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How Chile Moved Towards Greater Political Transparency

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**Overcoming Inequalities in a Fractured World:
Between Elite Power and Social Mobilization**

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Acronyms

CODELCO	Corporación Nacional del Cobre, Chile (National Copper Corporation, Chile)
GDP	Gross Domestic Product
LAC	Latin America and the Caribbean
LAPOP	Latin American Public Opinion Project
NGO	Non-governmental organization
OECD	Organization for Economic Cooperation and Development
RGIs	Resource Governance Index
UDI	Unión Demócrata Independiente (Independent Democratic Union)
UNDP Chile	United Nations Development Programme Chile
SERVEL	Servicio Electoral de Chile
SOQUIMICH	Sociedad Química y Minera de Chile (Chemical and Mining Society of Chile)

Abstract

Policy and legislative mechanisms that enforce transparency and accountability, and place limits on politicians' behaviour, are useful tools for addressing political corruption, which constitutes a problem of particular gravity in Latin America. A number of scandals have recently come to light, such as the case involving the Brazilian company Odebrecht, showing the scale of political corruption in the region. While the subject of political transparency is at the top of many domestic political agendas, however, comprehensive regulation to prevent political corruption through mechanisms of transparency and accountability is still rather scarce. It would seem that curbing the opportunities for collusion between politics and business is particularly difficult in Latin America's unequal societies, because this would require that those holding power and potentially benefiting from political corruption must adopt and implement rules that would restrain such behaviours. Thus, one of the most important questions when dealing with issues of political transparency is how to push regulators to regulate themselves. While Latin America on average scores poorly regarding the adoption and implementation of political transparency rules, Chile's performance is an outlier. Since 2015, reforms have been under way in the country to improve political transparency. This paper analyses the political process that led to the relatively progressive political transparency governance scheme in Chile. It identifies the mechanisms and factors that shaped the political process in such a way that political reforms for greater transparency were enacted.

Keywords

Civil society; political corruption; governance, political process; public policy

Bio

Bettina Schorr is Assistant Professor of Political Science at Freie Universität Berlin, Institute for Latin American Studies. She is also the managing director of trAndeS–Postgraduate Program on Social Inequalities and Sustainable Development in the Andean Region (a joint programme of FU Berlin and Pontificia Universidad Católica del Perú / (PUCP). Her main research interests include social inequalities in Latin America, institution building and social conflicts/contentious politics.

Introduction

Restricting politicians' behaviour and imposing mechanisms for transparency and accountability through policies and legislation is a useful tool for addressing political corruption, which is a problem of particular urgency in Latin America.¹ A considerable number of disclosed scandals testify to the large scale of political corruption in the region.² The recent case involving the Brazilian company Odebrecht (and the associated Operação Lava Jato³ scandal) is particularly telling: over a number of years, the corporation operated a transnational collusive network managed in an orderly and bureaucratic fashion by a specialized unit based at its headquarters in Salvador da Bahía. During the latest period of economic boom (from roughly 2000-2013), Odebrecht bribed politicians—presidents, vice-presidents, cabinet ministers, legislators, political party leaders and regional governors—all over the continent in order to obtain concessions and assignments for huge infrastructure projects, significantly bolstering their profits (Durand 2018). Other expressions of political corruption in the region include secretive contributions to electoral campaigns or political parties, the misuse of public resources, the traffic of influences as well as collusive networks of mutual gain involving politicians and businessmen.⁴

A vast body of literature demonstrates that the costs of political corruption are enormous and that it seriously affects the opportunities for the well-being of nations. It entails stealing public money and distorting public spending and policy priorities for the benefit of private interests and to the detriment of collective ones (Rose-Ackerman and Palifka 1999; Hessami 2014). As a consequence of political corruption, public resources for the provision of infrastructure or public services are skimmed off and rules are adopted which prevent a better distribution or redistribution of wealth, well-being and power. In addition, political corruption reduces the capacity of public bureaucracies which, once affected by corruption, do not provide the services the way they are intended in legislation or regulations. By reducing representation, disconnecting popular agendas from actual policies and preventing public oversight, political corruption also lowers the quality of democracy. Further, corruption is detrimental for the economy (Pellegrini and Gerlagh 2004): estimates of its annual costs in Mexico vary from 2 percent to 10 percent of GDP (Casar 2015). For Peru, Quiroz calculated that between 1820 and 2000, collusion captured up to 40 percent of government spending and 3-4 percent of GDP growth per year (Quiroz 2008).

