruption, including forms of corruption affecting poor people and women in particular?

	Revised questions	ToR questions	Evidence/ indicators	Sources of data	Data collection tools
4.	How effective have donor interventions been?				
	a) … in fostering institutional monitoring and evaluation mechanisms to fight corruption? (parliament, civil society, etc)?	11	Demonstra-bly function-ing institu-tional systems that are being utilised	Donor programme and project monitoring and evaluation documents Interviews with donor advisors Interviews with state and non-state actors	Performance assessment questions 3.1-3.7 Interview questions Focus group discussions Intervention logic analysis
	b) … in fostering a culture of openness and supporting progress in the area of transparency, ethics, and public reporting?	9, 10	Examples of increasing open, transparent processes and informa-tion	Donor programme and project monitoring and evaluation documents Interviews with donor advisors Interviews with state and non-state actors	Performance assessment questions 3.1-3.7 Interview questions Focus group discussions Intervention logic analysis

	c) … in dealing with the forms of corruption affecting poor people and women in particular?	-	Findings from evaluations Perceptions of stake-holders	Donor programme and project monitoring and evaluation documents Interviews with donor advisors Interviews with state and non-state actors	Performance assessment questions 3.1-3.7 Interview questions Focus group discussions
5.	Within donor organizations, how extensive and effective are preventive measures, such as financial management and control of programmes? What is the burden on country systems?	13	Internal audit findings Perceptions of state actors	Donor audit reports Interviews with state actors	Document review Interview questions Focus group discussions
6.	How effective is dialogue as a tool for coordinated donor response in monitoring and fighting corruption? Have stated intentions with regard to anti-corruption been matched by follow through on implementation, and have intended results achieved?	9, 14, 15	Findings from evaluations Perceptions of stake-holders	Donor programme and project monitoring and evaluation documents Interviews with donor advisors Interviews with state and non-state actors	Interview questions
7.	To what extent are donor actions in line with the current international agreements with regard to harmonisation of aid and the OECD/DAC Principles for donor action on anti-corruption?	17	Degree of alignment	Donor programme documents	Document review
	Lessons Learned				
8	What do the donors see as the main lessons learned after years of anti-corruption support?	Lessons Learned 1		Interviews with donors	Interview questionnaire
9	What do the national authorities see as the main lessons learned after years of receiving donor support to reduce corruption?	Lessons Learned 2		Interviews with national authorities	Interview questionnaire
10	What do non-state actors including groups representing the poor and women, consider as main lessons for future work to address corruption?	Lessons Learned 3		Interviews with non-state actors	Interview questionnaire
11	What are the main lessons for future work in corruption?	Lessons Learned 4-7		Analysis by evaluation team	Focus group discussions
12	What are the main areas of, and reasons for, success?	Lessons Learned 4-7		Analysis by evaluation team	Focus group discussions Appreciative enquiry
13	What are the main areas of, and reasons for, failure?	Lessons Learned 4-7		Analysis by evaluation team	Focus group discussions Appreciative enquiry

Interview Topic Lists

Donor	Implementor	Non-state actor
1d. Was the UN Convention Against Corruption used and promoted as a binding legal and political international commitment to further good governance?		
2a. Have donors been coherent and complementary in their choice of AC interventions? Are there any gaps in terms of funding? Was sufficient attention given to platforms for donor coordination and dialogue with government and non-state actors?		2a. Have donors been coherent and complementary in their choice of AC interventions? Are there any gaps in terms of funding? Was sufficient attention given to platforms for donor coordination and dialogue with government and non-state actors?
3a. To what extent did donors monitor and evaluate the performance in their AC interventions? What was the quality of the indicators used? Were they in line with national indicators? Were gender and poverty taken into account?		
Does the donor promote systematic studies (such as drivers of change, power analyses), information collection, dissemination, discussion on corruption issues?		
3b. Have there been changes in the donors' AC agenda, implementation, and result monitoring as a result of observed problems (or success) in the implementation of existing activities?	3b. Have there been changes in the donors' AC agenda, implementation, and result monitoring as a result of observed problems (or success) in the implementation of existing activities?	
4. How effective have donor interventions been?	4. How effective have donor interventions been?	4. How effective have donor interventions been?
… in fostering institutional monitoring and evaluation mechanisms to fight corruption? (parliament, civil society, etc)?	… in fostering institutional monitoring and evaluation mechanisms to fight corruption? (parliament, civil society, etc)?	… in fostering institutional monitoring and evaluation mechanisms to fight corruption? (parliament, civil society, etc)?
… in fostering a culture of openness and supporting progress in the area of transparency, ethics, and public reporting?	… in fostering a culture of openness and supporting progress in the area of transparency, ethics, and public reporting?	… in fostering a culture of openness and supporting progress in the area of transparency, ethics, and public reporting?

Donor	Implementor	Non-state actor
… in dealing with the forms of corruption affecting poor people and women in particular?	… in dealing with the forms of corruption affecting poor people and women in particular?	… in dealing with the forms of corruption affecting poor people and women in particular?
5. Within donor organizations, how extensive and effective are preventive measures, such as financial management and control of programmes? What is the burden on country systems?	5. Within donor organizations, how extensive and effective are preventive measures, such as financial management and control of programmes? What is the burden on country systems?	
6. How effective is dialogue as a tool for coordinated donor response in monitoring and fighting corruption? Have stated intentions with regard to anti-corruption been matched by follow through on implementation, and have intended results achieved?		6. How effective is dialogue as a tool for coordinated donor response in monitoring and fighting corruption? Have stated intentions with regard to anti-corruption been matched by follow through on implementation, and have intended results achieved?
8. What do the donors see as the main lessons learned after years of anti-corruption support?	9. What do the national authorities see as the main lessons learned after years of receiving donor support to reduce corruption?	10. What do non-state actors including groups representing the poor and women, consider as main lessons for future work to address corruption?

Programme Performance Assessment (PAQ)[1]

The purpose of this document review form is to analyse the programmes (or major projects) of the commissioning donors in such a way that will enable comparison between donors and across countries.

This approach responds specifically to questions 1, 2, 3 and 7 as set out in the Objectives in the TOR and is linked to the Evaluation Framework matrix:

Objectives
The objectives are to obtain descriptive and analytic information related to actual results of the support provided by the five commissioning donors, both overall and for each of them in each of the selected countries, regarding:
1. corruption diagnostic work (highlighting, where relevant, information disaggregated by gender)
2. underlying theory, AC strategy and expected results of their support to reduce corruption
3. implementation of support to specific AC interventions and achieved results
4. other donor interventions or behaviour relevant for corruption and AC efforts, and achieved results in terms of corruption
5. extent of coherence of AC practice between specific AC activities and other programs, for individual donors
6. extent of coherence of AC practice within the donor group
7. the extent that gender and other forms of social exclusion have been taken into account in donor interventions

Programme purpose & design

1.1: Is the programme purpose clear and realistic for the resources available?	Yes	No

Statement of evidence and document reference to support the finding:
The programme has three components, each with a development objective that is clear if a little vague and describes improved performance (1 and 2) and behaviour change (3);
1 Access to Justice: "People have improved access to formal and informal institutions entrusted with the delivery of justice"
2 Transparency and Accountability: "Citizens live in an environment of improved democratic practices and better performing public institutions."
3 Promotion of Human Rights: "Duty bearers respond to the demand for respect, protection and fulfilment of Human Rights"

1 Example of the report for the Danida Good Governance & Human Rights Programme

1.2: Does the programme address a specific and existing problem developed from situational analysis?	Yes	No
1.3 Does the situational analysis take adequate account of gender and poverty dynamics related to corruption?	Yes	No
1.4 Were national strategies taken into account in the analysis?	Yes	No
1.5 Was analysis by and interaction with non-state actors taken into account?	Yes	No

Statement of evidence and document reference to support the findings:

1.3 The programme rationale contains an extensive consideration of the impact of lack of access to justice on the poor, on women and on disadvantaged groups. In relation to corruption it states "The consequences for individuals seeking justice are no less negative. The unofficial costs of entry into and consideration by the justice system inevitably out-prices the poor in general, as well as groups disadvantaged by social and legal discrimination, such as women, indigenous peoples and children."

1.4 The PRSP is extensively relied on in the programme rationale eg. "The PRSP has identified the promotion of ADR as a key policy priority" "The PRSP has highlighted the consolidation of jail reform, community policing and the development of a comprehensive police reform agenda as important policy priorities related to the improvement of criminal justice." "The PRSP has also called for a multi-sectoral approach for the elimination of gender disparity and to children's rights. "

1.5 project partners were consulted in the preparation of the concept paper and the design but no consultation with non state actors outside the programme or analysis by non state actors is referred to.

1.6: Which UNCAC headings (and sub-headings) does the programme seek to address?	*Tick*
Prevention	
a. Preventive AC policies and practices	√
b. Preventive AC body or bodies	√
c. Public sector	√
d. Code of conduct for public officials	
e. Public procurement and PFM	
f. Public reporting	√
g. Measures relating to the judiciary and prosecution services	√
h. Private sector	
i. Participation of society	√
Measures to prevent money-laundering	
Criminalisation and law enforcement	√

1.7: Does the programme clearly identify links with broader governance reforms and whole-of-government approach (i.e supply side of governance)?	Yes	No
Statement of evidence and document reference to support the finding: The Programme Document contains extensive analysis of current governance reforms, coordination and fit of the Human Rights and Good Governance Programme within the context of those reforms. (Programme Document pp17-20)		

1.8: Does the programme identify the risk of misuse of donor money across the value-chain? (If 'Yes' What preventive measures – internal and complementary programmes – are identified)	Yes	No
Statement of evidence and document reference to support the finding: Although the programme document contains a section on accounting and internal control (pp 57-58), the misuse of donor funds is not identified as a risk and a full risk analysis across the value chain has not been conducted		

Monitoring and management

2.1: Does the programme have a limited number of specific long-term performance indicators that focus on outcomes and reflect the purpose of the programme?	Yes	No
Statement of evidence and document reference to support the finding: What the programme document calls Immediate Objectives are long term measures of performance that focus on outcomes and reflect PRSP measures eg. Under component 1 the immediate objectives are; (i)The formal justice system is efficient in terms of case management and ensures fair treatment for all peoples, (ii) The informal justice system (Alternative Dispute Resolution – ADR) is strengthened and expanded and ensures fair treatment for all peoples. (iii) Disadvantaged people, especially women, adivasi/ethnic min ority groups and children have adequate assistance to utilize the justice system and claim redress.		

2.2: Does the programme have a limited number of specific shorter (annual) performance indicators that can demonstrate progress toward achieving the programme's long-term goals?	Yes	No
Statement of evidence and document reference to support the finding: Yes, eg. "Number of cases efficiently disposed of by lower judiciary per year increased by 8 % per year." (Component 1 log frame, Programme Document). This is clearly linked to the long term goal "People have improved access to formal and informal institutions entrusted with the delivery of justice" through the sub objective "The formal justice system is efficient in terms of case management and contributes to fair treatment for all peoples."		

2.3 Do the indictors include citizens' perceptions of changing corruption?	Yes	No
2.4 Are the performance indicators in line with national indicators	Yes	No
2.5: Do the indicators take gender and poverty adequately into account	Yes	No

Statement of evidence and document reference to support the findings:
2.3 One of the long term indicators for Component 2 is "Sustained improvement of scores in Corruption Index of Transparency International."
2.4 The programme document contains a PRSP Indicator and Policy Matrix at Annex 2 to illustrate the alignment of indicators
2.5 There is stratification of some indicators on gender eg. "Number of female representatives trained in gender and human rights." And "Number of initiatives taken by female representatives" (log frame component 2) "Number of people (disadvantaged, women and men and media professionals subjected to persecution and harassment) receiving legal assistance increased from 30% to 60%." (log frame component 1). The intention to analyse poverty dimensions is clear from the indicators although no precise stratification is proposed eg. "Improved service delivery especially for the poor and vulnerable. (Increased attendance of doctors at UP/Upazila level healthcare centres, of teachers at primary school, increased visit by agro-based government employers.)" (Log frame component 2);

2.6: Does the donor regularly collect timely and credible performance information, including information from key programme partners, and use it to manage the programme and improve performance?	Yes	No

Statement of evidence and document reference to support the finding:
Comprehensive annual progress reports are submitted by the PSU. Action appears to have been taken on the basis of a previous programme review "A plan for follow up actions based on the recommendations of the programme review held in May 2008, was developed, and several initiatives have been carried out during this reporting period. Among these, the interchange and lessons learned seminar among 4 partners working with local governance, and another workshop among indigenous peoples partner organizations and legal aid providers, deserves to be mentioned. Besides, a concept note as well as a brain-storming seminar with NGO partners regarding improved institutional governance has been made. The recommended updating and improvements of the monitoring system and the initiation of Tracer Studies has initiated and one impact study has been carried out and the final report is under preparation." (p5 Annual Progress Report 2008-09)

