

# Integrity in public policy

Keys to prevent  
corruption





# **Integrity in public policy: Keys to prevent corruption**

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Keys to prevent corruption

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# Foreword

In recent years, corruption has become a central issue of public debate throughout Latin America. This is a direct consequence of the discovery of a series of cases that have affected several countries. However, the incidence of corruption and its negative effects on economic, social, and political development have long been one of the main concerns of Latin Americans.

The impact of corruption on development should not be underestimated. It not only restricts the state's capacity to supply good-quality public goods and services, but also distorts the allocation of resources, which in turn compromises economic productivity and reduces incentives to invest and innovate. Perhaps more importantly, widespread corruption erodes confidence in democracy as a form of government and undermines state legitimacy. This tends to perpetuate the problem, since it weakens political participation as a mechanism to demand accountability.

Recent events have opened a window of opportunity for governments and multilateral development institutions—like CAF—to work together in the design and implementation of a reform agenda to promote integrity in public policy. Inaction in this context can come at a very high price and hamper efforts to achieve economic, social, and political goals in the region.

In this scenario, countries have taken various measures to boost their institutional capacity to investigate and punish corruption, and to update legislation concerning public ethics, integrity protocols, corporate liability, conflicts of interests and lobbying, among other issues. These normative efforts have been supplemented with transparency and open-government initiatives, exploiting new technologies to improve instances of control within the state and increase accountability towards citizens.

The transition to a stage with stronger institutions may impose short-term adjustment costs, as the mechanisms to detect and sanction wrongdoing become more active. One example of this is the halt in infrastructure works and investment in several Latin American countries. However, that should not stop efforts to make the most of the opportunities for reform. Governments must persevere to manage the transition. Only persistent enforcement can build the credibility that makes rules an effective deterrent that prevents corruption in the long term.

CAF hopes this report will contribute to the current agenda of reforms to foster integrity in government action. Throughout this document, policy analysis focuses on preventing wrongdoing and addresses a broad spectrum for action: administrative rules and control in public office; mechanisms for entry into politics and the civil service, considering their role to attract and recruit suitable and independent individuals; external control, through initiatives to promote transparency and citizen engagement; and regulations to limit the influence of private interests on policy decisions.

This analysis suggests that, while major efforts have been made so far, there is still a long way ahead to fill legal and regulatory loopholes and ensure the effective implementation of many of the measures that have been put forward. In particular, it is necessary to improve the capacity of all institutions in the integrity ecosystem—auditing authorities, electoral tribunals, public prosecutors' offices, courts, civil service management agencies, and so on. The supply of public infrastructure is an area that has been particularly plagued by irregularities and deserves special attention. The evidence shows that irregularities can arise at various stages in a project's life cycle, so it is necessary to strengthen the institutions involved all the way from the formulation and planning to the completion and audit of public works. This applies both to projects granted under traditional models and to public-private partnerships.

This report renews CAF's commitment to serving all its member states as a tireless ally, in promoting an integrity agenda around the region. CAF offers all its knowledge, collaboration, and resources to support efforts to strengthen institutions in Latin America.

**Luis Carranza Ugarte**  
Executive President of CAF

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# **Progress in the integrity agenda**



**What do indicators say about the perception and incidence of corruption in Latin America?**

**How are corruption and development related?**

**What areas of action should feature in any agenda focused on public-policy integrity?**

**How can reform be implemented?**

# Progress in the integrity agenda<sup>1</sup>

Corruption has been one of the main concerns of Latin Americans for some time now, due to its incidence and its consequences. According to Transparency International, indicators of corruption perception have shown relatively high levels in the region at least since the 1990s, and current data suggests that this has not changed. Further, some surveys indicate that corruption is perceived as the main problem in some countries, ahead of economic conditions, access to housing and public services, and citizen insecurity.

There are significant reasons to justify the concerns around this issue. Corruption reduces the state's ability to supply quality services, and it also compromises productivity and economic growth by distorting resource allocation. Perhaps most pernicious of all are the effects on the functioning of government institutions. Even confidence in democracy can be weakened when citizens feel that corruption is widespread and that channels for political participation—such as elections—are worthless as accountability mechanisms.

In recent years, corruption has reemerged as a central issue in the public debate throughout Latin America. This has been directly caused by a series of cases that have affected several countries, among which the revelations around Operation Car Wash (*Operação Lava Jato*) stand out. This investigation revealed an international scheme devised by the firm Odebrecht to pay bribes in exchange for public infrastructure contracts. High level officials in a dozen Latin American countries are believed to have been involved in this scheme.

In this context, society has chosen to act. Citizens have protested, the media have covered these cases, and many political platforms have taken on this important issue. Governments have launched reforms, which are in fact both a cause and a consequence of the emergence of these scandals. Some countries have made more concrete progress than others. However, the range of initiatives seen all around the region includes new legislation on issues like corporate liability, international bribery, political and campaign finance, and conflicts of interests; procedural reform to enable leniency programs for cases of corruption; adjustments in contracting and procurement mechanisms; investments in auditing institutions; the creation of observatories to fight corruption; and the adoption of transparency and open-data measures, among others.

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1. This chapter was written by Gustavo Fajardo and Pablo Sanguinetti, with research assistance from Matías Italia.

This report presents an outlook on how the integrity agenda is unfolding, and highlights the remaining challenges in this respect for Latin American countries.

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This report presents an outlook on how this agenda is unfolding in Latin America and highlight the remaining challenges to reduce the incidence of corruption. The objective is to identify the most important lines of action based on previous experiences in the region and elsewhere, and on the evidence collected in this document.

Throughout this document, the concept of integrity is used in opposition to that of corruption. The latter is defined as exploiting public office for private gain—that is, using public policy decisions to obtain private benefits. Integrity, on the other hand, implies basing public policy decisions exclusively on maximizing public welfare.

Integrity in public policy can be promoted through several areas of action, which are discussed in this report. Each of the following chapters seeks to answer different questions with a common goal. What institutional arrangements facilitate a balance between the autonomy of public officials and the adoption of appropriate mechanisms to deter irregularities? How important are electoral systems and mechanisms to recruit civil servants for the selection of capable individuals with integrity and independence in the exercise of their tasks? What ingredients are required to activate citizen oversight? What institutional elements make it possible to restrict the influence of private interests on public policy?

The starting point to answer these questions involves understanding acts of corruption as a result of decisions made by relevant individuals and groups (mainly public officials, citizens, and businesspeople). There is therefore a constant emphasis on understanding and analyzing the incentives created by different regulations and institutional arrangements to affect those decisions one way or another.

Before turning to specific policies and actions, the remainder of this chapter will focus on several conceptual and methodological challenges associated with research in this field. Measuring the incidence of corruption and its impact on development is a particularly complex task, given corruption's multidimensional, underground nature. This chapter will further clarify the definitions of corruption and integrity that are to be used throughout the report.

Finally, following a review of the main messages held in the report, this chapter will discuss the political economy of reform, with two essential goals in mind. The first one is to identify the most favorable conditions for societies and their political systems to embark on an agenda of change, and the factors that might contribute to attaining such conditions and making the most of them. The second goal is to warn that the path from a high-corruption to a high-integrity scenario may entail significant short-term costs. When detection and punishment mechanisms are enhanced, irregularities start to be revealed and punished before credible deterrent capacities are developed, which may trigger high perceptions of corruption in society and substantial uncertainty in certain industries. Finding formulas to navigate this transition without discouraging citizens or bringing the economy to a standstill is crucial.

# Measuring corruption

Corruption is very difficult to quantify. To start with, the term is used to refer to different behaviors, so it is imprecise to talk about the incidence of corruption. Referring to the incidence of concrete practices—such as bribery, fraud, or vote-buying—would be more to the point. Further, there are no databases available with complete information, since corruption is mostly clandestine. At best, some jurisdictions may keep records about cases that have been taken to court, which provide only partial, biased information.

The lack of data poses major challenges both for anyone who wishes to measure the size and frequency of the problem, and for anyone who wants to investigate its causes and consequences. Estimates on corruption levels are usually based on perception and victimization surveys, or on data concerning cases that have been investigated and solved in judicial or administrative proceedings. Box 1.1 shows some of the pros and cons of these exercises. A different set of tools involves measuring institutional quality to fight and control corruption—for example, through indices based on the views of experts and relevant actors.<sup>2</sup>

**The lack of data poses major challenges both for anyone who wishes to measure the magnitude and frequency of corruption, and for anyone who wants to investigate its causes and consequences.**

Beyond quantifying the problem, data are also essential to understand some of the causes of corruption. However, information obtained from surveys and legal or administrative proceedings is only sometimes useful to do this, and it fails to answer many interesting questions. To analyze which factors motivate the decision to engage (or not) in an act of corruption, it is necessary to observe which individuals make those decisions based on which variables. This information is seldom available. To get closer to that ideal scenario, researchers have proposed innovative methodologies mentioned throughout this report.

One example involves the use of lab experiments where individuals can take actions that simulate real-life acts of corruption. These controlled scenarios have the advantage of enabling researchers to measure participants' psychological attributes and to analyze how those attributes predict actions.

A further approximation involves studying behavior that is not traditionally considered corrupt but is associated with rule breaking. For example, several authors have focused on the absenteeism of public servants—particularly educators and healthcare professionals—and how it responds to incentive and monitoring schemes. Their findings are useful to illustrate how undesirable—and, in some cases, fraudulent—conduct changes depending on the institutional arrangements in place.

---

2. Kaufmann, Kraay, and Mastruzzi (2007) provide more details on methods used to quantify the incidence of corruption.

**Box 1.1****Data for measuring the level of corruption**

Given the lack of tangible data that enable calculations of the level of corruption, various different formulas have been tested.

Corruption perceptions measurements: based on surveys of citizens or experts, they are often readily available in public policy circles. They may be very informative, but they have at least two major shortcomings. First, they generally provide no data on the incidence of specific behaviors, but rather speak about overall conditions in a society. Second, the correlation between perceptions and the real incidence of corruption is uncertain, particularly in the short term.

Victimization measurements: also obtained from surveys of individuals or households. They are mostly concerned with the interaction of individuals and public officials, so they tend to show the incidence of bureaucratic corruption, such as bribes to facilitate administrative procedures. Researchers often use these tools to measure vote-buying. One drawback of these instruments is that a social desirability bias may lead respondents to underreport corruption. A similar thing happens with measurements of bribe payments based on company surveys.

Results of audits and data on purchases and procurement processes: only available in certain settings, but they provide more concrete data on irregularities. This is very valuable information, but it is difficult to compare different contexts—data availability and credibility will depend a lot on institutional quality in each context.

Beyond using the available literature, this report presents its own data, gleaned from the CAF 2018 survey (ECAF 2018). For the ECAF 2018, individuals in households in 10 Latin American cities were surveyed. The information collected by this instrument includes measurements of tolerance for corruption, individuals' perceptions and opinions, interactions with public officials, and demographic and socioeconomic variables (CAF, 2019).

**The magnitude of the problem**

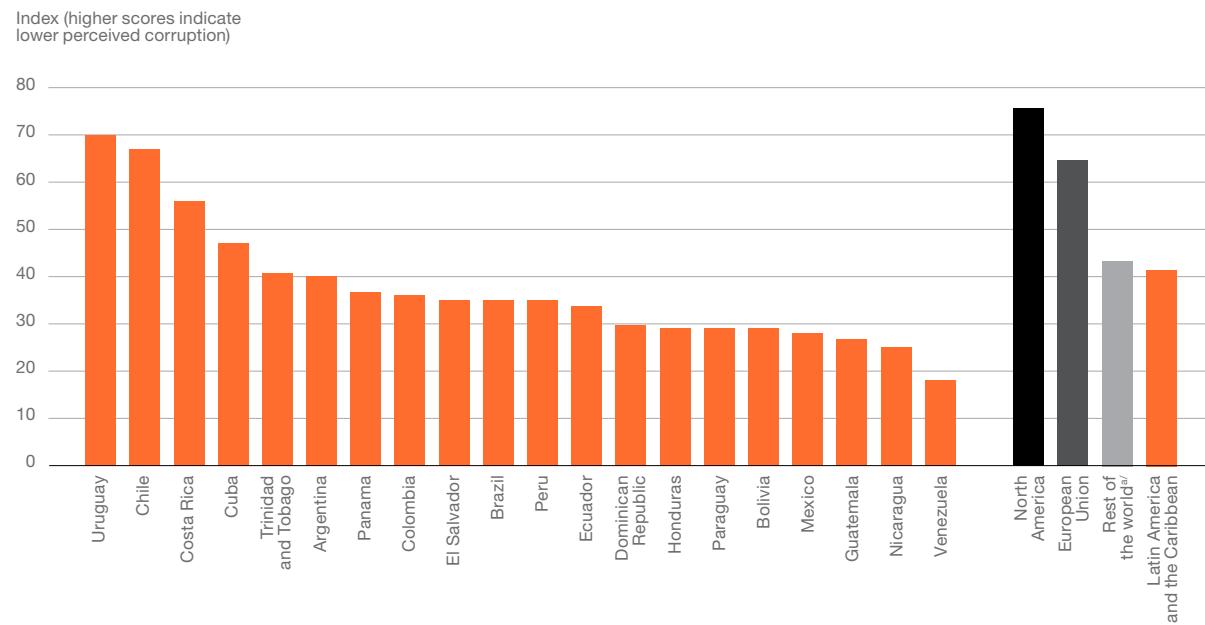
Indicators collected by Transparency International show that perceptions of the incidence of corruption are slightly higher in Latin America and the Caribbean than they are in the rest of the world, and much higher than in higher income regions (Graph1.1). Chile, Costa Rica, and Uruguay stand out in the region with values close to those of institutionally more developed countries, a pattern that is repeated in other measures.<sup>3</sup>

---

3. Unfortunately, due to methodological changes, this indicator can only be used to make comparisons after 2012, and no significant changes are apparent in the region since then (Transparency International, 2012).

**Graph 1.1**

## Transparency International's Corruption Perceptions Index



Note: This graph shows scores for the 2018 Corruption Perceptions Index. The index ranges from 0 to 100, where higher scores mean lower perceived corruption. The bars on the right show the averages for countries in Latin America and the Caribbean, in North America, in the European Union, and in the rest of the world. More details about the data are provided in the Appendix (p. 215).

a/ World average without considering Latin America and the Caribbean's countries.

Source: Prepared by the authors, based on data from the Corruption Perceptions Index (Transparency International, 2018).

Victimization figures are also relatively high. Results of the ECAF 2018 (shown in Graph 1.2) show that 23% of respondents were asked for a bribe or an informal payment in order to access a public service or to expedite an administrative procedure over the previous year (CAF, 2019).<sup>4</sup>

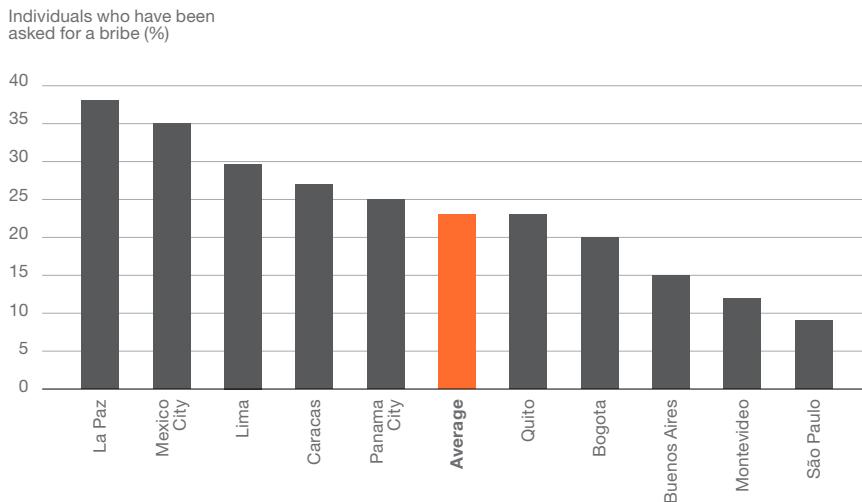
In the business sector, 13% of the executives and owners of Latin American firms surveyed in the World Bank Enterprise Survey believed that companies like their own paid bribes to secure government contracts (Graph 1.3) (World Bank, 2019).

4. This estimate is very similar to the one obtained by the 2016 Latinobarómetro survey for 18 Latin American countries (see Graph 4.9 in Chapter 4).

---

### Graph 1.2

#### Bribe solicitation in Latin America



Note: This graph shows the percentage of respondents who reported that at least one public official had asked them for a bribe over the previous year, by city. The simple mean across cities is also reported. More details about the data are provided in the Appendix (p. 215).

Source: Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

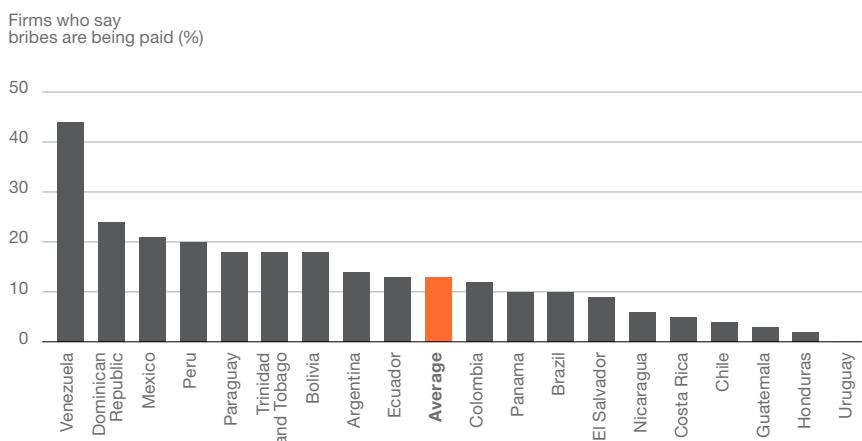
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### Graph 1.3

#### Incidence of bribery: perceptions among business executives



Note: This graph shows the percentage of respondents who say firms like their own pay bribes to secure government contracts, by country. It is calculated as a percentage of all industrial companies who obtained or tried to obtain a government contract over the 12 months prior to the survey. Unweighted percentages are reported, along with a simple mean across countries. Based on the most recent available data for each Latin American country (over the period 2009–2017). Details about the data and the methodology are provided in the Appendix (p. 215).

Source: Prepared by the authors, based on data from the Enterprise Surveys Indicators (World Bank, 2019).

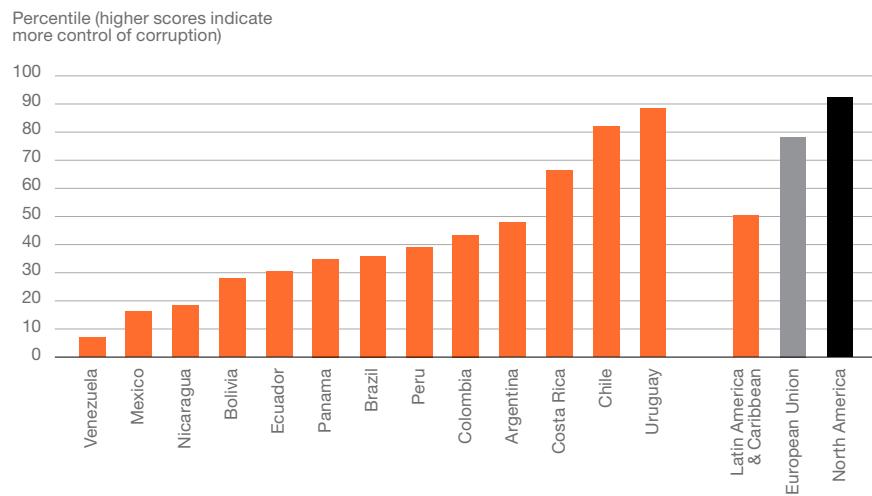
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Furthermore, the World Bank's Worldwide Governance Indicators—which are based on the analyses and opinions of experts and key actors—point to institutional deficiencies in Latin and the American countries. Graph 1.4 presents the control of corruption indicator in the year 2017, showing a significantly worse average performance in Latin America and the Caribbean than in North America and the European Union. However, there is substantial heterogeneity within the region. Countries like Chile, Costa Rica, and Uruguay attain values that are close to those of high-income countries. Additionally, this variable has deteriorated slightly over the past two decades in most Latin American countries (World Bank, 2018c).

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#### **Graph 1.4**

##### The World Bank's Control of Corruption Index



Note: This graph shows each country's percentile in the distribution of the Control of Corruption index for 2017. A higher percentile means more control of corruption. Bars on the right show average scores for countries in Latin America and the Caribbean, in North America, and in the European Union. Details about the data and the methodology are provided in the Appendix (p. 216).

Source: Prepared by the authors, based on data from the Worldwide Governance Indicators (World Bank, 2018c).

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## An obstacle on the path to development

An initial approximation to measure the costs of corruption is quantifying the amount of money involved in these transactions. These are very hard to estimate, given the illegal nature of operations, so the results of these exercises need to be interpreted with caution. In a recent document, the International Monetary Fund (IMF) calculated that about 1.5 to 2 trillion dollars—approximately 2% of global GDP—are lost in bribes each year (IMF, 2016). Globally, losses in the construction sector are estimated to be between 10 and 30% of total investment, meaning

that close to 6 trillion dollars per year could be wasted by 2030 due to corruption and inefficiencies in project management (Matthews, 2016). In Mexico, the National Institute of Statistics and Geography (*Instituto Nacional de Estadística y Geografía - INEGI*, 2018) estimated that close to 370 million dollars are paid in bribes by households in activities linked to administrative procedures, requests for public services, and other interactions with the authorities (this amounts to approximately 115 dollars per affected person). In Ecuador, Brugués, Brugués, and Giambra (2018) calculate that 475 million dollars a year (approximately 0.44% of GDP) are paid in overprices in government contracts largely to the favor of companies with political connections.

In the Odebrecht case, bribes paid to officials and politicians in 12 countries over the period 2001–2016 amounted to 788 million dollars, according to what the company declared to the United States Department of Justice (United States Department of Justice, 2016). As noted in Box 1.2, these illegal payments allegedly enabled the construction giant to secure more than 100 public infrastructure contracts and 3.336 billion dollars in profits.

## **Box 1.2**

### The Odebrecht case<sup>a</sup>

Over the period 2001–2016, Odebrecht—through its Division of Structured Operations (*Divisão de Operações Estruturadas*, DOE)—allegedly paid 788 million dollars in bribes to individuals in Brazil and 11 other countries. These irregular payments would have enabled the firm to secure more than 100 public infrastructure contracts and 3.336 million dollars in profits. Bribes amount to approximately 25% of the profits Odebrecht obtained from these contracts. The money was paid to public officials, political parties, and candidates to secure an advantage in tenders to allocate public infrastructure projects and to improve company operations in the countries where Odebrecht was active. Records of legal actions taken to enforce the United States' Foreign Corrupt Practices Act (FCPA) show that this is one of the five largest cases in history in terms of the total sums paid in bribes (Foreign Corrupt Practices Act Clearinghouse, 2019).

The scheme Odebrecht used for its illegal activities was almost unprecedented, given its complexity and sophistication. One example of this is the creation in 2006 of the DOE, which worked as a bribes department within the company. To carry out its tasks, the DOE had parallel communication and accounting systems in place, used (offshore) shell companies to launder irregular funds, and operated with banks in countries with strong bank secrecy. This allowed the DOE to ensure that illegal payments left no trace, which made all the parties involved feel suitably safe. That way, Odebrecht institutionalized corruption within its organizational structure.

a. This box is based on Campos, Engel, Fisher, and Galetovic (2019a) and on United States Department of Justice (2016).

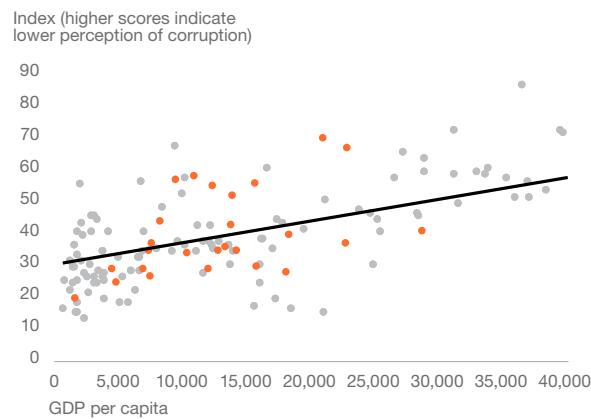
While estimates of the amount of money involved in corruption transactions may be illustrative, the costs of the phenomenon go much further and translate into a reduction of social welfare and development opportunities. Consistent with this,

there is a strong correlation between GDP per capita and various measures of corruption, including Transparency International's Corruption Perceptions Index, the incidence of bribes paid by firms in the Enterprise Surveys Indicators, and the Control of Corruption Index in the Worldwide Governance Indicators (panels A, B and C in Graph 1.5, respectively).

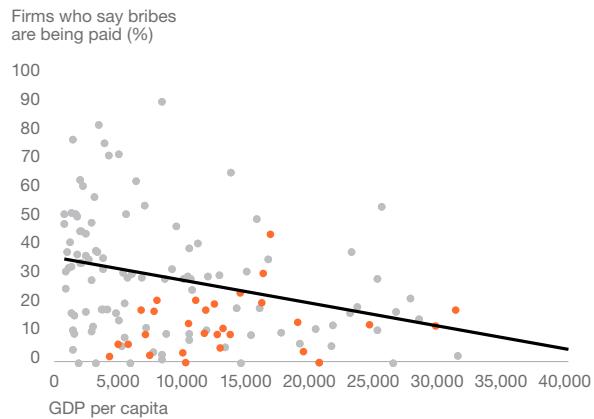
### Graph 1.5

Relationship between income and corruption

**Panel A. Transparency International's Corruption Perceptions Index**



**Panel B. Perceptions of business executives about incidence of bribery**



**Panel C. Control of Corruption Index**



Note: This graph shows the correlation between different measurements of corruption and GDP per capita (expressed in dollars and adjusted for PPP), for different countries. The following corruption measures are used: in panel A, the Corruption Perceptions Index for 2018, which ranges from 0 (higher perception) to 100 (lower perception); in panel B, the percentage of company executives who say that bribes are being paid, according to the most recent data for each country (2009–2017) in the Enterprise Surveys Indicators; in panel C, the Control of Corruption Index for 2017, which ranges from -2.5 (less control) to 2.5 (more control). Each dot represents a country (countries in Latin America and the Caribbean are highlighted in orange), while the black line represents the linear regression between the two variables. Details about the data and the methodology are provided in the Appendix (p. 216).

**Source:** Prepared by the authors, based on data from the Corruption Perceptions Index (Transparency International, 2018), the Worldwide Development Indicators (World Bank, 2018b), the Worldwide Governance Indicators (World Bank, 2018c), and the Enterprise Surveys Indicators (World Bank, 2019).

Underpinning these correlations, there are several specific channels through which manifestations of corruption cause welfare losses. First, diverted resources could otherwise be used to fund public goods and services. For example, embezzling funds that were originally earmarked for education negatively affects the availability of educational inputs (teaching materials, computer labs, teacher training) and leads to worse student performance, measured in terms of grades in standardized tests and dropout rates (Ferraz, Finan, and Moreira, 2012). A further example involves the quality of public infrastructure—such as roads—which tends to be worse in high-corruption contexts (Olken, 2007).

Corruption also lessens productivity and economic growth, by distorting resource allocation both within and between firms (CAF, 2018).

**When connections  
and influence peddling  
determine economic  
and regulatory policy,  
competition and  
innovation dwindle.**

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Lack of integrity in business practices and clientelism—taken as the exchange of rents for electoral support between political organization and sectors of the population sector—have a negative impact on aggregate investment levels, especially in long-term projects (Aidt, 2011; Mauro, 1995). In line with this, when personal connections and influence peddling determine economic and regulatory policies, competition and innovation dwindle, and firms move their resources away from productive tasks and towards activities associated with rent extraction. Garc'a-Santana, Moral-Benito, Pijoan-Mas, and Ramos (2019) illustrated this by showing that the industries that are most prone to cronyism perform significantly worse in productivity terms. The reason is that resource allocation is particularly poor in those industries, in the sense that labor and capital do not flow to the firms with the highest productivity, but rather to those with the best political connections.

