Guatemala, Ideal Money Laundering Pit Stop

*By Martín Rodríguez Pellecer**

Guatemala has become an ideal pit-stop for money laundering for at least two reasons: its historically loose regulatory structure which allows for tax evasion, and its role as a haven for drug cartels and organized crime in the region.

Guatemala's tolerance of corruption — for instance, it fails to hold the country's biggest fortunes to strict accountability standards — attracts tons of dirty money from Mexican and Central American *narcotrafficants*. As evidence of this tolerance, between 2009 and 2010, court cases ended in less than two dozen convictions, mostly against *mules* caught open handedly carrying hundreds of dollars in cash while passing through La Aurora International Airport.

As in the rest of Latin America, since the late 19th century, the agro-export model of billionaire capital accumulation used in Guatemala required a system of capital flight. From 1945 to 2010, the country's annual GDP has been US$30 billion and its tax income has ranged between 6 and 10 percent. Tax evasion accounts for an estimated 2 percent of the GDP (almost twice as much as other countries in the region), while tax avoidance accounts for another 2 percent of GDP, according to the think tank Central American Institute for Fiscal Studies (ICEFI — *Instituto Centroamericano de Estudios Fiscales*).

"In the '80s and '90s, we witnessed two events: the *liberalization*of the financial system against its repression through regulations in the world, and the *narco* boom in the hemisphere," says Fernando Carrera, a respected Guatemalan economist and political analyst. "Guatemala also modernized its financial legal system to allow offshore financial operations to create a more sophisticated and diversified portfolio of financial products. In addition, the smuggling structure inherited from the military authorities was transformed into other illegal trafficking operations involving drugs, weapons and human trafficking. These types of criminal organizations needed shell companies through which it was possible to launder money that was made from illegal activities. The Guatemalan system still allows this to continue."

In 2010, the Organisation for Economic Co-operation and Development (OECD) included the country in the list of "gray countries," countries that haven't signed international agreements to share financial information related to money laundering and ax evasion; and France added Guatemala to its list of 18 tax havens.

Laundering for Tax Evasion, Corruption and Organized Crime

The flow of Guatemalan capital can be traced from three sources: *traditional* capital, *licit emergent* capital and *illicit emergent* capital.

The *traditional,* elite, wealth came from indigo production during colonial period. In the 19th century, this wealth diversified into coffee, sugar, and bananas, and then into concrete and beer at the start of the 20th century. Traditional wealth has now shifted into textile production, banking, and multinational corporations. It now encompasses fortunes ranging from agro-export to global finance.

The *licit emergent* elite wealth comes from commercial, industrial, infrastructure and other business related to the state, especially since the democratic transition (1986-2010). This was the period when politicians became businessmen and vice versa, to form the typical *political entrepreneur*, explains conservative Congressman and former Minister of Finance and back regulator José Alejandro Arévalo. Needless to say, many of these businessmen do not evade taxes, nor have anything to do with corruption, and still manage to be fairly productive and successful. Others are involved in activities that force them to launder illicit profits.

The *illicit emergent* wealth's most profitable industry is drug trafficking, but its power spreads beyond that. Human trafficking, auto theft, arms and weapons trafficking, and the smuggling of cultural and natural resources and products through Mexico, Honduras and Belize are among the top *illicit*activities in the region.

"All of them launder money, generally independently from each other," says Arévalo."The traditional and the licit emergent capital profit from exonerations and the lack of law enforcement in tax matters, or through state contracts. The illicit emergent capital requires the state to be under its service." Arévalo also says political entrepreneurs can be assimilated by the traditional elite through marriages or economic success. However, the *illicit emergents* are rejected by the traditional elite and fight violently to get themselves in the picture.

The "Balloon Theory" Lands in Guatemala

The "balloon theory" is well-known and helps to explain the dynamics of *narcotrafficking* in the Western hemisphere. According to the theory, no matter where or how tightly you pinch a balloon, the air inside it shifts somewhere else. For example, in the 1980s, the first cartels landed their flights or ships with cocaine directly in the U.S., especially in Florida, via the Caribbean. However, once law enforcement authorities were able to successfully close off this route, the cartels shifted their activities to the Mexican-Central American corridor.

According to the United Nations Office on Drugs and Crime (UNO, by 1998, 58 percent of cocaine shipments were transported into the United States via the Mexican-Central America corridor, 30 percent through the Caribbean, and 11 percent via direct flights or ships from varied international origins. In 2006, the U.S. Justice Department said that 90 percent of the drugs were transported via Mexican-Central America corridor, with two-thirds coming along the Pacific Coast. The rest flowed through the Caribbean, specifically the Hispaniola Island (Haiti and the Dominican Republic).

The balloon theory is also applied to cocaine plantations. An estimated 1,000 tons of cocaine are still produced annually in the Andean region of Colombia, Peru and Bolivia to be exported to the United States, Europe, South America and Asia. Using the balloon theory, some official reports say that, thanks to the pressure applied on Colombian growers, Peru is now close to being the world's number-one producer of cocaine.