Results & accountability

3.1: Is there a results-chain that is being monitored?	Yes	No

Statement of evidence and document reference to support the finding:
Eg Component 1 includes assistance to the formal justice system;

Output is The ability of the lower judiciary to handle cases effectively increased
Output indicators for this output are; Number of cases efficiently disposed of by lower judiciary per year increased by 8 % per year and The average duration of cases disposed reduced by x hours per year.
Related outcome indicator is Backlog of cases reduced from x to y
(Programme Document. Log frame p80)

3.2: Has the programme demonstrated progress in achieving its long-term performance goals?	Yes	No

Statement of evidence and document reference to support the finding:
It hasn't been possible to evaluate progress towards at least one of the long term goals; (i)The formal justice system is efficient in terms of case management and ensures fair treatment for all peoples,
"The number of trained judges has been in line with the pre-established yearly target, but it is not possible at this stage to evaluate the national level impact of this training in relation to the objective. (Annual Progress Report 2008-09)"

Have donor interventions been effective?		
3.3 … in fostering institutional monitoring and evaluation mechanisms to fight corruption? (parliament, civil society, etc)?	Yes	No
3.4 … in fostering a culture of openness and supporting progress in the area of transparency, ethics, and public reporting?	Yes	No
3.5 … in dealing with the forms of corruption affecting poor people and women in particular?	Yes	No

Statement of evidence and document reference to support the finding:
3.3 and 3.4 The following extract from the Annual Progress Report 2008-09 is one example;
"Under the framework of the Good Governance Program implemented by the GoB with technical and financial support from ADB, which include TA funded by Danida, the following achievements from this reporting period deserves to be mentioned as they clearly contribute to the fulfilment of the objectives of the component:
– TA-funded consultants are currently supporting the Cabinet Division and office of the registrar (Supreme Court) to enable better management of good governance projects throughout the public sector.
– Amendments to Code of Criminal Procedure to make judiciary independent has been made, and all judicial sector appointments and personnel matters have been unbundled from the Public Service Commission.
– Financial accountability mechanisms and audit requirements in place in all departments,
– Practical and realistic monitoring and reporting protocols at the Supreme Court Basic monitoring protocols in place -A separate prosecution service has been established with adequate budget.
– Strategic plan for reforms of Chittagong Port Authority has been made
– Complaint-handling mechanisms established in the central line ministries.
– Transparent and merit-based examination and quota system"

3.5 Under Component 2, the programme is supporting the Local Government Support Programme. One of the activities is to audit local governments and provide block grants to those that receive a clear bill of health. This encourages transparency and reduced corruption in local government the main provider of services for poor people and women. "The LGRD has with support from LGSP audited 2257 UPs in 2008, and those receiving clean audits will get nearly $50 million expanded block grants. Within the next three years, it is expected that LGSP will cover all the 4498 UP[2]" (Annual Progress Report 2008-09)

2 Source: Official web site of Anti- Corruption Commission www. acc.org.bd/verdicts and information collected from Legal and Prosecution wings of ACC.

3.6: Do independent evaluations indicate that the programme is effective and achieving results?	Yes	No
Statement of evidence and document reference to support the finding: No independent evaluation made available		

3.7: What have been the results on the level or trends of corruption?
Statement of evidence and document reference to support the finding: Danida funds TA to the ADB Good Governance Programme under its Human Rights and Good Governance Programme. The impact of the ACC on corruption is therefore partly attributable to this programme. Eg “ACC filed 262 corruption cases against politicians and businessmen during 2007, among which 74 cases have been disposed during the period and 188 cases are pending. At least 46 ex-ministers, members of parliament, politicians and their family members have been sentenced to different terms of rigorous imprisonment and fine. ACC initiated investigation against 197 listed corrupt ministers and politicians among which only 80 were arrested during the drive. Some of the listed people managed to leave the country and some were not arrested. 50 % of the arrested politicians have been convicted by now. 1” (p12 Annual Progress Report 2007 -2008)

Summary of questions scores from Programme Assessment Questionnaires

	Yes	No	Don't Know[3]	Total	Yes% of Yes+No
Project/ programme purpose & design					
1.1: Is the project/programme purpose clear and realistic for the resources available?	9	0	0	9	100%
1.2: Does the programme address a specific and existing problem developed from situational analysis?	9	0	0	9	100%
1.3 Does the situational analysis take adequate account of corruption?	6	2	1	9	75%
1.4 Does the situational analysis take adequate account of gender and poverty dynamics (including in relation to corruption)?	7	2	0	9	78%
1.5 Were national strategies taken into account in the analysis?	8	1	0	9	89%
1.6 Was analysis by and interaction with non-state actors taken into account?	7	2	0	9	78%
1.7: Which UNCAC headings (and sub-headings) does the programme relate to?					
1.8 Does the programme make the fight against corruption an explicit goal and/or purpose?	5	4	0	9	56%
1.9 Does the programme clearly identify links with broader governance reforms?	8	1	0	9	89%
1.10: Does the programme identify the risk of misuse of donor money? (If 'Yes' What preventive measures are identified)	8	1	0	9	89%
Total possible score 25	3				
Monitoring and management					
2.1 List project goal and purpose indicators					
2.2: Does the programme have a limited number of specific performance indicators that focus on outcomes and reflect the purpose of the programme?	9	0	0	9	100%
2.3 Do the indictors include citizens' perceptions on governance and/or corruption?	8	1	0	9	89%
2.4 Do the indicators include progress indicators in the fight against corruption (number of adults, prosecution cases etc)?	5	4	0	9	56%

3 Recorded when no information available or when it is too early in the life of the project for an assessment.

	Yes	No	Don't Know[3]	Total	Yes% of Yes+No
2.5 Are the performance indicators in line with national indicators and/or use national sources as means of verification?	7	1	1	9	88%
2.6: Do the indicators take gender and poverty adequately into account?	7	2	0	9	78%
2.7: Does the donor regularly collect timely and credible performance information, and use it to manage the programme and improve performance?	7	1	1	9	88%
Total possible score 25	4				
Results & accountability					
3.1: Is there a results-chain that is being monitored?	5	0	4	9	100%
3.2: Has the programme demonstrated progress in achieving its outcomes?	8	0	1	9	100%
In relation to the flight against corruption, is there any evidence that the programme has contributed to…					
3.3 … fostering institutional monitoring and evaluation mechanisms to fight corruption? (parliament, civil society, etc)?	7	2	0	9	78%
3.4 … fostering a culture of openness and supporting progress in the area of transparency, ethics, and public reporting?	9	0	0	9	100%
3.5 … dealing with the forms of corruption affecting poor people and women in particular?	8	0	1	9	100%
3.6: Do independent evaluations indicate that the programme is effective and achieving results?	6	2	1	9	75%

Table 1: Timeline of major national events

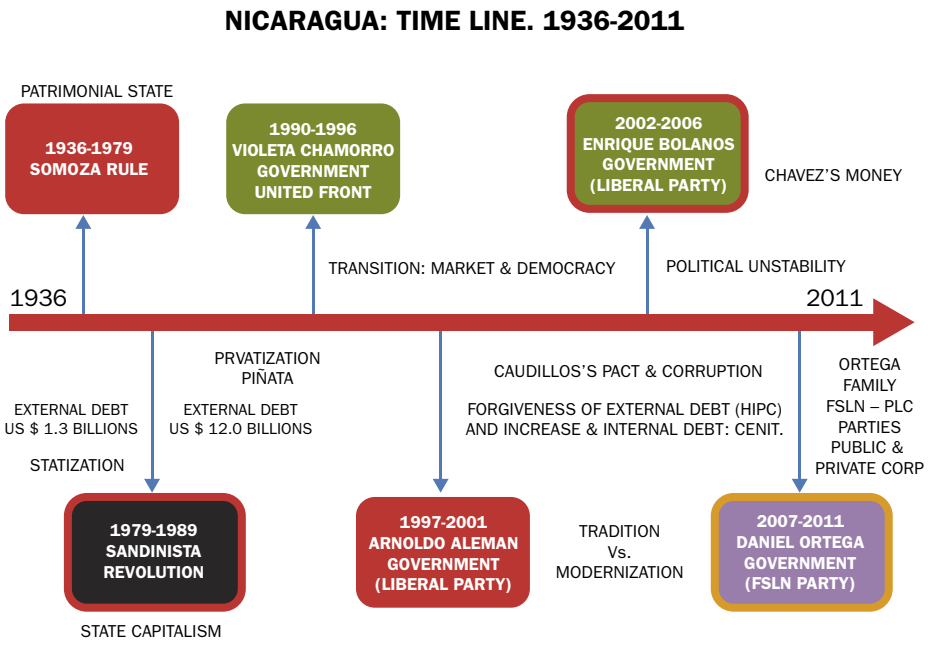


Table 2: Compilation of Illustrative Project Goal and Purpose/Objectives indicators (or statements of objectives)

Project	Indicator statements	
	Goal	**Purpose**
Anti-corruption Fund The Anticorruption Strategy provides a logical framework See: Estrategia y Plan Anticorrupción y Gobernabilidad. Anexo III.- Valoración de Objetivos del Anexo 1. Pp. 68-72.	**Objective** Reducir fugas, mejorar la eficiencia durante la **transferencia municipal/ descentralización** de los servicios y el presupuesto	**Indicators** Mecanismos de supervisión en su lugar. LOGRADO. Establecimiento de contabilidad, planificación y elaboración de presupuesto transparentes y participativos
	Institucionalizar el sistemático **acceso a la información**	Paso de ley aplicable con artículos adecuados. Empezar a probar el mecanismo de acceso. Estado de implementación de un sistema de acceso amplio.
	Nuevo **sistema de adquisiciones** en su lugar	Fortalecer la base legal para el nuevo proceso. Empezar a publicar Sistemáticamente información de costos y presupuesto. Confianza de la sociedad civil en la transparencia del proceso.
	Reforma judicial	Investigación, demanda, procesamiento y sentencias sistemáticas de casos con base en evidencia más que en política. Apertura de los procesos judiciales al escrutinio público.
	Diseñar e implementar la **Comunicación estratégica** para la anticorrupción y gobernabilidad	Generar en la ciudadanía un entendimiento claro de los beneficios del plan y estrategia anticorrupción/ goberna-bilidad que ayudan a diseñar, implementar y evaluar.
	Diseño e implementación de una **estrategia de medición** de la transparencia en el sector público	Herramienta de sentido común y efectividad de costos para medir y comparar la transparencia, apertura, y efectividad del sector público.
	Generar **involucramiento de los jóvenes** en el proceso anticorrupción y gobernabilidad.	Cantidades de jóvenes involucrados en el proceso de gobernabilidad y apoyando sus medios y metas

Project	Indicator statements	
	Goal	**Purpose**
PSTAC	Fortalecimiento de la capacidad del sector público para desarrollar y ejecutar políticas públicas con el fin de aumentar la eficacia, eficiencia y transparencia general en el uso de los recursos públicos, facilitando de esta manera la ejecución de la Estrategia de Reducción de la Pobreza.	1. Una gestión más exacta, confiable y transparente de los gastos públicos que proporciona insumos oportunos para la formulación de políticas y monitoreo. **2.** Un sector público más eficiente y moderno, con un sistema de administración de recursos humanos en ejecución dirigido hacia el desempeño y la obtención de resultados relacionados con mejoras de los servicios públicos al ciudadano. 3. Mejorar la capacidad de monitoreo y mejorar la Estrategia de Reducción de la Pobreza, así como diseminar sus resultados entre los actores promocionando su participación y compromiso.
APDEL	Local democracy and good governance have been strengthened, and the population's living conditions have been improved. A National Decentralisation and Local Development Strategy has been drawn up, and its implementation has begun within the framework of national development policies and plans. The capacity of municipal governments in Region I and in RAAN to provide basic municipal services and to create an enabling environment for local economic development with citizen participation has been enhanced. Social and productive infrastructure in the country's 153 municipalities has been improved.	**1.1 SECEP has assimilated the National Decentralisation and Local Development Policy, and contributed to the corresponding National Strategy** **1.2. Standards, regulations and public policies in the field of municipal strengthening have been drawn up.** **1.3. Strengthened advocacy capacities of AMUNIC** **1.4. Civil-society organisations strengthened as service providers of training, advocacy and research, and the Commission of Municipal Affairs of the National Assembly and other relevant commissions of the National Assembly have contributed to improve the legal framework for the decentralisation process.**
Police	1. Improved capacity and efficiency in police intervention. 2. Strengthened community relations and increased public safety. 3. Reinforced institutional capacity. 4. Modernized system for human resource development and management. 5. Update of legal framework.	1. Increased public safety, reduced rates of violence and crime at community level. 2. An efficient and effective police model, improved public safety. 3. A professional and well trained police force, improved conduct and relations with the public. 4. Modernized police law defining role and functions of the NP, improved institutional capacity regarding legal matters