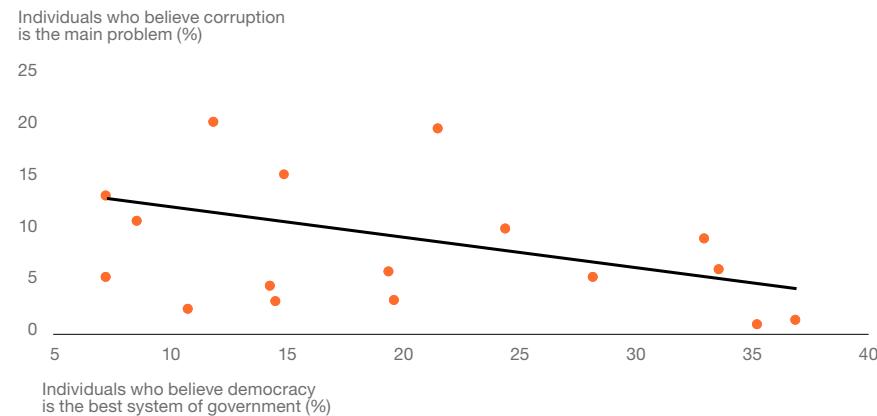
In turn, corruption leads firms to move resources away from productive activities and toward rent extraction (Colonelli and Prem, 2017). This is clearly illustrated by Odebrecht's decision to create a unit that was specifically designed to pay bribes. Along similar lines, Dal Bó and Rossi (2007) showed that electricity distribution companies are more inefficient—that is, they require more inputs to produce the same output—in more corrupt countries.

A further concern is that corruption could deepen socioeconomic inequalities, since it disproportionately affects the poor. This is the case, for instance, when bribe payments become necessary to access public services, including healthcare, education, policing, the issuance of official documents, etc. These bribe payments are proportionately more expensive—and may even be unaffordable—for lower-income households.

Finally, the most potentially damaging consequences of corruption are linked to a loss of confidence in public institutions and in the democratic system itself, which in turn paves the way for political and social instability. This effect is difficult to measure, but that does not make it less relevant. Graph1.6 presents an approximation. It shows that, at an aggregate country level, there is a negative relationship between corruption perceived by citizens and their confidence in the democratic system.

**Graph 1.6**

Perception of corruption and confidence in democracy in Latin America



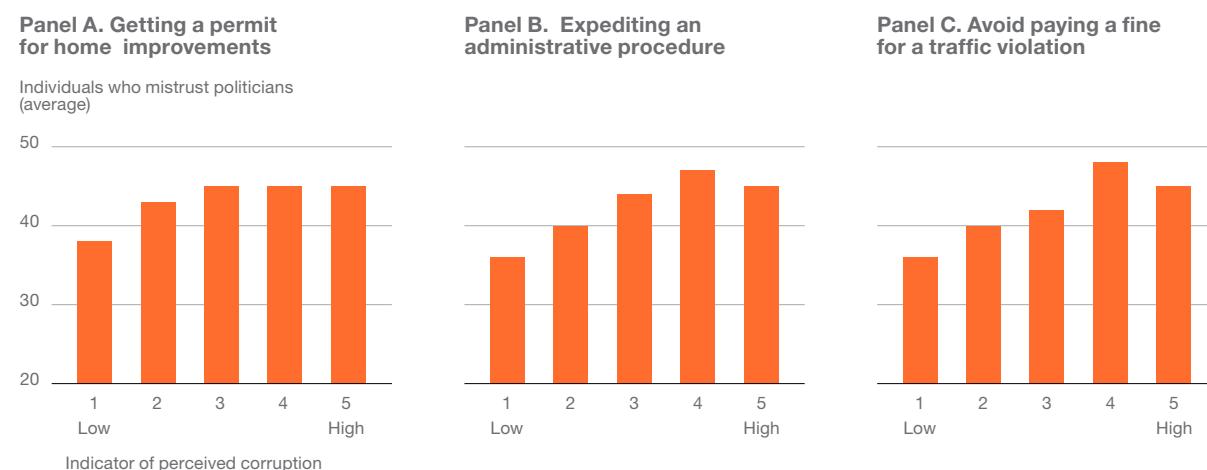
Note: This graph shows the correlation between the percentage of individuals who believe corruption is their country's main problem and the percentage who strongly agree that democracy is the best system of government, for Latin American countries. Each dot represents a country, while the black line represents the linear regression between the two variables. The list of countries can be found in the Appendix (p. 217).

Source: Prepared by the authors, based on data from Latinobarómetro (Corporación Latinobarómetro, 2017).

At a more disaggregated level, some patterns also point to that relationship. Graph 1.7 shows, based on data obtained from the ECAF 2018, that the individuals who perceive the highest corruption levels in interactions with the state also report more mistrust of political leaders.

**Graph 1.7**

Perception of corruption in interactions with the state and mistrust in politicians



Note: This graph shows the percentage of individuals who report mistrusting politicians, based on the level of perceived corruption in various interactions with the state. The level of perceived corruption is measured on a rising scale from 1 to 5, for each of the following interactions: getting a permit for home improvements (panel A), expediting an administrative procedure (panel B), and avoiding to pay a fine for a traffic violation (panel C). The figures correspond to simple means across 10 Latin American cities. Details about the data and the methodology are provided in the Appendix (p. 217).

Source: Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

The evidence presented here paints a clear—though necessarily incomplete—picture of the harmful effects of corruption. A precise, comprehensive estimate of all that is lost due to corruption is beyond the scope of this report. However, the data shown here are enough to conclude that this is a relevant issue for Latin American development. Next, we present a few conceptual elements that will guide the rest of the report, focused on understanding the factors that facilitate corruption and on suggesting measures to promote integrity in public policy.

## Defining corruption

**Integrity in public policy is achieved when decisions are based on maximizing public welfare, rather than on the interests of specific groups.**

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Public policy decisions should be made with the goal of maximizing social welfare, and the concept of integrity is used throughout this report to describe situations when decisions are indeed based on that criterion. In contrast, corruption involves abusing public office to secure private gains. Officials are not the only ones who engage in actions that constitute abuse of public office. Private actors are usually involved too. The businessperson who pays a bribe and the public official who takes it are both implicated.

It is important to provide a few extra comments on how corruption is defined and interpreted in this report.

First, the focus is on actions involving public officials—whether they act unilaterally or in connivance with private actors, be they individuals or companies. There are two reasons for this. First, there is a specific concern with preventing the illegitimate use of public resources because they belong to society as a whole. Moreover, the public nature of those resources also poses particular challenges to monitor their management. While acts that happen fully within the private sphere may in some contexts be described as corrupt, they will not be taken into consideration in this discussion. However, reviewing events in the public sphere may provide lessons on prevention policies that can be applied to private organizations.

Second, the private gains extracted from corrupt exchanges are not necessarily monetary and may in fact take different forms (for instance, political support). However, initiatives to fight corruption tend to focus on prosecuting actions that involve financial gains, because material profit is the most obvious way to prove corrupt intent.

Finally, an abuse of public office does not always imply breaking a formal rule. This means that promoting integrity in public policy will exceed the prevention of criminal or administrative offences contemplated in legislation at any given time. There is a broader goal of preventing factors that bias or distort decision-making in favor of vested interests. Still, the legal prosecution of some behaviors is an essential part of these efforts.

## The importance and limitations of legal tools

From a legal point of view, corruption is circumscribed to a set of specific conducts that the law classifies as wrongful. International agreements on the issue and most national legal codes contemplate a group of conducts on which there is broad consensus. They include bribery, embezzlement, influence peddling, abuse of functions, and illicit enrichment. Box 1.3 provides more details on Latin American legal institutions in this area.

### Box 1.3 Corruption offences in Latin American laws<sup>a</sup>

Latin America was a pioneering region in terms of signing international agreements to promote integrity in public service. The Inter-American Convention against Corruption was adopted in 1996. It predates instruments like the United Nations Convention against Corruption (UNCAC), which was signed in 2003 and was quickly ratified by Latin American countries.

Among other things, these agreements urge states to establish as criminal offences: bribery (including the offering or requesting of bribes, and extending to domestic and foreign government officials, as well as officials who work for international organizations); embezzlement, misappropriation, and other ways in which a public official can divert resources; influence peddling; abuse of functions; and illicit enrichment (a significant increase in a public official's assets that cannot be reasonably justified based on their legitimate income).

Monitoring reports show that Latin American countries generally comply with the mandate to criminalize these behaviors, although some specific shortcomings persist. For example, some jurisdictions do not clearly classify influence peddling and illicit enrichment as crimes.

The UNCAC also requires states to criminalize some additional actions that typically go hand in hand with corruption: laundering proceeds of crime, concealment, and obstruction of justice. National legislation in Latin American countries also contemplates these offences.

a. This box is based on United Nations (2004).

The task of reviewing and refining substantive and procedural laws to enable corruption crimes to be formally prosecuted is essential to promote integrity. Still, it is important to avoid an excessively legalistic interpretation of this issue. There are various circumstances that bias the policy process in favor of private interests but are hard to classify or prosecute as crimes. For example, social or family ties with businesspeople may affect the decisions made by public officials without an explicit exchange of favors. More generally, it may be very difficult to produce evidence of influence peddling when there is no illegal transfer of resources, in terms of either goods or cash. Even if such transactions do exist, the task of finding them and linking them to decisions made by the relevant public official in the exercise of their functions may be very complex.

**There are various circumstances that bias the policy process in favor of private interests but are hard to classify or prosecute as crimes.**

Legal tools—even well-designed ones—will therefore have a limited reach. Efforts to promote integrity in public policy must be complemented with additional measures, aimed at ensuring that the decisions of officials pursue the common good. These measures include increasing political competition and meritocracy in processes to recruit civil servants, simplifying administrative procedures, strengthening decision-making processes within the state, and improving corporate governance in both state-owned and private firms.

Investing in transparency policies is also essential, as is making the most of the options created by technology. Governments who digitize procedures and grant access to information that is relevant to fight corruption (including procurement and contracts data, property and company registers, and disclosures of interests and asset declarations filed by public officials) enable greater citizen oversight over state actions. This helps governments themselves, as well as investigative and judicial authorities, to detect misuses of public resources and to produce the relevant evidence.

## Structure and main messages of this report

Opportunities for corruption are inherent in the organization of modern societies. Society as a whole cannot directly execute the multiple tasks associated with procuring the common good. It therefore assigns those tasks to public officials—both politicians and civil servants—and grants them the privilege of making decisions on behalf of all citizens. The root of the problem is that these officials may have private interests that conflict with the public interest, and society cannot perfectly observe their actions—much less, their intentions.

This combination of factors causes an *agency problem*: a situation where a principal (in this case, citizens) hires an agent (a public official) to carry out a task, but it is difficult to ensure that the agent works in the best interest of the principal. There is a latent risk that the responsibilities attached to public office will be used to secure private gains: the risk of corruption. Societies seek to mitigate it through institutional arrangements aimed at solving the agency problem by constraining officials' decision-making within certain parameters.

This report analyzes how the behavior of agents responds to different institutional arrangements, with the intention of suggesting formulas that relieve the tension between collective and private interests and promote integrity in public policy decisions. Of course, there are many institutional arrangements that can affect corruption, and they take varied forms. To guide this discussion, they are grouped into four categories, each addressed in one of the remaining chapters of this report: rules and oversight of public officials; mechanisms for political selection and civil service recruitment; transparency and citizen control; and governance of private interests.

## Rules and oversight of public officials

Public officials' privilege of making discretionary decisions is at the root of the risk of corruption. Indeed, more discretion increases the probability of irregularities. This relationship is apparent in many public policy contexts, like distributing resources among government agencies, purchasing products or services, hiring staff, and imparting justice. Two different types of arrangements can be used to counter this: *ex-ante* rules to restrict public officials' scope of action (what decisions they may make, and how) and *ex-post* oversight to audit these decisions and actions once they have been carried out.

**Public officials' privilege to make discretionary decisions is at the root of corruption risks.**

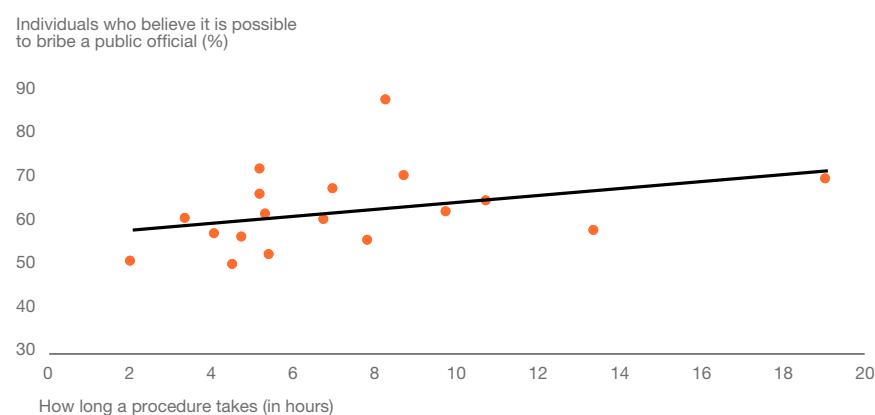
In many contexts, applying decision rules based on protocols and objective criteria minimizes the risk of corruption. For example, in the context of procuring public infrastructure, it is better to use standardized evaluation formulas than to resort to subjective criteria. Reforms to Colombia's royalty distribution system, that imposed more strict regulations on the use of these funds by municipalities, seems to have diminished the incidence of irregularities in local governments.

Technology also makes it possible to reduce discretion in some contexts. Administrative procedures are one area where this is apparent. Efforts to simplify and digitize these procedures help to reduce the power that officials may hold on citizens. As shown in Graph 1.8, individuals are more likely to perceive bribes as useful to secure benefits when procedures are slower. Thus, it is important for Latin American countries to step up their efforts to simplify and digitize administrative procedures.

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### Graph 1.8

Time taken to complete an administrative procedure and perceived corruption in Latin America



Note: This graph shows the correlation between the percentage of individuals who believe it is possible to bribe a public official and the average time required to complete an administrative procedure in different Latin American countries. Each dot represents a country, while the black line shows the linear regression between the two variables. More details about the data are provided in the Appendix (p. 218).

Source: Prepared by the authors, based on data from Latinobarómetro (Corporación Latinobarómetro, 2017).

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However, restricting the autonomy of public officials comes at a cost in terms of agility in public administration. The way public procurement systems work illustrates this point. These systems tend to require more open (i.e., less discretionary) processes as contract size exceeds certain thresholds. However, these rules could have negative consequences if they are not carefully designed. Public officials may find that more demanding procedures are too cumbersome and slow down their actions. Even without corrupt motivations, these officials may deliberately avoid these procedures by adjusting the amounts of money involved in a contract or using exceptional formulas in their procurement and hiring processes. The design of *ex-ante* rules that restrict the actions of public officials is useful, but it needs to suit the context to ensure they are not too costly in terms of flexibility without actually achieving more integrity.

A more general conclusion is that restricting the autonomy of public officials must not be seen as an alternative to *ex-post* audit systems. Strengthening the institutions tasked with detecting and punishing irregularities must be a priority, so that they can serve as deterrents. Many organizations, both public and private, have internal audit departments in charge of investigating misconducts, and their importance must be stressed. However, centralized audit agencies also have a major role to play in preventing irregularities. These institutions can only work well if they are credible, independent from political criteria, able to learn and adapt, and if there is a sustained commitment to these principles.

Financial and process oversight of government bodies by Supreme Audit Institutions have proved to be valuable tools for any integrity agenda. For example, some results of the Random Audit Program conducted by Brazil's Federal Comptroller General (*Controladoria Geral da União*, CGU) support this notion. To maximize the effectiveness of these agencies, it is important to be careful with some aspects of the design and implementation of audits. One essential point is that they lose their deterrent effects when they are either predictable or rare. The threat of being subjected to an audit must be constant, whether because audits are frequent or because they are unpredictable. Technology's potential to strengthen and improve efforts to monitor public officials' actions is another issue that needs to be taken into consideration. Digital records of government transactions, combined with data analysis techniques, can guide the actions of those with oversight duties.

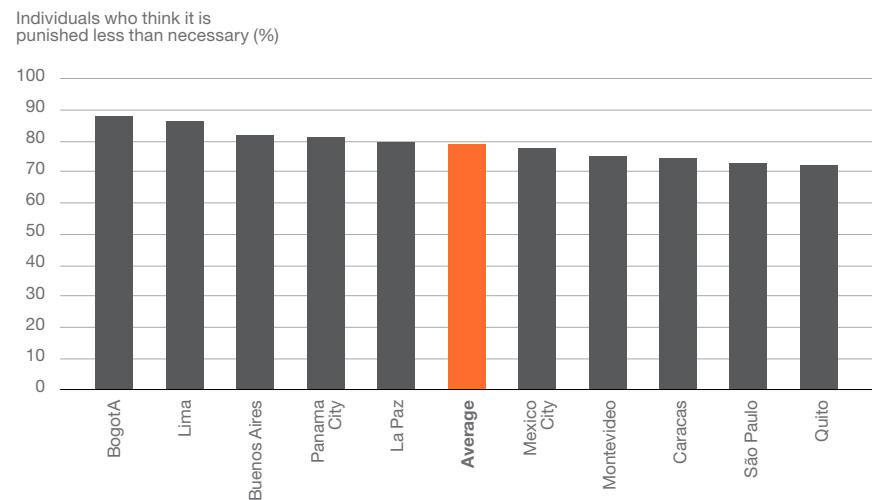
**Audits into the finances and processes of government bodies by Supreme Audit Institutions have proved valuable to deter criminal conduct.**

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It is especially important for audit agencies to have strong links to prosecutors and other agents in position to take administrative and legal actions against wrongdoers. Judicial punishment is crucial to discourage crimes of corruption. Thus, securing the correct functioning of the judicial system must be another priority in any integrity agenda. As shown in Graph 1.9, the majority of Latin Americans believe that the courts are not tough enough on corruption. A central goal must be strengthening the capacities of public prosecutors offices and other actors involved in the investigation of cases of corruption. These crimes are complex, so prosecuting them requires specialized technical teams with autonomous powers, and protocols for investigation and for the collection of evidence.

### Graph 1.9

#### Perceptions about judicial punishment for corruption



Note: This graph shows the percentage of respondents who believe that judges punish corruption less than they should, by city. The simple mean across cities is also reported.

Source: Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

As a complement to these investments, some reforms in substantive and procedural law may be helpful. In particular, the use of plea bargain to investigate corruption cases is a promising innovation that has delivered concrete results in recent years. However, this tool does entail some risks, and it is very important to build the institutions necessary to regulate its use. Among other things, it is fundamental to: define the conditions in which such agreements can be reached; carefully design the incentives (usually, sentence reductions) that are to be offered to suspects who cooperate; and specify the role of public prosecutors, judges, and other actors in this process.

Besides discouraging wrongful conduct through disciplinary measures, it is also important to gauge whether integrity can be promoted through compensation schemes and career incentives to public officials. Wages—and the prospects of a raise—are more relevant for civil servants than for politicians, because the former hold their positions for longer periods. Even so, higher salaries can only promote integrity in contexts where audit mechanisms work well and individuals face real risks of dismissal if they engage in irregularities. Compensation does not seem to have a first-order impact on integrity levels; its effect will depend on whether there are disciplinary mechanisms in place. On the other hand, salaries are very relevant to attract capable individuals into public service.

Reelection is one career incentive that can have greater impact on politicians' behavior. Some results suggest that the option of seeking reelection promotes integrity by officials, in their effort to remain popular and be able to run for

another mandate. Still, entrenchment in power entails risks of its own, and term limits are necessary when the institutional context fails to provide effective checks and balances.

## Mechanisms for political selection and civil service recruitment

The mechanisms to recruit public officials, whether elected or appointed, are key in the fight against corruption. Transparent, meritocratic mechanisms favor the selection of individuals free from clientelist ties, which makes them crucial to ensure the independence of office holders and an effective system of checks and balances.

**Governments must aim to recruit capable individuals with a low tolerance for corruption.**

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Governments must aim to recruit capable individuals with a low tolerance for corruption. Motivating such people to work in the public sector is the first step to achieve that. The role of perceptions and expectations should not be underestimated in this context. Both the incidence and the perception of corruption impact how attractive the public sector is. This is why reforms to boost integrity need to be able to communicate achievements in that effort, in order to improve citizens' beliefs and expectations about the functioning of government.

Once individuals decide to seek a public office, there are recruitment mechanisms in place to determine who gets the positions from the pool of candidates. These mechanisms will differ greatly depending on whether it is an elected office or a civil-service job, and both need to be discussed separately.

Electoral systems are the gateway into elected office, and their goal should be to maximize plurality and competition. Evidence shows that politicians who perform best tend to come out of elections that are tight and in which candidates' qualities are most clearly visible. Conversely, there is less accountability when a district is evidently dominated by one political group. Thus, competition must be encouraged in districts where it is lacking. Introducing competition within political parties can compensate for a lack of competition among parties, for which primary elections may be useful.

The regulation of political finance, particularly campaign funding, is a priority. Recent scandals have shown that campaign donations are often at the center of favor exchanges between politicians and businesspeople. Moreover, large private donations may deepen inequalities in political representation and increase the influence of vested interests.

This is an active area of reform in Latin America, at least formally. Countries generally regulate the sources and amounts of political contribution, with approximately half of them banning corporate campaign donations entirely. Also, legislation usually caps spending and provides public funding for campaigns. There is evidence that certain specific campaign finance rules are useful. For example, imposing bans and caps on individual contributions can be effective to reduce the risk of political capture. Additionally, restricting the

level of spending allowed in campaigns can encourage electoral competition, especially in contexts where candidates' personal wealth is a major factor for success at the polls.

However, improving regulation on this issue requires above all closing the gap between regulatory frameworks and their implementation. It is crucial to strengthen the monitoring capacities of electoral courts and other supervision mechanisms, which tend to be rather weak in Latin America. Increasing the harshness and scope of punishment for campaign finance violations and promoting transparency and citizen oversight are also important. These are necessary steps to reduce irregular political funding, which hinders conflicts of interests and seriously hampers accountability.

**Improving political and campaign finance regulations requires a reduction in the gap between regulatory frameworks and their enforcement.**

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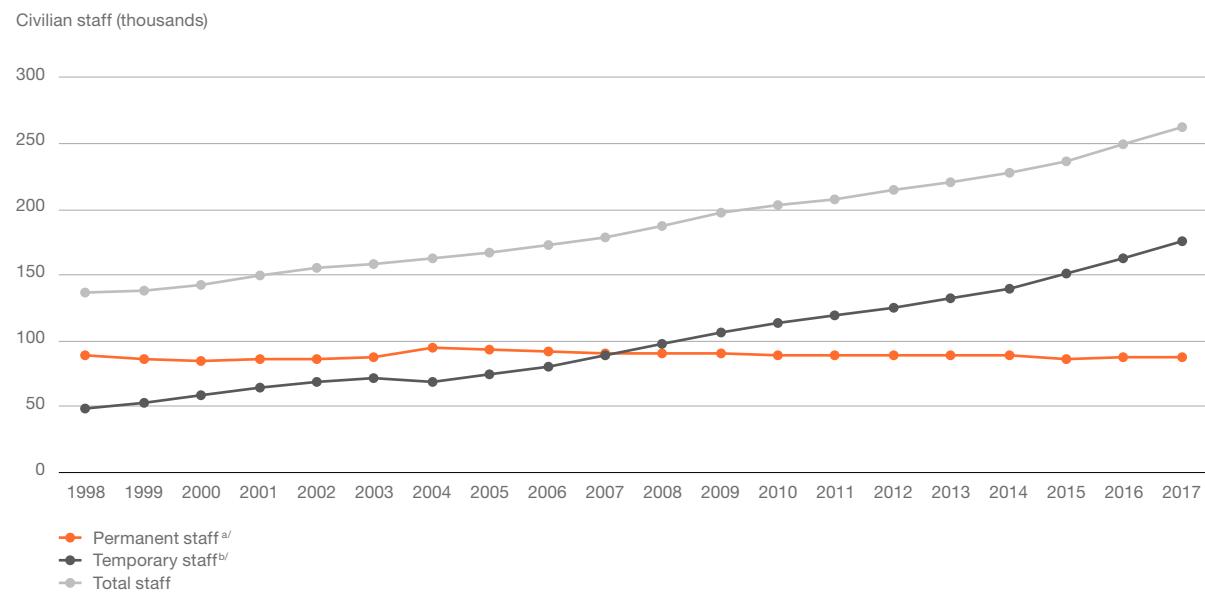
Mechanisms to access non-elected office in the public administration pose their own challenges. The clientelist use of public-sector employment (patronage) can undermine efforts to attract and recruit better-quality civil servants, and it contributes to the institutional weakening that allows systemic corruption to thrive. Even though political leaders can enjoy some autonomy in the appointment of staff in some positions of trust within executive teams, this privilege must not extend to the whole civil service. Discretion to appoint and dismiss staff in the public administration often leads to patronage.

Merit must be the decisive factor for entry into the civil service. To ensure it is, impartial recruitment processes are required, with decisions based on candidate suitability and skills. The best way to achieve this involves public service exams, as long as these meet certain conditions. They must guarantee that the available vacancies and the selection procedures are adequately publicized, ensure broad access by potential candidates, and involve an evaluation system based on technical, objective, and transparent criteria.

Almost all Latin American countries hold public exams to fill permanent professional and operational positions in their civil services. However, there are still some challenges in this respect. In particular, the number of hires under conditions of exception and the use of fixed-term contracts, often the most frequent hiring method, must be reduced. Graph 1.10 shows that even in Chile, which stands out in Latin America for its institutional quality, the proportion of temporary staff has risen significantly over the past two decades. These schemes should be used only in cases where they are justified. One tool to accomplish this is to set limits on the use of fixed-term and exceptional hires, but even more important is to improve the working of regular recruitment channels (making it easier to hire staff through standard procedures), and to increase efficiency in the civil service. Additionally, the use of public exams should be promoted in areas of public-sector employment with less institutionalized recruitment processes: subnational governments, and education and healthcare services are typical cases.

**Graph 1.10**

Composition of civil service staff in Chile



a/ Includes the following categories: planta, jornales permanentes and código del trabajo.

b/ Includes the following categories: contrata and honorarios.

**Source:** Prepared by the authors, based on data issued by the Chilean Finance Ministry's Budget Department (Dirección de Presupuestos del Ministerio de Hacienda de Chile, 2008, 2018).

To implement these recommendations, it is advisable that the civil service regime is managed by an autonomous, technical body with the sufficient resources to perform its duties.

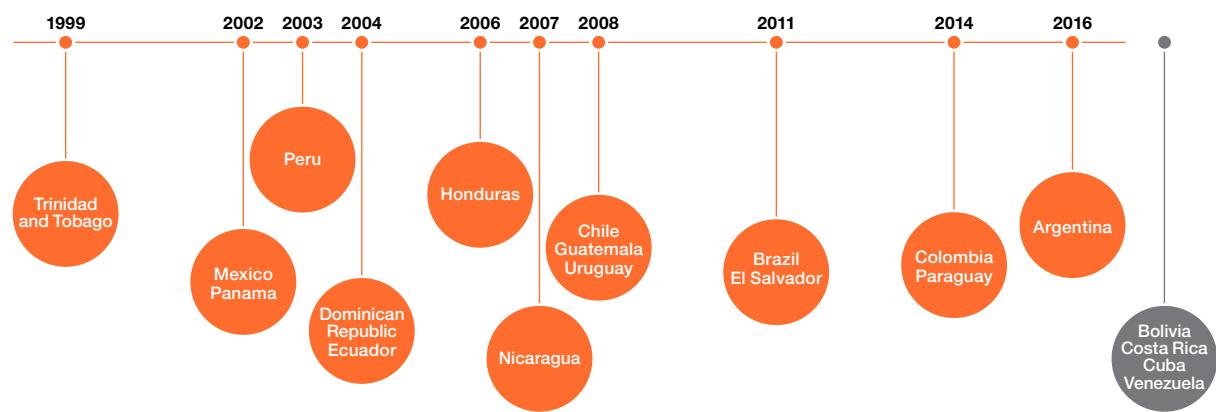
## Transparency and citizen control

Intuitively, citizens are usually thought of as the final safeguard against corruption, as they bear the burden of any losses and inefficiencies caused by it. However, in order to exercise their oversight role efficiently, citizens need some inputs: information on the actions of public officials, the ability to recognize acts of corruption and react accordingly, and accessible channels to protest, complain and demand accountability. These requisites are not always met.

The most important ingredient to activate citizen control is information on the actions of the public administration. It is therefore natural to start off from the hypothesis that more transparency should lead to a lower risk of corruption. Calls to divulge information about the actions of the state and individual officials to the public reflect this rationale. The first generation of these initiatives involved the enactment over the past two decades of freedom

of information acts that forced governments to respond to citizens' requests (Figure 1.1). While Latin American countries have adopted regulations of this kind, there is still significant room for improvement concerning delays in the delivery of information and the level of correspondence between citizens' inquiries and the answers provided by agencies.

**Figure 1.1**  
Freedom of information laws in Latin America



Note: Countries that are shown in gray have not implemented freedom of information laws. Bolivia and Venezuela have enacted rules that govern some aspects of access to public information, while in Costa Rica the right of access to information rests on provision held in the country's constitution (Organization of American States, 2013).