The same problems happen in regard to money laundering. 30 years ago, there was barely any prosecution for money laundering by the Miami cartels. After U.S. law enforcement started prosecuting drug traffickers, the drug business moved their money laundering activities to other markets. This instigated the creation of tax havens in the Caribbean, Mexico, Central America and Panama.

Money laundering often involves acts of violence. As it happened in Colombia in the 1990s, and as it is currently happening in Mexico, the murder rate in Guatemala tripled within a decade: in 2009, 6,000 murders were committed. Having some 400 tons of cocaine transported per year through a country of 14 million inhabitants — a territory as big as Florida — is lethal in terms of corruption and violence. This is startling when we consider that Guatemala suffered through a three-decade civil war that ended in 1996, with 200,000 deaths (mostly indigenous victims) and 50,000 disappearances (more than 80 percent of them caused by the conservative dictatorships that were supported by the United States, Israel and Taiwan).

The International Commission against Impunity in Guatemala (CICIG — *Comisión Internacional Contra la Impunidad en Guatemala*) is a United Nations (UN)-backed hybrid body consisting of Guatemalan and international investigators and prosecutors. It was created in 2007 to dismantle organized crime networks within the security and judicial system. To date, its work has contributed to the imprisonment of a former president, generals, colonels, and elite businessmen — all formerly untouchable when it came to national justice. The commission is considered a role model for the region and hopes to bring an end to criminal impunity in Guatemala.

Its current head, the Costa Rican Francisco Dall'Anese, sees the cash that the Mexican cartels are moving to investment and money-laundering centers in the region as the major threat to Central America. "The cartels will defend their interests here because it allows them to buy politicians, judges, public prosecutors, police officers and anything they want, plus finance political campaigns," Dall'Aneses warns. "This is the real problem."

The amount of money to be made from laundering is clearly attractive. Some 10 percent of the money from the 400 tons of cocaine that are transported annually from South America to the U.S. remains in Guatemala. This amounts to about US$500 million, or 2 percent of the GDP. In addition, some US$400 million of the national budget is spent without following international transparency standards, which increases the possibility that some of it becomes subject to corruption.

How To Counteract An Increasing Trend?

In some countries, this situation could be psychologically devastating. In other, more resilient countries, such as Guatemala or Colombia, the path out of corruption is a long journey that begins with little steps. A strong anti-laundering law that was passed in 2001 is now working. The Financial Intelligence Unit (IVE — *Intendencia de Verificación Especial*) has created one of the best networks for analysis and prevention in the region. However, the network does suffer from the lack of capacity and the sharing of information at the criminal investigation level between public prosecutors and police officers. "More convictions need to be made," says Judge Gabriel Gómez, one of the most respected Supreme Court judges.

The IVE has referred more than 400 cases to the Prosecutor's Office (MP–*Ministerio Público*) in recent years. Since 2009, only 80 of these cases have reached trial, and only 23 have resulted in convictions. In most of these cases, the people were caught openly carrying cash at the airport, but the other cases (almost 300 of them) were not prosecuted because of negligence, lack of capacity or both.

IVE cases can be very complex and paradigmatic. Toward the end of 2010, one case involved a network of 300 people who laundered US$40 million from Panama and Colombia using credit cards, electronic transfers and exports. In another case, an elite businessman was prosecuted for US$50 million in tax evasion. In addition, the trial of former President Alfonso Portillo on charges of corruption, which involved amounts of US$25 million, continues. All of these are paradigmatic cases in the fight against organized crime, tax evasion and corruption.

The road ahead is long and convictions are still few, in part because the perception persists that money laundering is not a serious crime. "We still have to make people aware of the consequences of money laundering," says Judge Gómez. Many prosecutors, judges, lawyers and businessmen still pretend that money laundering occurs only when a *mule* is caught openly carrying cash at the airport. They do not make a serious effort to investigate activities like tax evasion, corruption and organized crime that are the major conduits for money laundering.

Two critical laws were debated in 2010. One, approved in December that year, is the forfeiture law that allows authorities to confiscate properties when owners cannot prove their legal origin. The second law intends to fulfill the country's three commitments to the recommendations against money laundering put forth by the OECD: 1. Allowing the Guatemalan IRS (SAT–*Superintendencia de Administración Tributaria*) to have access to bank accounts as part of its investigations; 2. Allowing the SAT to exchange information with other countries; 3. Eliminating anonymous shares in corporations.

Both bills faced strong opposition by economic elites and regional *caciques* (political leaders) represented in the Congress. They

claim that their property and personal security might be threatened by these laws, while experts say the regulation shouldn't scare anyone who didn't come into their property via money laundering, tax evasion, or corruption.

The political bargaining and lobbying done by international actors, civil society organizations and respected politicians to promote change is just beginning. "These actions are an essential condition for the fight against money laundering, which could become a revolution in Guatemala," says Ricardo Barrientos, the former Finance vice-minister for Transparency.

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