Project	Indicator statements	
	Goal	**Purpose**
		(Indicators in the Police National Strategy) • Reduction of delinquency in the municipalities where the community police model have been introduced • Improved satisfaction among population regarding police services where the community police model have been introduced • Improved satisfaction of the public in general and the direct beneficiaries of police services with relation to police performance (e.g. accessibility, quality of services, respect of human rights) • Improved satisfaction among police employees regarding the police organization, tasks, service quality and accessibility, institutional image, gender equality etc. • Increased number of beneficiaries of police services • Reduced number of abuses and corruption within the NP and number of complaints from the public
CENIDH	*To promote in the society the practice of defence and report of human rights violations and to demand from the state the protection within the laws, policy guidelines and norms*	1. The Promotion component will focus on workshops, seminars, field visits, promotion campaigns, systematization of the CENIDH's 14 years experience and monitoring. The Promoter's program, based on the suggestions of the last revision, this year will focus more on training; follow up of the promoters and preparation of didactic material to be distributed to the population. A systematization of the 14 years experience of CENIDH is also planned under the program. 2. Defence and reporting, to attend and give follow-up to the reported violations, and prevention activities by visits to the risk areas such as the border in the south, and prisons. 3. Incidence, to implement the coordination of the structure of CENIDH, professionalization of the personnel, and improved management of the centre.
	Indicators for Promotion	• Workshops for promoters on different topics (human rights, women intra-family violations, childhood and adolescence rights, labor rights, consumer's rights.) • Seminars for new promoters on the legal base of human rights • Coordination meetings with network commissions • Regional meetings of promoters • Promotion campaigns • Updating of the monitoring system • Forum with journalist on human rights • Seminars on human rights for the judicial authorities • International participation for promotion and exchange of experience on HR defense • Research and report on human rights situation in Nicaragua

Project	Indicator statements	
	Goal	**Purpose**
	Indicators for Incidence	• To implement the coordination of the internal structure of CENIDH • Field visits for the follow-up of regional offices • To implement a computerized monitoring system • Implementing the institutional professionalization plan • Management of personnel and finance • Preparation of reports and audits
	Indicators for Defense and Reporting	• 2500 Cases of violation of Human rights attended • Educative presentation to populated sectors to emphasize and promote the self-protection • Contacts with the judicial authorities to follow up the processes already opened • Attention to 50 cases of collective conflict • Exchange of experience with other social networks in Nicaragua (women, children) • Legal advice to 150 victims of Human Rights violation • Visits of 25 risk areas in Managua • Visit to immigration areas in the southern border • Visits to 37 prisons • Attention to consumer demands for water • Presentation and follow-up of cases in International courts
Civil Society Common Fund	Contribute to democratic governance in Nicaragua.	• State – civil society relationship and dialogue strengthened • Civil society capacities for articulating and promoting initiatives to enhance public policies and the national agenda strengthened • Development assistance to Nicaragua's civil society channelled more harmonised and efficiently
Governance & Tansparency Fund	To increase standards of governance and levels of transparency in 25 countries by more effectively addressing corruption	• increased pressure on governments to be more transparent and accountable • citizens and local partners enabled to demand transparency and accountability • citizens informed on issues of corruption and state accountability • empowered corruption victims • more responsive institutions (improved laws and better practices) • increasingly effective and efficient local partners

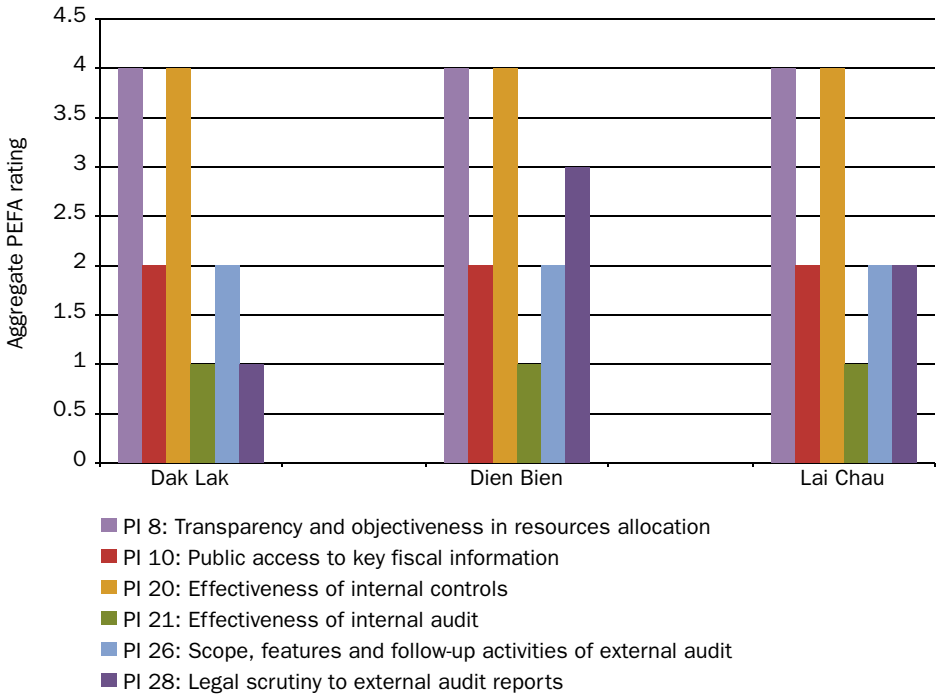
FAC

MATRIZ DE PRINCIPLAES INDICADORES

Indicador	Valor del Indicador	Nivel logrado del indicador	Explicaciones de desviaciones
Sostenida la mora fiscal en los casos de corrupción a nivel nacional, en un índice menor al 20% para finales de 2009.	Mora Fiscal 2009 menor al 20%.	En el año 2009 ejecutamos 1,132 acciones en conjunto con diferentes instituciones del Estado. El detalle de éstas es el siguiente: 1. Policía Nacional: 647 2. Contraloría General de la República: 102 3. Procuraduría General de la República: 195 4. Otras instituciones: 188 De igual manera se han brindado : • 06 acompañamientos a sedes departamentales en el abordaje de casos. • El Ministerio Público ha participado en 73 eventos nacionales y 01 internacional en materia de corrupción. • Se han evacuado 284 consultas de la Policía Nacional, • 04 asistencias internacionales y • Se han coordinado 88 acciones con el resto de las sedes departamentales del Ministerio Público en el abordaje de casos a través de sus fiscales enlace. En la Fase 2009, el Ministerio Público de Nicaragua recibió 28 casos de corrupción más los 70 casos pendientes de años anteriores, totalizaron 98 casos para trabajar en ésta fase 2009, los cuales se abordaron de la siguiente manera: • 53 casos acusados con 55 acusaciones generadas y un total de 90 personas acusadas. • 36 Resoluciones de Falta de Mérito. • 03 Resoluciones de Desestimación. • 06 Ampliación de información ante la PN y CGR. • 0 Expedientes en Mora.	
La gestión fiscal en un 70% se ha realizado de manera eficaz, estandarizada y unificada en todas las sedes del Ministerio Público para finales del 2009 en cumplimiento de los protocolos de actuación en los casos de corrupción.	70% de las resoluciones fiscales en casos de corrupción emitidas con criterios estandariza-dos y unificados.	Se desarrollaron 04 reuniones de consenso y análisis en las que se diseñó la estructura del protocolo, los tipos penales que se abordarán en una primera etapa, los temas de investigación y el proceso de asistencia jurídica internacional. En éste mismo proceso se desarrolló una jornada de trabajo de dos semanas para la revisión del protocolo, el cual fue divulgado ante las autoridades del Ministerio Público, fiscales departamentales y fiscales enlace a nivel nacional los días 16 y 17 de diciembre de 2009. Actualmente estamos en proceso de formalizar el documento y reproducirlo para ser divulgado a nivel nacional tomando en cuenta el sistema de justicia.	

Indicador	Valor del Indicador	Nivel logrado del indicador	Explicaciones de desviaciones
Hasta diciembre de 2009 se ha elaborado un compendio de normativas y circulares emitidas por el Fiscal General de la República que compila y sistematiza el período 2007-2009.	Compendio de normativas y circulares compilado.	Se elaboró el compendio de normativas y circulares 2003-2009, emitidas por el Fiscal General de la República y Jefe del Ministerio Público, en materia de abordaje de casos de corrupción. Hemos programado la impresión y divulgación del documento a nivel nacional para Febrero de 2010.	

Figure 1: Analyzing 6 PFM indicators



Source: PEFA findings in 5 Danida provinces Lao Cai, Lai Chau, Dien Bien, Dak Lak and Dak Nong

ANNEX 2:
Terms of reference

Joint External Anti-Corruption Evaluation

1. Background

Corruption undermines democratic values and institutions, weakens efforts to promote gender equality, and hampers economic and social development. In recent years, donor agencies have increasingly made the fight against corruption part of their larger governance agenda.

The Asian Development Bank (ADB), the Danish International Development Assistance (Danida), the Swedish Agency for Development Evaluation (SADEV), the Swedish International Development Co-operation Agency (SIDA), the UK Department for International Development (DFID), and the Norwegian Agency for Development Co-operation (Norad) will undertake a joint evaluation of anti-corruption (AC) efforts. Norad, on behalf of the six agencies, seeks consultants to undertake the evaluation.

The evaluation will take place in 2009 and 2010, with case study fieldwork expected to take place in Vietnam, Bangladesh, Tanzania, Zambia, and Nicaragua.

In preparation for the evaluation, a pre-study was undertaken in 2008. It included a literature review[1] an outline of a possible analytical framework for the evaluation (the evaluation team is not restricted to use this approach), and a partial mapping of donor support[2].

The donor mapping survey showed that each of the five[3] commissioning donor agencies supports efforts to improve overarching anti-corruption frameworks, including laws and specialised anti-corruption bodies. Agencies also provide considerable resources for public finance accountability, in particular general public financial management systems and ministries of finance, often in conjunction with budget or large-scale financial support. The survey showed less support for financial accountability at lower levels of government, while state accountability bodies like supreme audit institutions and in some cases also parliamentary oversight bodies receive some capacity development assistance.

The pre-study reveals that while much of the corruption takes place in connection with service delivery, there seem to be only limited donor support at this level.

1 A published version, Anti-Corruption Approaches. A Literature Review, can be downloaded from www.norad.no/evaluering
2 The pre-study can be obtained from Norad.
3 SADEV is not a donor

There is little documented evidence of work to specifically address gender dimensions. The donors had different priorities when it comes to supporting non-state actors, though in the aggregate there was considerable aid to civil society actors and the media, but little to the private sector or political parties.

2. Rationale and Audience

Rationale

The commissioning donors have paid considerable attention to anti-corruption in their development cooperation in recent years. Levels of corruption remain high in many countries, however, and there is a wish to find out how support in this area can become more effective.

Audience

The primary audience for the evaluation is the agencies commissioning the work. Secondary audiences include interested parties in the case countries (national authorities, civil society, others), other countries and donor organisations.

3. Purpose, Objectives and Scope

Purpose of the evaluation

The purpose is to obtain knowledge regarding the relevance and effectiveness of support to reduce corruption, both through specific anti-corruption efforts and in other programs – in order to identify lessons learned regarding what kind of donor support may work (for poor people and women in particular), what is less likely to work and what may harm national efforts against corruption.

Objectives

The objectives are to obtain descriptive and analytic information related to actual results of the support provided by the five commissioning donors, both overall and for each of them in each of the selected countries, regarding:

1. corruption diagnostic work (highlighting, where relevant, information disaggregated by gender)

2. underlying theory, AC strategy and expected results of their support to reduce corruption

3. implementation of support to specific AC interventions and achieved results

4. other donor interventions or behaviour relevant for corruption and AC efforts, and achieved results in terms of corruption

5. extent of coherence of AC practice between specific AC activities and other programs, for individual donors

6. extent of coherence of AC practice within the donor group

7. the extent that gender and other forms of social exclusion have been taken into account in donor interventions

Scope

The evaluation shall cover all major specific AC activities of the five donors in the selected countries, as well as a selection of other programs of the five donors of relevance to the reduction of corruption.

The other, not-AC specific programs should preferably be found within one single area or sector in a given country. If necessary to study substantial programs of all of the commissioning donors present in the country, programs may be drawn from different areas. Preferably, the overall selection in the five case countries should comprise different areas (e.g. infrastructure, extractive industries, social sectors and budget support).

The evaluation shall include the issues of gender, poverty and social exclusion when possible and relevant, both as to whether these issues are dealt with by the donor interventions and the results achieved.

The initial mapping of donor work should build on and extend the information made available by the pre-study mapping, producing a comprehensive overview of the five donors' AC engagement and other major programs in the selected countries. The main emphasis shall be on the period from 2002 to the present, but the previous period shall be included whenever necessary to answer the evaluation questions or understand later engagement.

The evaluators are not supposed to prepare an extensive analysis in terms of the political economy and corruption context of the case countries. The evaluation should, however, be made against the background of a thorough understanding of this context, and this should be evident in the reports.

4. Evaluation Criteria and Questions. Lessons Learned

The evaluation shall concentrate on the evaluation criteria of relevance[4] and effectiveness[5].