Source: Prepared by the authors, based on data provided by the Observatory on Principle 10 in Latin America and the Caribbean of the Economic Commission for Latin America and the Caribbean (ECLAC, 2018).

On the other hand, open government initiatives require that states play a more proactive role and provide information without citizens having to explicitly request it. The opening of data in formats that anyone can access is a central element of these initiatives. It is important to acknowledge that the complexity of the state apparatus, with multiple bodies and agencies that conduct many procedures and transactions, makes it difficult to provide clear, manageable information. This is why standards for the governance, production, interoperability, and communication concerning these data are essential.

The provision of open information by governments pursues multiple goals. The Open Data Charter identifies a few databases that are particularly valuable for accountability. These correspond to many of the issues that are highlighted in this report, including information concerning election campaigns, registers of companies and government contractors, records of public officials and interests, and the results of audits and legal proceedings.

**For information to have a positive impact on accountability, it must be credible.**

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For information to have a positive impact on accountability, it must be credible. Credibility will depend on the institutions that produce this information, but also on the agents who process and communicate it to citizens. NGOs and the media very often play that role and are therefore important. Governments should promote an environment that boosts these agents' credibility. Hence, it is important to protect freedom of the press and to promote high levels of coverage and competition in media markets. NGOs should also ensure their funding is highly transparent, to dispel any doubts about conflicts of interests in their activities.

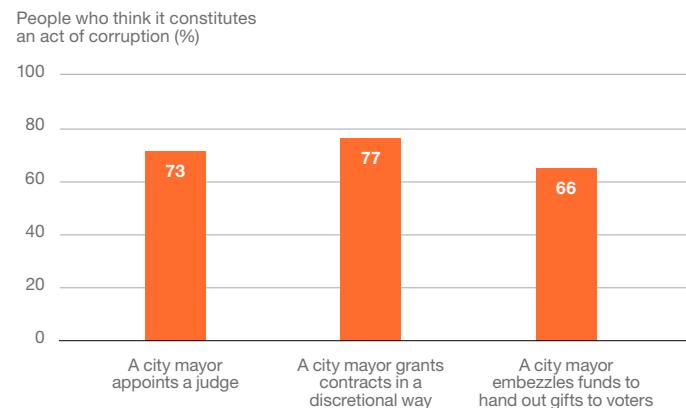
The ability of citizens to understand and use the information they receive is as important as the production and dissemination of such information. To punish acts of corruption, individuals first have to be able to identify them and to keep an intolerant attitude towards them. However, this is not always the case. The ECAF 2018 data suggest that approximately one third of all individuals do not recognize situations that describe typical cases of corruption as such (Graph 1.11). Additionally, some circumstances seem to make people more lenient on corruption, for example: perceived competence of the public official in question, political or ideological affinity, clientelist relationships, or the prevalence of social norms that discourage issuing formal complaints.

Greater understanding of the problem and more firm attitudes towards it can only be attained with sustained investments through the formal educational system and other spaces of learning and transmission of values. Mass campaigns to educate citizens and raise awareness about the manifestations and consequences of corruption may be useful. In some contexts, successful behavioral interventions have been implemented using role models to encourage people to make formal reports of malfeasance, countering social norms that foster silence concerning irregularities.

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### Graph 1.11

Recognizing typical situations of corruption



Note: This graph reports the percentage of respondents who think each of the described situations constitutes an act of corruption. The figures correspond to simple means across 10 Latin American cities. The list of cities included and details about the methodology which are provided in the Appendix (p. 218).

Source: Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

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Finally, citizens can only discipline public officials when they have access to adequate channels to do so. Elections play an essential role to aggregate collective preferences, but clientelist practices reduce their legitimacy as an accountability mechanism. While vote-buying is hard to measure accurately, surveys suggest that it is widespread in Latin America. Combating vote-buying and other clientelist practices requires addressing both the demand and the supply of these types of transactions. Reducing politicians' discretion in the allocation and provision of social programs and public services must be a priority. Social and economic vulnerability facilitates clientelism, and the provision of public services and benefits should not depend on arbitrary decisions by officials. Complementarily, it is important to increase awareness among voters about the value of independent voting, which can be promoted through informational interventions.

Elections need to be accompanied by other, more direct, mechanisms to channel citizen demands and complaints. However, the high costs associated with making formal reports of malfeasance and a generalized pessimism about their effectiveness lead to low level of active oversight by citizens. Governments should make the most of the opportunities that technology offers in this regard, such as the creation of platforms that allow individuals to report malfeasance and file complaints.

Beyond that, new formulas to involve the communities directly in the design and implementation of public projects and policies are being rehearsed. Community-based programs foster bottom-up monitoring of government actions and thus can improve accountability. They can be very valuable in specific cases, but they should not be seen as a substitute for traditional, top-down monitoring.

## The governance of private interests

In many cases, members of the private sector play a very active role in corruption, by inciting an exchange of favors that erodes the integrity of public policies. There is abundant literature showing that company's revenue and stock value increase when they get preferential access to public-policy decision-makers. This means that a comprehensive anti-corruption agenda must include measures to promote integrity in the private sector and in its interactions with the public sector.

There are many mechanisms that private interests can use to capture the public decision-making process. Bribery is probably the most obvious. Several international agreements urge states to strengthen their legal structures against bribery. Criminalizing active bribery must come coupled with provisions that make legal persons liable for acts of corruption, including the bribery of foreign public officials. Several Latin American countries have taken steps to adopt legal instruments that get them closer to these standards. However, recent data and scandals suggest that bribery continues to be a pressing issue in the region. This is why it is necessary to supplement legal reform with institutional investment to improve implementation. The starting point needs to involve recognizing that corruption crimes are complex, and that efforts to investigate them are difficult and time-consuming. Investments must focus on strengthening the capacities of investigative institutions, adjusting procedural mechanisms to make the task easier, and creating protocols for cooperation between jurisdictions.

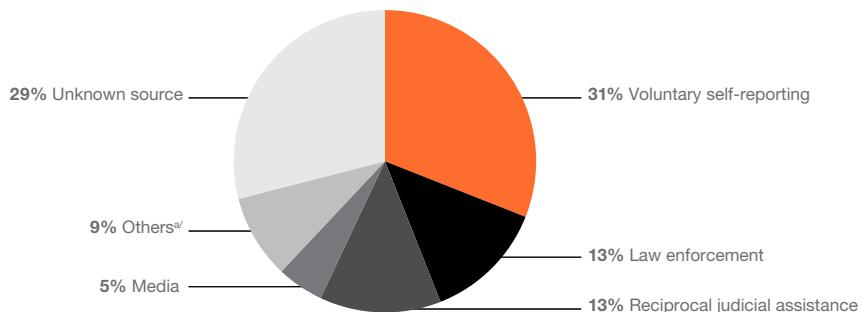
**There are many mechanisms that private interests can use to capture the public decision-making process. Bribery is probably the most obvious among them.**

One of the purposes of establishing a corporate criminal liability regime is to create incentives for companies to adopt internal compliance programs. The experience of implementing the United States Foreign Corrupt Practices Act (FCPA) and other regulations against international bribery shows that voluntary self-reporting by firms is one of the most frequent ways in which cases get to be known by the authorities. This is clear from Graph 1.12, based on data from the *OECD Foreign Bribery Report* (2015). This further shows the value of the arrangements to detect irregularities within organizations. Compliance programs typically involve setting up internal channels for informants (whistleblowers), among other components. The promotion of whistleblowing is very valuable because an organization's employees are the people most likely to hear about any wrongful practices. However, the evidence shows that incentivizing these actions is difficult: the costs of being an informant are very high and may involve retaliation and even dismissal. Protocols on this matter need to be very carefully designed to prevent false or irrelevant allegations.

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### Graph 1.12

Original source of information concerning cases of foreign bribery



Note: This graph refers to international bribery cases closed over the period 02/15/1999–06/01/2014.

a/ a/ This category includes inside informants, international organizations, investigations into different crimes, financial intelligence units, and citizen complaints.

**Source:** Prepared by the authors, based on OECD (2015).

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Beyond bribery, private interests entail other risks for integrity in public policy. Conflicts of interests emerge when public officials need to make decisions on issues on which they have vested interests that run counter to their public responsibilities. Such conflicts do not constitute acts of corruption in and of themselves, but they are a major risk factor that must be addressed. The central elements for the governance of conflicts of interests involve banning certain private activities while holding public office, obligations to disclose interests and activities, and the design of mechanisms for resolution of conflicts.

Regulations for the disclosure of private interests by public officials are crucial. Legislation must not only list items of information that officials have to provide, but also establish clear responsibilities and consequences in cases of non-compliance. Latin American countries have regulations in place on this issue, but several aspects of these instruments could be improved. First, greater emphasis should be put on the disclosure of additional activities and positions held by officials, even if these are not a current source of income. Second, regulations need to ensure more public access to the information that is provided, balancing the demand for transparency with considerations concerning the privacy of public officials.

The mechanisms to resolve conflicts may include the possibilities of officials recusing themselves from situations with conflicts and the existence of formal procedures for relevant authorities to separate officials from those situations. However, a sufficiently comprehensive obligation to publicly disclose interests should discourage officials from acting in conflicting circumstances, due to reputational costs. Thus, priority should be given to institutional efforts to improve the declarations of interests and to punish officials who fail to comply with those obligations.

Lobbying is another strategy that the private sector uses to influence public policy. While it is legitimate for individuals and companies to communicate their views and preferences to their political representatives, there is a risk that those instances of interaction are used by well-organized, powerful groups to buy connections that grant them excessive influence over public decision-making processes. The rules on this matter must aim at regulating and fostering transparency in lobbying. Registering lobbyists and their interactions with public officials is fundamental, which should be complemented with the publication of comprehensive information about these officials' decisions and actions in the exercise of their office. At the same time, efforts need to be made to improve access to decision-makers by less powerful, less organized groups. This is a difficult challenge, but addressing it is necessary to ensure a fairer representation within political systems.

**Lobbying is another strategy that the private sector uses to influence public policy, and it requires specific regulation.**

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Finally, it is important to acknowledge that the private sector plays a major role as a supplier of the public sector in some activities, which become particularly vulnerable to the risk of capture given the resources involved. The management and exploitation of natural resources and the provision of public infrastructure are two vulnerable activities that are particularly relevant in Latin America, so it is crucial to strengthen the associated decision-making processes. State-owned firms tend to play a significant role in performing those tasks, so boosting governance within these organizations is a priority.

The procurement of public works requires careful design and oversight throughout the whole project cycle. First, it is important for officials or agencies in charge of different tasks (project formulation, awarding decision, supervision and auditing, contract renegotiations) to be independent from each other. Standardized documents can be useful to prevent processes tailored to favor specific companies. Solid capacities need to be developed in procuring institutions, to prevent inadequate contracts that trigger costly

renegotiations. Amendments to contracts are very common in public infrastructure projects, which facilitates corruption. This stage requires particular care, and clear rules should be set to assess amendments and to ensure that clear information on any and all renegotiations is made public in a way that allows to track the entire evolution of a project. This is relevant for projects granted both under traditional public contracting models and as public-private partnerships (PPP).

Regarding natural resource management, the processes for granting licenses to private operators entail similar risks to the procurement of public works. And besides that, a second source of concern is that revenue generated through extractive industries may erode accountability. The Extractive Industries Transparency Initiative (EITI) makes a series of valuable recommendations to improve governance based on transparency about processes and outcomes. The emphasis should be in reporting and publishing any information concerning the flow of resources in these industries: cash inflows and outflows of operators, public-sector agencies, and state-owned firms involved; transfers to special funds and subnational governments, and so on. These efforts to increase transparency should be complemented with very clear rules on the use and final destination of those resources.

**Governments must make a special effort to encourage high standards of integrity in state-owned enterprises.**

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Governments must make a special effort to encourage high standards of integrity in state-owned enterprises. The risks of malfeasance in these organizations generally stem from flaws in the governance models they adopt. States should institutionalize the way in which it exercises its property rights, chooses its representatives to serve on corporate boards, and implements oversight protocols. This can be done through a single ownership entity or through a coordinating agency that manages property rights over all companies where the state holds stock. A further priority in this area involves ensuring autonomy in the management of these companies and preventing that political concerns interfere with their operational and commercial interests. Through its representatives on corporate boards, the state must communicate goals and expectations on the performance of firms, without interfering with their daily management.

## The political economy of reforms

Faced with scenarios of high corruption that negatively affect social and economic development, societies face two fundamental questions (Rothstein, 2011). First, what structural reforms need to be implemented to control this problem? Second, how can political and institutional processes that favor effective implementation of those reforms be launched? The answer to the first question was summarized in the previous section and will be explored in more detail in later chapters. This section hopes to provide a partial answer to the second question.

Reform processes needed in any given society will depend on the starting point, in terms of the initial state of institutions and on the manifestations of corruption that are more common in that society. An attempt at classifying three differentiated starting points is presented below.

On one extreme, there are societies in very negative conditions where rulers systematically extract rent from citizens. Even if citizens want to make changes, there are no political institutions in place to convey this demand, because electoral mechanisms—and any other participation channels—are either profoundly dysfunctional or do not exist at all.

A second case is that of societies who do have moderately functional democratic institutions in place, where popular demand carries a weight with leaders, but where various coordination problems make it difficult for citizens to get organized and demand structural reform regarding public integrity. Hurdles that hamper coordination are due to various factors, including lack of information, a prioritization of other issues over integrity, and high costs of political participation. Moreover, politicians and citizens often build clientelist relationships, which may be mutually beneficial—at least in the short term—for those involved, but which reduce accountability and tend to be self-perpetuating (Keefer, 2007; Keefer and Vlaicu, 2007; Robinson and Verdier, 2013).

Finally, a third case is that of societies where corruption only occurs as isolated cases amid solid institutions.

Both extreme cases are relatively less interesting. In the first case, democratization is the number one need, with reform of the political system and the creation or restoration of electoral accountability mechanisms. In the third case, society simply needs to remain vigilant, to ensure that justice is administered in any isolated cases that emerge and to implement any marginal changes that may be required. Generally, those changes will not be political, but legal or organizational, and the state will have mechanisms in place to implement them.

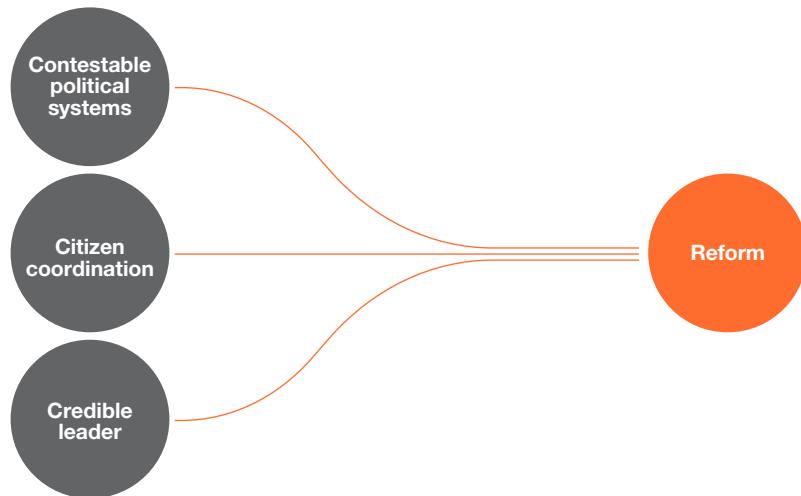
The second case is the most relevant for this report. It describes most countries who are currently fighting corruption, and it raises the following question: Why do societies who enjoy political freedom and have moderately functional democratic systems in place fail to spontaneously produce reforms to fight corruption, and how could they produce such reforms?

**Reform processes  
needed in a society  
will depend on the  
initial state of its  
institutions and on the  
most common forms  
of corruption in it.**

## **The basic elements required for change**

While it is difficult to develop a complete theory of reform, we can identify the necessary conditions to implement it: a contestable political system (that is, one where individuals who hold power face a real threat of being replaced), sustained citizen coordination focused on an integrity agenda, and a leader in charge of effecting the reform (Figure 1.2).

**Figure 1.2**  
Basic ingredients for reform to promote integrity



Source: Prepared by the authors.

The level of political contestability is a crucial factor for change, for various reasons. First, alternation in power incentivizes the introduction of reforms to fight corruption, in order to restrict and monitor the actions of future governments. In Mexico, for instance, state (provincial) freedom of information laws were enacted first in more politically contested states (Berliner and Erlich, 2015).<sup>5</sup> For similar reasons, electoral contestability may trigger the dismantling of clientelist schemes to distribute resources or public services, in order to prevent political rivals from exploiting them. An example of this also comes from Mexico. There, some households with precarious tenancy of their dwelling were provided property titles. That liberated those households from clientelist ties they had with local officials and neighborhood leaders, who previously stood up for them against expropriation in exchange for political support (Larreguy, Marshall, and Trucco, 2018).

The threat of electoral defeat is also important because it forces politicians to be more responsive to the demands of citizens. This could lead to the adoption of reforms to promote integrity, if that is what in fact voters demand.

To summarize, political competition encourages governments to adopt reforms that promote transparency and integrity for various reasons: achieving reelection, restricting the actions of rivals who can reach office in the future, reacting to challengers from inside and outside the party, or even imposing constraints on different levels or branches of government that may be controlled by opposing

5. There is a vast literature showing that political competition restricts the level of discretion of governments, through reforms in areas that include the civil service (Geddes, 1994; Ting, Snyder, Hirano, and Folke, 2013), the legal system (Ginsburg, 2003); and fiscal transparency (Alt, Lassen, and Rose, 2006).

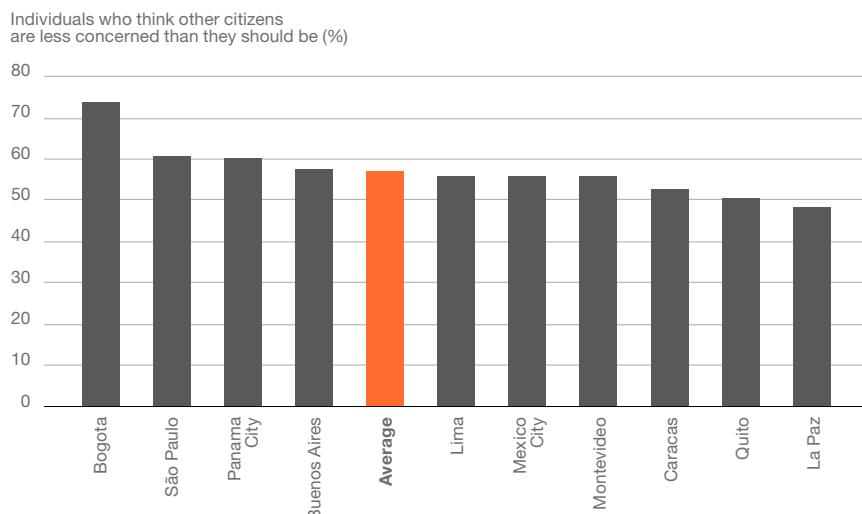
forces. For example, regional or national governments may introduce changes that restrict the ability of local governments to benefit from clientelist relationships. The Mexican example described above is a case in point—the federal government enabled title deed allocations, and this affected the clientelist practices of local governments. This is important, because the degree of political contestability can vary significantly between regions and levels of government within a given country. Systems that are highly competitive at the national or state level may coexist with highly captured political institutions, with little competition and significant clientelism at the local level.

**Political competition encourages governments to adopt reforms that promote transparency and integrity.**

The second ingredient involves citizen coordination. Citizens' demand for integrity faces several obstacles, even at the individual scale, which are explored in greater depth in Chapter 4 of this report. Indeed, many people believe that others don't do much to fight corruption. Data from the ECAF 2018 suggest that, in surveyed cities, an average of 57% of respondents believe that their fellow citizens punish corruption less than they should (Graph 1.13). A central issue is that corruption is not the only aspect people consider when they act politically, and it may not even be the most important issue they consider. This is particularly noticeable when high levels of economic and social vulnerability impose other priorities on the population and facilitate clientelist mechanisms that reduce accountability. For example, Bobonis, Gertler, González-Navarro, and Nicther (2017) showed that, in Brazilian municipalities, households without individual water tanks turned to local government officials to satisfy their need for water during droughts. In exchange, those households offered their political support for candidates associated with those officials.

### Graph 1.13

Perception of fellow citizens' concern about corruption



Note: This graph shows the percentage of respondents who believe that their fellow citizens are less concerned about corruption than they should be, by city. The simple mean across cities is also reported.

Source: Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

Collective demand for more integrity can be boosted through a gradual shift in preferences and attitudes. This means that citizens may incrementally reach a level where integrity in public policy becomes a priority for a critical mass of people, who express so through their votes and other political actions. However, exactly what factors may produce this move in values and preferences remains uncertain. The link between socioeconomic vulnerability and patronage that was discussed above prompts the hypothesis that economic growth and the consolidation of a large middle class will lead citizens to demand more accountability (Casas Zamora and Carter, 2017). There is also evidence that the contents of educational curricula have a lasting impact on people's civic values, so educational systems can be an important pathway to change attitudes toward corruption (Cantoni, Chen, Yang, Yuchtman, and Zhang, 2017).

**Collective demands for more integrity may be fueled by major scandals or be a product of gradual shifts in awareness and attitudes.**

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Collective demand can also be coordinated in the wake of major scandals that place corruption on a country's public agenda. This is how windows of opportunity for reform emerge, encouraged by popular pressure in reaction to scandals. Of course, these windows of opportunity close as soon as popular discontent subsides, so reform requires quick action. An important challenge involves managing the temporary coordination produced by these cases, so that citizen interest on this issue can last longer. Such episodes have arisen in several Latin American countries throughout the years, and they have been used to effect change with varying degrees of success.

Finally, the role of leaders to implement the reforms is crucial. Legitimacy is the single most important quality for individuals and groups in leadership positions. Their background and formal positions may vary depending on the context. For example, they may be political entrepreneurs—that is, candidates who build a platform around policy proposals to promote integrity. This again highlights the importance of having competitive political markets in place—even within parties—that enable new leaders to emerge and credibly pursue initiatives for change. Platforms for reform on this matter need to go beyond party lines in pursuit of cross-party agreements.

Alternatively, the person in charge of preparing reform may be an outsider to the political stage. NGOs, experts, and academics may play a central role, if they achieve a widespread perception of objectivity and excellence in their field. Still, political institutions will always be necessary to pass legislation and administrative regulations. Thus, this model for reform requires a symbiotic relationship where public officials—who must have credibility—commit to implementing changes whose design they delegate to experts. If this commitment is not sincere and governments reserve the right to accept or reject changes depending on the political cycle and on the interests affected by proposals, reforms are most likely to fail (Maor, 2004). Some examples of this dynamic include the case of Slovenia's Commission to Prevent Corruption (Batory, 2012) and the handling of Georgia's anti-corruption initiatives (Kupatadze, 2012).

As mentioned above, persistence is another ingredient of effective reform. When demand for reform is triggered by scandals, it is crucial to keep citizens' attention for long enough to at least reach the stage where legal and administrative

changes are introduced, which may take some time. NGOs also play a valuable role in the effort to monitor and communicate progress on this agenda. The media often have a greater reach and can make valuable contributions if their coverage exceeds scandals themselves to include constant information about the state of reform.

**Effective reform requires persistent efforts by political leaders and by society as a whole.**

Box 1.4 presents two cases where revealing corruption schemes led to reform efforts in Latin American countries, with varying degrees of success—Peru’s failed attempt in the early 2000s and Chile’s more fruitful experience with the Engel Commission (*Comisión Engel*).

### **Box 1.4**

#### Attempts at anti-corruption reform in Latin America<sup>a</sup>

In Peru, initiatives to fight corruption were promoted around 2001, following the collapse of the Fujimori administration. The newly elected government promised significant action in this field. In the context of a major drop in its popularity ratings, it appointed a High Adviser to the President for the Fight against Corruption and to Promote Ethics and Transparency in the Public Administration (*Alto Consejero del Presidente para la Lucha Contra la Corrupción y la Promoción de la Ética y Transparencia en la Administración Pública*). This Adviser was to promote integrity within the state along with the National Commission to Fight Corruption (*Comisión Nacional Anticorrupción*). However, this initiative was short-lived and delivered few concrete results. The Commission and the Adviser faced several problems, including their own political and administrative proximity to the executive. The lack of a separation between officials in power and the people who had been appointed to suggest changes made the whole process less credible. Connected to this, the lack of resources and basic infrastructure to tackle tasks was a further limiting condition. After some investigations touched on interests close to the government, the Commission was dissolved in February 2003, and the Adviser resigned (Pozsgai-Alvarez, 2018).

The experience that was launched in Chile in 2015 was more successful. The Council of Presidential Advisers against Conflicts of Interests, Influence Peddling, and Corruption (*Consejo Asesor Presidencial contra los Conflictos de Interés, el Tráfico de Influencia y la Corrupción*, also known as the Engel Commission) was created following a series of cases of influence peddling, conflicts of interests, and illegal political funding. These scandals considerably reduced the government’s political capital at the time, and their emergence created a window of opportunity for reform. The Council was tasked with drafting a series of proposed regulations and bills on a broad spectrum of issues, including administrative, legal, and ethical aspects for immediate and medium-term implementation. These reforms addressed the public sector, the business sector, and the relationship between the two. The final report presented more than 200 proposed measures. Beyond the high credibility of Council members, a key element of this institution’s success was the creation of an Observatory to Fight Corruption (*Observatorio Anticorrupción*) coordinated by two NGOs (Espacio Público and Ciudadano Inteligente) to monitor the effective implementation of the Council recommendations. This kept up the pressure of public opinion on official institutions—the executive and Congress.

a. This box is based on Muñoz (2019) and Pozsgai-Alvarez (2018).

Legal changes take long, institutional capacity-building takes longer, and the transformation of expectations and social norms is an even slower process. This means that new legislation may take time before leading to more definitive behavioral change. In the short run, tougher regulations and greater transparency may lead to many irregularities surfacing, which can increase perceptions of corruption. Only the persistent enforcement of the new rules will ensure that agents internalize them and adjust their behavior accordingly. The transition from a high-corruption social scenario to a low-corruption one may prove difficult to manage for various reasons, as will be explained in the following section.

## Other catalysts for reform

There are some factors that can serve as catalysts in the process of implementing reform. These are exogenous factors, in the sense that their availability does not depend on a society's institutional arrangements, although their effective exploitation does.

One of these factors is international cooperation, through which efforts can be coordinated, legal and regulatory standards can be set, and countries can learn from practices that have been tested elsewhere. For example, the process that several Latin American countries have embarked on to join the OECD—initially Chile and Mexico, more recently Argentina, Brazil, Colombia, Costa Rica, and Peru—requires adopting a series of regulations, policies, and institutional reforms with a special focus on preventing and fighting corruption.<sup>6</sup> Again, these efforts to comply with international standards are valuable, but their effectiveness will depend on the willingness and ability of countries and international cooperation platforms to enforce them.

Integration into global markets may also be a major catalyst, if commercial and financial ties with other jurisdictions encourage governments to adopt policies to promote greater competition. More competition reduces rents, and therefore incentives to engage in corruption. Further, participating in international markets pushes firms to strengthen their corporate governance practices, as they are subjected to legislation in multiple countries. This increased institutional strength might also be transmitted along the value chain.

**New technologies may play a disruptive role in the integrity agenda.**

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Finally, it is important to highlight the disruptive role that new technologies may play. Tools to produce, process and open data provide many opportunities. Technological applications allow for improvements in resource management, communication, and inter-governmental monitoring, and they provide new channels to disseminate information both within the state and to citizens. Political entrepreneurs can make the most of this potential to push for an open-government agenda that promotes transparency and participation.

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6. As part of the process to access the OECD, the institution assesses candidate countries' integrity policies and suggests the implementation of certain measures.

## How can the transition be managed?

When new rules are launched in a context with historically high levels of corruption, there are adjustment costs in the short-term, which manifest in several ways. For example, public opinion may interpret the rise in the number of cases that are detected and punished as an increase in the level of corruption, and sanctions on firms may slow down activity in certain industries. This should not lead to less rigorous efforts to detect and punish malfeasance, since such efforts are needed to build up the credibility to make the new rules deterrent in the longer term. However, these adjustment costs do need to be taken into consideration. During a transition from a situation with loose regulations to one with tighter rules, governments must balance two goals: maximizing the deterrent effect of punishment and minimizing destruction of value in the short term.

In Latin America, one of the concerns that have emerged from investigations in the case known as Operation Car Wash (*Operação Lava Jato*) is that excluding suppliers from the market has brought to a halt ongoing public construction projects and made it more difficult to launch new ones. Doubts persist about whether this case is evidence of structural institutional change in the region, but it nevertheless exposes a relevant problem: how to deal with the disruptive effects of increased enforcement against corruption. Using this as a case study is valuable because of the insights it provides and because of the economic weight of the sector.