By affecting services and reducing the overall amount of public money available for social policies and collective infrastructure, political corruption hits the poor and

¹ Political corruption is defined as the use of powers and resources by public officials for private gains. At the heart of political corruption lies the deviation from norms that are supposed to bind public office holders, which results in benefits for particular persons, groups or organizations. For a discussion of the concept of political corruption, see Heidenheimer and Johnston (2017).

² Caputo 2012; Casas-Zamora and Carter 2017; Rotberg 2019.

³ Operation Car Wash

⁴ Mönckeberg 2015; Matamala 2015; Crabtree and Durand 2017; Cañete Alonso 2018.

marginalized particularly hard.⁵ In addition, by benefitting those who command the resources needed to buy favours from office holders and to bypass institutions, it contributes to the concentration of power and wealth and, thus, perpetuates social inequalities. The tendency to cement poverty and increase inequality is of particular importance for Latin America, considering that Latin American countries are among the most unequal countries on earth (ECLAC 2018). Inequalities in Latin America apply to income and wealth as well as many other essential (land, water, a healthy environment) or socially-valued goods and services (education, security, etc.), political power, and formal and informal rights (Braig et al. 2015; Jelin et al. 2017). In fact, political corruption is a constitutive element of Latin America's tenacious "inequality traps,"⁶ which seriously prevent the region from achieving inclusive and sustainable development (Schorr 2018).

In recent years, strengthened international cooperation among judicial branches and governments, as well as an increasingly professional investigative journalism, brought several cases of large-scale corruption to light (such as the Odebrecht case). As a consequence, social pressure (combined in some cases with international pressures or incentives) demanding greater public control of authorities' behaviour has risen sharply. All over the region, the subject of political transparency reached the top of domestic political agendas and was incorporated into international development programmes. Likewise, in many countries, prosecutors and attorneys have taken up the battle against corporate and political perpetrators of corruption.⁷ In sharp contrast to this stands the fact that regulation aiming at the prevention of political corruption by restricting politicians' behavior and imposing mechanisms for transparency and accountability is still rather scarce.⁸

In fact, curbing the opportunities for collusion between politics and business and raising the consequences for undue political influence or the embezzlement of public funds can be assumed to be particularly difficult in Latin America's unequal societies. It would require that those holding the power who are in all likelihood benefitting from political corruption must adopt and implement rules that would restrain it. Thus, when dealing with issues of political transparency and the reduction of the costs that political corruption is provoking in the region, one of the most important questions is how to push regulators to effectively regulate themselves.

⁵ Gupta et al. 2002; Mohtadi and Roe 2003; Kaufmann 2015.

⁶ Inequality traps are defined as situations "where the entire distribution is stable because the various dimensions of inequality (in wealth, power and social status) interact to protect the rich from downward mobility, and to prevent the poor from being upwardly mobile" (Rao 2006:11).

⁷ For instance in Peru, where the last five former presidents are under investigation for corruption.

⁸ Under the recent "enabling environment" component of the National Resource Governance Institute's Resource Governance Index (RGI), the LAC region (the Latin American and the Caribbean countries together) receives on average 50 out of a total of 100 points, compared to the 95 percentage point average for the Organisation for Economic Cooperation and Development (OECD) countries. The region scores particularly low under the Rule of Law and Control of Corruption variable (NRGI 2017). Likewise, according to Transparency International, the perception of corruption has increased in almost every country of the region (see Transparency International. 2019; also other regular Latin American opinion polls, like LAPOP [Latin American Public Opinion Project] and Latinobarómetro, confirm this trend).