Due to the complexity and learning purpose of the exercise, it has been deemed less relevant to focus on efficiency, concentrating in stead on effectiveness, related to results at output and outcome level. An assessment of impact would require a substantial increase of time and resources and is also not included.

Although efficiency, impact and sustainability are not specifically addressed, the evaluators are expected to include limited assessments of these and other aspects that may emerge from the analyses of relevance and effectiveness or otherwise be deemed important.

4 Definition of relevance: "The extent to which the objectives of a development intervention are consistent with beneficiaries' requirements, country needs, global priorities and partners' and donors' policies" (Glossary of Key Terms in Evaluation and Results Based Management, OECD/DAC).

5 Definition of effectiveness: "…an aggregate measure of (or judgement about) the merit or worth of an activity, i.e. the extent to which an intervention has attained, or is expected to attain, its major relevant objectives " (ibid.).

Relevance

The questions should be answered descriptively and analytically for each donor in each case country. The extent of important commonalities and differences between the donors should be addressed.

General question:

Are the approaches employed by the five donors to address corruption (including its negative effects on poor people and women in particular) appropriate to country circumstances, and how could they be made more relevant?

Specific questions:

1. When did any increase in emphasis on anti-corruption efforts take place, and what were the reasons given for this change?

2. Was a state of corruption and political context mapping and analysis done prior to AC interventions, and, if so, what was the quality of this work? Were entry points and major obstacles clearly identified? Did the analysis consider possible corruptive effects of donor interventions? Were gender and poverty taken into account?

3. Did there exist venues for communication and discussion with government and non-state actors before defining the AC support programs?

4. What mechanisms have been in place for coordinating AC interventions among donors, with national authorities, and with non-state actors – at national and local levels?

5. Was the UN Convention Against Corruption, as a binding legal and political international commitment to further good governance, used and promoted?

6. What are the donor supported activities and interventions explicitly addressing corruption? Are these and other programs in agreement with prior analytic work and the priorities of national AC reforms?

7. To what extent have the donors evaluated the development of their AC approach? Has there been sufficient understanding of the nature and impact of corruption on different groups in society?

8. Have there been changes in the donors' AC agenda, implementation and results monitoring as a result of observed problems in the implementation of existing activities? Are previous analyses and approaches relevant against the current understanding of the country's corruption situation?

Effectiveness

The questions should be answered descriptively and analytically, for each donor in each case country. The extent of important commonalities and differences between the donors should be addressed.

General question:
How effective have donor interventions been in addressing different types of corruption, including forms of corruption affecting poor people and women in particular?

Specific questions:

1. To what extent and how do donors promote open and transparent dialogue between governments, themselves, parliament and non-state actors to assess progress concerning anti-corruption measures?

2. To what extent and how do donors contribute to increasing the knowledge and understanding of corrupt practices, their forms, manifestations and dynamics, (including in service delivery), and are the findings widely disseminated to ensure public access to them?

3. To what extent and how do donors invest in fostering effective internal and non-state monitoring and evaluations of anti-corruption policies, e.g. from parliaments, universities and women's and civil society organisations? Does monitoring enable gendered forms of corruption to be captured and understood?

4. Do donor efforts contribute to strengthen the links between anti-corruption and governance reforms and the integration of specific anti-corruption components into core reforms?

5. Within donor organisations: what measures are taken (including risk identification and management) and what practices of financial management and control of programs are implemented to prevent corruption? To what extent have donors assessed the administrative burden for the recipient in this regard?

6. Have stated intentions with regards to anti-corruption been matched by follow-through on implementation, and have intended results been achieved?

7. What is the nature of diagnostic tools and donor reactions, individually and collectively, when partner governments do not live up to mutual agreements? What are the commonalities and differences between the donors in this regard?.

8. Do donors portray a contradiction between non-tolerance towards corruption and support to achieve development goals, or do they pursue a pragmatic middle ground?

9. Are the donor actions in line with the current international agreements with regard to harmonisation of aid and the OECD/DAC principles for donor action in anti-corruption?

Lessons learned

The evaluators should identify major lessons learned about increasing the relevance and effectiveness of donor support to anti-corruption efforts, including for improving the lives of poor people and women. Where applicable they should relate these to

individual or collective donor programs and partner countries. The following specific questions should be addressed:

1. What do the donors see as the main lessons learned after years of anti-corruption support?

2. What do the national authorities see as the main lessons learned after years of receiving donor support to reduce corruption?

3. What do non-state actors including groups representing the poor and women, consider as main lessons for future work to address corruption?

4. What does the evaluation team see as the reasons behind successful interventions?

5. What does the evaluation team see as the reasons for major disappointments?

6. Did disappointments happen after deliberately taking risks, because of poor planning and understanding, or because of changes in circumstances?

7. What can be learned from the positive and negative cases?

5. Methodology

It will be part of the assignment to develop a methodological and conceptual framework to ensure objective, transparent, gender sensitive, evidence-based and impartial assessments as well as ensuring learning during the course of the evaluation. The following methods should, as a minimum, be considered:

1. Document analyses

2. Interviews of key stakeholders

3. Field visits to the five selected countries to complement and correct information, reaching out to public officials, non-state actors, donor representatives and others. The field-based evaluations may be done as one joint exercise between an international and a national team, or be divided into phases.

Some guiding principles:

1. Triangulate and validate information

2. Assess data quality (strengths and weaknesses of information sources).

3. Highlight data gaps.

4. Base assessments on factual findings and reliable and credible data and observations.

6. Organisation and requirements

Evaluation Team

The evaluation team is expected to consist of an international team plus national teams for each of the study countries.

The international team will consist of a minimum of four persons, and will report to Norad through the team leader. The team leader will be responsible for the contact with key national stakeholders and ensure that they are allowed to contribute and comment as appropriate. The team leader should meet these requirements:

- Substantial experience in the area of development cooperation.
- Proven successful team leading; preferably with multi-country teams in complex tasks on sensitive issues
- Advanced knowledge and experience in evaluation principles and standards in the context of international development.
- Experience in reviewing principles and standards related to work against corruption

The international team as a whole should have competence, expertise and experience in relation to the following areas:

- donor policies, modalities and aid delivery systems;
- public financial management
- survey and data analysis
- political economy, governance, work against corruption, anthropology, gender
- relevant regions, countries and cultural contexts.
- Languages: English. In addition, since part of the documentation will be in Danish, Norwegian or Swedish, at least one team member should be able to read Scandinavian languages.

Gender balance will be regarded as an asset of the team.

National Teams

Each team should consist of not less than two persons, one of whom should be a senior person with experience and solid knowledge in the study subject. The joint team in each country (national and international) should be gender balanced.

The national teams are expected to contribute with compilation of an inventory of relevant studies, surveys and disaggregated data (if possible), participate in the field work and contribute, as agreed with the international team, to the analysis and drafting of reports.

Data collection

Each evaluation team will be responsible for data-collection. Access to archives will be facilitated by the commissioning donors.

The evaluation team may consider using research assistants in data collection. Where relevant, gender specific data shall be collected and accounted for in the findings and analysis of the report.

Organisation

The evaluation will be managed by a management group of the commissioning agencies, lead by Norad's Evaluation Department (Norad). An independent team of researchers or consultants will be assigned the evaluation according to the standard procurement procedures of Norad (including open international call for tenders). The team leader shall report to Norad on the team's progress, including any problems that may jeopardize the assignment. The team is entitled to consult widely with stakeholders pertinent to the assignment. All decisions concerning these ToR, the inception report, draft report and other reports are subject to approval by Norad on behalf of the management group.

The evaluation team shall take note of the comments from stakeholders. Where there are significantly diverging views between the evaluation team and stakeholders, this should be reflected in the report.

Budget

The tender shall present a total budget with stipulated expenses for fees, travel, field work and other expenses. The evaluation is budgeted with a maximum of 150 consultant person weeks for the international team plus a maximum of 75 person weeks to be distributed between the national teams, excluding possible national research assistants. The team is supposed to travel to the five case countries as well as to the five donor headquarters. Additionally, two team members are expected to participate in the following four meetings in Oslo: A contract-signing meeting, a meeting to present the inception report, and two meetings for presenting draft and final reports. The consultants may be requested to make additional presentations, but the cost of these will be covered outside the tender budget.

The budget and work plan should allow sufficient time for presentations of preliminary findings and conclusions, including preliminary findings to relevant stakeholders in the countries visited and for receiving comments to draft reports.

7. Reporting and Outputs

The Consultant shall undertake the following:

1. Prepare an inception report providing an interpretation of the assignment. This includes a preliminary description of the country context, a description of the methodological design to be applied and suggested selection of donor supported programs in the five case countries. The inception report should be of no more than 10 000 words excluding necessary annexes.

2. At the end of each country visit, present preliminary findings, conclusions and recommendations in a meeting to relevant stakeholders, allowing for comments and discussion.

3. Prepare draft country reports not exceeding 20 000 words plus necessary annexes, comprising an overview of the donors' AC support, key findings, conclusions, possible recommendations, lessons learned and an executive summary (of not more than 2000 words).

4. After receiving comments, prepare final country reports.

5. Prepare a work progress report not exceeding 2000 words, informing about the progress of the evaluation and possible obstacles encountered by the team.

6. Prepare a draft synthesis report not exceeding 30 000 words plus necessary annexes, based i. a. on the country reports and presenting the preliminary findings, conclusions, possible recommendations and lessons learned across countries and donors. The report should contain an executive summary of not more than 2500 words).

7. After receiving comments, prepare a final synthesis report.

8. Upon further confirmation, prepare a series of up to 6 short (4-6 pages) briefing papers summarising key findings and policy messages in an accessible format, to ensure dissemination of the most important findings of the evaluation to particular groups. The specific structure, content and audience of each paper will be agreed with the management group on completion of the synthesis report. Costs related to the preparation of these reports should appear separately in the tender budget and payment is subject to later confirmation.

All reports shall be written in English. The Consultant is responsible for editing and quality control of language. The country reports and final synthesis report should be presented in a way that directly enables publication. Report requirements are further described in Annex 3 Guidelines for Reports.

The evaluation team is expected to adhere to the DAC Evaluation Quality Standards as well as Norad's Evaluation Guidelines[6]. Any modification to these terms of reference is subject to approval by Norad. All reports shall be submitted to Norad's Evaluation Department for approval.

6 See. http://www.norad.no/items/4620/38/6553540983/Evalueringspolitikk_fram_til_2010.pdf

ANNEX 3:
Itinerary and list of people consulted

Day/Date	Morning	Afternoon
Fri 09 April	11.00 Embajada De Finlandia	14.00 Embajada Suecia; Noruega
Sat 10	Team Meeting	Document Review
Sun 11		
Mon 12	08.30 Embajada De Suecia 10.30 Embajada De Noruega	16.00 CIET
Tue 13	07.00 Roberto Courtney, Etica Y Transparencia 08.00 FUNIDES 10.00 Corte Suprema De Justicia 11.30 Ministerio Publico	14.00 Policia Nacional 15.30 Embajada Dinamarca
Wed 14	08.00 Procuraduría General De La Republica 08.30 FADCANIC 09.30 Contraloria General De La Republica	13.00 IMPESCA 14.00 Oficina De Etica Publica
Thu 15	09.00 Consejo Nacional De Lucha Contra Las Drogas 10.30 UNDP 12.00 IEEPP	14.00 Asamblea Nacional 16.00 Movimiento Por Nicaragua
Fri 16	09.00 Union Europea 10.30 Embajada Holanda	15.30 Instituto De Estudios Nicaraguensis 15.30 Presidencia De La Republica
Sat 17	Team meeting	Document Review
Sun 18	Document Review	
Mon 19	09.30 URACCAN 11.00 Banco Mundial	13.00 AECID 14.30 Embajada De Noruega
Mon 19	Visit To Jinotega: Meetings With CUCULMECA and Development Committee Of Jinotega	
Tue 20	09.30 CINCO 11.30 AMCHAM	13.30 Embajada Dinamarca 14.00 Embajada de Alemania 14.00 Coordinacion FAC 14.00 Superintendencia Banco 17.00 He Enrique Bolaños

Day/Date	Morning	Afternoon
Wed 21	08.30 Ministerio De Hacienda y Credito Publico 10.00 USAID 12.00 PRORURAL Working Lunch	14.00 CENIDH 14.00 Etica y Transparencia 15.30 Fondo Comun De Apoyo A La Sociedad Civil 16.00 Thomas More University 17.00 Cairo Laguna FENIPESCA
Thu 22	09.00 IEEPP 10.30 Ministerio De Hacienda Y Credito Publico	15.30 COSUDE 16.30 BID
Fri 23	08.30 MINEX 10.00 Debriefing Embajada De Noruega	Team Meetings
Sat 24	Team meetings	Travel
Sun 25	Travel	

List of people contacted

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ANNEX 4:
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ANNEX 5:
Country context description Nicaragua

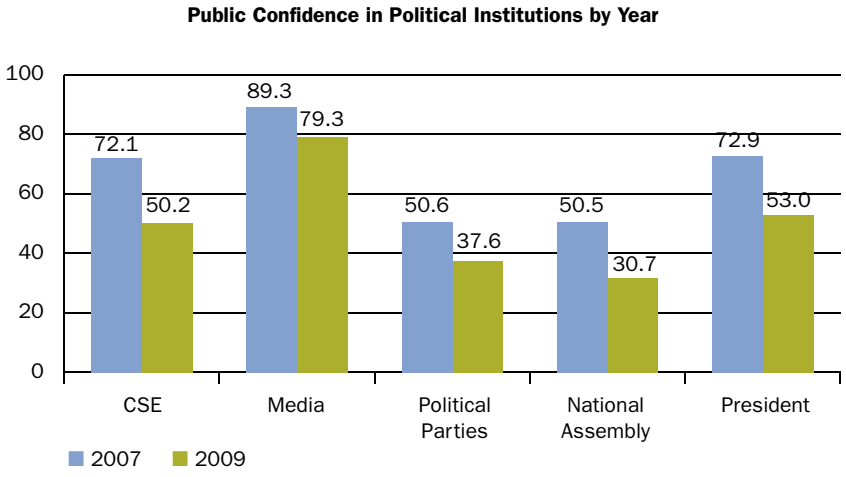
1 The State of Corruption: Perceptions, causes and costs

Overall picture

Nicaragua is a country characterized by conflict and poverty throughout its history. It is ranked the second poorest country in Latin America and the Caribbean with a chronic poverty index of 54.6%.[1]. Despite improved economic growth in recent years the overwhelming majority have not seen any improvement to their living situation and major inequalities abound.