**Concerns have emerged in Latin America about interruptions and delays in works of infrastructure because of investigations into acts of corruption.**

Legal factors contribute to this industry's paralysis. Latin American administrative law stipulates that, when an act of corruption associated with the signing a contract is discovered, the main response is to declare the contract null and void.<sup>7</sup> Contract cancellation entails significant economic costs, particularly in works built by Public–Private Partnerships (PPPs) (de Michele, Prats Cabrera, and Losada Revol, 2018). The reason is that such a move generally implies the loss of validity of the contract between the government and the provider, which extends to all other contractual relationships associated with that agreement. However, no mechanisms are put in place to facilitate the continuity of the project or the participation of actors who were not involved in corrupt conduct.

Public–private partnerships are especially affected by this, because they have complex financial structures and bring together many stakeholders (including shareholders, financiers, construction firms, operators, insurance companies, and suppliers). PPPs further involve investments planned to be recouped in the long-term (typically between 15–20 years) through flows of funds produced by the projects themselves (toll charges, fees, availability payments by the government, and so on).

This is why the threat that a contract may be declared null and void creates major uncertainty for all actors involved and affects everyone taking part in the project—even those who have not engaged in any illegal actions. For example, investors put forward funds, and if the contract is declared null and void there is no longer a source of repayment.

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7. Based on the legal principle that no rights can stem from an illegal action.

**When irregularities are detected in public construction projects, the goal must be to impose exemplary punishment on wrongdoers while facilitating the continuation of projects.**

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In this context, the aim of balancing exemplary punishment with the need to preserve the continuity of projects demands the development of legal and administrative instruments that enable institutions to handle corruption cases in public works more flexibly, rather than simply declaring contracts null and void. Some countries have taken initiatives in that direction. Colombia, for instance, has amended its general public procurement legislation and its PPP legislation to impose additional explicit penalties on firms who are involved in wrongful action, while also providing certain safeguards in favor of other actors—investors, for example—who engage in no wrongdoing. In Peru, changes in legislation focus first on imposing fines to punish firms involved in corruption, but also seek to promote project continuity by allowing the entrance of new investors as businesses associated with irregular conduct leave the project. More recent legislation in Peru allows the state to take over projects in cases where contracts have been declared null and void, enabling the state to make any management and procurement decisions necessary to ensure continuity (de Michele et al., 2018).

These case studies provide examples of specific measures that can be adopted to handle some short-term effects of anti-corruption actions. However, it is still too early to assess their results. In fact, the issue of whether Latin American countries are moving toward stronger institutions remains shrouded in uncertainty. The resolution will depend on whether countries in the region can complete the reforms that have been started and consolidate them through effective enforcement. To accomplish this, political leaders need to prioritize this as a key objective, and social demand for reform must be sustained.

## Key aspects to keep the integrity agenda in focus

- 1 Corruption is one of the main concerns of Latin Americans. In recent years, this issue has gained prominence in the public debate.
- 2 Different indicators of perception, victimization, and institutional quality suggest that the incidence of corruption is higher in Latin America than in other regions, although they also show significant variation within Latin America.
- 3 Corruption hinders development—it reduces the state's capacity to supply quality goods and services, compromises productivity and economic growth, and weakens confidence in government institutions.
- 4 The integrity agenda is active in Latin America. With varying degrees of success, several countries have introduced reforms in the legal front, while investing in improving their processes, capacities and transparency.
- 5 To analyze how different institutional arrangements affect corruption levels, it is necessary to understand what incentives they each create for the relevant actors.
- 6 Any integrity agenda must consider several areas of action, including the administrative rules and control over public office, the mechanisms for recruitment into politics and the civil service, measures for transparency and citizen oversight, and the governance of interactions between the private and public sectors.
- 7 Certain conditions are necessary to achieve effective reform, including a contestable political system, citizen coordination around the integrity agenda, and a credible leader to promote and implement change.
- 8 Factors like international cooperation, integration into global markets, and new technological tools can facilitate change and act as catalysts.
- 9 When tough regulations start to be enforced in contexts of high corruption, short-term adjustment costs show up. Only persistence in implementation can build up the credibility that makes rules effective deterrent tools to prevent wrongdoing.



**Autonomy  
without  
impunity**



**What are the risks entailed by discretion in public policy decisions?**

**How can restrictions on the attributions of public officials (*ex-ante rules*) be combined with mechanisms of posterior oversight (*ex-post control*)?**

**How to best design effective audit programs?**

**What reforms to justice systems are relevant for the prevention of corruption?**

**What is the role of salaries and working conditions to improve the performance of public officials?**

# Autonomy without impunity<sup>1</sup>

Public officials have the power to make decisions and take actions of great value to society in general, and to private individuals and organizations in particular. There is a reason for this. Public administration involves a broad set of tasks that, due to their complexity, are delegated to the state and its representatives.

This transfer of attributions opens the door to a risk inherent to public service—that of using those powers for personal benefit, making decisions based on personal interests that run counter to the interests of society. The existence and magnitude of this risk does not merely depend on individual integrity, or on each person's commitment to public service. To a large extent, it depends on the discretion that a given public official enjoys in the exercise of their tasks and on the checks and balances in place to monitor their actions.

**Excessive discretion in decision-making processes is associated with a higher incidence of irregularities that threaten integrity in public policies.**

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Opportunities to extract illegitimate profits can be very diverse and go from accelerating administrative procedures in contexts of high bureaucratic inefficiency to allocating lucrative contracts in discretionary ways. Thus, the threat of corruption is present in many roles and multiple levels of public service.

Making the personal exploitation of the powers that come with public-sector positions more difficult is essential to promote integrity in the administration of the state. This chapter highlights three main axes of action in this regard. The first one involves setting up a regulatory and legal framework to restrict the behavior of officials, by clearly defining the responsibilities attached to their roles. The second one involves ex-post monitoring and oversight mechanisms, as well as tools to punish wrongdoers. The third axis for intervention is linked to compensation structures and career incentives for public officials.

The next section examines and illustrates how excessive discretion in decision-making processes is associated with a higher incidence of irregularities that violate the integrity of public policies. Some specific tasks are particularly vulnerable to corruption risks. They include public contracting and procurement, the exploitation of natural resources, and even the direct interaction between private citizens and public officials in certain contexts.

Various initiatives enable the reduction of discretion in those tasks. For example, simplifying and digitizing administrative procedures may reduce power differentials between public officials and private citizens, while adopting automatic formulas with objective criteria to make some decisions—including the selection of government suppliers—reduces arbitrariness in resource allocation.

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1. This chapter was written by Juan Vargas, with research assistance from Miguel Purroy and David Vargas.

The most direct way to reduce vulnerability to corruption involves restricting the responsibilities of public officials, with explicit rules that limit their decision-making powers. This is illustrated by public procurement systems. These systems impose conditions that usually reduce the discretion of officials and agencies as the funds involved in any given transaction increase. These kinds of restrictions—known throughout this chapter as *ex-ante rules* or *prior rules*—can be useful in many settings and are an essential component of any integrity agenda. However, experience also shows their limitations.

First, it is important to note that all institutional arrangements leave public officials some room to maneuver. For example, when they need to purchase something, officials can play around with contract amounts or claim exceptional conditions that enable them to make more discretionary decisions. This does not always respond to corrupt interests—but to a need for convenience and agility. In many cases, the least discretionary procedures—such as open bidding in public procurement—are very costly in terms of time and energy. Regulations may end up distorting the decisions of public officials and turning provisions for exceptional circumstances into the norm.

**Regulations to restrict the attributions of public servants must be supplemented with *ex-post* oversight mechanisms and with punishment of wrongdoing.**

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Consequently, prior restrictions on the actions of officials are not only potentially costly by making procedures more rigid. They are often also insufficient to ensure integrity in decision-making. This is why any integrity agenda must prioritize mechanisms for *ex-post control*, to audit actions and punish wrongdoing.

This chapter discusses the importance of formal mechanisms to audit government actions. In particular, it examines the role of Supreme Audit Institutions, and goes through the available evidence on their ability to discourage corrupt practices.

For auditing agencies to function effectively, some principles must be observed, including long-term institutional commitment, credibility, independence, and the ability to learn and adapt to new practices and tools. For example, data processing techniques can make it easier to identify odd patterns and irregularities in government transactions, as part of an increasing role for technology in the promotion of integrity.

Judicial systems in Latin America have undergone major reform in recent decades. The move from inquisitorial models to accusatorial models entailed a significant change, with the aim of securing more efficient systems and enforcing safeguards. In recent years, some jurisdictions have also implemented reforms specifically aimed at prosecuting crimes linked to corruption. Results indicate that the need to invest in investigative and prosecutorial capacities persists, particularly in cases concerning complex crimes. The use of leniency systems in corruption cases is a very promising procedural innovation, although some aspects linked to its use in Latin America still need to be defined.

The last section in this chapter explores the role that compensation schemes may play in the context of policies to encourage integrity. In theory, public-sector salaries that are comparatively high—relative to those individuals' alternatives—should discourage public officials from engaging in wrongdoing, for fear of losing that source of income. However, the deterrent effects of salaries are mediated by the correct application of monitoring and punishment mechanisms. Without a

real danger of losing that income, there is no need to make an effort to preserve it. This highlights the crucial role that audit mechanisms and the justice system must play in any integrity agenda.

## The risk of discretion

When carrying out their tasks, public officials always have a certain degree of autonomy to make decisions based on their own judgment. This is inevitable, and it is generally desirable, because citizens are better off with an agile administration that is able to respond to multiple contingencies. However, when responsibilities are assigned to public officials, it is necessary to consider the incentives they face.

Excessive discretion when making important decisions paves the way for illegal rent-seeking, and it may become the main threat to integrity in public policy decisions. There is plenty of evidence of how financial incentives can lead to dishonest behavior. As shown in Box 2.1, this has been observed in various countries, beyond a given society's income level or institutional strength.

Many specific cases suggest that irregularities in public administration are more common in areas where there is greater discretion to handle resources and make decisions.

In Colombia, Corredor and Cortés (2019) have researched the relationship between various procurement schemes in the School Attendance Program (*Programa de Asistencia Escolar, PAE*) and school absenteeism due to illness. These authors found that discretionary awarding of contracts—as opposed to public bidding—favored the supply of more expensive, lower-quality food that had a negative impact on the health of children.<sup>2</sup>

A recent study focused on Ecuador examined the effects of discretion on public procurement (Brugués et al., 2018). In particular, it showed that Ecuadorian firms who were connected to public officials were 20% more likely than unconnected ones to be granted contracts in which public officials had some degree of discretion.<sup>3,4</sup> Conversely, there were no differences between connected and unconnected firms when contracts were allocated competitively (for example, through public bidding).

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2. However, the statistical relationship between direct awarding of contracts and school absenteeism or food quality was weaker in municipalities that were managed better.

3. The connection between a firm and a public official comes when the latter—or a relative of the latter—sits on the board of the company in question. This research is part of the extensive literature on the relationship between political connections and corruption (see, for instance, Baltrunaite, Giorgantionio, Mocetti and Orlando (2018), Ruiz (2017), and Schoenherr (2019)). Chapter 5 addresses this relationship in greater depth.

4. These authors also found that, when selling homogeneous products to the government, the prices charged by connected firms were 6% higher than those charged by unconnected ones.

**Box 2.1****The power of temptation**

There is abundant evidence that some people opt to engage in dishonest behavior when faced with certain material incentives. Not all individuals are the same, and there is great variation in terms of their predisposition to given forms of conduct. However, temptation is undoubtedly there.

The classic *dice game* illustrates this point (Fischbacher and Föllmi-Heusi, 2013). In that game, individuals are asked to roll a single die in private—so only they know the results—a certain number of times. They receive a payment based on the values they report having obtained. Typically, they are paid more for higher numbers, which creates an incentive to report higher numbers. This enables researchers to—roughly—measure individual integrity. Since each face in the die has the same probability of coming up in every roll, as the number of times a given individual rolls the die increases, the average number obtained per roll will converge to 3.5. If an individual report more than 3.5 per roll after throwing the die several times, it is likely that they are lying, and that probability is higher the higher the number they report.

The evidence presented by these authors, and by multiple researchers that replicated this measurement strategy, shows that individuals tend to lie about the number they get in order to get paid more (Hanna and Wang, 2017). However, it is interesting to note that individuals do not take their lies to the extreme to maximize their earnings. According to Mazar, Amir and Ariely (2008), this happens because people want to be honest, but dishonesty pays and the situation causes cognitive tension. In the end, people tend to be dishonest enough to draw material gain, yet honest enough to convince themselves of their own integrity. After conducting a variant of this experiment in several countries, both on students and on populations that were more representative of society at large, Mann, Garcia-Rada, Hornuf, Tafurt and Ariely (2016) concluded that the level of dishonesty is similar in all countries and that there is no correlation between that dishonesty and economic performance indicators, cultural values, or variables that reflect the incidence of corruption.

In real-life scenarios, there is also evidence that financial incentives can cause dishonest conduct among common citizens. In their research on tax evasion in Denmark, Kleven, Knudsen, Kreiner, Pedersen and Saez (2011) showed that evasion levels were substantially higher in occupations where income was self-reported, in which reports were not subject to cross-checks with information submitted by other institutions—like financial ones—to the tax authorities. At the same time, reports tend to approach reality when faced with the threat of a tax audit.

A similar pattern can be observed in Brazil. In an analysis of public procurement in Brazilian municipalities, Zamboni and Litschig (2018) found two modalities for contracting. Highly discretionary ones restricted the number of competitors and made it possible to choose from a closed list of candidates. These included direct awarding of contracts, restricted bidding and bidding among pre-registered suppliers. Less discretionary modalities included various types of auctions that did not restrict participation. These authors found that the incidence of corruption was almost twice as high in the first group as in the second group.

## Especially vulnerable tasks

These examples indicate that there are certain areas in public administration that are particularly prone to malfeasance. They include public procurement, an area that attracts a large amount of resources—approximately 3% of GDP in Latin American countries (CAF, 2015b), which are channeled from government agencies to private sector suppliers through the acquisition of goods and services. Furthermore, the large number of transactions and actors in charge of performing them may make it more difficult to manage and supervise those transactions. This is why any integrity agenda must prioritize this issue.

The contracting of public works is especially risky, for three main reasons. The first is that these contracts usually involve a lot of money. The second is that verifying the quality of every detail in the execution of public works is very difficult, which leaves plenty of opportunities for rent-seeking by using lower-quality materials and processes. The third is that there are barriers to entry for large contracts, as firms are often required to meet conditions in terms of experience and financial capacity. That lack of competition among firms makes rent capture easier, as explained in Box 2.2.

### Box 2.2

#### The close relationship between competition and integrity

The lack of competition creates rents that increase the profits of powerful companies in any given market. Therefore, firms that manage to gain influence over policy decisions tend to use it to restrict competition and increase market concentration in their own favor, which creates rents that can be used to buy further influence over policy, in a process in which exclusionary markets and policy capture reinforce each other. In a competitive context, companies would be worse placed to pay bribes without incurring losses (Ades and Di Tella, 1999; Klitgaard, 1988). At worst, when corruption becomes systemic, public officials have incentives to affect market structure—for instance, by imposing major barriers to entry—with the aim of extracting a portion of the rents that are created (Amir and Burr, 2015).

Encouraging competition among firms in all markets—particularly those where the state acts as a buyer—must be a pillar of any integrity agenda.

The management of rents that stem from the exploitation of natural resources is another vulnerable area (Brollo, Nannicini, Perotti and Tabellini, 2013; Vicente, 2010). This is true for at least two reasons. On the one hand, there is evidence to suggest that natural resource wealth can erode governance and institutional quality—for example, by reducing efforts to consolidate fiscal institutions that promote sustainable public finances.<sup>5</sup> Further, extractive industries are precisely the kind of economic activity with very little competition, which exacerbates the risk of corruption.

5. The term *natural resource curse* is often used when discussing the correlation between high rents from extractive industries and poor economic performance, worse political institutions (and governance indicators), and higher incidence of violent conflict. For an analysis of this issue, see Frankel (2010).

**Threats to integrity do not emerge exclusively when there are massive rents on the line. Risks also exist on a smaller scale, in private citizens' daily interactions with the state.**

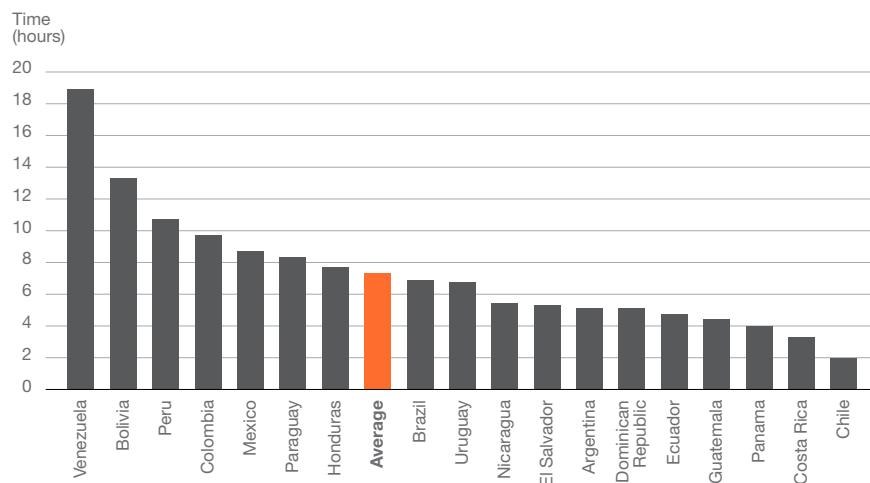
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However, threats to integrity do not emerge exclusively when there are massive rents to be extracted. Risks also exist on a smaller scale, including private citizens' daily interactions with the state. When there is a lot of red tape involved in administrative procedures that individuals must complete, this can give public officials too much power. Long and cumbersome procedures pave the way for bribes to be taken by people with the power to accelerate them. This, in turn, biases service provision against individuals with less resources.

In some countries, the average administrative procedure takes a long time. According to a survey conducted by Corporación Latinobarómetro (2017), citizens in six Latin American countries believe that administrative procedures at government facilities—such as requesting documents, applying to social programs or services, completing paperwork to buy and sell goods, paying taxes, and formulating complaints—take at least 8 hours on average (see Graph 2.1). However, there is significant variation within the region. Such procedures take the longest in Venezuela, and they are fastest—only 2 hours on average—in Chile.

### Graph 2.1

Time required to complete an administrative procedure in Latin America



Note: This graph shows the average time required to complete an administrative procedure at a state facility in different Latin American countries. The simple mean across countries is also calculated and reported. More details about the data are provided in the Appendix (p.219).

Source: Prepared by the authors, based on data from Latinobarómetro (Corporación Latinobarómetro, 2017).

**The longer an administrative procedure takes, the higher is citizens' perceived likelihood of gaining advantages through bribes.**

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Roseth, Reyes and Santiso (2018) showed that, in almost all Latin American countries, administrative procedures are slow, and prone to small acts of corruption. Indeed, 20% of all Latin Americans admit to having had to pay bribes at least once to secure a government service (Corporación Latinobarómetro, 2016). The same data also shows a positive correlation between two factors: how long a standard procedure takes on average, and the perception of survey respondents about the likely effectiveness of bribing a public official to secure a benefit (Graph 2.2).

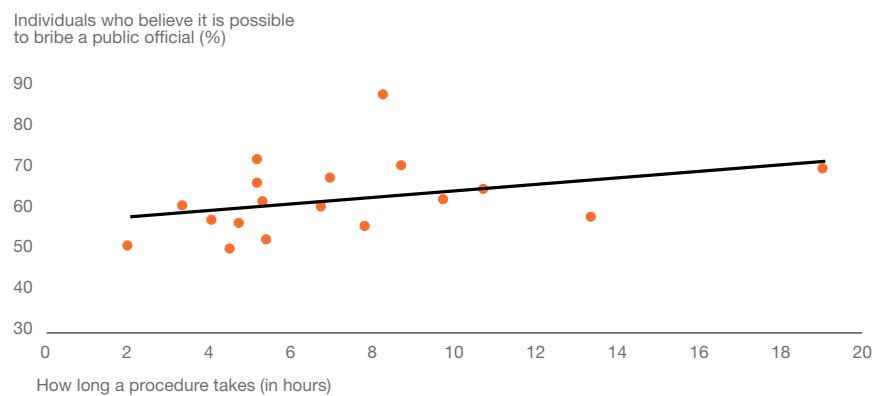
**20%**

of all Latin Americans  
admit to having had to pay  
bribes at least once  
to secure a service from  
the government

Various initiatives can diminish the risks associated with excessive discretion among public officials. These initiatives will vary depending on the task at hand. As a general rule, reforms should be oriented towards simplifying processes and tasks, and increasing information flows to facilitate cross-checking and accountability. The potential of technology —and digital tools— to encourage these changes is increasingly clear.

### Graph 2.2

Time taken to complete an administrative procedure and perceived corruption in Latin America



Note: This graph shows the correlation between the percentage of individuals who believe it is possible to bribe a public official and the average time required to complete an administrative procedure in different Latin American countries. Each dot represents a country, while the black line shows the linear regression between the two variables. Details about the data and the countries that have been used are provided in the Appendix (p. 219).

Source: Prepared by the authors, based on data from Latinobarómetro (Corporación Latinobarómetro, 2017).

## Simplifying and digitizing administrative procedures

Several Latin American countries have recently implemented reforms to simplify and digitize procedures (Querbach and Arndt, 2017; Roseth et al., 2018). Transparency and simplicity in these procedures reduce public officials' opportunities for rent extraction. The cases of Chile and Uruguay are interesting, given their scope and results. In Chile, efforts to simplify and streamline administrative procedures started in 2002, with the *Trámite Fácil* program. The *ChileAtiende* program was implemented more recently, in January 2012. In just five months, *ChileAtiende* saved Chileans more than 8,000 hours a month in administrative procedures and 30 million dollars in infrastructure, according to estimates made by the Chilean Department of Social

Security (2012). The *Chile Sin Papeleo* program—which replaced *ChileAtiende*—has received a presidential mandate to digitize certain procedures, and aims to eliminate many others. By 2013, over 60% of all procedures had been eliminated.

Uruguay created the *Agencia para el Desarrollo del Gobierno Electrónico* (currently called *Agencia de Gobierno Electrónico y Sociedad de la Información y del Conocimiento*, AGESIC), charged with developing electronic government services, in 2005. Thirteen years later, in 2018, 100% of all administrative procedures could be initiated online, and 68% could be completed electronically, with no interaction with public officials (AGESIC, 2019). Colombia, Costa Rica, Honduras, Mexico and Peru are other Latin American countries who have implemented initiatives to reduce and streamline administrative procedures—for instance, by digitizing procedures and enabling online access to information.

Simplification must include, among other aspects, the elimination of sequential procedures where a given individual interacts with several public officials in succession. In low-integrity contexts, these kinds of procedures are particularly harmful. If bureaucrats at different stages of that chain demand bribes in exchange for enabling the move on to the next stage, the individual may end up paying a lot of money, even when each single bribe is small. The results may end up being worse than if the individual had had to deal with a single corrupt public servant.

**When an official monopolizes service delivery—for example, by being the only one who can approve a procedure or set it in motion—it becomes easier to demand bribes.**

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Rent extraction from citizens becomes easier when the relevant bureaucrat monopolizes a given task—for example, when that person is the only one who can approve a procedure and set it in motion. This is why the level of competition among public officials can also impact the incidence of corruption (Rose-Ackerman, 1978). If several officials provide the same service and one of them decides to demand a bribe, the requesting citizen or company might turn to an alternative, which discourages bribe solicitation.

Thus, the organizational architecture of the bureaucracy is another useful policy tool for an integrity agenda (Burquet, Ganuza and Montalvo, 2018; Shleifer and Vishny, 1993). While streamlining and digitizing procedures help to reduce the discretionary power of service providers toward citizens, introducing horizontal competition among public officials may be a useful supplement in some contexts. However, it is worth noting that implementing this may require a larger staff, which might affect the relevant cost–benefit analysis.

## Using technology in oversight and accountability

Technology also improves access to and processing of information in government transactions. This is important both to increase transparency toward citizens and to improve accountability among state institutions. International evidence indicates that there is a negative correlation between the incidence of corruption and the flow of information concerning government transactions (Bertot, Jaeger and Grimes, 2010).<sup>6</sup>

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6. Social media can also contribute to the fight against corruption, by spreading online information about irregularities. Chapter 4 in this report addresses these tools.

Creating databases to record decisions and actions is a major step to improve the state's internal oversight systems. Still, the auditing capacity of the relevant authorities (as well as that of civil society) can be restricted by the difficulties of analyzing very large and constantly expanding databases.

Information and communications technologies and data science methods are useful tools to monitor state action more efficiently and to reveal potential irregularities. Public procurement systems are an area where this kind of instrument shows major potential. In that field, machine learning techniques can help identify transactions with characteristics that flag them as suspicious, which would focus auditing efforts. An example is the analysis conducted by Gallego, Rivero and Martínez (2018) using data from Colombia's Electronic Public Procurement System, which is described in Box 2.3.

### **Box 2.3**

#### Data science for accountability<sup>a</sup>

The Electronic Public Procurement System (*Sistema Electrónico para la Contratación Pública*, SECOP) is a Colombian government initiative to digitize information about all public purchases in the country, to reduce the incidence of corruption in procurement processes. SECOP not only publishes all contracts between public-sector institutions and private agents, but also includes information about the bidding process that led to that particular contractor being selected. It publishes the bids of all participants, the source of the funds involved, any feasibility studies, and detailed accounts of the awarding process, along with the dates of the call for bids, bid reception, contract award, and the start and end of each individual contract. It is a single platform through which various government institutions announce their purchases (including detailed information about the characteristics of the required goods and services), contractors submit their bids (with all required documents), and the final selection is published with details of the procedure used to select a bid. In 2015, this database included 886,242 contracts, worth almost 40 billion dollars in total.

Although all information held in SECOP is public and can be accessed online, its usefulness as an oversight tool is limited because it is difficult to use. Gallego et al. (2018) exemplified the value of machine learning applications in these contexts by using them to analyze SECOP data.

These authors started out by observing a high correlation between contracts that were granted extensions in execution deadlines and contracts that were eventually investigated for irregularities by Colombia's Comptroller General (*Contraloría General de la Nación*). From that starting point, they sought to identify variables that predict whether a contract would be granted a deadline extension. They found that the main predictors were budget size, direct awarding of the contract, and the time remaining until the next presidential election. This work shows how data processing techniques can be useful in guiding the efforts of auditing institutions.

a. This box is based on Gallego et al. (2018).

Technology also provides tools to improve human resource management within the public administration, streamlining internal processes and shutting down spaces where fraud might have thrived. The system to obtain medical leave for teachers in the Buenos Aires province is an example.<sup>7</sup> This system enables teachers (and some other workers of the Education Department) to submit their requests through a digital application, where they can upload medical certificates and send them electronically. This platform replaced a paper-based model, and comes with potential managerial improvements. The new system not only makes the procedure easier for teachers, it also notifies school principals of leave requests in real time, and enables them to plan any necessary replacements to ensure continuity inside the classroom. Further, systematic data registry means the data can be processed and any patterns suggesting fraud can be detected—including bulk submissions with the same doctor's stamp, or requests for a number of days of leave that is unusually high for a given medical condition.

### Policy lesson

Technology is a major ally in any integrity agenda. Some valuable applications include the digitization of administrative procedures to reduce power asymmetries between public servants and individual citizens, as well as the analysis of large government transactions databases to strengthen oversight.

## ***Ex-ante rules: Restrictions on the attributions of public officials***

The most natural way to eliminate excessive discretion among public officials is probably to restrict their attributions, through explicit rules and mechanisms that state what any given individual may and may not do when fulfilling their tasks. Of course, the difficulty lies in finding the right balance of such regulations.

Reducing the importance of subjective criteria in favor of clear rules can promote integrity in many contexts. Reforms to the system of royalty distribution from Colombia's extractive industries is an interesting example. That reform laid down rules and restrictions on the use of those funds, as well as supplementing the program with tools to improve oversight and transparency. Box 2.4 recounts that experience.

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7. Beyond teachers, other public officials in the Department of Education and Culture (*Dirección General de Educación y Cultura*) also use this system.

