

## **Lies and videotape: Stephanie Boyd asks how corporate malefactors avoided justice in Peru when the evidence was right there for all to see on Peruvian reality TV - Bribery**

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THREE years ago a candid-camera extravaganza in Peru gave the public a never-before glimpse of corruption in action -- a prime time smoking-gun broadcast throughout the country which incriminated political and corporate elites. But the keepers of justice seem to have forgotten they weren't watching prime-time TV baddies, but reality TV. More than 1,000 videotapes -- known as the Viadi videos -- documented bribes, influence-peddling and corrupt dealings between Vladimiro Montesinos, former President Alberto Fujimori's chief advisor and an assortment of politicians, media moguls, foreign embassy officials and corporate bosses.

Montesinos used a secret camera to film his shady transactions believing the videos would serve as a pact between thieves: if he went down, they would all go down. In late 2000 Fujimori's Government did come crashing down; the catalyst was one of Montesino's own leaked videos. Three years later Fujimori is self-exiled in Japan, suspected of stealing more than \$180 million Montesinos is on trial for close to 60 offences including drug-running, swindling an estimated \$1 billion and directing a death squad. The corporate bad guys in this mutual love affair of reaping and plundering, however, remain at large.

Corruption in the corridors of South American business is nothing new. Transparency International's Global Corruption Report for 2003 warned that South America is 'one of the most -- if not the most -- corruption-plagued regions in the world.' In Colombia bribes are handed out in 50 per cent of state contracts and \$2.6 billion (an amount that could pay off 60 per cent of the national debt) is lost to corruption each year. But rarely has such corruption been caught so dramatically on camera as in Peru.

Despite the glaring exposure, the big corporate fish, especially the exotic, foreign variety, have evaded capture. The most damning case implicates a major us transnational and US Government officials. A Vladi-video made public in January 2001 shows Montesinos in his spy headquarters, seated on a plush leather sofa and chatting amiably with a Peruvian judge. Montesinos tells the judge to cast the deciding vote in favor of a US company embroiled in a legal dispute with a French firm for shares of Peru's Yanacocha gold mine. The year was 1998 and the company, Newmont Mining Corporation headquartered in Colorado, would later win the case and gain control of the multibillion-dollar mine -- a holding it refers to as the jewel' in its global mining empire.

### Gold fever

After his capture, Montesinos confessed that the US ambassador and the then Assistant Secretary of State for Latin America, Peter Romero, asked the Peruvian Government to intervene in Newmont's favor. Romero insists that he just wanted to ensure 'a level playing field'. In an interesting coincidence, Romero was hired as a private consultant for Newmont after resigning his government post.

Newmont's alleged boo-boo is more than just a slip of ethics. If proven, bribing or influencing foreign officials is a criminal offence for US corporations under the 1977 Foreign Corrupt Practices Act. Provisions of this law require companies to conduct internal investigations and report findings when allegations of bribery surface. To date, however, the company has not been penalised by either the Peruvian or US justice systems. Not even a public wrist-slapping.

In March 2002 Newmont held a swanky news conference at a five-star Lima hotel to celebrate a merger that made them the world's largest gold corporation. I took the opportunity to ask Newmont's CEO Wayne Murdy if the company had investigated the corruption scandal. Flush with the success of creating a global gold kingdom (and earning a cool \$2.5 million per year, not including stock options or bonus), Murdy evaded the question. Visibly annoyed, he insisted the case had already been settled. 'We're satisfied that Newmont did not do anything improper in connection with that litigation.'

It is no surprise Murdy wasn't exactly trembling in his gold-laced boots. The Foreign Corrupt Practices Act is a paper tiger. Between 1977 and 2001 only 21 companies and 26 individuals were convicted for criminal violations. A 2002 declassified report by the Organization for Economic Cooperation and Development (OECD) on US anti-corruption laws describes fines as 'moderate' with few prison sentences. However, companies are kept in line, the report goes on to reassure us, by speeches from Department of Justice officials, brochures and 'informal talks'. Are we to believe that stem moral talk, glossy flyers and pleas to 'be good' over a few scotches at the club (what else could 'informal talks' mean?) are deterring US companies from using bribes when multi-million dollar contracts are at stake?

International agreements like the OECD's anti-corruption convention -- to which the US is a signatory -- are no more than pledges of good faith. The World Bank's much-heralded fraud and corruption unit is no better. As a minority shareholder in the Yanacocha mine, the Bank's rules call for a thorough investigation into suspected corruption. Project Underground, a US-based nonprofit organization, filed a formal request with the Bank to demand an investigation but was told there was insufficient evidence.