Under its Constitution Nicaragua is a participatory and representative democracy with a population of about 5.7 million. Nicaragua is a presidential representative republic whereby the President of Nicaragua is head of state, head of government and head of a multi-party system. The government exercises executive power. Legislative power is vested in both the government and the National Assembly. The Judiciary is legally independent of the executive and the legislature.

Figure 1.1 National Democratic Institute for International Affairs (NDI): Public Confidence in Political Institutions in Nicaragua 2007 and 2009



Source: Nicaragua Democracy Surveys, 2007 and 2009

Source: National Democratic Institute Survey

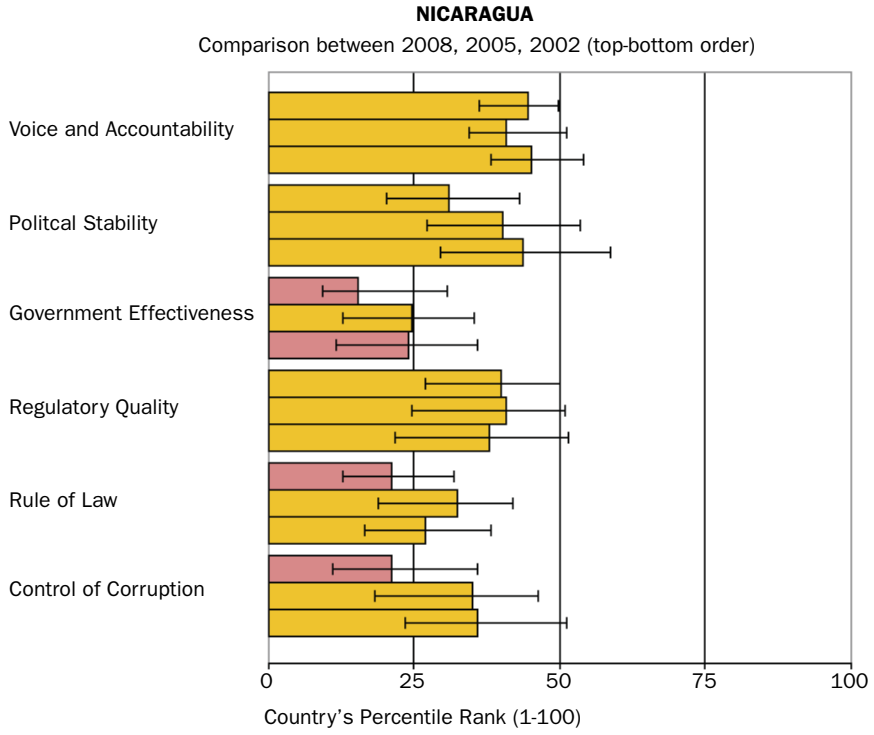
1 Penailillo,M. & Saldomando, A. (2007) 'Anti Corruption Policy Making in Practice: Nicaragua- A Case Study, U4 Report

Having suffered years of conflict, dictatorship and civil war, Nicaragua is now in a period of democratic transition with democracy gradually taking hold. Despite this trend, Nicaragua still faces serious economic, social and administrative problems.[2] Recent years have been characterized by a fragile political stability and a precarious state of democratic governance.[3] A survey conducted by The National Democratic Institute concluded that, although citizen support for democratic principles is increasing, confidence in key political institutions is declining and citizens became less engaged in the political process between 2007 and 2009 (see table 2.1 above).[4]

According to Freedom House, the quality of freedom in Nicaragua is also at chronically low levels. On the *Map of Freedom* 2009, Nicaragua rates as *Partly Free* having fallen down from 3 to 4 due to centralization of power of government. Freedom House also notes that the political and civic climate is seriously affected by corruption, political pacts, violence and drug related crimes.[5]

Perceptions of corruption

Table 1.1: WBI Governance Indicators: Control of Corruption in Nicaragua 2002-2008

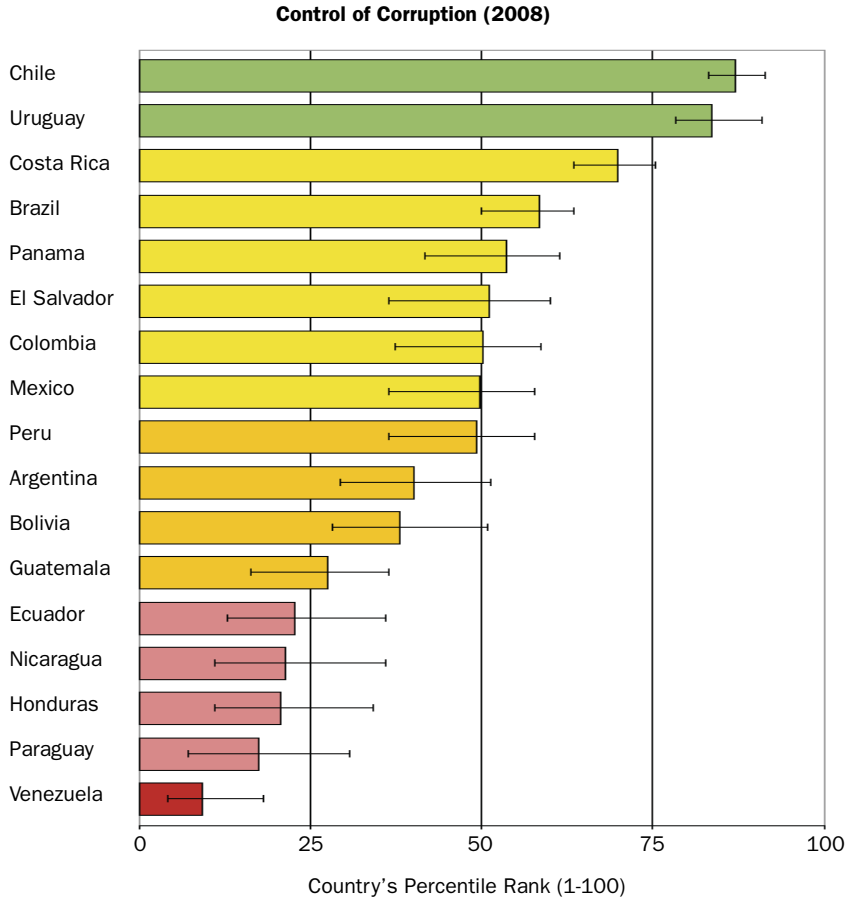


Source: Kaufmann et al. 2008[6]

2 Seligson, M (1997) 'Nicaraguans Talk about Corruption- A study of public opinion', Casals& Associates http://sitemason.vanderbilt.edu/files/jXrZMQ/Nicaraguans%20Talk%20About%20Corruption%20March%201997.pdf
3 Penailillo,M. & Saldomando, A. (2007) 'Anti Corruption Policy Making in Practice: Nicaragua- A Case Study, U4 Report
4 National Democratic Institute for International Affairs (NDI) Nicaragua Democratic Survey 2009
5 Freedom House, Freedom Map 2009; http://www.freedomhouse.org/template.cfm?page=363&year=2009
6 Kaufmann,d, A. Kraay and Mastruzzi M (2009) Governance Matters VIII: Governance Indicators for 1996-2008.

International Governance Indicators such as the Transparency International Corruption Index (CPI) and the World Bank Institute's Control of Corruption Indicator (COCI) confirm Nicaragua as highly corrupt. Transparency International's CPI for 2008 ranked Nicaragua as 134 out of 180 countries with a CPI score of 2.5 where 10 indicates highly clean and 0 highly corrupt.[7] The score has not improved much for Nicaragua over recent years, in 2001 Nicaragua scored 2.4.[8]

Table 1.2: WBI Governance Indicators: Control of Corruption in Nicaragua compared to other countries in the Americas



Source: Kaufmann et al. 2008[9]

7 CPI Score relates to the perceptions of the degree of corruption as seen by business people and country analysts. See http://www.transparency.org/policy_research/surveys_indices/cpi/2008

8 Transparency International : http://www.transparency.org/policy_research/surveys_indices/cpi/2001

9 Kaufmann,d, A. Kraay and Mastruzzi M (2009) Governance Matters VIII: Governance Indicators for 1996-2008.

Table 1.3 Transparency International: Corruption Perception Index 2008, Americas

Country Rank	Regional Country Rank	Country/Territory	CPI Score 2008	Confidence Interals	Surveys Used
9	1	Canada	**8.7**	8.4 - 9.1	6
18	2	USA	**7.3**	6.7 - 7.7	8
21	3	Saint Lucia	**7.1**	6.6 - 7.3	3
22	4	Barbados	**7.0**	6.5 - 7.3	4
23	5	Chile	**6.9**	6.5 - 7.2	7
23	5	Uruguay	**6.9**	6.5 - 7.2	5
28	7	Saint Vincent and the Grenadines	**6.5**	4.7 - 7.3	3
33	8	Dominica	**6.0**	4.7 - 6.8	3
36	9	Puerto Rico	**5.8**	5.0 - 6.6	4
47	10	Costa Rica	**5.1**	4.8 - 5.3	5
65	11	Cuba	**4.3**	3.6 - 4.8	4
67	12	El Salvador	**3.9**	3.2 - 4.5	5
70	13	Colombia	**3.8**	3.3 - 4.5	7
72	14	Trinidad and Tobago	**3.6**	3.1 - 4.0	4
72	14	Mexico	**3.6**	3.4 - 3.9	7
72	14	Peru	**3.6**	3.4 - 4.1	6
72	14	Suriname	**3.6**	3.3 - 4.0	4
80	18	Brazil	**3.5**	3.2 - 4.0	7
85	19	Panama	**3.4**	2.8 - 3.7	5
96	20	Guatemala	**3.1**	2.3 - 4.0	5
96	20	Jamaica	**3.1**	2.8 - 3.3	5
102	22	Dominican Republic	**3.0**	2.7 - 3.2	5
102	22	Bolivia	**3.0**	2.8 - 3.2	6
109	24	Argentina	**2.9**	2.5 - 3.3	7
109	24	Belize	**2.9**	1.8 - 3.7	3
126	26	Honduras	**2.6**	2.3 - 2.9	6
126	26	Guyana	**2.6**	2.4 - 2.7	4
134	28	Nicaragua	**2.5**	2.2 - 2.7	6
138	29	Paraguay	**2.4**	2.0 - 2.7	5
151	30	Ecuador	**2.0**	1.8 - 2.2	5
158	31	Venezuela	**1.9**	1.8 - 2.0	7
177	32	Haiti	**1.4**	1.1 - 1.7	4

Source: Transparency International.[10]

10 Transparency International Corruption Perceptions Index 2008, Regional Highlights, Americas. http://www.transparency.org/regional_pages/americas

The World Bank COCI also confirms Nicaragua's position as one of the most corrupt countries in the world in their control of corruption. As is indicated by table 1.1 above, Nicaragua ranks amongst the lowest in terms of Government Effectiveness, Rule of Law and Control of Corruption, having fallen from slightly higher rankings in 2005. Compared to other countries in the region, Nicaragua shows high levels of corruption. Tables 1.2 and 1.3 above highlight Nicaragua's position compared to other countries in the Americas, showing its ranking both by the WBI COCI and Transparency International CPI to be amongst the lowest (lowest score being highly corrupt).