### Box 2.4

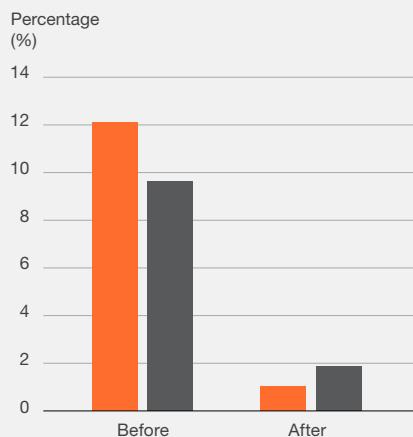
#### Colombia's General Royalty System

Until 2011, royalties obtained from extractive industries in Colombia were mainly distributed among the municipalities where those natural resources were obtained from.<sup>a</sup> Further, local governments were autonomous as to how they used those funds within several specific budget areas—education, healthcare, sanitation and policies against child mortality—but there were no oversight mechanisms in place. In this institutional context, money from those extractive activities meant opportunities for rent-seeking for public officials in local governments who received those funds. The new General Royalty System (*Sistema General de Regalías*, SGR) has been in place since 2012, and entailed major changes to the scheme that was described above. Following the reform, funds that stemmed from royalties were effectively decoupled from municipalities' mineral production—they started to be allocated based on the design by local governments of development projects that had to be reviewed and approved by the central government.<sup>b</sup> Even more importantly, under the SGR, royalty funds cannot be spent on current expenditure—including payroll—and there are strict restrictions on procurement that are very closely monitored. The SGR includes instruments for citizen participation and oversight in the execution of royalty funds, like the *Órganos Colegiados de Administración y Decisión*, OCAD.<sup>c</sup>

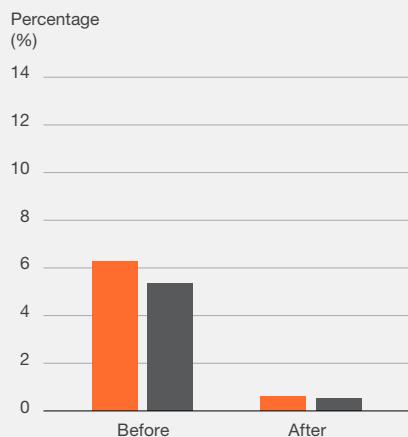
### Graph 1

Incidence of corruption before and after the General Royalty System was implemented in Colombia

**Panel A. Guilty**



**Panel B. Dismissed**



● Mineral-producing municipalities<sup>/a</sup> ● Non-mineral-producing municipalities<sup>/b</sup>

Note: This graph shows the percentage of investigations conducted by the Office of the Attorney General in which a mayor or another high official of a municipality was found guilty (panel A) or was dismissed (panel B), before and after the General Royalty System was implemented in Colombia in 2012. Data for the period 2000–2015.

a/ Municipalities above the 95th percentile of the distribution of royalties.

b/ Municipalities above the 95th percentile of the distribution of royalties.

**Source:** Prepared by the authors, based on data from Martínez (2016).

In this context, the incidence of corruption in Colombian municipalities is examined based on data provided by Martinez (2016) and information contained in reports of the office of the Attorney General (*Procuraduría General de la Nación*, PGN). Panel A in Graph 1 shows the percentage of PGN investigations where the mayor or a member of her cabinet had been found guilty of corrupt practices. Before the reform was implemented, that percentage was higher in municipalities where natural resources were extracted—those above the 95th percentile in royalty distribution—than in municipalities without natural resources, which indicates that royalties were a source of irregularities. Following the reform, that percentage fell significantly, in line with a new institutional design aimed at mitigating the incidence of corruption. The drop was bigger in municipalities that produced natural resources, where the percentage of PGN investigations where the mayor or a cabinet member had been found guilty of corruption fell from 12% to 1%. The percentage of investigations that led to the arrest of a public official (panel B) went from 5.3% to 0.4% in municipalities who did not produce natural resources, and from 6.2% to 0.5% in municipalities who did produce them.

- a. In 1995–2010, Colombia's eight mineral-producing departments—with 17% of the country's population—received 80% of all royalties.
- b. Following reform, this information is available in the Mapa de Regalías, an interactive map that is available online. It was developed to promote transparent management of extracting activities and the royalties associated with them. This tool includes georeferenced data of all royalty-funded projects registered with the National Planning Department (Departamento Nacional de Planeación), including the project's estimated budget, the funds obtained from each source, the resources that have been executed, and the value of all liquidated royalties.
- c. These are institutions responsible for deciding what projects should be funded with SGR resources. They also appoint and supervise whoever oversees executing the funded projects, and they flag all irregularities. They involve a collegiate body comprising two senators and two members of the lower house of Congress, as well as one representative of Afro-Colombian communities and one representative of indigenous communities (in departments with such minorities). OCAD members change every year.

The risk is that *ex-ante* rules may not be designed clearly enough or may be too restrictive, which could distort the decisions of officials. Several cases involving public procurement systems illustrate this.

Defining the available procurement methods is one of the crucial elements of procurement systems. Reverse auctions, framework agreements, and estimated value are some of the most commonly used methods. In reverse auctions, the buyer selects the lowest price proposal, after reviewing a detailed description of the good or service in question. With a framework contract, a public-sector institution may purchase the good or service it seeks from a catalogue of suppliers that has been preselected by the institution in charge of supervising state procurement. In an estimated value auction, certain technical criteria and the market conditions are examined to calculate a reference or maximum value that may be paid for a given good or service, and that value is then used to assess bids (CAF, 2015b).

Beyond defining methods, certain tools are developed to facilitate their implementation. Countries usually have national procurement agencies who supervise purchases and define the relevant rules. The region has also followed the global trend of creating electronic portals for public procurement, many of which may be used to complete transactions. These platforms can potentially streamline processes and make them more transparent.

Some methods clearly involve more automatic decisions and leave less room for discretion in the choices of purchasing institutions. However, they reduce flexibility to compare multiple characteristics of any given product or supplier,

and are therefore more suitable for highly standardized goods or services. For example, framework agreements enable agile transactions with previously validated suppliers, but they are only useful when the buyer wants a product with very clear predefined features.

Public officials tend to prefer methods that give them more flexibility, and those tend to be the most discretionary. For instance, a common arrangement in procurement systems involves establishing thresholds where the methods required for transaction change. When the amount involved in a contract exceeds the threshold, further demands are introduced to the process (e.g. requiring open bidding instead of direct awarding). In such contexts, contracts tend to bunch just below the threshold. This is a sign that contracts are designed to purposefully avoid the most demanding requirements.

The motivation of public officials and procurement departments to prefer methods that allow them greater discretion may be linked to wrongdoing. However, there are other likely reasons, and these may even be more important. If a public official wants to benefit a friend's company, that will be easier to achieve with direct awarding than in an auction. However, there are legitimate reasons to prefer more discretionary formulas, having to do with a genuine demand for simpler, less time-consuming processes.

Different aspects of institutional design may distort agencies' procurement decisions. Recent research by Gerardino, Litschig and Pomeranz (2017) found that Chile's audit system subjects auction processes to much tighter scrutiny than directly awarded contracts. Consequently, both agencies and public officials who purchase products and services in auctions face a higher probability of being investigated for minor or purely formal non-compliance. In consequence, officials avoid auctions, which ends up increasing the number of direct allocations even without corrupt intentions.

**Public officials usually prefer working under conditions that allow them to fulfil their tasks in more agile ways, which usually imply more discretion in decision-making.**

### Policy lesson

In order to promote the use of less discretionary formulas in decision-making—like open bidding for public procurement—it is necessary to make them less cumbersome and time-consuming for public officials. Still, it should be acknowledged that all institutional arrangements will leave some room for officials to maneuver to make more subjective decisions—for example, by setting contract values or claiming exceptional conditions.

Empirical research shows that public officials tend to prefer the most discretionary procurement methods, but it is only in certain contexts that these methods are associated with wrongdoing. A study that focused on Hungary found that direct allocations were associated with overpricing and contracting with politically connected firms (Szucs, 2017). Different research focused on Italy found that discretionary contracts did not worsen the results of procurement processes, and might even improve them. As Covello, Guglielmo and Spagnolo (2018) concluded, the negative and positive effects of discretion were only relevant to some extent, and the important question is which effect dominates in different institutional contexts.

## The limits of prior rules, and the need for oversight after the fact

Two lessons can be learned from this discussion. First, in order to promote the use of less discretionary formulas like open bidding, it is necessary to invest in making them less cumbersome and time-consuming.

Second, it must be acknowledged that all institutional arrangements will leave some room for public officials to maneuver—for example, by setting contract amounts or citing exceptional conditions that enable them to make more subjective decisions.

This is why *ex-ante* rules concerning the attributions of public officials are usually not enough to prevent acts of corruption. If they are well designed, rules that restrict the actions of officials can be useful. However, any agenda to promote integrity must highlight the role of *ex-post* audit mechanisms. Indeed, prior rules should not be considered an alternative to the oversight of decisions and actions after they take place. If there are institutional weaknesses that make it impossible to investigate and punish acts of corruption, further nominal bans on the actions of individuals and organizations are unlikely to be effective.

### Policy lesson

*Ex-ante* restrictions on the attributions of public officials must not be seen as substitutes for *ex-post* oversight. Mechanisms to control and sanction malfeasance after the fact need to be strong enough to deter acts of corruption.

Investing in audit mechanisms must be a priority when adopting an approach based on autonomy without impunity. That is, institutions must discourage public officials from abusing their discretion, while at the same time relaxing rules that restrict their actions too much. This is important to avoid slowing down the state's ability to act. Box 2.5 provides an overview of the value flexibility to state actors.

### Box 2.5

#### The value of public official's autonomy

Rules to restrict the actions of officials are a double-edged sword. If they are too stringent, they may prove counterproductive for the performance of the publicsector.

Bandiera, Prat and Vallett (2009) argued that having too many rules in place may cause *passive waste*—that is, protocols and regulations to make certain decisions may be so demanding that resources are used inefficiently to formally comply with those rules. Passive waste differs from *active waste* in that the former is not a product of public officials' search for personal benefits, but rather of very intricate processes—very often designed to prevent wrongdoing—that increase organizations' operating costs. While it is not corruption, passive waste also harms state capacity.<sup>a</sup>

A certain degree of autonomy, and of legal room to exercise common sense, are necessary for public officials to be able to adjust their actions to specific scenarios and to adapt to changes in the context in which they work, or to apply their personal knowledge of the advantages of working with certain suppliers in specific situations. For example, Coviello, Moretti, Spagnolo and Valbonesi (2018) found that, in Italy, discretion in contract allocation—associated with processes where the official in charge of procurement decides what suppliers to invite to a closed auction instead of being forced to allocate contracts through open bidding—makes public procurement more efficient, because it enables the development of long-term relationships between buyers and suppliers.

Indeed, rigidity concerning the conduct and actions of officials may lead them to make unfair or inefficient decisions. Further, having too many rules implies a certain degree of mistrust towards officials, who can respond negatively, lowering motivation and affecting performance. Finally, low levels of autonomy can also discourage an interest in the public sector among qualified individuals.

The little empirical evidence on these issues supports the premise that granting public sector employees flexibility and autonomy to make decisions is in fact valuable. Research on management practices in civil-service institutions in Ghana (Rasul and Rogger, 2018) and Nigeria (Rasul, Rogger and Williams, 2018) found that higher levels of autonomy were associated with better results, in terms of management and completion of public infrastructure projects.

a. As an example of tightly regulated processes, Bandiera et al. (2009) noted that the document establishing the specification of chocolate cookies purchased by the US Army is 26 pages long.

## ***Ex-post oversight: the deterrent power of audits***

Audits conducted by centralized institutions can be an effective accountability strategy, even in low-quality institutional contexts (Olken, 2007).<sup>8</sup> Dye and Stapenhurst (1998) suggested that supreme audit institutions are the cornerstone of integrity in public service and in politics in all countries. This section addresses in detail the capacity of audits to fight corruption.

In a democracy, the separation of powers is the single most crucial institutional component of the system of checks and balances, and therefore of oversight and accountability among the branches of government. In practice, however, the legislative branch very often lacks both the institutional mechanisms and the technical ability to audit the executive and to ensure that officials abide by the law (O'Donnell, 1998). This is why having independent, specialized institutions with a specific mandate to monitor (and perhaps punish) irregular actions committed by public officials is essential for any democracy, and for institutional credibility and good governance (Dye and Stapenhurst, 1998).

**Independent,  
specialized institutions  
with a specific mandate  
to monitor public  
officials are essential  
for the system of  
checks and balances  
in any democracy.**

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8. This capacity seems not to be replaceable with citizen participation mechanisms, since the latter can be co-opted by corrupt elites.

From a normative perspective, these auditing agencies must focus mainly on producing information about the activities and finances of state agencies, in order to either punish or reward their own accord or provide other actors—such as the judicial system, or voters—with the evidence they need to take appropriate punitive measures (Hidalgo, Canello and Lima-de-Oliveira, 2016). Essentially, effective audits can discourage potentially dishonest acts by identifying and revealing corrupt conduct.

In practice, however, audit agencies differ in their will and ability to identify and punish violations of the law, or to provide other institutions with relevant information.

Since the late 1980s, Latin American countries have made major efforts to create and strengthen a broad set of agencies charged with oversight, supervision and sanctioning tasks. These agencies are the institutional basis for the capacity to monitor and audit public service in the region.

A comparison between countries shows significant variations both in terminology and in institutional arrangements. Agencies include *Contralorías*, *Procuradurías*, *Defensorías*, *Fiscalías*, *Sindicaturas*, and *Auditorías*, among others, and they have varying degrees of independence in different countries. This is evident in the political, administrative, budgetary, and functional autonomy each of those institutions enjoy.

## Lessons on audit effectiveness

An initiative whose effects on corruption have been widely researched is the random audit program (*Programa de Fiscalização por Sorteios Públicos*<sup>9</sup>) implemented by Brazil's federal comptroller's office (*Controladoria Geral da União*, CGU) since 2003. The program involves detailed audits of public accounts in the country's small and medium-sized municipalities (with fewer than 500,000 residents). Approximately every three months, 60 municipalities are selected in a public lottery to be audited. When the CGU finds irregularities, it publishes a detailed report online and sends its findings to the public prosecutor's office—the institution in charge of enforcing the legal framework at both the federal and state level, with the power to criminally prosecute public officials—and also to the federal police and the federal court of auditors (*Tribunal de Contas da União*) (Avis, Ferraz and Finan, 2018). Mayors who have engaged in corrupt conduct, according to these audits, may face dismissal and even criminal sentences.

The CGU acts as a quasi-judicial body, with an independent budget and a professional team led by five main advisers (*conselheiros*). Beyond the audit program, the CGU delivers regular training sessions for federal, state and municipal public officials on issues concerning risk management and integrity, and it publishes booklets on similar topics. These issues are assessed in annual audits which supplement the audit program described above. The results of this assessment are published online, in what the CGU calls an integrity panel.

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9. Currently known as the *Programa de Fiscalização em Entes Federativos*.

In 2009, in order to assess whether a higher probability of being audited had a deterrent effect on the extraction of illegitimate rents by local governments, the CGU increased to 25% the probability that an audit would be conducted in 120 randomly selected municipalities. This meant a five-fold increase in the initial probability of an audit in those municipalities, which stood approximately at 5%. The affected mayors were informed of their increased probability of being selected. The percentage of public contracts and the amount of funds involved in irregularities in those municipalities subsequently fell by 47% and 56%, respectively (Zamboni and Litschig, 2018). This drop was partly due to the fact that mayors who faced a high probability of being audited requested fewer discretionary resources—usually the most problematic—from the federal government (Ramos, 2018). Box 2.6 summarizes the main findings.

**In municipalities where the probability of being subjected to an audit increased, both the percentage of public contracts and the amounts of funds involved in irregularities fell.**

What explains the deterrent effect of the audits conducted by the CGU in Brazil on corruption? An essential element of the Brazilian experience is that the CGU shares its reports with federal public prosecutors, the federal police, and the federal court of audits. Thus, the evidence found by auditors can lead to exemplary punishments for the affected politicians. Audits reduce corruption by 8%, mainly because they increase by 20% the probability that corrupt officials face legal action (Avis et al., 2018).

Beyond potential criminal punishment, Ferraz and Finan (2008) showed that publicizing CGU findings on the Internet and on local media allowed voters to punish corrupt politicians at the polls when they seek reelection.

## Box 2.6

### Tying oneself to the mast to escape temptation<sup>a</sup>

In Brazil, municipal governments have limited budgets, which are often not enough to fund public works. This is why they may request additional funds from the federal government, through specific agreements.

These transfers—which can amount to a high proportion of the local budget—are highly discretionary, and they are consequently vulnerable to irregular use. The risk is particularly high for transfers from the Ministry of Cities. These are almost exclusively used for the procurement of public works and low-income housing, which are prone to corruption.

In this context, Ramos (2018) assessed the effect of an increase in the probability of being audited on requests for resources submitted by municipalities to the Ministry of Cities. Ramos argued that, faced with the prospect of an audit—which, if it shows evidence of malfeasance, might entail disciplinary, criminal and electoral sanctions—mayors opt to escape the temptation of handling discretionary resources and request fewer funds. To prove this hypothesis, the researcher compared the change in requests for funds among *treatment municipalities*—those for whom the probability of being audited was increased to 25%—and *control municipalities*—those for whom the probability of being audited remained at approximately 5%.

Panel A in Graph 1 presents results that are consistent with the hypothesis. The vertical line shows the moment when the CGU sent letters informing treatment municipalities of the increase in their probability of being audited. Treatment and control municipalities requested similar amounts of funds from the Ministry of Cities and followed the same trend before that moment. After receiving the news, however, treatment municipalities requested—on average—approximately 30% fewer funds than control municipalities.

As expected, the CGU letter had no impact on the request for funds from other ministries, which are much less likely to be used illegally. Panel B in Graph 1 shows how requests for funds from the ministries of health and education were the same for treatment and control municipalities, both before and after the letter was sent out.

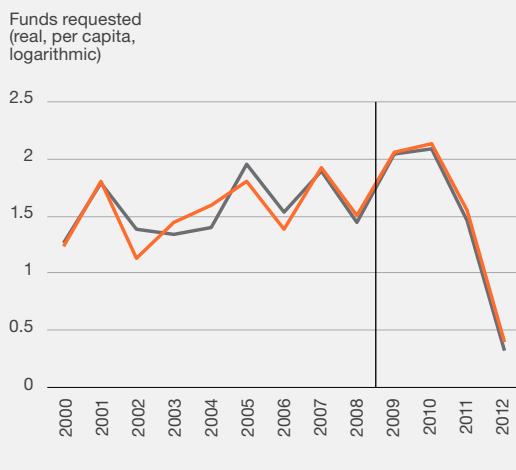
### Graph 1

Change in the amount of funds requested, depending on the probability of an audit

**Panel A. Ministry of Cities**



**Panel B. Ministries of Education and Health**



Note: This graph shows the amounts of funds requested from the Ministry of Cities (panel A) and the Ministries of Education and Health (panel B) for two different groups of municipalities in Brazil. The vertical line shows the moment when the probability of being audited increased for treatment municipalities.

a/ Control municipalities, where the probability of an audit remained constant, at approximately 5%.  
 b/ Treated municipalities where the probability of an audit increased to 25%.

**Source:** Prepared by the authors, based on data from Ramos (2018).

Additionally, the effect was almost twice as large in municipalities that had previously been audited in the CGU lottery. This suggests that the deterrent effect was stronger in places that had previously experienced the consequences of an audit. This effect was also greater for mayors whose campaigns had received funds from construction firms, which probably demanded compensation in the form of contracts.

a. This box is based on Ramos (2018).

Other countries, including Mexico and Puerto Rico, have programs that are similar to the CGU's. In Mexico, the *Auditoría Superior de la Federación* (ASF) is an independent body that, since 1999, has been in charge of auditing municipalities' use of federal government funds, which may be a major portion of the municipal budget. The ASF may autonomously fine wrongdoers, and its independence is enshrined in the constitution. It can also recommend that judicial authorities impose disciplinary sanctions or criminally prosecute public officials found to have engaged in acts of corruption.

Puerto Rico has an independent body that periodically audits municipal governments. As in Brazil, its findings are published and widely publicized on the radio. However, several elements differ in the design of both programs. For example, in Puerto Rico, municipalities that are to be audited are not selected at random—instead, there is a pre-established order.

Bobonis, Cámara Fuertes and Schwabe (2016) assessed the effects of these audits by comparing municipalities that were audited before and after elections. These researchers estimated that audits before elections reduced the incidence of corruption by 67%. This shows how important timeliness is for audits, which should be conducted and produce information at relevant points in time (in this case, before elections). Audits also increase the reelection rate among mayors in those municipalities. However, these authors also found that results were short-term, and that subsequent audits did not reveal any differences in the prevalence of corruption. This conclusion contradicts the findings in the Brazilian case, where the deterrent effect of audits was found to be persistent.

How could this divergence be explained? The answer could lie in the predictability of audits, which leaves room for public officials to behave strategically. The institutional design of the Puerto Rican program enables mayors to anticipate audits and ensure they do not commit any irregularities in the relevant period, to avoid being exposed ahead of an election. This improves their reputation (and popularity), and therefore their electoral prospects. Once the election is over (and they have won it), however, the threat of an audit vanishes, and wrongdoing again rises to its original levels. These results are interesting due to their policy implications—audits that can be predicted and do not persist over time fail to discourage corrupt conducts in the long run.

### Policy lesson

Predictability and low frequency restrict the effectiveness of audits. For them to have deterrent capacity, the threat of being subjected to audits must be constant, because they are recurring or unpredictable.

The findings of Di Tella and Schargrodsy (2003) for Buenos Aires public hospitals are consistent with this observation. These authors examined the effects of a campaign in 1996–1997 in which the city government audited all public hospitals to gather information about the prices paid for basic homogeneous supplies, such as ethyl

alcohol. Given product homogeneity, these comparisons allow quite an objective estimate of corruption, in the form of overpricing in procurement contracts.

These authors found that the price paid for basic supplies fell by 15% in the first few months of the program (when the probability of being audited was at its highest). After 10 months, however, the price of supplies increased (although it did not bounce back to the price before the program). Again, for audit schemes to be successful, it seems essential that they represent a persistent, unpredictable threat.

## Institutional capabilities for higher effectiveness

The above discussion suggests that audit effectiveness in the fight against corruption will depend on several factors. First, there must be a long-term institutional commitment, as well as robust agencies with a clear mandate to implement the integrity agenda.

Second, the deterrent effect of audits will depend on the credibility of the institutions in charge, and on their coordination with other investigative and sanctioning instances, so that their findings can effectively lead to legal and disciplinary proceedings against corrupt officials.

Third, it is essential for auditing institutions to be independent. The Brazilian case illustrates this. Its structure creates variation in the degree of political independence of auditors, since they are chosen using different rules. Some auditors are appointed by the state governor or the state legislature, with few restrictions. Others are appointed by the governor from a shortlist of career civil servants. A final group of auditors are hired for their positions—as stand-ins—in open, competitive processes, without interference from either the executive or the legislature.

Independent auditors—i.e. those coming open, competitive processes—report irregularities most often. By contrast, the frequency with which irregularities are reported drops by 18% when the relevant auditor has been appointed by a politician without restrictions, and that difference increases to 40% when the auditor belongs to the ruling party (Hidalgo et al., 2016). More generally, panel B in Graph 2.3 shows that there is a positive correlation between the percentage of independent auditors and the rate of irregularities found in a given state. These results highlight the importance of ensuring the independence of public officials through meritocratic selection and promotion mechanisms, an issue that will be discussed in greater depth in Chapter 3 of this report.

**Public officials keen on extracting illegitimate rents learn from the institutional context and can replace some corrupt practices with others.**

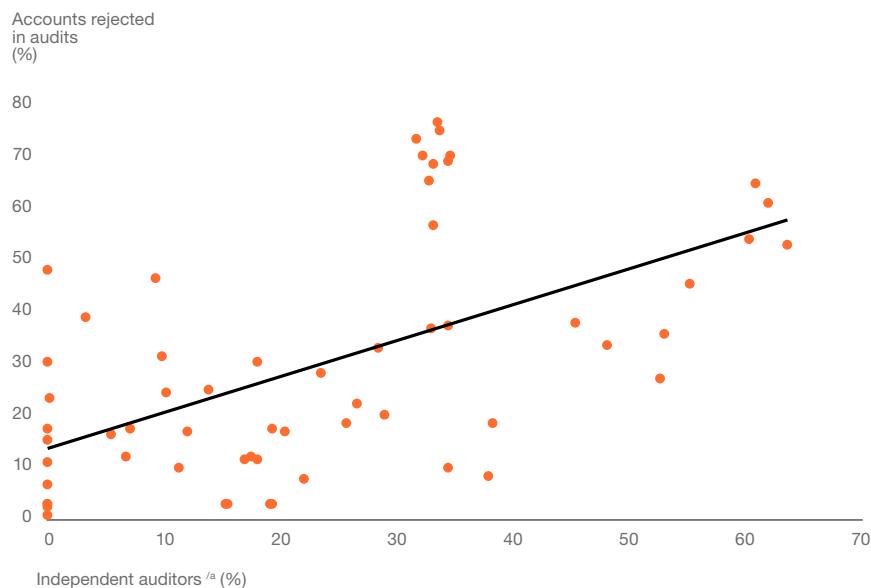
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Fourth, oversight institutions must remain vigilant—corruption may take new forms, and they will need to adapt their detection processes accordingly. There is evidence that public officials who seek illegitimate rents learn from the institutional context and can substitute some corrupt practices with others. In Indonesia, for instance, one program that increased efforts to audit local construction projects found that, while it achieved significant reductions in accounting irregularities, there was a simultaneous increase in the incidence of contracts granted to relatives of the people in charge of those projects (Olken, 2007). This suggests that some

officials' efforts to extract resources are transformed, but do not disappear. Box 2.7 presents additional evidence of this phenomenon.

### Graph 2.3

Relationship between the type of auditor and the irregularities they find in audits



Note: This graph shows the correlation between the percentage of municipal accounts that are rejected (due to irregularities) based on audits and the percentage of independent auditors in six Brazilian states (Bahia, Maranhão, Minas Gerais, Pernambuco, Rio de Janeiro, and Rio Grande do Sul). Each dot represents a state in a given year of the period 2000–2009, while the black line shows the linear regression between the two variables.

a/ Auditors who have not been appointed by political institutions.

**Source:** Prepared by the authors, based on data from Hidalgo et al. (2016).

To summarize, the success of institutions charged with ensuring financial and administrative integrity in the public sector through audits depends on a set of attributes linked to their stability, independence, level of cooperation, capacity to learn and adapt, as well as on their credibility (Dye and Stapenhurst, 1998). Properly functioning justice systems are an essential complement for these institutions to play an effective deterrent role.

#### Policy lesson

Four essential conditions of effective auditing institutions are: sustained institutional commitment, credibility, independence from political criteria, and the ability to learn and adapt.

**Box 2.7****Focused monitoring and the substitution of corrupt practices<sup>a</sup>**

In contexts where individuals have been charged with several tasks, increasing the monitoring intensity over some of those tasks—but not all—may change their behavior. In particular, when someone seeks to extract rents for their own personal benefit, they may stop doing it in tasks that are being heavily monitored while increasing rent extraction in other tasks. This means that partial auditing mechanisms have limited impact.

Blanco and Vargas (2019) illustrated this point in the context of a lab experiment. In it, participants were asked to complete two tasks. The first one involved solving sums of five two-digit numbers for 5 minutes. They then had to report how many sums they had solved correctly, and they received USD 0.70 per correct sum. The second task involved rolling one die 40 times in private and writing down the results of every roll. Participants received a payment depending on the numbers they obtained from their rolls.

In both tasks, they had an incentive to report artificially high numbers to get more money. However, participants were informed that 20% of them would be audited after completing the first task, so that the real number of correct sums would be compared with their self-report. If those numbers differed, payment would be based on their real performance, and that participant would not be allowed to move on to the second task.

After the first round, individuals who were found—in an audit—to have lied while reporting the number of correct sums were excluded from the exercise. All other participants went on to a second round that was just like the first one, with one exception: they were informed that everyone would be audited after completing the first task. This experimental design enables researchers to examine the effect of a campaign to monitor one task on behavior in a second task which is impossible to monitor. The authors found that, in the second round, participants reported numbers in the die-roll task that were 33% higher than those they had reported in their first round. Tighter auditing of the first task increased dishonesty in the second task. These results confirmed the intuitive hypothesis that agents can adapt to the institutional context by looking for new rent-extraction mechanisms.

a. This box is based on Blanco and Vargas (2019).