'This case could not have been clearer,' says Diana Ruiz of Project Underground. 'If the Bank had any intention of weeding out institutional corruption it would at least have investigated,' she told me, adding that the Bank's proudly touted 'zero tolerance' for corruption is a 'sham'.

### The Godfather tapes

One Peruvian lawyer, however, was convinced that justice should prevail. A few months after Murdy's press conference, Ronald Gamarra, a special government prosecutor investigating corruption, submitted new evidence of foul dealings in the Newmont case before Peruvian justice officials. In a crackling audio-tape from a 1998 phone conversation, a man believed to be Lawrence Kurlander, Newmont's then-senior vice-president and chief administrative officer, asks Montesinos to help the company

win their case against the French firm.

'Tell him I'm going to help him with the voting,' says Montesinos to Kurlander's translator.

'I hope so,' replies Kurlander.

Only the ponderous refrain from *The Godfather* is missing during the next moment of high camp. The two men are discussing their 'friendships'.

Kurlander: 'I want a friend for life.'

Montesinos: 'That's right. Thanks for telling me what you've just told me, and you already have a friend.'

Instead of questioning the tape's authenticity, a Newmont spokesperson cryptically responded that the audio was 'old news'. The company has refused to confirm -- or deny -- Kurlander's identity on the tape. Newmont was luckier with Gamarra's second damaging item -- copies of bank documents suggesting the Peruvian judges on the case received \$930,000 in bribes from Newmont's Peruvian partner. The bank in question, Peru's Banco de Credito, issued a terse statement claiming the documents were false.

The great banking gods had spoken. Ronald Gamarra, the mortal prosecutor who dared challenge the mighty Kings of Gold, was removed from the case. No-one thought to question the close association of Banco de Credito's president, Dionisio Romero, with Newmont and its Peruvian partner. Romero had, after all, appeared in more than one Vladi-video.

### Collective amnesia

Today, reporters searching for a follow-up on the case are met with silence and blank stares. Everyone associated with the investigation suffers from collective amnesia. Gamarra claims he does not even know if the case remains open. Choosing his words with caution, Gamarra insists: 'I was just doing my job by handing the documents to (Peru's) judicial authorities.'

An insider with Peru's Ministry of Justice suspects the case has been quietly shelved to the mouldy recesses of a distant filing cabinet: 'The problem is that there are more than 240 corruption investigations related to Montesinos involving over 1,300 people,' he explains sheepishly. Pressure from powerful corners must make it awfully easy to misplace files.

It's also easy to lump the blame on genuinely nasty, deposed rulers and let the bribe-givers who dangle the golden carrots get away. Latin American dictators and their cronies are easier targets than faceless corporations, especially mining firms without world-famous brands to maintain.

Growing public and international pressure is making the freewheeling lifestyles of Latin America's crooked former rulers slightly less cozy. Although Fujimori is protected

from extradition by his Japanese hosts, thanks to a 2003 Interpol arrest warrant his new home has become a large, though posh, prison cell.

An even worse fate has befallen his spy chief Montesinos, who was caught in Venezuela and shipped to a maximum-security cell in Peru. Admittedly, Peru's judiciary has been treating the country's most dangerous man as though he were wanted on traffic violations rather than money-laundering, drug-running and illegal arms sales. Still he is being tried on nearly 60 charges in proceedings expected to last at least two years.

Carlos Menem, Argentina's former playboy president, is also acquainted with the joys of forced confinement. In 2001 he served six months in prison before being released, to the chagrin of many Argentines. Menem is accused of stealing more than \$10 million during his presidency in illegal arms sales and bribes from privatizations, including a 1994 contract that IBM won with the state bank. The once-unbeatable gigolo dropped out of Argentina's presidential elections this year after polls showed he would suffer an overwhelming loss at the hands of an electorate tired of corruption.

Justice may not yet have the region's dictators in its iron jaws, but it is certainly breathing down their necks an uncomfortable pursuit unthinkable a decade ago. Corporate criminals, however, are still getting away with the loot. In the minds of many foreign corporate officials in Latin America, corruption is just another bureaucratic step in doing business. It's time to challenge the refrain 'that's how things are done down there' and blow the whistle on the givers of bribes, not just the takers. If bribery is not choked off at the source, the next Fujimori or Menem now waiting in the wings will probably not get caught on film.