Causes of corruption

The perception of corruption in Nicaragua is closely linked to the perception of the legitimacy of the political system itself.[11] The key drivers of corruption can be traced back to the country's conflict ridden past. Emerging from military conflicts in the 1980s Nicaragua tried to create political stability and peaceful coexistence between polarised forces. Political processes were, however, characterized by a lack of transparency from the outset and driven by the interests of powerful players. As a result Nicaraguan politics has been characterized by corruption, embezzlement and nepotism.[12]

The Governance Agreement, a power sharing patronage agreement signed between President Aleman and leaders of the Sandinista party in 1998, divided up power within the government and ensured impunity on the part of the Sandinista and Liberal political parties in all branches of government. According to Penailillo & Saldomando, this is seen as the moment when corruption was institutionalised in Nicaragua.[13]

Formally Nicaragua has an anti corruption legal framework in place but many challenges remain with its actual implementation. Public institutions are constitutionally independent but often criticized for being highly politicised and corrupt. Nepotism and political affiliation are said to play a huge role in the appointment of civil servants and those accused of corruption are rarely charged.[14] There is a widespread public perception of corruption in most government institutions particularly in the judiciary, the National Assembly, the CSE, the comptroller general, the human rights ombudsman and the national prosecutor.

The overall lack of mechanisms for accountability and transparency undermines citizens' ability to hold government and civil servants accountable. Furthermore, the role of the media as a potential source of independent information and watch dog is undermined by main media outlets being controlled by a few family companies and, in some cases, having clear ties with political parties.[15]

Penailillo & Saldomando argue that corruption in Nicaragua is systemic. The problem is thus not in the legal framework, but in the practice of politics. It has become

11 Seligson, M (1997) 'Nicaraguans Talk about Corruption- A study of public opinion', Casals& Associates
12 Business Anti Corruption Portal, Nicaragua Country Profile; http://www.business-anti-corruption.com/country-profiles/latin-america-the-caribbean/nicaragua/general-information/
13 Penailillo,M. & Saldomando, A. (2007) 'Anti Corruption Policy Making in Practice: Nicaragua- A Case Study, U4 Report
14 Business Anti Corruption Portal, Nicaragua Country Profile: http://www.business-anti-corruption.com/en/country-profiles/latin-america-the-caribbean/nicaragua/corruption-levels/judicial-system/
15 Penailillo,M. & Saldomando, A. (2007) 'Anti Corruption Policy Making in Practice: Nicaragua- A Case Study, U4 Report

part of a system that reproduces itself.[16] They further comment that the government lacks a clear and coordinated strategy that would enable the implementation of anti-corruption mechanisms. Its implementation is further affected by the lack of coercive powers on the part of the government.

Costs of corruption

It is widely accepted that poverty is linked to bad governance and to corruption in particular. Corruption generates economic, political, individual and social consequences that can cause or exacerbate poverty.[17] There is a direct link between the high levels of corruption and widespread poverty in Nicaragua. Poor governance, weak institutions and high levels of corruption have contributed to deteriorating living conditions. The UNDP Human Development Report 2007/08 reported that 79.9% of the population were living under $2 per day.[18] In a 1999 Survey 89% of Nicaraguans claimed to be affected by corruption.[19] According to the UNDP/TI study 'Mapping of Corruption and Governance Measurement Tools in Latin American countries', the burden of corruption weighs heavy on the poor, with poor households unable to meet essential requirements such as food, health and education partly because of the direct cost of corruption.[20]

The inefficient anti corruption measures and weak legal and regulatory institutionsmean that companies face difficulties when operating in Nicaragua. The World Economic Forum's Global Competitiveness Report 2009-2009 rates political instability and corruption as the main constraints on doing business in Nicaragua.[21] According to a 2006 Enterprise Survey, 70.57% of companies in Nicaragua feel that corruption is a major constraint.[22] This prevailing environment of inefficient and corrupt political institutions and services poses challenges for domestic business and foreign business alike. Business operations are complicated and investment discouraged by the corrupt judicial system, regulatory and licensing systems.[23] This poses serious challenges to economic growth and hinders Nicaragua's economic development.

Political corruption

The current President's election campaign was based upon promises of fighting the endemic corruption in the country and promoting transparency but, as noted by the Global Integrity Report 2008, to date few of these campaign promises have been met.[24] Instead the President, Daniel Ortega, has worked hard to consolidate his economic and political power. In 2000 the two leading party leaders Aleman and Ortega reached an informal pact for constitutional change to enhance their control over institutions and to grant Aleman a seat in the National Assembly and thus also

16 Penailillo,M. & Saldomando, A. (2007) 'Anti Corruption Policy Making in Practice: Nicaragua- A Case Study, U4 Report
17 Eschborn (2004) Fighting Poverty and Corruption: Integrating the fight against corruption into the PRS process- Analysis and Recommendations for Development Cooperation. U4. http://www.u4.no/document/literature/fighting-poverty-and-corruption.pdf
18 Human Development Report,2007/08 http://hdrstats.undp.org/countries/data_sheets/cty_ds_NIC.html
19 Instituto de Estudios Nicaraguenses, Transparencia, Responsabilidad e Integridad Anti Corrupcion: http://www.grupoese.com.ni/1999/bn/10/20/anticorrup3.htm
20 Transparency International, UNDP (2006) Corruption and Measurement Tools in Latin American Countries: Mapping corruption and government tools in Latin American Countries. http://www.undp.org/oslocentre/docs06/Corruption%20and%20Governance%20Measurement%20Tools%20in%20Latin%20American%20Countries%20-%20June.pdf.
21 World Economic Forum,(2009)The Global Competitiveness Report 2009-2010: http://www.weforum.org/en/initiatives/gcp/Global%20Competitiveness%20Report/index.htm
22 Enterprise Surveys: http://www.enterprisesurveys.org/ExploreEconomies/?economyid=141&year=2006
23 Business Anti Corruption Portal, Nicaragua Country Profile: http://www.business-anti-corruption.com/en/country-profiles/latin-america-the-caribbean/nicaragua/general-information/
24 Castro,C (2008)Global Integrity Scorecard, Nicaragua 2008: Reporters Notebook: http://report.globalintegrity.org/Nicaragua/2008

parliamentary immunity.[25] This tightening of control over the institutions of the state makes acting against corruption almost impossible. The immunity from prosecution of members of the National Assembly only helps fuel further corruption.
The Ombudsman's office in Nicaragua has, according to critics, become a tool for the executive. The Global Integrity Scorecard comments that the agency has recently been criticized for ignoring repressive actions of the judiciary and the police and turning a blind eye to the elimination of two political parties from its registry without cause.[26]

Public sector corruption

Nicaragua is constitutionally a participatory democracy with a multiparty system. Politics has, however, become highly centralized and personalized. Lack of accountability across all branches of government and a lack of independence between branches of power plague political life in Nicaragua. The bureaucracy is highly politicised and weak.

Politicisation of the executive and corruption

Politicisation of bureaucracy

Supposedly independent institutions have become highly politicised and ruled by political interests, which has degraded their legitimacy. Although there are regulations to prevent nepotism, cronyism and patronage in the civil service, loopholes are exploited in all administrations. Political affiliation plays a major role in the appointment of civil servants. Although the law states that civil servants convicted of corruption are prohibited from future government employment, those accused of corruption are in practice never subject to trial or punishment.[27]

Corruption in public service delivery

Politicisation and a high turn- over of public sector employees have been long-standing problems in Nicaragua's public sector. Global Corruption Barometer 2005 highlights that Nicaraguans perceive the police force to be amongst the most corrupt of public institutions.[28] According to the US Department of State 2007, low salaries render police officers susceptible to bribes, corruption, and drug trafficking. Furthermore there is a lack of training and professionalism to a level required to ensure effective law enforcement. Throughout 2006, 2190 cases of alleged police misconduct were investigated by the Office of Internal Affairs, of which 19% were acts of corruption.[29]

According to Transparency International, the provision of basic services such as water is also rife with corrupt practices. Nicaraguan top officials and trans-national firms have allegedly been involved in corrupt practices with regards to the payment of basic water charges. Regulation of environmental pollution has also been undermined by corrupt practices. A recent General Water Law was passed in order to reg-

25 Courtney,R (2006) Transparency International Global Corruption Report 2006
26 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/69
27 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/69
28 Transparency International, Global Corruption Barometer 2005 www.transparency.org/.../Global_Corruption_Barometer_2005_(full_report).pdf
29 US Department of State, Diplomacy in Action, Nicaragua: http://www.state.gov/g/drl/rls/hrrpt/2007/100647.htm

ulate the exploitation of natural resources and prioritise human consumption in areas that face scarcity.[30]

Politicization of the judiciary and corruption

The judiciary is the weakest link in the institutionalisation of democracy in Nicaragua. Although legally the judiciary is an independent body, it has been a target for corruption and politicisation and, in practice, does not function independently. According to Latinobarometro, 34% of Nicaraguans state that it is likely or very likely that one will be able to bribe a judge in order to obtain a favourable ruling.[31] The appointment of national level judges to the Supreme Court by the National Assembly and not by an independent commission means that decisions are in danger of being based upon party or personal loyalty rather than on professional merit.[32].The US Department of State notes that many judges are subject to political pressure which severely affects the ability to provide fair trials, but that little seems to change in spite of complaints by several human rights and lawyers groups about judicial inaction and impunity.[33]

The politicisation of the judiciary severely affects Nicaragua's ability to pursue allegations of corruption. The high levels of corruption in the police force further compound this lack of capacity.

Corporate Corruption

According to Penailillo and Saldomando, the private sector is one of the country's leading sources of corruption, with business and politics being highly intertwined.[34] Cases of corruption often teeter on the line between public and private in terms of, for example, government contracting. Favouritism towards well-connected companies and individuals when awarding government contracts is common according to the World Economic Forum Global Competitiveness Report 2008-2009. The report further comments that business leaders rate the likelihood of diversion of public funds to companies, individuals, or groups due to corruption as 2.7 on a 7-point scale (1 being 'is common' and 7 'never occurs').[35]

2 National Anti Corruption Mechanisms

The National Integrity System: Main actors and mechanisms

The legislative framework on corruption, accountability and transparency in Nicaragua is, on paper, very efficient and rated by the Global Integrity Report 2008 as *very strong*. The same report, however, gives Nicaragua an overall rating for its integrity system as *weak* (legal framework receives 76 out of 100 but actual implementation only scores 39 out of 100). The implementation gap is noted as *very large*.[36]

30 Transparency International Global Corruption Report 2008, Country Reports, Americas: http://www.transparency.org/publications/gcr/gcr_2008#7
31 Latino Barometro Annual Report 2008 http://www.latinobarometro.org/
32 Business Anti Corruption Portal, Nicaragua Country Profile: http://www.business-anti-corruption.com/en/country-profiles/latin-america-the-caribbean/nicaragua/general-information/
33 US Department of State, Diplomacy in Action, Nicaragua: http://www.state.gov/g/drl/rls/hrrpt/2007/100647.htm
34 Penailillo,M. & Saldomando, A. (2007) 'Anti Corruption Policy Making in Practice: Nicaragua- A Case Study, U4 Report
35 World Economic Forum,(2008)The Global Competitiveness Report 2008-2009: http://www.weforum.org/en/initiatives/gcp/Global%20Competitiveness%20Report/index.htm
36 Global Integrity Report, Nicaragua; http://report.globalintegrity.org/Nicaragua/2008/

There are several agencies dedicated to the promotion of accountability and transparency in Nicaragua. The Oficina de Ética Pública (Public Ethics Office) was established in 2002 to promote transparency and efficiency in public administration. The office also administers the Programa de Eficiencia y Transparencia en las Compras y Contrataciones del Estado (Efficiency and Transparency in Public Procurement and Contracting Programme). The Procuraduria General de la Republica (PGR) is, together with the Oficina de Ética Pública, responsible for implementing the Inter-American Convention Against Corruption as well as formulating national anti-corruption strategies and priorities.

The Controloria General de la Republica (Comptrollers Office) is the main monitoring agency. The responsibilities of the CGR include conducting audits and administrative investigations, overseeing the submission of assets and liability statements by authority, demonstrating criminal responsibility and reporting cases of corruption.

Evolution of government commitment

Government commitment to tackling corruption in Nicaragua has been mainly related to the use of anti-corruption agendas to gain support for political agendas. Distrust of the integrity of the Nicaraguan government at both the national and international level led Bolaños to implement an anti-corruption agenda to gain much needed social support. Likewise the current President, Daniel Ortega, strongly promoted anti-corruption measures during his election campaign but, according to the Global Integrity Report 2008, in practice the situation has worsened during his time in office.[37] Implementation of anti- corruption measures has been slow and inefficient, undermined by political pacts such as the Pacto Politico (political pact) between Alemán and Ortega, which has tightened political control over institutions. To date no major objectives of any of the initiatives to promote transparency and accountability have been achieved.[38]

Major achievements and challenges

Civil society, media and public information

The Global Integrity Report 2008 shows that Nicaragua scores highly in terms of its legal framework that protects freedom of speech and information, but public access to information is weak.[39] It states that, although the public has free access to information, the process is complicated and many requests to government for information go unanswered. Furthermore, the credibility of the media is questionable, as most media outlets are owned and controlled by relatives of the President or the ruling party. This has severely constrained the ability of the media to report on controversial issues and for the media to act as a watchdog on transparency and accountability.