## Justice systems

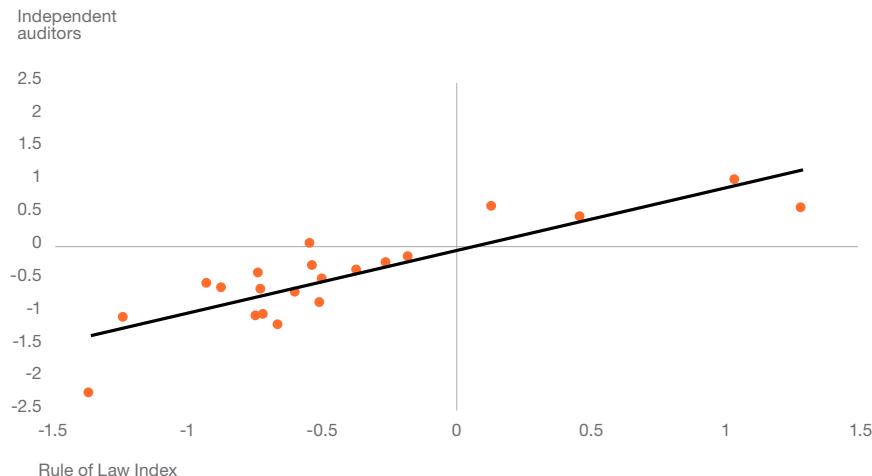
**There is a strong positive relationship between the rule of law—guaranteed by an effective legal system—and control of corruption.**

An essential link in the accountability chain to promote integrity involves the legal system, which ultimately defines the ability of any given society to enforce the law and punish people who violate it. An independent, effective judiciary helps to contain potential abuse of power, encourages respect for human and civil rights, and promotes economic development by protecting property rights (DeShazo and Vargas, 2006). As previously noted, one crucial reason why the CGU's lottery-based audit program has managed to reduce the incidence of wrongdoing in Brazil involves a substantial increase in the probability that audited officials will face legal sanctions (Avis et al., 2018).

Graph 2.4 shows, for Latin American countries, the correlation between measures of the rule of law and control of corruption, taken from the Worldwide Governance Indicators (World Bank, 2018c). There is a strong positive correlation between the rule of law—guaranteed by an efficient legal system—and control of corruption.

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**Graph 2.4**  
Control of corruption and the rule of law in Latin America



Note: This graph shows the correlation between the Control of Corruption Index and the Rule of Law Index for different Latin American countries, for the year 2017. Both indices range from -2.5 to 2.5. Higher values mean more control of corruption and more rule of law. Each dot represents a country, while the line shows the linear regression between the two variables. Details about the data and the countries included are provided in the Appendix (p. 220).

Source: Prepared by the authors, based on data from the Worldwide Governance Indicators (World Bank, 2018c).

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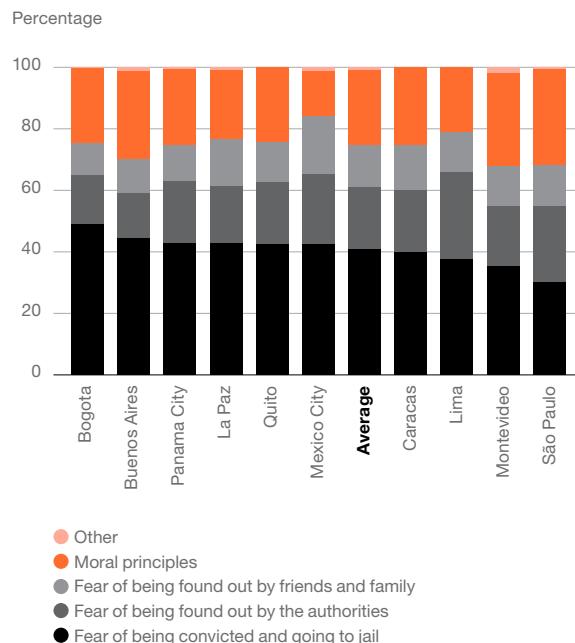
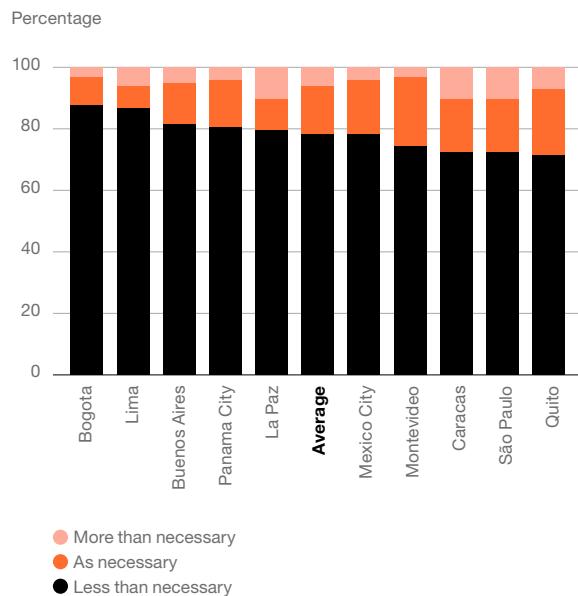
The opinions of Latin Americans seem to agree with the notion that the rule of law is important to promote integrity. Based on ECAF 2018, panel A in Graph 2.5 reports the answer to a question on why individuals opt not to engage in corrupt practices. In all the cities that were surveyed (with the exception of São Paulo), most respondents thought that the main deterrent of corrupt conduct was fear of being convicted and going to jail—that is, the effectiveness of the legal system. On average, about 40% of Latin Americans share that view (CAF, 2019).

**80%** of all Latin Americans believe that judges punish corruption less than they should

However, almost 80% of respondents believe that judges punish corruption less than they should (panel B in Graph 2.5). This reflects a certain crisis of confidence and suggests that—at least based on citizens' opinions—there is still a long way to go in strengthening institutions in Latin America's legal systems (CAF, 2019).

**Graph 2.5**

Citizens' perceptions about deterrent factors for corruption and about que quality of the legal system

**Panel A. Factors that discourage corruption**

**Panel B. Do judges punish corruption?**


Note: This graph show the percentage of responses about the main factors that discourage corruption (panel A), and about perceptions of how much judges punish corruption (panel B), by city. The simple mean across cities is also reported.

**Source:** Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

The mere physical presence of institutions for the administration of justice can have an effect on the rule of law. In Brazil, under the current territorial organization of the justice system, larger municipalities constitute judicial districts, which implies that there are judges and public prosecutors in those municipalities. In turn, smaller municipalities are grouped together into a single judicial district whose physical headquarters are set up in one of the municipalities in the group. Litschig and Zamboni (2015) estimated that the incidence of corruption was 10% higher in the local governments of municipalities without judicial offices than in comparable municipalities with offices in their territory.

Of course, there are many factors that affect the quality of justice beyond the presence of offices. As is the case with institutions of administrative control, a few essential conditions need to be met for the justice system to function properly. The first one is independence from political and economic factors. This is linked (among other aspects) to the selection and promotion of actors, judges, magistrates and prosecutors. A second condition involves the financial and technical capacity to investigate, prepare, and process cases effectively and in a timely way.

Over the past three decades, Latin American countries have made major efforts to strengthen their ability to prosecute and adjudicate crimes. Moving from inquisitorial systems to accusatorial prosecution models based on oral proceedings is perhaps the most comprehensive reform that Latin American justice systems have undergone in recent decades. In 1994–2011, 16 Latin American countries enacted criminal justice reforms, in a process that has been described as a revolution in criminal proceedings (Langer, 2007).

These reforms did not seek to improve prosecution for crimes of corruption crimes. They sought to achieve greater efficiency in the investigation and prosecution of crimes in general, as well as to improve safeguards for suspects and reduce the incidence of arbitrary detentions.

One of the most significant changes in this regard has been the separation and definition of the responsibilities of police officers, investigators, and judges. The new system takes the police and judges out of the investigation process, which is left to public prosecutors. This means that the police has lost the ability to arrest suspects who have not been formally charged, while judges now focus on imparting justice based on the evidence presented to them by public prosecutors (Kronick, 2019).

Research on the effects of these reforms suggest that they have been moderately successful in cases involving suspects caught *in flagrante* and in promoting preliminary agreements and plea bargains, but much less so in the prosecution of crimes that require a certain level of investigation, as cases of corruption typically do (Centro de Estudios de Justicia de las Américas, 2011).

One task that remains pending in Latin America involves strengthening public prosecutors' offices to enable faster investigations. This would require, among others, building special technical teams with autonomous investigation powers, as well as developing clear protocols for investigation and for the collection of incriminating evidence.

### Policy lesson

Public prosecutors' offices must be strengthened, as well as any institution with responsibilities in the investigation of crimes, and specifically corruption cases. This requires—among other actions—building specialized technical teams and developing protocols for investigation and for the collection of evidence.

A more recent and more heterogeneous second wave of reforms has focused directly on prosecuting crimes of corruption. In many cases, reforms in this field have emerged in reaction to scandals. In some countries, past critical cases have led to an accumulation of knowledge and to the enactment of legislative changes, which have both resulted in more developed institutions (Vargas, 2019). This highlights how crises can be windows of opportunity, and catalysts for major long-term change.

Some reforms focus on refining substantive legislation and classifying conduct—for example, establishing criminal responsibility in the case of legal entities, a change whose impact will be discussed in greater detail in Chapter 5 of this report. However, procedural reform has also been very important and has provided new tools to those responsible for handling legal cases.

## Procedural reform: Leniency systems

One of the crucial procedural reforms of recent years involves the use of leniency systems in corruption cases. Brazil has been a pioneer in this respect. In 2013, legislation was passed to regulate leniency in investigations involving crimes committed by criminal organizations. Over the following years, it became a central tool to investigate cases that emerged from Operation Car Wash (*Operação Lava Jato*). The international spinoffs of that case have led other countries to also test collaboration agreements.

Although this tool is undoubtedly useful, it is important to build the institutions required to regulate its use. First, in order to be effective, collaboration needs to provide incentives for the individuals involved. The sentences contemplated in the legislation are particularly relevant—if they are too light, there will be little room to compensate collaboration.

Second, the conditions for collaboration must be very clearly defined. The final goal must be for agreements to provide investigators with new, relevant information that would be difficult to obtain any other way. Situations where all suspects become collaborators to escape punishment must be avoided, and care needs to be taken to ensure that this tool does not erode the use of traditional methods of investigation by the authorities.

Third, cooperation among various institutions needs to be strengthened. This is particularly relevant considering that many corruption cases may involve actions with criminal, administrative, and civil liabilities, which need to be handled by different entities. It is therefore very important to define the scope of any bilateral or multilateral agreements, and to coordinate the actions of the relevant institutions.

Another central aspect of the governance of leniency agreements involves explicitly stating the role of judges and public prosecutors when defining the conditions to be offered to cooperators. Judges also play a crucial role in setting clear standards for the validation of the testimonies emerging from such agreements.

Finally, it is important to underline the role of international cooperation in investigations based on plea agreements. In increasingly common cases where acts of corruption extend beyond national borders, the authorities may benefit from sharing the results of investigations across jurisdictions. However, information that has been obtained from plea agreements adds an extra complication. Testimonies that are obtained this way cannot be used to incriminate cooperators in other jurisdictions that are granted access to those testimonies. Thus, agreements to share information require that the

receiving authorities limit the use they make of it. Typically, it can be used to prepare cases against local officials involved in corruption schemes. This was a central issue, for instance, in negotiating cooperation agreements between authorities from Brazil and other Latin American countries following Operation Car Wash.

These conditions may diminish the incentives of the authorities to receive information coming from plea bargains in other jurisdictions, as it comes with restrictions on the type of legal action that may be pursued.

Finally, differences between jurisdictions concerning plea bargain practices can also cause suspects to deliberately seek the jurisdiction granting the biggest benefits to sign plea bargain agreements. Common, international standards and regulations concerning benefits and protection provided in exchange for cooperation would be very useful to counter this (Vargas, 2019).

### Policy lesson

Plea bargains are a promising procedural innovation for corruption cases, but it is important to regulate their use. This implies: clearly defining the conditions in which agreements can be made; carefully designing the incentives that are to be offered to cooperators; specifying the role of public prosecutors, judges, and other actors in the process; and improving coordination between institutions.

## Material incentives

So far, this chapter has focused on how to promote integrity using *ex-ante* rules and *ex-post* oversight and punishment for any wrongdoing. However, salaries can be a further variable that impacts officials' behavior. In theory, the relationship is clear. The higher the salary, the higher the cost of losing the position, so higher compensation should incentivize public agents to work harder and abide by the law.

However, there are other aspects to the relationship between compensation and performance. First, we might expect major differences between elected officials (politicians) and civil servants in this respect. Politicians tend to face very different working conditions from public officials —they hold office for limited, relatively short periods, with greater uncertainty concerning future career prospects, and they enjoy other benefits that are inherent to power. It is therefore very likely that salaries will offer less significant motivation for them than they do for civil servants.

Further, salaries only work as an incentive to encourage integrity when the institutional setting makes it possible to reveal and punish wrongful conduct. If oversight is too limited or nonexistent, the risk of facing financial sanctions or being dismissed vanishes, and wrongdoing no longer have financial costs.

## Salaries in the civil service

The private sector is the main employment alternative for a public sector worker in case of a dismissal. Hence, the wage gap between the public and private sectors might be a relevant proxy to measure the incentives of public officials to behave correctly and keep their job. A prediction that emerges from this observation is that, the higher the compensation in the public sector (compared to the private sector), the lower the incidence of corruption we should find.

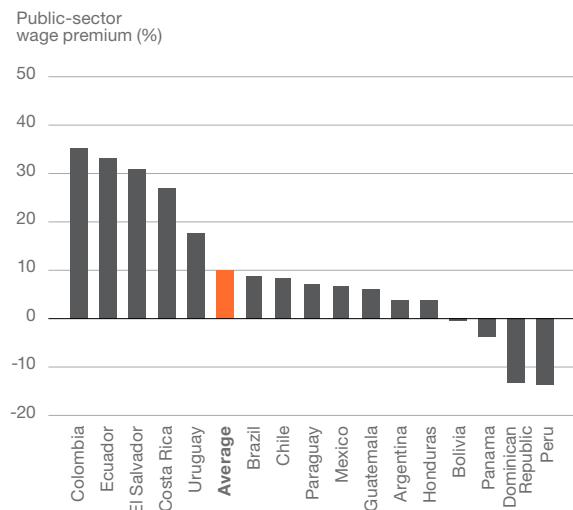
As shown in Graph 2.6, the public sector has a positive wage premium in almost all Latin American countries. This is particularly true when the public sector is compared with the private sector in general (panel B), and slightly less so when it is compared with the formal private sector (panel A). There is also significant variation among different countries. In the formal private sector, the public sector wage premium stretches from negative values in Bolivia, Panama, Peru and the Dominican Republic, to over 30% in Colombia, Ecuador, and El Salvador.

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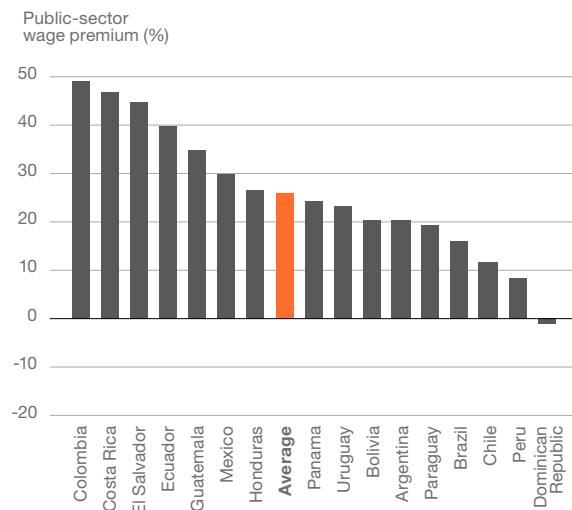
### Graph 2.6

Public-sector wage premium

**Panel A. Public sector vs. Formal private sector**



**Panel B. Public sector vs. All private sector**



Note: This graph shows the public-sector wage premium, compared to the formal private sector (panel A) and to all (formal and informal) the private sector (panel B), for different Latin American countries between 2011 and 2016. The simple mean across countries is also reported. More details about the data are provided in the Appendix (p. 220).

Source: Prepared by the authors, based on data from the Worldwide Bureaucracy Indicators (World Bank, 2018a).

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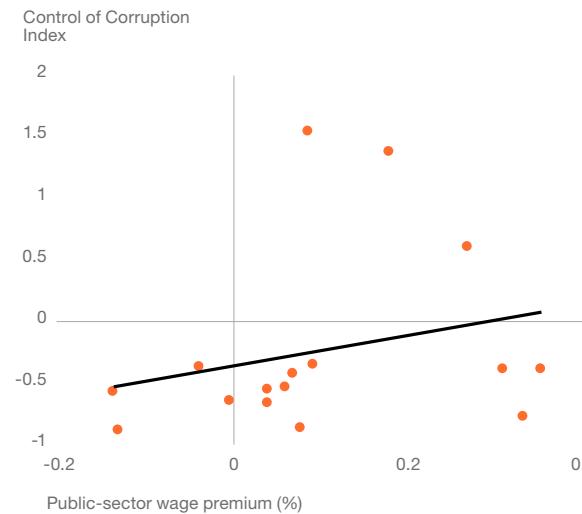
On the other hand, the correlation between the public sector wage premium and control of corruption in any given country is not very solid (Graph 2.7). It seems to be slightly positive when the premium is calculated relative to the formal

private sector (panel A), but it disappears when considering the general private sector (panel B).

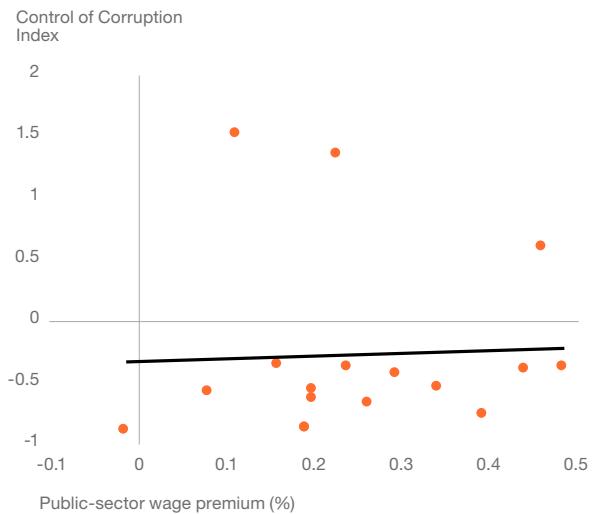
### Graph 2.7

Control of corruption and the wage premium in Latin America

**Panel A. Public sector vs. Formal private sector**



**Panel B. Public sector vs. All private sector**



Note: This graph shows the correlation between the Control of Corruption Index and the public-sector wage premium (relative to the formal private sector in panel A; and relative to all the private sector in panel B), for different Latin American countries. Higher values mean more control of corruption. Each dot represents a country, while the black line shows the linear regression between the two variables. More details about the data and the countries included are provided in the Appendix (p. 220).

Source: Prepared by the authors, based on data from the Worldwide Bureaucracy Indicators (World Bank, 2018a) and the Worldwide Governance Indicators (World Bank, 2018c).

There is no convincing evidence of direct causation between the wage premium and the incidence of corruption beyond these correlations either. More specifically, while some researchers have found that salary has an impact, this depends on the level of monitoring that the conduct of public officials is subjected to. The study by Di Tella and Schargrodsky (2003), described above, also examined whether buying overpriced hospital supplies depended on the salaries of the officials in charge of those transactions. They found that salaries were irrelevant when monitoring was strict—and any malfeasance was discovered and punished—but also when there was little oversight and the probability of being punished was almost zero. However, things changed with intermediate levels of monitoring. When the chances that wrongdoing be punished were uncertain, salaries did make a difference, with higher wages acting as deterrents of wrongful conduct.

These results suggest that the compensation level may indeed be a useful tool to promote integrity, but only when monitoring and sentencing mechanisms work properly and pose a real threat for public officials.

### Policy lesson

Relatively high public-sector salaries can incentivize integrity in contexts where wrongdoing carries a real threat of losing the job.

Beyond this, the evidence shows that compensation levels do have clear incidence on the profile of individuals who seek public-sector positions. Higher compensation attracts candidates who are better prepared in terms of skills and motivation, although studies generally do not include results concerning measures of integrity. It is important to assess these findings, in light of the data about the public-sector wage premium in Latin America. While this premium is positive on average (Graph 2.8), it shrinks—and even becomes negative—as we approach higher income levels (CAF, 2015b). That is, in some countries, high-level public-sector positions command lower compensation than equivalent private-sector positions. This can be counterproductive when it comes to attracting talent, an issue that will be discussed in greater detail in Chapter 3.

### Pay-for-performance schemes

Beyond the general compensation level, some organizations put forward pay-for-performance formulas to motivate their employees. These schemes seek to encourage more effort in conducting the tasks entrusted to employees. Since individual effort is hard to observe, payment is often associated with measures of performance—although performance generally depends both on the individual's effort and on variables beyond that person's control. Still, such measures are also very hard to obtain in many contexts, which opens the door to the main risk associated with the design of these schemes: incentivizing behavior that is not really desirable.

One typical shortcoming in the design of these schemes involves rewarding bureaucrats for the completion of specific processes, rather than for the obtention of results (Rasul et al., 2018; Rasul and Rogger, 2018). This encourages public officials to focus their efforts on processes and neglect final service provision. One example is paying healthcare professionals per patient seen, rather than for their contributions to those patients' health condition.

The main risk associated with pay-for-performance schemes involves incentivizing behavior that is not really desirable.

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Additionally, public officials tend to have multiple responsibilities, some of which are easier to measure than others. This makes the design of incentives to spur effort in desirable ways even more cumbersome (Holmstrom and Milgrom, 1991). In contexts of multitasking, compensating some tasks provides an incentive to neglect others, which can prove counterproductive if the neglected activities are important for service provision. One example would be schemes that offer police officers rewards for results in fighting certain crimes, which can make them less vigilant toward other types of criminal conduct.

Despite the need to be cautious, the empirical evidence on the effects of pay-for-performance schemes in public sector organizations is moderately positive. Hasnain, Manning and Pierskalla (2012) thoroughly reviewed the literature and

found that 60–70% of the 110 experiences they reviewed were in fact successful in encouraging effort. Successful cases were found mostly in fields where public-servant performance is relatively easy to measure, such as teaching, tax collection, and healthcare. Results were less clear for administrative and managerial occupations. Further, little research has monitored long-term effects, once public officials have had time to adapt.

Little work has been done to date on the effects of pay-for-performance schemes on integrity specifically. Integrity is not explicitly rewarded because it constitutes a basic requisite to keep the job. The main lesson here is that, when designing these schemes, it is crucial to prevent incentivizing undesirable conduct by public employees, such as fraudulent and abusive practices.

## Reelection as an incentive in politics

Salary may not be a first-order incentive in the political arena. Instead, future income and career prospects may be particularly relevant, given the greater instability and shorter horizon of elected office.

One of the concerns that emerge from this observation is that politicians might use their time in elected office to build personal networks or to favor companies in exchange for future positions. With this in mind, measures are often taken to regulate and restrict employment transitions from the public sector to the private sector, an issue that will be addressed in Chapter 5.

In any case, it is very common for politicians to try to stay in politics, and advance in their political careers. For some authors, reelection is therefore the most important incentive for elected officials.

A politician's options of seeking reelection depends on the legislation concerning term limits, which cap the number of terms an individual can remain in an office. This type of regulation prompts a trade-off.

On the one hand, politicians who can seek reelection have more incentive to remain popular than those who have exhausted their electoral options. This can encourage higher levels of integrity. For example, Ferraz and Finan (2011) showed—using data taken from the CGU audits mentioned above—that municipalities where mayors who could seek reelection presented fewer administrative irregularities than those where the mayor was term-limited. This was due to the fact that signs of corruption trigger electoral punishment once they are revealed (Ferraz and Finan, 2008).

However, term limits are set to prevent the negative consequences of entrenchment in power. The concern is that, when an individual holds a powerful position for a long time, institutional controls become eroded, as the exercise of government turns personalistic and clientelistic (Coviello and Gagliarducci, 2017). This is the reason why most political systems try to ensure a minimum level of alternation in power.

**Term limits are set to prevent the potential negative institutional consequences of a lack of alternation in power.**

The relative advantages and disadvantages of term limits will depend on the institutional context and on the characteristics of any given position. The risks of entrenchment will be comparatively higher in very powerful positions, or when the institutional context does not provide strong and effective counterweights.

**Policy lesson**

Reelection opportunities create incentives for politicians to act with integrity. However, term limits can be useful to prevent the negative consequences of entrenchment in power, especially when the institutional context does not provide strong enough counterweights.

## Keys to grant autonomy without leaving room for impunity

- 1 Decision-making mechanisms based on objective rules and protocols minimize the risk of corruption, which tends to be more prevalent in more discretionary processes.
- 2 However, restrictions to the attributions and decision powers of officials must be designed with a clear understanding of the context. Excessive and costly rules for the completion of tasks can be counterproductive, as it can lead to paralysis or incentivize officials to make disproportionate use of provisions for exceptional circumstances.
- 3 Limits on the attributions of public officials (ex-ante rules) must not be seen as a substitute for posterior control of those actions (ex-post oversight). Strengthening monitoring and sentence mechanisms, such that they become effective deterrents, must be a priority.
- 4 Supreme audit institutions play a crucial role in preventing wrongdoing. Four essentials conditions to ensure that they fulfill their role properly are: sustained institutional commitment, credibility, independence from political criteria, and the ability to learn and adapt.
- 5 Centralized audit regimes have proved valuable as tools for any integrity agenda. However, audits are less effective when they are predictable and rare. The threat of oversight must be constant, whether because audits are common or because they are unpredictable.
- 6 Technology can be a major ally to improve systems of administrative control in the public sector. Digital records of government transactions, combined with data analysis techniques, can guide the decisions of oversight institutions and investigators.
- 7 Simplifying and digitizing administrative procedures helps to close opportunities for small-scale corruption in the interaction between public officials and private citizens.
- 8 Public prosecutors' offices must be strengthened, as well as all institutions with responsibilities in the investigation of complex crimes, including corruption. It is important to build specialized technical teams, and to develop protocols for investigation and the collection of evidence.
- 9 Plea bargains are a promising procedural innovation for corruption cases, but it is important to regulate their use. This implies: clearly defining the conditions in which agreements can be made; carefully designing the incentives that are to be offered to cooperators; specifying the role of public prosecutors, judges, and other actors in the process; and improving coordination between institutions.
- 10 Current and future salaries can promote integrity, as long as oversight and sentencing mechanisms work well, and individuals face real risks of dismissal if they engage in wrongdoing.
- 11 Reelection opportunities create incentives for politicians to act with integrity. However, term limits are necessary when the institutional context fails to provide effective counterweights to prevent the negative consequences of entrenchment in power.



**Choosing  
the best**

3

- Why is it important to strengthen the mechanisms for entry into public office?**
- How to attract and select better prepared and more honest public officials?**
- Why do more competitive elections affect the profile of candidates for office?**
- How and why should campaign finance be regulated?**
- What challenges are involved in designing and implementing a professional civil service?**

# Choosing the best<sup>1</sup>

Improving the mechanisms that regulate entry into the public service—both for civil servants and for elected officials—is essential to strengthen state institutions and to fight corruption. Inadequacies in those mechanisms favor the emergence of clientelist networks, which can compromise the performance of public officials and undermine their independence.

The selection of public officials with high ethical standards is crucial to ensure integrity in public policy. As the previous chapter shows, monitoring the actions of public officials can reduce corruption, but it is costly and reduces process flexibility. Besides, the effectiveness of monitoring schemes may be limited when some corrupt practices can be substituted for others that are more difficult to detect. Therefore, officials' honesty is key to ensure integrity along the public policy process.

This chapter examines what institutional arrangements protect the mechanisms of entry into public office from interests that bias officials' decision-making, and how to attract and select highly qualified and honest individuals into the public sector.

The first step for an individual to enter public service is their own decision to seek a position in that sector—for instance, by running for an elected office or applying for a civil-service job. This chapter therefore starts with an assessment of the reasons why certain individuals become interested in public service. Specifically, we look at how those decisions depend on two different groups of factors: the preferences and attributes of individuals, and the characteristics of public employment.

Individuals value employment options in terms of their own preferences and attributes. Basic characteristics of a job such as the salary and other working conditions are clearly relevant for individuals' employment decisions. Non-pecuniary benefits are also relevant. For example, some people are particularly motivated by public service, while the reputation of an organization can also be an important element when deciding whether to join it.