While Latin America on average scores poorly regarding the adoption and implementation of political transparency rules, Chile's performance is an outlier. Starting in 2015, an impressive reform process towards effective political transparency governance set in and several reforms aiming at greater transparency and accountability have since been adopted (such as the regulation of the financing of electoral campaigns, or rules about transparency of interests of legislators or public institutions and employers).⁹ These reforms are not trivial given the fact that Chile is among the most unequal countries worldwide with a business elite classified as particularly influential and thereby not expected to easily give up their privileges. The policy process is generally viewed as "closed"¹⁰ and, in past years, politicians have regularly been involved in corruption scandals (Matamala 2015; Mönckeberg 2015). Moreover, the extensive reform process not only materialized against many odds and expectations, it also evolved within a short period.

This paper analyses the political process that led to the relatively progressive political transparency governance scheme in Chile in a fairly short period of time. It studies the mechanisms and factors that shaped the political process in such a way that political reforms for greater transparency were enacted and regulators ultimately agreed to regulate themselves, rather than exploring the causes, consequences or dimensions of political corruption in Chile. On a more general level of inquiry, studying the case of the Chilean reform process towards a more effective regulation of political corruption will shed light on the conditions underlying policy change in adverse political environments characterized by social inequalities and power asymmetries such as the Latin American ones.

The paper proceeds as follows: First, it describes the political and social context in Chile in which the reform process took place. It then proceeds to a case analysis that highlights a series of factors that have been (so far) identified as having facilitated the adoption of transparency laws.¹¹ This section builds on data and information from expert interviews conducted during two field stays in Chile in 2018 and 2019 as well as on extensive literature and media reviews. The conclusion summarizes findings and finishes with some reflections on the lessons learned from the Chilean experience regarding policy change in adverse environments.

Corruption and Political Change in Chile

Since Chile's return to democracy in 1990 a series of corruption scandals involving the embezzlement of public funds have been revealed. The most prominent among them in terms of social disapproval and political debates was a case of secret speculations within the public copper company CODELCO in 1994 which provoked the Chilean treasury a loss of USD 200 million (Silva 2016: 189). Two other bribery scandals (the so-called "Caso Coimas" and "MOP-gate") came to light in the early 2000s in the Ministry of

⁹ Sahd and Valenzuela 2018; Maillet et al. 2018; Aris et al. 2019.

¹⁰ Fairfield 2015; Bogliaccini and Luna 2016; Olavarria-Gambi and Dockendorff 2016.

¹¹ The analysis stems from ongoing research. It is therefore preliminary in nature.

Public Works and Transport. Officials had ordered irregular payments to subcontractors for fictitious activities. The money later went back to the ministry and was used for extra bonuses (*sobresueldos*) to a large group of persons, including the minister, deputy minister and chiefs of different departments.

While minor cases involving the use of public resources to finance political campaigns continued to pop up during the 2000s (Silva 2016), it was in 2013 that a wave of major cases of collusion were revealed. These involved public officials and their families from the entire political spectrum (Casas-Zamora and Carter 2017:20). For instance, the “Penta Case” refers to a collusion between the Chilean holding company Grupo Penta (which manages investments in the banking, insurance, pension fund, health care and real estate sectors) and employees of the Chilean National Tax System who together committed tax fraud by creating fake invoices. The payments for these invoices were directed to the political campaigns of party members from the right-wing party Unión Demócrata Independiente (UDI). In 2013, the arrangement collapsed when the general manager of Penta, Hugo Bravo, was fired after over 30 years in the job, in the midst of tax fraud investigations. In reaction, Bravo took the company owner to court for unjustified dismissal and denounced the illegal campaign contributions. During the investigations of the case, another illegal arrangement between a company and politicians became public: Sociedad Química y Minera de Chile (SOQUIMIC; Chile’s Chemistry and Mining Society, mainly engaged in lithium production in the north of the country) had issued false bills and receipts to get tax reductions and used fake invoices to transfer money to the centre-left party Nueva Mayoría.¹²

Several other cases were revealed in 2013. The former delegate and head of the congressional mining commission, Jorge Insunza, by then General Secretary of the government of Michelle Bachelet, provided classified information to mining corporations via his consultancy firms. The rather large “Caso Corpescá” confirmed that the fishing industry had practically written the sectors’ governing legislation, thereby guaranteeing important (fiscal) benefits and preventing environmental regulation that would have reduced the allowed levels of production. There have been several further cases of corruption and collusion since 2013, some between private actors, as in the case of the

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