A 2008 report by the Nicaraguan Human Rights organization, CENIDH, highlights increasing violations of the right to freedom of information. Journalists and other members of the press are not only being denied access to enable them to report on

37 Global Integrity Report 2008, Nicaragua http://report.globalintegrity.org/Nicaragua/2008/scorecard/2
38 Penaililo,M. & Saldomando, A. (2007) 'Anti Corruption Policy Making in Practice: Nicaragua- A Case Study, U4 Report
39 Global Integrity Report 2008, Nicaragua http://report.globalintegrity.org/Nicaragua/2008/scorecard/7

government processes but are also facing increasing violence with over 30 incidents reported during 2008.[40]

Civil Society Organizations

Civil Society Organizations (CSOs) have an important role in promoting good governance and fighting corruption. Overall, civil society organizations score fairly high in the Global Integrity Report 2008 for Nicaragua.[41] There are more than 3000 registered NGO's in Nicaragua and obtaining legal standing and permits is fairly easy. However, Global Integrity's 2008 Report notes that, although formally Nicaraguans are free to organize with any objective or goal that does not break national laws, in practice there are limitations. In the past year mostly religious organizations have been approved and very few organizations exist dedicated to issues of good governance, transparency and accountability. Registration processes are likely to take a long time unless organizations are sponsored by one of the major political parties. Although no CSO's working on corruption issues have yet been closed, there have been several occurrences of investigations and harassment against these organizations without open formal investigations or legal orders.[42]

Elections

Nicaragua scores well in The Global Integrity Report 2008 in terms of the participation of citizens in the election process, but *weak* on the integrity of the election process and *very weak* on political financing.[43] The weakness of the election process is due to the lack of trust in political institutions, including the Supreme Electoral Council. It is further undermined by the lack of accountability on political financing. There are no regulations on financing of political parties. Whilst the electoral law (Ley Electoral) (article 63 number 3) requires political parties to be transparent and to publish an annual financial report, the system has many loopholes that are widely exploited.[44]

Voting and citizen participation, integrity of process

Nicaragua has a strong legal framework that guarantees universal and equal suffrage to all adult citizens. In terms of citizen participation, Nicaragua also scores highly with 95% of eligible citizens registered and able to vote and numbers historically above 90% in presidential elections.[45]

The Consejo Supremo Electoral (Supreme Electoral Council) is a branch of the government, elected by the National Assembly. The Council is constitutionally responsible for the conduct of elections in a free and fair manner and has a final say in all administrative electoral matters.[46]

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40 Soliz, I. B (ed) (2008) ' Derechos Humanos en Nicaragua- Informe Annual', Centro Nicaraguense de Derechos Humanos, CENIDH. Nicaragua
41 Global Integrity Report, 2008,Nicaragua: Integrity Indicators:. http://report.globalintegrity.org/Nicaragua/2008/
42 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard:http://report.globalintegrity.org/Nicaragua/2008/scorecard/2
43 Global Integrity Report 2008, Nicaragua http://report.globalintegrity.org/Nicaragua/2008/scorecard
44 Transparency International, Regional Pages,Nicaragua: Evaluacion y conclusiones del estudio de integridad 2008-09 http://www.transparency.org/regional_pages/recrea/informacion_por_pais/nicaragua
45 Global Integrity Report 2008, Nicaragua : http://report.globalintegrity.org/Nicaragua/2008/scorecard/19
46 Consejo Supremo Electoral, http://www.cse.gob.ni/index.php?s=8&&ley=1&&p=2

Concerns have been raised about the integrity of the Consejo Supremo Electoral (CSE) and in the past two elections (November 2006 and 2008) complaints were raised about the lack of access or problems with identification, especially for new voters. The Global Integrity Report 2008[47] highlights that many limitations on free and fair elections are due to the CSE being controlled by the leading political parties. Appointments to the CSE are based only on partisan loyalties, not on personal qualifications or experience.

The National Democratic Institute[48] noted of the 2006 elections that the election authorities refused to provide election observation credentials to domestic election observation groups such as Ética y Transparencia[49]. Furthermore many international groups invited to observe previous elections were not invited in 2006. Elections were described as the least transparent and most conflict prone since 1996. In a brief on the municipal elections 2008 Ética y Transparencia note that they were again denied credentials as observers and that fundamental elements of the electoral law were violated in terms of accountability and transparency, with several allegations of irregularities and fraud.[50]

Thus, whilst citizen participation in elections is high, distrust in political institutions, including the CSE, the very institution that should guarantee the integrity of elections, seriously undermines the integrity of the process. A National Democratic Institute study[51] from 2005 found that 70% of Nicaraguans expressed no confidence in political parties and 55% expressed disappointment with the way the current democratic system works.

Political Financing

The Electoral Law[52] places no limits or regulations on donations received outside of the electoral campaign period (defined as 75 days prior to election day). There are no limits on how much a person or entity may give or how much a party or candidate may receive or spend. There are no regulations on the private sector's ability to support a political party and there is no independent agency to investigate the financing of political parties. Furthermore there are no requirements for disclosure of donations to political parties and thus donations can be completely anonymous. The Comptrollers Office does not review any funds acquired by political parties apart from the receipts from parties seeking reimbursement for their share of public funds for elections. As noted by The Global Integrity Report 2008, in practical terms all is permitted since there are no regulations to be broken.[53]

Government Accountability

The weak accountability and transparency of all arms of government is a major hindrance to the National Integrity System in Nicaragua. Nicaragua scores very low overall on the Global Integrity Index (GII) (see table 2.1 below).

47 Global Integrity Report 2008, Nicaragua : http://report.globalintegrity.org/Nicaragua/2008/scorecard/19
48 National Democratic Institute : http://www.ndi.org/nicaragua
49 Grupo Civico Ética y Transparencia: www.eyt.org.ni
50 Grupo Civico Ética y Transparencia, Informe Final Elecciones Municipales 2008, http://www.eyt.org.ni/Link_Principales/PRONUNCIAMIENTOS.html
51 National Democratic Institute, Central American University, Democracy and Political Culture in Nicaragua 2005.
52 Consejo Supremo Electoral, Leyes Vigentes: http://www.cse.gob.ni/index.php?s=8&&ley=1&&p=9
53 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard:http://report.globalintegrity.org/Nicaragua/2008/scorecard/26

Table 2.1 Government Accountability GII Nicaragua scorecard 2

Dimensions	Score	
Government Accountability	54	Very Weak
Executive Accountability	58	Very Weak
Legislative Accountability	51	Very Weak
Judicial Accountability	40	Very Weak
Budget Process	69	Weak

Source: Global Integrity Index, Global Integrity Scorecard Nicaragua 2008[54]
Scale: (< 60) Very Weak, (60+) Weak, (70+) Moderate (80+) Strong (90+) Very Strong

Executive Accountability

There is high politicisation across all branches of the government and government functions are often influenced by party politics. The Ley de Amparo (law of protection), law no 49, guarantees the protection for all citizens from any infringement of their civil rights (Articles, 3, 4 and 5) and gives citizens the right to sue their own government. Legally the high court has the right to review the actions of the executive, however the lack of independence between branches of power and the high politicisation of the judiciary means it becomes a political issue. The Global Integrity Report cites the example of the recent elections, highlighting how the lack of independence of the Supreme Court judges interferes with the possibility of citizens protecting their rights.[55]

The accountability of the executive is also related to the transparency and accountability of the budget processes.

Legislative Accountability

By law, the judiciary can review laws passed by the legislative (Constitution, art. 164, sections 10 to 13[56]). The lack of independence of branches of power means, however, that judicial review is dependent on political will.

Members of the national legislature enjoy immunity provided by Law 83 of 1990. A member of the national legislature can only be prosecuted if a request to strip the member of immunity is made to Congress by a judge. According to The Global Integrity Report 2008, this is practically impossible to achieve.[57]

Judicial Accountability

The judicial branch is a unitary system in which the highest tribunal is the Supreme Court of Justice. There are also courts of appeal, district judges, and local judges. The high-level judges are elected by the legislature and by law this process is transparent. The Supreme Court elects the second-level, or territorial judges, without any kind of formal review process. Although the law protects judges from political inter-

54 http://report.globalintegrity.org/Nicaragua/2008/scorecard
55 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard:http://report.globalintegrity.org/Nicaragua/2008/scorecard/34
56 Assamblea Nacional, Constituciones de 182-1987; http://www.asamblea.gob.ni/index.php?option=com_content&task=view&id=228&Itemid=156
57 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard:http://report.globalintegrity.org/Nicaragua/2008/scorecard/39

ference, national level judges are often appointed because of party and personal political interest and thus also often respond to these interests in their day-to-day rulings. There is no disciplinary agency for high-level judges and they are protected by immunity law. For second level, district and local judges, such as from the appellate and lower courts, the Council of Administration and Judicial Career have the authority to receive complaints and make disciplinary decisions.

Budget process

Transparent budget processes are key to transparent government functions and the National Integrity System.

By law the legislative can amend the budget and significant public expenditure requires legislative approval. The Law of Financial Administration and Budget Regime (Law 550) mandates that all revenues be registered in the national budget. There has been some controversy over funds from cooperation with Venezuela that were outside of the national budget but, generally, according to the Global Integrity Scorecard 2008 all funds are now in the budget.[58] Citizens have a legal right to access the national budgetary process but, in reality, most negotiations happen behind closed doors and are difficult to access.[59]

The National Assembly has legal authority to monitor the budget process and the expenditures. This authority is given by the Constitution Article 112 and reinforced by Law 550. The budget is reviewed by the Commission of Finance in which legislators participate, before being approved the by Budget General of the Republic. Law 550 also refers to the oversight of public funds by a separate legislative committee. The Budget Commission does follow up on the budget process and is further supported by the Commission of Economic Affairs, Finance and Budget of the National Assembly. In practice there are issues around the independence of the committee and thus also of the integrity of the process. Investigations into budget processes are rare.[60]

Administration and Civil Service

Table 2.2 Administration and Civil Service, GII Nicaragua scorecard 2

Dimensions	Score	
Administration and Civil Service	39	Very Weak
Civil Service Regulations	47	Very Weak
Whistle-Blowing Measures	8	Very Weak
Procurement	62	Weak
Privatization	40	Very Weak

Source: Global Integrity Index, Global Integrity Scorecard Nicaragua 2008[61]
Scale: (< 60) Very Weak, (60+) Weak, (70+) Moderate (80+) Strong (90+) Very Strong

58 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/49
59 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/49
60 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/49
61 http://report.globalintegrity.org/Nicaragua/2008/scorecard

Civil Service Regulations

Table 2.2 above highlights the high incidence of corruption in the civil service and how processes of recruitment, promotion and retirement are highly politicised. Article 130 of the Constitution and Probity law arts. 10 and 11 regulates incidences of nepotism, cronyism and patronage within the civil service but its loopholes are frequently exploited.[62]

The Civil Service and Administrative Career Law[63] establishes the existence of a tripartite commission that functions as an independent redress mechanism for the civil service. The Law of Probity, Article 11, prohibits civil servants convicted of a crime, declared insolvent or in bankruptcy from future government employment. There is no specific mention of corruption in this law but the Civil Service and Administrative Career Law addresses corruption in Article 55 that deals with "severe faults". For example, section 9 of Article 55 lists as a sever fault the acquiring of resources from the State or any government institution without authorization from the Ministerio de Hacienda y Credito Publico.

Whilst there have been many examples of partisan recruitment and of corruption within important cadres of public service such as the police force, close connections with the ruling party often means that those accused of corruption will simply move from one position to another, sometimes even to a higher one. This was the case with the secretary general of a public institution accused of corruption that became an adviser to the National Assembly. No investigations were conducted despite much attention in the media.[64]

histle-blowing measures, procurement and privatization

As is highlighted in table 2.2 above, Nicaragua's GII score on whistle blowing measures is a mere 8 out of 100. There are no articles anywhere in the law that offer protection to whistle-blowers. There are, however, internal mechanisms such as telephone hotlines through which civil servants can report corruption, but they are hardly ever used and are inefficient.[65]

Nicaragua does have a legal framework in place to address conflicts of interest amongst public procurement officials but there are no mechanisms to monitor their assets, incomes and spending habits. The law criminalizes discrimination amongst suppliers and requires government contracts to be published officially. Nevertheless, the World Economic Forum Global Competitiveness Report 2008-2009 reports that favouritism is common when deciding upon contracts.[66] In 2002 the Government was approved a loan to improve its procurement system with the goal of developing a more efficient and transparent system. As part of this initiative, SISCAE (Sistema de Contrataciones Administrativas del Estado), an internet portal, has been established to make information on public contracts available.[67]

62 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/49
63 Ley del Servicio Civil y de la Carrera Administrativa http://www.ineter.gob.ni/geofisica/ley-servcivil/TITULOII.htm
64 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/54
65 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/49
66 World Economic Forum,(2008)The Global Competitiveness Report 2008-2009: http://www.weforum.org/en/initiatives/gcp/Global%20Competitiveness%20Report/index.htm
67 SISCAE: http://www.nicaraguacompra.gob.ni/siscae/portal

Whilst privatization has slowed somewhat under President Ortega, Nicaragua has been actively privatizing many of its public utilities. The constitution grants the State the right to privatize all state enterprises, apart from the services that must be provided from the State such as water services. There are no formal regulations for privatization and no mention in the law of limitations.
Access to information for citizens on privatization bids scores very low on the Global Integrity Index[68] and there is no law regulating citizen's access to privatization regulations. Some privatizations have happened without public knowledge and no public records, such as the part privatization of public services such as water.