Naturally, the characteristics of a job interact with those of the individuals. For example, the incidence of corruption in an organization negatively impacts its social prestige, which in turn affects the profile of the candidates interested in joining the organization. This process exemplifies the value of public sector reputation. An administration perceived as honest is more likely to attract

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1. This chapter was written by Pablo Brassiolo and Ricardo Estrada, with research assistance from Luz Carazo, Cynthia Marchioni and Julián Martínez Correa.

honest individuals, triggering a virtuous circle of integrity. Unfortunately, survey data shows that many Latin Americans believe corruption is widespread in their countries, which showcases a crisis of confidence in the bureaucratic and political systems across the region. To attract highly motivated, honest individuals to the public sector, progress in the fight against corruption must be complemented with improvements in citizens' expectations and perceptions about the public sector.

The remainder of the chapter analyzes the functioning of entry mechanisms for elected officials and bureaucrats, respectively. For elected officials, the analysis focuses on the characteristics of electoral institutions. First, higher levels of electoral competition incentivize political parties to recruit better candidates. Electoral mechanisms that promote competition include primaries and open lists. Those mechanisms are more effective when voters have access to good information about the candidates. However, electoral competition can backfire if it puts pressure on campaign costs, leading to increases in illegal funding or in exchanges of campaign funds for political favors.

This is why it is crucial to strengthen the institutions that regulate political finance. The costs of campaigns can discourage competition and cause conflicts of interests or political capture of officials by vested interests. Money should not be decisive in an election. To ensure it is not, the use of private funds can be restricted or made more transparent, public funds can be provided, and additional measures can be taken to reduce the cost of campaigns. A major challenge involves ensuring compliance with campaign finance regulations, which requires strengthening the institutions in charge of oversight.

Civil service systems are also crucial to prevent corruption. In this regard, a goal should be the organization of a professional civil service where merit is the central criterion for recruitment, tenure and promotion, and where public officials are effectively protected from unfair dismissal. Meritocratic recruitment and job stability are key to restrict patronage in public employment—i.e., the discretionary practice of giving jobs in exchange for votes and political support.

Patronage can be the main barrier to attract and recruit more qualified and principled public officials, as it rewards political connections over merit when defining who has access to public sector jobs. Also, widespread patronage leads to the development of clientelist networks, which can weaken the institutions. These considerations must be taken into account in any agenda devoted to promoting public integrity.

## The virtuous circle of integrity

Low levels of integrity within the state can discourage honest and capable individuals from joining the public sector, which would prompt a vicious circle where corruption breeds more corruption. But that rationale also works the other way around. If policies to prevent and fight corruption—like the ones proposed in this report—succeed in boosting the integrity of public institutions, the attraction of workers with better attributes in terms of capacity, motivation and honesty will strengthen institutional quality and trigger a virtuous circle where public integrity breeds more integrity.

The existence of rents associated with corruption in the public sector can attract individuals who are more prone to engage in acts of corruption (Besley, 2005). In fact, empirical evidence shows an inverse relationship between the corruption level in a given country's public sector and the integrity level among individuals interested in the civil service. This suggests that the reputation and quality of public agencies are reinforced by the motivations of the individuals attracted to them.

Pioneering studies with university students in India, where corruption is perceived to be widespread, found that the most dishonest individuals were more likely to express an interest in joining the public sector (Banerjee, Baul and Rosenblat, 2015; Hanna and Wang, 2017). In turn, a similar study for Denmark—a country marked by low perceived corruption (Transparency International, 2018)—finds that preference for employment in the Danish public sector is associated with high integrity (Barfort, Harmon, Hjorth and Olsen, 2019). These results are consistent with the observation that perceptions and motivations reinforce each other. Given that integrity is not a directly observable quality, these studies employ creative techniques to measure it, based on the propensity to cheat in a lab experiment (see Box 3.1 for a discussion of the challenges associated with measuring integrity).

### **Box 3.1** The challenge of measuring integrity

In the field of social research, integrity has traditionally been measured by asking about attitudes of tolerance for corruption and for actions that involve breaking the law (e.g., purchasing stolen goods). This kind of questions are the basis for the psychometric tests used—mainly in the private sector—as assessment tools for staff recruitment.

The problem with this type of question is the social desirability bias, which leads to underreporting attitudes and practices with little social acceptance. To escape stigma, some people might not reveal to the interviewer that they have favorable attitudes towards corruption, still less that they have themselves engaged in acts of corruption. While this bias may be insignificant in contexts like surveys, where participant responses have no practical consequences, it can lead to more unreliable answers when there are indeed repercussions, as in staff-recruitment processes.

Several alternatives have recently been developed to measure propensity for corruption more reliably in lab experiments (Fischbacher and Föllmi-Heusi, 2013; Hanna and Wang, 2017). In these experiments, participants play games with cash prizes at stake where they can increase their earnings through cheating while preserving anonymity. One example is the *dice game* explained in Box 2.1 in Chapter 2 (see p. 58). In that game, reporting higher numbers obtained when rolling the dice can be taken as a measure of propensity to cheat, and therefore as a proxy for lower integrity (although an individual who reports high values may simply have been lucky).

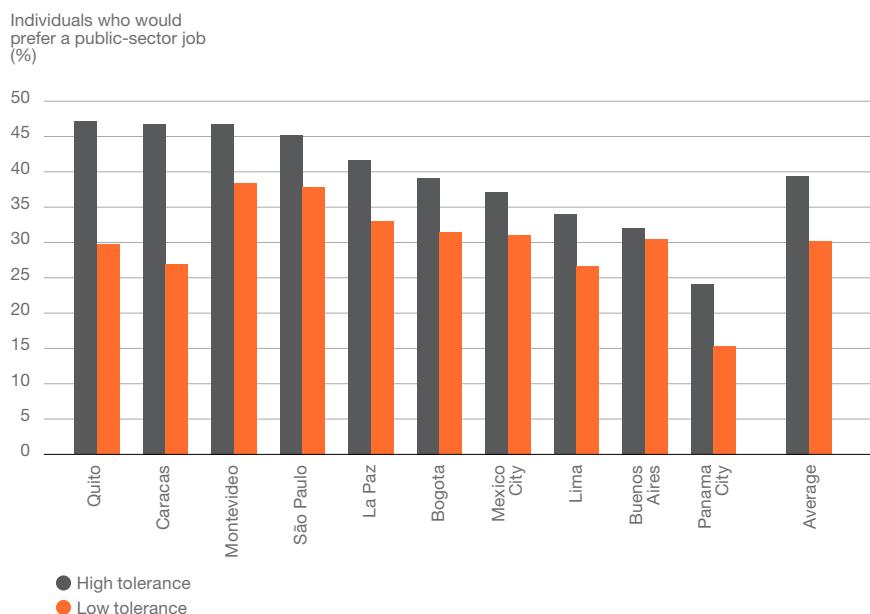
In research that supports the validity of this kind of measurement, Hanna and Wang (2017) found, in a sample of healthcare service providers in India, a positive correlation between the probability of cheating at the dice game and the commission of fraud to justify absenteeism from the workplace.

Although progress in measuring integrity is very relevant to research in this field, it is important to note that participants in this sort of experiment know their decisions will have no negative impact outside the lab. Again, very different results should be expected in high-stakes scenarios, such as staff recruitment. Candidates for a position have a strong incentive to manipulate any attempt to measure their honesty level when they know that doing so will increase their chances of being hired.

What does the evidence say about Latin America? ECAF 2018 data enable an exploration of the links between tolerance towards corruption and preference for public sector jobs among private-sector workers in 10 Latin American cities (CAF, 2019). Results show that individuals more tolerant of corruption tolerance are slightly more interested in the public sector (Graph 3.1).

### Graph 3.1

Tolerance for corruption and preference for a job in the public sector



Note: This graph shows the percentage of private-sector workers who would prefer working in the public sector, classifying individuals into two groups according to their tolerance for corruption. Means for each city and the simple mean across cities are reported. More details about the data and methodology are provided in the Appendix (p. 220).

Source: Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

A recent study provides evidence that jobs with more opportunities to extract illicit rents are especially attractive to less honest individuals. (Brassiolo, Estrada, Fajardo and Vargas, 2019, see Box 3.2).

Research conducted outside the lab also shows that opportunities to extract illegitimate rents can attract individuals with lower integrity levels to public office. Resource transfers from the central government to local governments are one way in which such opportunities can be found. The more exceptional and discretionary those transfers are, the bigger the opportunities to divert public funds for private benefit.

A study in Brazil finds that the larger the transfers to local governments, the higher the incidence of corruption cases involving the mayor of a given municipality. Higher levels of corruption also deteriorate the quality of candidates seeking to defeat the incumbent mayor in the next election: larger transfers (and higher levels of political corruption), lead to less qualified opposition candidates (Brollo et al., 2013).

## Box 3.2

### Who finds rent-seeking attractive?

An experiment with university students in Bogota was performed with the goal of understanding how opportunities for illegitimate rent-extraction in a job affect the type of candidates that are attracted based on their level of integrity (Brassiolo, Estrada, Fajardo et al., 2019).

In the first stage of the experiment, participants were asked to play the *dice game* (explained in Box 2.1 in Chapter 2—see p. 58), to obtain an individual measure of integrity levels.

In the second stage, participants were asked to choose between two contracts that capture a few typical features of public- and private-sector employment. Under the *public-sector contract*, participants got a fixed cash payment and were also asked to confidentially allocate public funds (a given amount of money) among five NGOs, based on their own preferences. Under the *private-sector contract*, participants had to solve sums for 2 minutes, in exchange for a fixed amount of money and an additional payment for each sum they solved correctly.

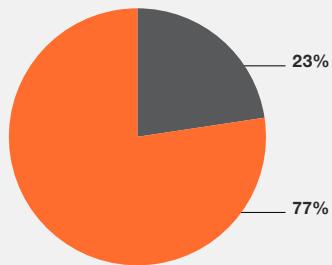
The interest of the authors was to assess how the choice of the public-sector contract changes when it is possible to obtain illegitimate rents. To do that, for some participants—selected at random—the public fund they had to allocate if they chose the public sector contract was made of real banknotes, while for others it was fake money. Participants knew whether they were using real money or not when they opted for one of the contracts. Since it was possible for them to take the money out of the room and keep it, the difference became relevant.

As shown in Graph 1, after classifying the participants who reported unusually high values in the dice game as *presumably dishonest*, the authors find that 23% of the participants who choose the public-sector contract with fake money are *presumably dishonest*, and that proportion increases to 44% when dealing with real cash.<sup>a</sup> This means that the chance to illegitimately keep funds negatively affects the composition of the group of participants who choose the public-sector contract, in terms of their integrity. This negative impact is the result of a combination of attracting more dishonest individuals and repelling honest ones.

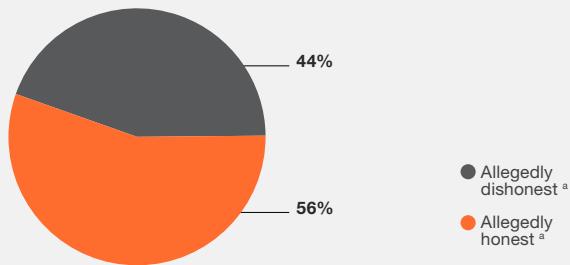
**Graph 1**

Integrity profile for individuals who choose the public-sector contract, by existence (or not) of rent-extraction opportunities

**Panel A.**  
Without rent-extraction opportunities



**Panel B.**  
With rent-extraction opportunities



Note: The graph shows the composition—in terms of their alleged honesty—of the group of participants who chose the public-sector contract in two alternative scenarios: when the funds they had to allocate were in fake money (i.e. without rent-extraction opportunities; Panel A) and when those funds were in real money (i.e. with rent-extraction opportunities; panel B). The results come from an experiment conducted with university students in Bogotá.

**Source:** Prepared by the authors, based on Brassiolo, Estrada, Fajardo, et al. (2019).

a. Participants were classified as *allegedly dishonest* when they reported at least 165 points from 40 throws of a single die. They were classified as *allegedly honest* when they reported fewer than 165 points. Based on this criterion, 27% of participants would be classified as allegedly dishonest. The reason to choose 165 as the criterion to classify an individual as allegedly dishonest is that the probability of obtaining at least 165 points is 1%.

The perception of high levels of corruption in the public sector, and its consequences in terms of attracting individuals with lower integrity levels, may be a relevant problem in several Latin American countries. As shown in Graph 3.2, there seems to be a crisis of confidence concerning the integrity of public officials in the region. A question on the ECAF 2014 about the perception of corruption among bureaucrats found that, in a scale from 1 (low corruption) to 10 (high corruption), 22% of respondents chose the highest possible value (CAF, 2015a).

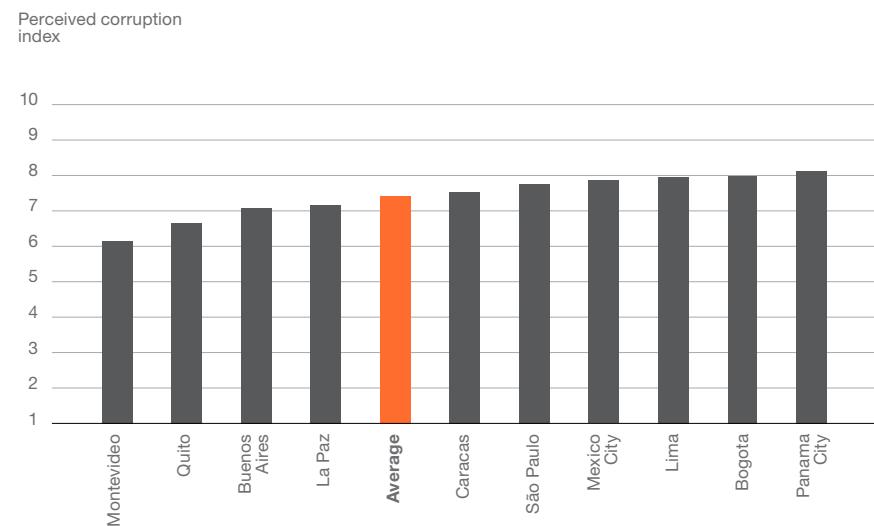
**22%** of citizens believe there are very high levels of corruption among public-sector employees.

If the perception of corruption is also associated with a low effectiveness of the state as promoter of development, public sector positions may also become less attractive to individuals with high motivation for public service.

In Uganda, for instance, advertising a vacancy for a healthcare promoter position with an emphasis on the benefits of the work for the community (as opposed to the associated salary) made it possible to attract candidates with higher prosociality levels, who performed better once they were hired (Deserranno, 2019).

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**Graph 3.2**  
Perceived corruption in the public sector in Latin America



Note: This index is an average of respondents' replies concerning the corruption level they perceive among public-sector workers. Individual answers range from 1 to 10, where 1 stands for "No corruption" and 10 stands for "Complete corruption." The simple mean across cities is also reported.

Source: Prepared by the authors, based on data from the ECAF 2014 (CAF, 2015).

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Something similar happens with elected offices. The way a job is perceived can affect who runs for the position. Pakistan held its first elections in rural communities in 2015. Gulzar and Khan (2018) used those elections to study how the way public office is perceived affects citizens' interest in competing for office. Some residents of those communities took part in meetings that promoted political participation and delivered information about how to present a candidacy. In some municipalities elected office was presented as an opportunity to help community members (social benefits), while in others it was put forward as a chance to obtain power and prestige (personal benefits). Meetings consequently increased the proportion of individuals who stood for office, and that effect was stronger in communities where meetings stressed the social benefit of elected office. Further, one year after the election, the budget reflected voter preferences more closely in communities where social benefits had been highlighted.

**The effect of corruption on the attributes of individuals who are interested in public service is twofold – it attracts candidates with lower integrity, and it discourages the most honest ones.**

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In short, corruption can have a double effect on the attributes of individuals interested in public service—it attracts candidates with lower integrity, and it discourages those who attach great value to honesty. The way public service is perceived is a key determinant of interest in joining public office. A perception of high integrity and effectiveness of public institutions can attract more suitable individuals and foster virtuous circles of integrity.

What policies can be adopted to promote these virtuous circles? The remainder of this chapter will focus on answering this question. It will suggest initiatives from different areas, including electoral institutions, civil-service systems and the recruitment mechanisms they implement.

However, the first lesson that emerges is the significance of the reputation of the public sector and of the perceptions and expectations of citizens. Therefore, it is crucial that campaigns against corruption include communicational elements that highlight the achievements concerning transparency and integrity.

### **Policy lesson**

The existence of corruption in state institutions can discourage the individuals who most value integrity from getting involved in public service, while the perception of high public integrity can have the opposite effect. It is important that anticorruption initiatives communicate achievements on transparency and integrity to the population.

## **Working conditions in public service**

Citizens value the attributes of public sector positions based on their own characteristics and preferences. Only individuals who find those attributes sufficiently attractive will want to seek a public -sector position. Some policies that have mainly been designed to influence the performance of active officials also affect other individuals' interest in joining the civil service or running for elected office.

**High salaries can attract more able individuals into public service.**

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One of the policies that have received the most attention in the debate on fighting corruption involves salaries. The role of material incentives—particularly salaries—in discouraging wrongdoing was introduced in Chapter 2. The argument was that higher compensation reduces incentives to engage in corruption, since any individual would have more to lose if caught and punished with dismissal. Chapter 2 concluded that the deterrent effect of higher salaries depends on whether there was a real risk of being dismissed for committing an irregularity.

However, salaries also play a role through the type of people who are attracted to public office. If compensation is very low, interested individuals may be mainly those with a higher intrinsic motivation, or those who hope to obtain additional income through corruption. If the latter is true, an increase in public sector compensation would make this sector more attractive for better qualified individuals with higher integrity levels.

Dal Bó, Finan and Rossi (2013) researched the effects of wages on the profile of applicants for a community development promoter vacancy in Mexico. They found that higher salaries attracted a set of candidates with higher cognitive skills, without effects on the levels of motivation for public service.

Concerning elected office, the evidence indicates that higher salaries might attract better qualified individuals. Using data for Brazil, Ferraz and Finan (2011) showed that higher salaries attracted more people into politics and positively affected the quality of both candidates and elected politicians, measured in terms of years of education, experience in politics, and qualification in their previous occupation. Gagliarducci and Nannicini (2013) found similar results in Italy—higher salaries attracted better educated candidates from more highly qualified professions, such as managers and lawyers.

In many Latin American countries, public officials must file—and, in some cases, publicly disclose—information concerning their assets. This is another tool to fight corruption, by identifying unjustified asset growth.

Like salaries, these disclosure policies can affect interest in public office. On the one hand, if individuals value their privacy, greater transparency might lead some people not to show an interest in public office. However, it might also discourage entry of individuals who are more likely to engage in acts of corruption. Fisman, Schulz and Vig (2019) found that, in India, asset disclosure obligations on political candidates led potentially corrupt individuals not to stand for election at all. This shows that disclosure policies can be effective in the fight against corruption, by making public service less attractive for individuals who are more likely to engage in illegitimate rent-seeking.<sup>2</sup>

**Disclosure policies  
make public service  
less attractive for those  
who are more likely to  
engage in illegitimate  
rent-seeking.**

## Electoral competition and campaign finance

Once individuals decide to participate in politics and become candidates for elected office, in most countries society chooses its political leaders through elections. Besides ensuring leaders' accountability—rewarding or punishing them in elections based on their performance—elections play the crucial role of allowing for the selection of those in government based on voter preferences. In this section, we examine what features of electoral systems contribute to defining which attributes are rewarded in the political arena. Two aspects are particularly relevant—the level of political competition and the characteristics of campaign finance. These elements influence both political parties and individuals, and contribute to defining who stands for election and—crucially—under what conditions.

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2. This naturally triggers debate about what information needs to be disclosed, and whether it should be made publicly accessible. Chapter 5 in this report addresses this issue.

## Electoral competition and candidate selection

Elections are often preceded by a candidate-recruitment process that determines the options available to voters. This process is led by political parties, which make a series of decisions about nominations in order to obtain the best possible electoral results. Relevant decisions include the selection of the party's candidates, the support they will receive during the election campaign, and the allocation of candidates (and resources) among electoral districts or within a list (if applicable).

**Close elections encourage political organizations to field candidates with better electoral prospects.**

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Electoral competition may favor the selection of leaders with greater integrity as long as this is an attribute valued by voters and taken into account by parties when defining their candidacies. There is evidence that both requirements are met under certain conditions. Concerning the first issue, voters punish candidates involved in acts of corruption at the ballot box, as shown by various studies. Chapter 4 will deal with this topic more thoroughly. Recent cases in Latin America show political parties' strategic behavior when faced with evidence of wrongdoing. In Brazil, for example, the dissemination of audit information—concerning the use of federal funds by local governments— influenced parties' candidate choices. When reports showed that there had been cases of corruption in a given municipality, the governing party reacted by choosing candidates with higher levels of education for the following election, in an effort to counterbalance the reputation costs of wrongdoing (Cavalcanti, Daniele and Galletta, 2018). The level of competition in an election is one of the factors that most influence political parties' candidate choices. When parties anticipate a close election, they are likely to react strategically, by selecting candidates with better electoral prospects to increase their chances of winning. When they expect an election that is not tight, they have several reasons to opt for candidates with fewer chances of electoral success. One reason is that, when parties need to allocate candidates to several electoral districts, they will—other things being equal—strategically place their best candidates in the most competitive districts, and leave other candidates for districts where they do not have many chances of changing the results of the election. The second reason is that candidate nomination can be a mechanism to reward effort of individuals within the party (Mattozzi and Merlo, 2015).

Candidates who emerge from more competitive districts perform better in office than candidates elected in districts dominated by a given political organization. A study on the elections for the French National Assembly over the period 1958–2012 shows that legislators elected in more competitive districts were more productive in their parliamentary work (Gavoille and Verschelde, 2017). This higher performance is due, at least partially, to candidate characteristics. An analysis of parliamentary elections in Italy over the period 1994–2006 shows that parties field candidates with higher levels of education, more successful previous careers and more political experience in districts where they expect more competitive elections (Galasso and Nannicini, 2011). Recent research for India also found that, in tighter electoral districts, it is more likely that candidates have high integrity (Shaukat, 2019). This has clear implications for the design of electoral institutions. Candidate characteristics need to be made visible by voters, and elections must be as competitive as possible. The role

of internal party processes and of campaign finance to promote competition is addressed in more detail in the following sections. It is also worth mentioning that the design of election districts, as a variable, may affect competition levels. It is crucial for that task to be carried out by independent authorities based on technical criteria.

## In-party decisions and primary elections

Electoral competition should not always be taken for granted. It could be that some districts—or even many—are dominated by a given political organization. Political parties would then have no incentive to field their best candidates, because that would be unlikely to change the results of the election. In those cases, an alternative could involve promoting pre-electoral competition—that is, competition in candidate-nomination processes within a given party.

Political parties can select their candidates using various methods, which can in turn be more or less competitive.<sup>3</sup> One of the most competitive methods involves internal elections, which can be open—where any voter may cast their ballot—or closed—where only members of the party can vote. Candidate selection by a group of people representing the party—usually a collegiate executive—and designation by the political organization’s leader are some of the least competitive methods.

Using primary elections as a mechanism to define candidacies is more common in Latin American countries and in the United States than elsewhere (Serra, 2011). Can primary elections favor the selection of better candidates? In theory, the greater the competition encouraged by parties’ internal candidate-selection mechanisms, the more likely it is that candidates with better electoral prospects will be selected, even when the election in question is not closely contested (Besley and Case, 2003). This could happen, for example, when pre-election competition encourages greater participation by citizens who seek to stand for office, or when the campaign for primaries allows for the detection of the best candidates (Adams and Merrill III, 2008; Serra, 2011).

Primary elections can be a particularly effective mechanism in districts with low electoral competition.<sup>4</sup> In those cases, primaries promote internal competition for a candidacy within the dominant party, and that leads to better candidates in the general election (Hirano and Snyder Jr 2014). Primaries can also become an effective mechanism to punish leaders who have been involved in political or corruption scandals. The evidence suggests that, when those leaders stand for primary elections, they are more likely to face multiple opponents, to be less popular among voters, and to not be re-elected (Hirano and Snyder Jr, 2012).

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3. Electoral legislation and internal party rules determine who can stand as a candidate for elected office. Internal party rules often require, for instance, party membership, a minimum membership period, or holding a position within the party.

4. The decision to hold primary elections can emerge from political parties themselves—without formal regulations that encourage or impose them—to promote greater candidate effort during the campaign, and to boost the participation of those candidates whose attributes are particularly valued by voters (Aragón, 2014).

Of course, election processes need resources, and therefore increase the risks associated with political finance. The decision to encourage parties to hold primaries must be supported with stronger institutions to regulate campaign finance.

### Policy lesson

Competitive elections where candidates' qualities are clearly visible lead to the election of better-performing individuals. Primaries could be a useful tool to promote greater competition in the processes to nominate candidates within parties, particularly in districts that are not closely contested. However, primaries increase the need for campaign funds, with the risks associated. A policy to promote internal elections should consider its effects on campaign finance and include strong regulations if necessary.

## Types of lists and gender quotas

A further mechanism to encourage competition within political parties involves the use of open-lists which, unlike closed lists, enable voters to choose among candidates from the same party. When voters are well-informed about candidate profiles, this system can be effective to reduce the electoral chances of candidates associated with acts of corruption. It enables voters both to vote for the party or platform that best suits their own preferences and to punish corrupt candidates (Przeworski, Stokes and Manin, 1999).

However, as in the case of primary elections, this could prove counterproductive in contexts where the institutions that regulate political finance are weak. Open-list systems promote competition within the party and increase incentives to collect funds—illegally in some cases—for the campaign (Chang, 2005).

Regulations that explicitly seek to promote the participation of certain groups can also affect the level of electoral competition and the types of candidates presented by political parties. In many countries, electoral systems implement gender quotas to increase women's participation in politics. These regulations affect the composition of the political class both directly—as a mechanical result of introducing a minimum for women's participation—and indirectly—increasing incentives for women to get involved in politics.

The evidence shows that, when gender quotas in electoral lists succeed in increasing the proportion of women in office, the composition of the ruling class tends to improve in terms of ability, as women who are highly qualified politically take places previously held by less qualified men (see Box 3.3 to find a description of these regulations and evidence of their impact).

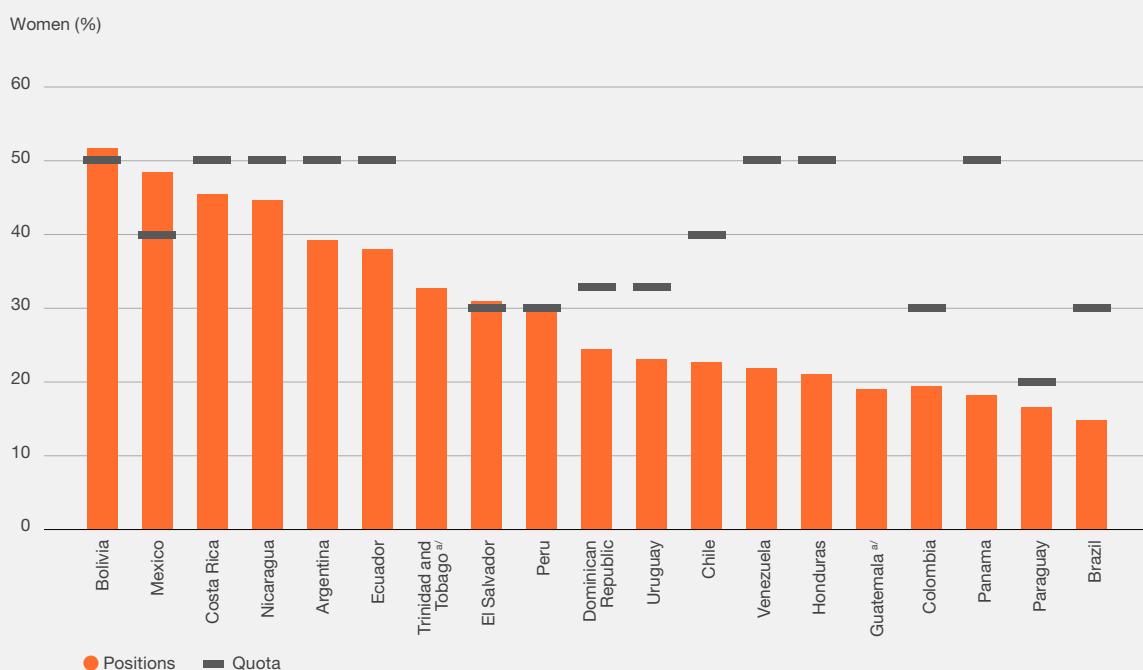
### Box 3.3

#### Diversity and quality in leadership positions

In recent decades, the number of countries that have introduced some form of gender quota in electoral lists has risen, while women's participation in elected office has also increased. In Latin America, many countries implement gender quotas in party lists, and the proportion of women in national legislatures varies in a range that stretches from 52% in Bolivia to 15% in Brazil (see Graph 1). While—as noted below—quotas are effective to increase the proportion of women in parliamentary positions, this proportion may in some cases be lower than the quota that is imposed on party lists. The reasons go from issues with the design of the quota (for example, whether the requirement is only on the proportion of women in the list or also on the place they occupy) to other characteristics of the electoral system that make the election of female candidates more or less likely (Tripp and Kang, 2008).