Oversight and Regulation

Oversight and regulation in Nicaragua presents a varied picture in the Global Integrity Index (see table 2.3 below). The National Ombudsman scores low and State Owned Enterprises particularly low.

Table 2.3 Oversight and Regulation, GII Nicaragua scorecard

Dimensions	Score	
Oversight and Regulation	54	Very Weak
National Ombudsman	43	Very Weak
Supreme Audit Institution	68	Weak
Taxes and Customs	75	Moderate
State Owned Enterprises	8	Very Weak
Business Licensing and Regulation	75	Moderate

Source: Global Integrity Index, Global Integrity Scorecard Nicaragua 2008[69]
Scale: (< 60) Very Weak: (60+) Weak, (70+); Moderate (80+) Strong; (90+) Very Strong

The following sections will pay particular attention to the National Ombudsman, the Comptroller and Auditor General and State Owned Enterprises.

National Ombudsman

The National Ombudsman in Nicaragua is the Procuraduria de Derechos Humanos, currently headed by Omar Cabezas.[70] The Constitution itself does not deal specifically with the National Ombudsman but Law 212 establishes the existence of an independent Ombudsman office. The Law protects the National Ombudsman from political interference but, in practice, the independence and autonomy of this office is severely compromised by political pressures. The criteria for election are based upon party loyalty rather than skill and the current procurador is still an active member of his political party.

Law 212 also establishes the functional and administrative independence of the Ombudsman's office. In practice, the autonomy of the office is undermined by the fact that it needs budget approval from both the Ministry of Finance and the

68 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/65
69 http://report.globalintegrity.org/Nicaragua/2008/scorecard
70 Procuraduria de Derechos Humanos,http://www.pddh.gob.ni/procurador.asp

National Assembly. The Global Integrity Report 2008 characterizes the Procuraduria de Derechos Humanos in Nicaragua as "*Understaffed, politically dependent and a haven for party activists".*[71]

The Comptroller and Auditor General

Constitutionally, the Comptrollers Office (General Comptrollers Office for the Republic) is independent and has the mandate to investigate, fine and refer cases of corruption. It is legally protected from political interference and is, in theory, an independent body. But as highlighted by the Global Integrity Report 2008

> *"According to the description of the scores and the practices in Nicaragua, the real independence of the agencies that have the responsibility to investigate and fight corruption is zero. They are totally guided by partisan decisions. The appointments are made with party loyalty as the main consideration, not knowledge or experience. All the major decisions need the blessing of the major political parties."*[72]

The ability of this office to act as an independent agency to punish acts of corruption is thus undermined on several levels. With party loyalty being the main consideration for appointment to this office, there is a severe lack of adequately qualified staff. The efficiency of the office is also undermined by a lack of authority.

State Owned Enterprises

Nicaragua's very low score on the oversight and regulation of state owned enterprises in table 2.3 above is related to the complete lack of regulation or mechanisms for the oversight of state owned companies. In 1990 the General Board of Public Sector National Corporations (CORNAP) was created but overseeing enterprises is not considered amongst its responsibilities. The Attorney General's office could, if necessary, play a supervisory role but it would need political will behind it.

Whilst, under the Freedom of Information Law, citizens have free access to financial records of all State owned enterprises, in practice enterprises act as private companies when it comes to releasing data.

Anti-Corruption and the Rule of Law

The GII 2008 rated Nicaragua's Anti Corruption law as *very strong* but its Anti Corruption Agency as *very weak* (see table 2.4 below).

71 Global Integrity Report, 2008,Nicaragua: Integrity Indicators Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/69
72 Global Integrity Report 2008, Nicaragua Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/88

Table 2.4 Anti-Corruption and the Rule of Law, GII Nicaragua scorecard

Dimensions	Score	
Anti Corruption and Rule of Law	73	Moderate
Anti-Corruption Law	100	Very Strong
Anti-Corruption Agency	53	Very Weak
Rule of Law	69	Weak
Law Enforcement	69	Weak

Source: Global Integrity Index, Global Integrity Scorecard Nicaragua 2008[73]
Scale: (< 60) Very Weak: (60+) Weak, (70+); Moderate (80+) Strong; (90+) Very Strong

Anti-corruption law and Anti-corruption agency

Many anti corruption initiatives were begun during the Bolaños presidency (2002-2007) but most have remained ineffective due to the high politicisation of institutions in charge of implementing and enforcing them.

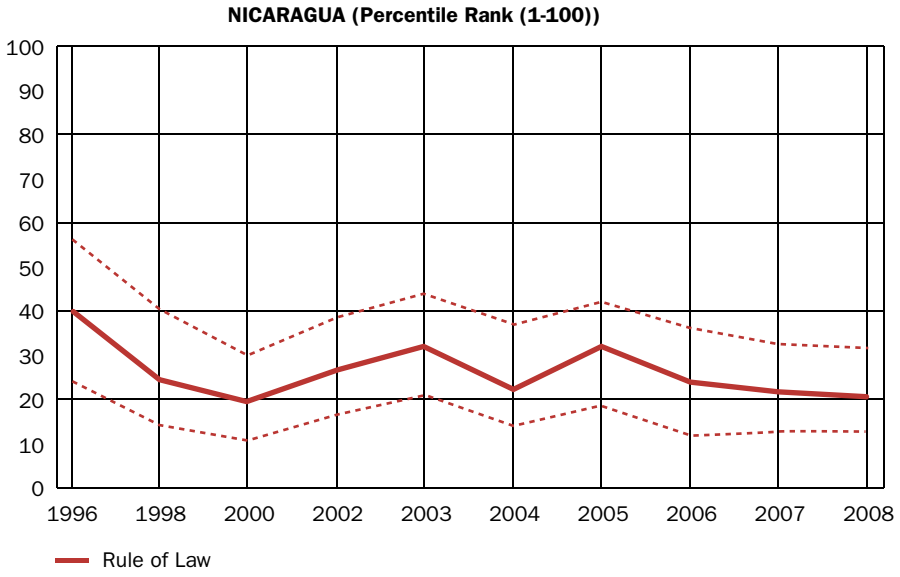
The Penal Code, Law 641, states that attempted, active (bribing) and passive (receiving a bribe) is illegal. The law also penalizes the use of public resources for private gain and the use of authority for personal gain. The office of the Contraloría General (The Comptrollers Office) is legally the key agency in the fight against corruption and has the mandate to undertake independent investigations and to refer for prosecution. A lack of independence from political influence however makes the agency's ability to act extremely limited. The Office of Public Ethics works mostly on training and follow-up and does not have powers to investigate or prosecute.

The political control over these institutions prevents their effectiveness and also any possibility of reform. Furthermore, the political pact between the two major parties and the law of immunity, which gives members of Parliament blanket immunity from investigations and prosecutions, undermines the reach of anti corruption initiatives and their actual implementation.[74]

73 http://report.globalintegrity.org/Nicaragua/2008/scorecard
74 Penailillo,M. & Saldomando, A. (2007) 'Anti Corruption Policy Making in Practice: Nicaragua- A Case Study, U4 Report

Rule of Law

Table 2.5 World Bank Institute Governance Indicators, Nicaragua, Rule of Law[75]



Source: Kaufmann et al. 2008.[76]

Rule of law and Law Enforcement are key to a strong National Integrity System. Key elements include 1) government bound by law and subject to restraints of power 2) equality before the law 3) maintenance of public order and enforcement of norms embodied in law 4) predictable, effective and efficient rulings 5) protection of human rights and dignity of the individual. According to the World Bank Institute Governance Indicators, the quality of the rule of law has dropped since 2005 (see table 2.5 above).

Whilst there is a formal justice system in place with independence guaranteed by the Constitution, the lack of efficiency, accountability and the high levels of politicisation and corruption of the judiciary make the justice system weak and inefficient. The judiciary is highly influenced by party politics and appointments of judges are often made based upon political interests. Formal accountability mechanisms are very weak or non-existent.[77] More detailed information on the judiciary can be found above under the heading 'Politicisation of the judiciary and corruption'.

Legally all Nicaraguans are equal before the law. Whilst politics and economics play the most important role in rulings, gender and ethnic biases do also play a role. With politics ruling the justice system, the poorest are the most affected. Women's access to justice is limited by poverty and tradition, especially in cases of domestic

75 These charts show the percentile rank of the country on each governance indicator. Percentile rank indicates the percentage of countries worldwide that rate below the selected country. Higher values indicate better governance ratings. Percentile ranks have been adjusted to account for changes over time in the set of countries covered by the governance indicators. The dashed lines indicate the statistically-likely range of the governance indicator. For instance, a percentile rank of 75% with the dashed lines at 60% to 85% has the following interpretation: an estimated 75% of the countries rate worse and an estimated 25% of the countries rate better than the country of choice. However, at the 90% confidence level, only 60% of the countries rate worse, while only 15% of the countries rate better.

76 Kaufmann,d, A. Kraay and Mastruzzi M (2009) Governance Matters VIII: Governance Indicators for 1996-2008.

77 Global Integrity Report 2008, Nicaragua Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/91

violence. Ethnic groups are amongst the poorest and thus their access is limited, and there is also some discrimination against ethnic populations, in particular the Miskito Indians.[78] Access to justice in rural areas has improved but distance and cost still remains a problem to achieve equal access to a court of law.

A report by CENIDH (Centro Nicaraguense de Derechos Humanos) states that the judicial system in Nicaragua cannot be considered independent, impartial, professional and able to guarantee the protection of human rights to all people without discrimination.[79]

Law Enforcement

The main law enforcement agency is the police, which fall under the Ministry of Governance. The executive selects command for the police force. Law 228, Law of the National Police from 1996, regulates the functioning of the police and other law enforcement agencies. Article 55 of the Law states that the functioning of the police force is subject to the ordinary justice system. The law establishes the role of the Department of Internal affairs and the position of the Inspector General, which together with the disciplinary code of the police regulates the functioning of the police force. The Division of Internal Affairs furthermore has a Department of Investigation, which is dedicated to prevent and investigate possible cases of corruption.

Politicisation of the police force is, however, a major problem Politics plays a major role in the appointment of police officers. Working conditions are poor with limited training, which lowers the standards of the police force. Accountability mechanisms are weak and denouncements or public complaints are rarely heard. In 2005 the police force was perceived by Nicaraguans to be amongst the most corrupt public institutions.[80] The GII Report 2008 notes that the situation of the police force has deteriorated, with the national chief of police being unable to act independently and decisions often made outside of the police institutions, making the police force highly politicised and decisions made dependent on the wishes of the ruling party.[81]

International Transparency Initiatives

Nicaragua has signed and ratified both the UN Convention Against Corruption and the Inter-American Convention Against Corruption. The follow up mechanism to the Inter-American Convention against Corruption, MESICIC, has been in operation since 2001 and obliges the Government of Nicaragua to adopt measures against corruption.[82] Another agreement was signed in June 2004 between Nicaragua and the G8 countries; the Compact to Promote Transparency and Combat Corruption. This has given technical assistance to Nicaragua from the G8 for improvements in financial management.

78 Global Integrity Report 2008, Nicaragua Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/91
79 Varesano,O (coord.) (2008) ' Violaciones de los Derechos Humanos en Nicaragua: Informe presentado al comite de Derechos Humanos', proyecto presentado por CENIDH, Alianza de Centro de Mujeres, Red de mujeres contra la violencia & CODENI. http://www.cenidh.org/programas.php
80 Transparency International, Global Corruption Barometer 2005 www.transparency.org/.../Global_Corruption_Barometer_2005_(full_report).pdf
81 Global Integrity Report 2008, Nicaragua Scorecard: http://report.globalintegrity.org/Nicaragua/2008/scorecard/91
82 The Follow Up Mechanism of the Inter-American Convention Against Corruption: www.oas.org/juridico/english/brochure_mesicic.pdf

Conclusions

The weakness of the democratic institutions in Nicaragua and the deeply embedded corruption across all branches of power make implementation of accountability and transparency mechanisms difficult. Implementation of reforms of the National Integrity System has been characterized by a lack of political will, clear leadership and coercive powers. This has led to a fragmentation and a lack of coherence of initiatives. Corruption is a cross cutting issue that needs to be addressed on several levels and requires strong political will to succeed.

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