#### Graph 1

Gender quotas for candidate lists, and percentage of women in national legislatures



Note: This graph shows the legally prescribed quotas for women on lists of candidates to national legislator positions (lower and higher chambers in countries with bicameral systems, and assemblies in all other countries). It also shows the percentage of women who actually hold elected office in those legislative bodies, following the most recent elections.

a/ Not reported, because the country's legislation sets no gender quotas.

**Source:** Prepared by the authors, based on data obtained from the Gender Quotas Database (International Institute for Democracy and Electoral Assistance, Inter-Parliamentary Union, and Stockholm University 2019) and from Women in Parliaments (Inter-Parliamentary Union 2019).

What effect do these regulations have on the quality of leaders? The case of Italy is interesting. Gender quotas were imposed on municipal candidate lists over the period 1993–1995. Some municipalities held elections during that period and others did not, so research into Italy's case compares political participation rates and candidate characteristics in both groups of municipalities, before and after quotas were implemented. Results suggest that gender quotas not only increased the political participation of women, but also improved the quality of elected officials, measured in terms of the level of education (De Paola, Scoppa and De Benedetto, 2014). This is because the probability of being elected increases for better educated women and diminishes for less educated men (Baltrunaite, Bello, Casarico and Profeta, 2014). It is interesting to note that the effect on the quality of politicians persisted even after quotas were eliminated.

In Sweden, the introduction of gender quotas in local elections led to an increase in politicians' ability—particularly in higher positions—since better prepared women pushed men who were worse qualified out of candidate lists (Besley, Folke, Persson and Rickne, 2017).

In Spain, the introduction of gender quotas in municipal elections increased women's participation in lists, as well as the proportion of women in municipal councils in the election that followed reform. However, it was not enough to affect the quality of the political class, the types of policies that were implemented or the probability that women would reach political leadership positions (Bagues and Campa, 2018).

Finally, what effects does a higher representation of women in the decision-making process have on public policy? A constitutional amendment introduced in India in 1993 reserved for women one third of all presidencies in rural village councils. Villages where the council presidency had been reserved for a woman experienced an increase in investment in infrastructure directly linked to the development priorities expressed by women, such as the supply of drinking water (Chattopadhyay and Duflo, 2004).

## Campaign finance

Election campaigns enable voters to learn about candidates and their plans, which increases the probability that the best candidates will be elected. However, campaigns are expensive, and that has always been a cause for concern on the public agenda.

When they are very expensive, election campaigns might restrict participation and political competition. This might, for instance, favor the ruling party, or prevent entry by independent candidates or minority parties. The collection of private funds to finance campaign expenses might grant donors an illegitimate power to influence politicians' decisions once they have been elected. Besides biasing political decisions against the general interest, collateral damage caused by the exchange of campaign funds for political favors might include discouraging the political participation of people with high integrity levels.

### Policy lesson

Improving regulations on political finance in general, and campaign finance in particular, is crucial to fight corruption. These regulations directly impact the network of relationships between politics and the private sector.

It is therefore important to analyze both the possible effects of campaign costs on decisions made by parties and candidates as to whether to compete in an election, and the potential interdependencies between political organizations and interest groups that emerge in that process, along with their consequences. Regulating political finance in general and election campaign finance in particular is crucial to fight corruption. It directly impacts the network of relationships between the private sector and public policy.

## How much do election campaigns (allegedly) cost?

It is not new that democracies and representative institutions require free elections, which need resources and therefore funding. Latin America lacks a comprehensive database with comparable information about the cost of election campaigns. However, we can get an idea of the magnitude of these costs based on countries' official data.<sup>5</sup>

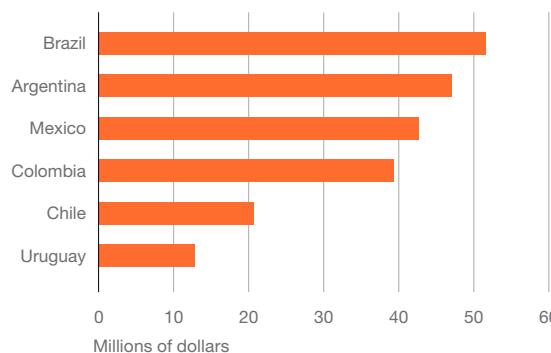
Graph 3.3 shows the expenses declared during the most recent presidential election campaign by all political parties, for a list of countries where this information was available. Considering total expenditure (panel A), the most expensive presidential election campaign was Brazil's 2018 campaign, with over 50 million dollars spent by all parties. It was followed by Argentina's 2015 election (47 million dollars) and Mexico's 2018 election (42 million dollars).

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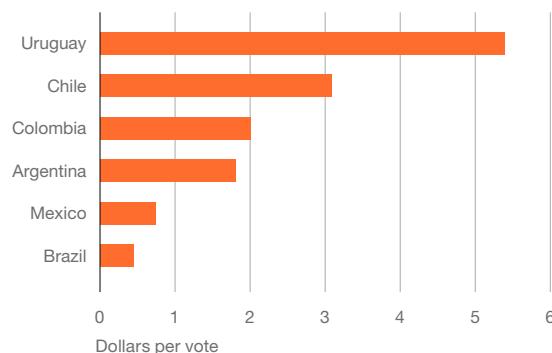
### Graph 3.3

Declared campaign spending in presidential elections

**Panel A. Spending, in dollars**



**Panel B. Spending, in dollars per vote**



Note: Panel A shows spending declared by all candidates and/or political parties in the following presidential election campaigns (considering both the first and second rounds of voting): Argentina 2015; Brazil 2018; Chile 2017; Colombia 2018; Mexico 2018; Uruguay 2014. Panel B shows this spending divided by the total number of votes cast in each country. Spending is shown in current dollars for the month of the election. More details about the data and methodology are provided in the Appendix (p. 221).

**Source:** Prepared by the authors, based on official data for each country.

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5. The lack of comparable information about campaign costs may be due, among other reasons, to the difficulty involved in differentiating campaign expenses and expenses linked to the regular operations of political organizations, and to the absence of uniform criteria to record various types of expenses, including those incurred for the benefit of parties or candidates by organizations who are neither parties nor candidates. See Speck and Olabe (2013) for a discussion on these and other difficulties found when measuring political funding.

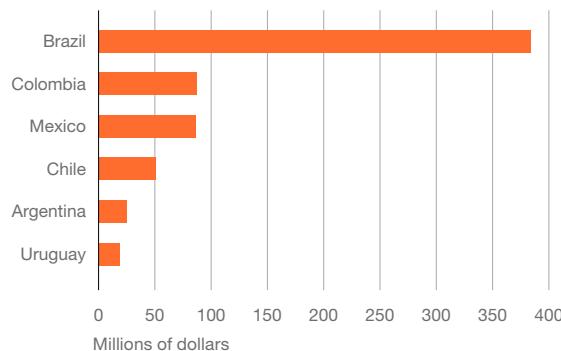
This ranking is clearly influenced by factors including the size of the electorate and the number of parties in each country. Considering the cost per vote cast (panel B), that ranking is inverted, and Uruguay's 2014 presidential election campaign becomes the most expensive (with a little over 5 dollars spent per vote). Besides that, campaign costs went from 3 dollars per vote in Chile in 2017 to less than 1 dollar per vote in Mexico and Brazil.

Graph 3.4 presents the data on expenses declared in the last national legislative election for the same group of countries. As in presidential elections, Brazil had the highest total spending (panel A) in 2018, with parties declaring total spending close to 390 million dollars. Elections held that same year in Mexico and Colombia follow, in both cases with around 90 million dollars spent. Considering spending per legislative seat (panel B), the rankings do not change much. Brazil's 2018 parliamentary election is the most expensive (with close to 680,000 dollars per seat), followed by Colombia in 2018 and Chile in 2018 (with about 300,000 dollars per seat in each of those elections).

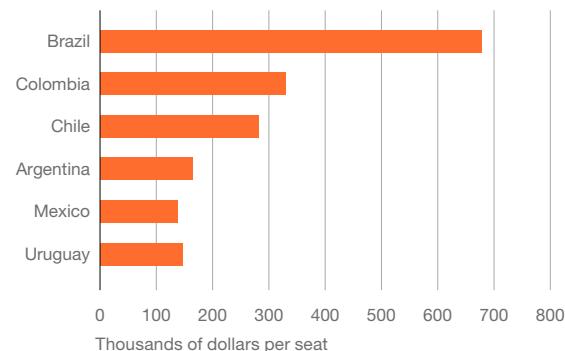
#### Graph 3.4

Declared campaign spending in legislative campaigns

**Panel A. Spending, in dollars**



**Panel B. Spending, in dollars per seat**



Note: Panel A shows spending declared by all candidates and/or political parties in the following legislative election campaigns (considering both the first and second rounds of voting): Argentina 2015; Brazil 2018; Chile 2017; Colombia 2018; Mexico 2018; Uruguay 2014. Panel B shows this spending divided by the total number of seats to be filled. Spending is shown in current dollars for the month of the election. More details about the data and methodology are provided in the Appendix (p. 221).

**Source:** Prepared by the authors, based on official data for each country.

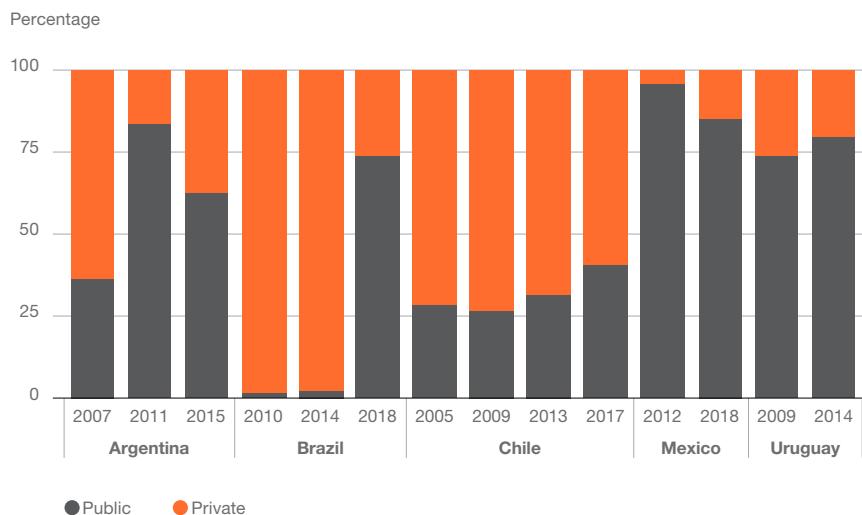
These graphs show that election campaigns—for both presidential and legislative elections—take generous amounts of funds, which in some cases have considerably increased in recent years. In the United States, for example, spending in presidential election campaigns rose by 76% between 2004 and 2016 (Kaplan, 2019).

To pay for those expenses, parties and candidates generally use both private and public funds, the latter of which sometimes takes the form of indirect subsidies—for instance, free access to advertising space in the media. Graph 3.5 shows the composition of campaign spending in the most recent national elections—both presidential and legislative—in some Latin American countries. While public funding is dominant in Uruguay, Argentina and Mexico, elections in Chile and Brazil use more private funds. Brazil's 2018 election is an exception, since it followed a recent electoral finance reform that restricted private funding, and the proportion of expenses funded by public contributions increased significantly.

**In Latin America, there is great variation among countries in terms of the relative weight of public funds in declared electoral spending.**

### Graph 3.5

Composition of campaign funds for national elections by source



Note: This graph shows the composition of funds spent on electoral campaigns in selected national elections—presidential and legislative—according to the source (private or public) of the funds. More details about the data and methodology are provided in the Appendix (p. 221).

Source: Prepared by the authors, based on official data for each country.

Two further considerations are relevant. First, the public-private distribution of sources of funding usually varies depending on the level of government, with subnational campaigns showing a higher proportion of public funds. Second, the relative importance of different private sources of funding also tends to change depending on the level of government. In general, while the contributions of firms and individuals are dominant at the national level, the candidates' personal assets tend to be relatively more significant in local elections. In the most recent elections, for example, mayoral candidates' own contributions amounted on average to 46% of the total private campaign funds in Brazil, 36% in Chile, and 18% in Mexico (Instituto Nacional Electoral de México, 2019; Servicio Electoral de Chile, 2019; Tribunal Superior Electoral de Brasil, 2019). The importance of a candidate's own resources in terms of financing their campaign could be a hurdle for less wealthy candidates.

**When candidate's own resources are a significant part of campaign funds, the electoral prospects of less-wealthy individuals are greatly diminished.**

## Undeclared expenses

The information presented so far refers to declared expenses, which are widely believed to underestimate—by a long way—the real cost of election campaigns. Although undeclared spending is very difficult to measure accurately given its nature, some efforts have been made to estimate its magnitude by surveying various actors involved in electoral processes. For instance, research on Mexico that was based on nearly 60 in-depth interviews with politicians, consultants, public officials, businesspeople, and media workers found that, for every dollar that was spent and declared in campaigns for governor, there were up to 15 dollars of undeclared spending (Casar, Ugalde, Zenteno and González, 2019).

**Based on the reports of key informants, real campaign spending is believed to be far greater than spending declared to supervising bodies.**

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In the case of Chile, a report based on interviews with 230 mayoral candidates, 9 campaign strategists, and key officials of the elections commission found that spending in favor of mayoral candidates in the 2008 cycle exceeded the legal limit in most municipalities, while most interviewees who believed the limit had been exceeded report that actual spending was at least double the legal limit (Urcullo Cossío and Moya Díaz, 2009).

Vote buying is one of the main uses of illegal funds in campaigns. According to a study based on surveys of more than 2,500 politicians at all levels of government in three states in India, between one quarter and all funds in a typical campaign are spent on gifts for voters, with a higher proportion in subnational campaigns (Bussell, 2018). This indicates that examining the incidence of vote buying reported in citizen surveys is an indirect way to find out the magnitude of undeclared campaign spending.

According to the Latinobarómetro 2017 survey, 33% of respondents reported that they had seen candidates or party staff handing out gifts or favors in their own neighborhoods during the most recent election campaign. This proportion is consistent with those found in other studies, and it is a clear indication that real campaign spending in Latin America is higher than the figures declared to supervising bodies (Corporación Latinobarómetro, 2017).

## How to regulate campaign finance

Regulating political campaign finance is justified based on the need to reduce conflicts of interest and the risk of capture by private interests on the one hand, and to ensure a level playing field for political competition on the other. This is why several Latin American countries have recently implemented reforms in their regulatory frameworks. Some of these reforms seek to reduce the value of private funds in political contests, by restricting private spending in campaigns, providing public funding, or reducing campaign duration. These measures are supplemented with bans or caps on certain private sources of funds, such as corporations (see Box 3.4).

**9 of 18**

Latin American countries  
that were examined  
banned corporate  
campaign contributions.

Country regulations often also include an obligation to file and report financial records on campaign spending, with punishments for non-compliance.

### Box 3.4

#### Recent reforms in Latin America—limiting the influence of private funds<sup>a</sup>

In Latin America, recent corruption scandals have unleashed a series of reforms in regulatory frameworks concerning political finance and campaign spending. In most cases, reform focused on increasing the relative importance of public funds over private ones, with the aim of curtailing the influence of interest groups and ensuring that all candidates had access to a minimum level of resources.

A common feature of these reforms is banning corporate contributions. In Argentina, such contributions were banned for campaigns in 2009—although corporate donations are still allowed for funding regular political-party activity. In Brazil, corporate contributions for political parties and election campaigns were declared unconstitutional in 2015, after a widespread bribery scheme was exposed involving Petrobras and large construction firms including Odebrecht. Another reform banned corporate contributions in Chile in 2016.

Public funding for campaigns was gradually increased, in line with the effort to cut companies' ties with politics. Argentina's law of 2009 increased subsidies to support political parties' ballot printing and ensured state distribution of advertising space in TV and radio. Uruguay set the amount for its per-vote subsidy that same year, and in 2014 it granted free space for electoral advertising in the media. Chile's reform also increased the per-vote subsidy, and it further implemented a permanent public contribution for political parties. Finally, public campaign funds were implemented in Brazil ahead of the 2018 election.

Other common measures include restricting total campaign spending and total contributions allowed per donor. Argentina's reform banned privately sourced spaces in TV and radio, capped donations and spending, and required shorter campaigns. In 2009, Uruguay set restrictions on the amounts, sources, and format of private contributions. Brazil's 2015 reform capped total contributions and total spending in political campaigns —since earlier restrictions affected only individual contributions—as well as reducing campaign duration. In Chile, the maximum allowed for total campaign contributions was reduced. In the search for greater transparency, *anonymous* and *undisclosed contributions* were eliminated.<sup>b</sup> Further, individual donations were capped, spending was defined more broadly, and spending limits were halved.

Finally, though to a lesser extent, tougher punishments were set for breaking campaign-finance and campaign-spending rules. Chile stands out in this context. In 2016, it reduced the limit from which excessive campaign spending would be punished, and set harsher punishments for failing to comply with campaign-spending legislation, to include dismissal from office and even jail terms for particularly serious cases. In 2015, Chile had also strengthened electoral authorities to grant them more oversight powers.

a. This box was prepared based on information from national laws: Act 26,571 (Argentina), Acts 13,165 and 13,488 (Brazil), Acts 20,860 and 20,900 (Chile), and Acts 18,485 and 19,307 (Uruguay).

b. Anonymous contributions did not need to be declared if they amounted to 10% of all campaign spending or less, while undisclosed contributions were made by individuals or corporations and handed to the Electoral Service, who then transferred them to the respective candidates. Some contributions can still be made privately for small, limited amounts.

According to data from the International Institute for Democracy and Electoral Assistance (2019a), 9 out of 18 Latin American countries ban corporations from making campaign contributions (Figure 3.1, panel A), while 14 out of 19 cap individual donations (Figure 3.1, panel B).<sup>6</sup>

When political actors have an incentive to receive campaign funds in exchange for concessions, bans and other restrictions on private funding—particularly corporate donations—are essential to prevent an exchange of favors between officials and private interests. In particular, there is evidence showing benefits from imposing caps on individual donations. By restricting the amount of resources a given donor can provide, parties are incentivized to increase the number of contributions. This combination of more donors with smaller amounts from each one makes it possible to reduce political parties' dependency on financially powerful groups, and thus limits the potential influence of those groups on policy decisions. In the case of Colombia, the evidence shows that smaller contributions by the average donor (due to legal restrictions), lead to a lower probability that a donor to the winning candidate obtains a public-sector contract (Gulzar, Rueda and Ruiz, 2019).

### Policy lesson

Bans and caps on individual contributions, especially from corporations, can be effective to reduce the risk of political capture. Limiting the weight of each private donor restricts their ability to influence policy decisions.

Of course, restricting private funding in election campaigns may not be very effective in contexts where real spending is far greater than what is declared to the authorities, which seems to be the case in many Latin American countries. An essential requirement for private-funding restrictions to reduce the risk of political capture is ability to really enforce them, which in turn requires stronger oversight institutions and harsher punishments for non-compliance.

Another common type of regulation involves capping campaign spending per candidate, something that is in place in 11 Latin American countries (Figure 3.1, panel C).

Caps on election spending may be an appropriate tool to increase electoral competition, and therefore to enable better political selection, as shown by a study in Brazil. Recent scandals in that country led its Supreme Court of Justice to ban corporate donations and its Congress to enact legislation capping the funds a candidate can spend in campaigns. After the reform was implemented, more candidates stood for office in municipal elections and those elections were closer. The probability of reelection for incumbent mayors was reduced, as was the probability that wealthier candidates were elected (Avis, Ferraz, Finan and Varjão, 2018).

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6. Colombia is not counted among the countries who ban corporate contributions because, while contributions to campaigns are not allowed, it is legal for them to make contributions to political organizations, who may then use those funds in campaigns. Additionally, legal changes introduced in Argentina on July of 2019 are not considered.

### Policy lesson

Restricting campaign spending encourages electoral competition, especially in contexts where candidates' personal wealth is a major factor for success at the polls.

Public funding of campaigns is also very common, and 14 out of 19 Latin American countries grant candidates or political parties funds or direct subsidies (Figure 3.1, panel D). In other cases, public support takes the form of access to media for advertising.

The effects of increasing public funding are not very clear. More public funding can encourage electoral competition, as long as the mechanism to distribute additional resources works to reduce differences in candidates' campaign budgets (Malhotra, 2008). However, that will not guarantee that additional public resources reduce candidates' search for private funds, particularly if greater electoral competition increases the pressure to step up total spending.

Concerning disclosure policies, country regulations generally demand that campaign spending reports be made public. The exceptions are El Salvador—where reports are not compulsory—and Bolivia, the Dominican Republic and Venezuela—where reports need to be submitted to the supervising body, but do not need to be made public (Figure 3.1, panel E).

Given how important it is for accountability, transparency is one of the cornerstones of most initiatives launched by global organizations to set new international standards in electoral-finance regulations. All initiatives recommend demanding that political organizations provide detailed, timely and accessible information about the sources and use of funds, and making that information available to all citizens (Speck and Olabe, 2013).

Finally, financial sanctions are the most common form of punishment contemplated for non-compliance, and they are stipulated in all Latin American countries except the Dominican Republic. Less common are the suspension of political parties or criminal sanctions against candidates (Figure 3.1, panel F).

Overall, Latin America's regulatory frameworks for electoral finance do not differ substantially from those of high-income countries included in the database of the International Institute for Democracy and Electoral Assistance (2019a). There are a few differences, however. In Latin America, there seems to be a higher proportion of countries who restrict the participation of private funds—74% of Latin American countries cap such contributions, compared to only 56% of high-income countries. The same can be said about public funding—68% of Latin American countries directly subsidize political parties, compared to 40% of high-income countries.

Regarding sanctions, in Latin America they are comparatively more targeted at political organizations, including suspensions and bans from taking part in elections. As many as 58% of Latin American countries stipulate sanctions against parties, compared to just 16% of high-income countries. Sanctions on candidates, on the other hand, are more common in high-income countries. Only 37% of Latin American countries contemplate prison sentences for candidates, compared to 56% of high-income countries.

**Figure 3.1**  
Campaign finance regulations

Panel A. Ban on corporate contributions



Panel B. Cap on individual contributions



Panel C. Cap on total spending



Panel D. Public funding<sup>a/</sup>



- No information
- No
- Yes

Continued →

**Panel E. Public dissemination of campaign spending reports**



**Panel F. Party or candidate suspension for non-compliance of political finance rules**



Note: The data concerning caps on total spending (panel C) and public funding (panel D) for Brazil are updated based on Act 13,488.

a/ This includes campaign funds given to political parties by the state. It excludes indirect funding, such as free or subsidized access to media space.

**Source:** Prepared by the authors, based on data obtained from the Political Finance Database (International Institute for Democracy and Electoral Assistance 2018).

## What this means in practice

As shown in the discussion above, Latin American countries have been very active to create campaign-finance regulations. Deficient implementation in practice has clearly been those efforts' main weakness. Reducing these implementation shortcomings is crucial to ensure the effectiveness of both the formal regulations that are currently in place and any new ones that may be introduced.

Global Integrity Project data allow us to check the degree of compliance with regulations in more than 50 countries, based on surveys that were administered to experts (Global Integrity, 2014). Analysis of this database leads to one clear conclusion—there are large gaps between regulatory design and effective compliance with regulations, both in Latin America and in more advanced countries.

The area where Latin American countries particularly seem to lag behind is their ability to apply and enforce sanctions for non-compliance with regulations. Experts' opinions about the situation in various countries point to some common problems.

First, electoral justice institutions have limited financial, human and technical capacity. In some cases, they are not fully independent from political considerations, because they obtain their resources to supervise election processes from discretionary transfers by government agencies. Second, electoral justice institutions usually have the power to monitor formal aspects of the information that parties report, but they lack the mandate to check whether parties are reporting all that they should. Last, the sanctions that are in place are usually weak and insufficient to discourage non-compliance with the rules. Fines are low and suspensions usually affect campaign managers rather than candidates.

In some cases, those sanctions are applied too long after the irregularities in question occurred, and parties' or candidates' options to appeal make the process slower and defuse its deterrent effect even further. This suggests that the capacity and autonomy of institutions in charge of supervising electoral finance need to be strengthened. These institutions need to be able to supervise whether all relevant information is being reported, while sanctions need to be tougher and further-reaching, to increase their deterrent effect.

As a supplement, promoting transparency in campaign finance is a useful tool to facilitate citizen oversight and monitoring by supervising bodies. Transparency can be promoted in several ways. They include, for example, the obligation to file detailed financial reports on the source and use of funds, as well as publicizing that information among the population. Although no thorough assessments have been made of the impact of this kind of initiative, we might expect that disseminating information—as long as it is timely, user-friendly, and digitalized—will be effective to promote transparency and discourage the exchange of political favors for campaign funds.

### Policy lesson

In order to improve campaign finance regulation it is essential, above all, to close implementation gaps. Restricting the relevance of private funds will be particularly difficult if real campaign spending is far greater than what is declared to the authorities. Strengthening monitoring capacities, increasing the harshness and scope of sanctions for non-compliance, and promoting transparency and citizen oversight are therefore all crucial tasks.

## A professional bureaucracy

Patronage in public sector employment—or, more generally, the allocation of public sector jobs based on criteria other than merit—is at the center of the debate on how to attract and select better prepared and more honest officials.

From their origin, the creation of civil services systems were seen as a way to limit the political use of public sector employment, by professionalizing public service and decoupling it from election cycles. As will be discussed later, the majority of countries in the region have made important progress to develop civil services that prioritize merit in recruitment, tenure and promotion decisions. However,

in most cases there is still a long way to go—in terms of both legislation and implementation—to establish a professional bureaucracy.

## Patronage in public employment

Patronage or clientelism refers to an exchange relationship where a political organization transfers rents to a population group in exchange for votes and electoral support. We often think of these rents as goods or cash payments handed out during election campaigns. However, they can also take the form of public sector jobs. The jobs linked to patronage usually offer higher wages than the worker would normally find in another organization, a high tolerance for non-compliance with the responsibilities attached to the job, or access to opportunities for corruption.<sup>7</sup>

Patronage implies the use of public resources for personal benefit: the transfer of rents to build clientelist networks. Importantly, in addition to being itself a corrupt practice, political patronage can also negatively affect the recruitment of better public officials and contribute to weakening institutions where large-scale corruption thrives.

Clientelism in public employment can also lead to an excessive expansion of the bureaucracy, beyond the size needed for the provision of public goods and services. In extreme cases, it can even lead to the creation of unnecessary positions. All this can have a major negative impact on public finances and the creation of private sector jobs. Alesina, Danninger and Rostagno (2001) estimate that, at the end of the 20th century, half of the public sector's total payroll in southern Italy could be considered a form of subsidy.

The clientelist use of public-sector employment can undermine efforts to attract and recruit better prepared and honest officials.

The existence of patronage, like any other form of favoritism, means that the playing field to join the public service is not even, since it improves the chances of people with ties to the political party or group in power, to the detriment of people who do not have those ties. By prioritizing connections above merit, patronage can reduce the likelihood of attracting and selecting well prepared and honest officials, if those who are worse prepared and less honest are the ones who benefit more from preferential access to public sector positions. The prevalence of favoritism also contributes to eroding public service prestige, so it can make the public sector less attractive to people who are otherwise highly motivated for public service.

In Latin America, studies for Brazil and Ecuador document that having political ties with the winning party in a municipal election increases the probability of getting a job in a municipal government. In all cases, a portion of those jobs are non-management positions, which suggests these results reveal political patronage rather than the selection of officials needed to implement an electoral mandate. Besides, those jobs are usually given to individuals who are less

7. Patronage in public employment is an attractive alternative to build clientelist networks, because it solves the commitment problem that is inherent to clientelism—the difficulty that politicians and their clients have to credibly promise that they will deliver their part of the deal. Patronage aligns both parties' incentives, because a job provides the client with a rent that can be cut off if the politician is defeated and replaced by a rival. The client therefore has an interest in giving electoral support to the politician, while the politician has an interest in giving jobs to members of groups who are part of their clientelist network (Robinson and Verdier, 2013).

prepared. Colonnelli, Prem and Teso (2018) show that winning-party supporters who got public-sector jobs had lower educational levels and lower previous salaries than losing-party supporters who also joined the public sector.<sup>8</sup>

Hiring officials based on criteria other than merit can reduce public service quality. In Mexico, teachers selected in a discretionary process led by the teachers union make significantly lower contributions to their students' learning than teachers selected through a competitive procedure (Estrada, 2019). In fact, the hiring of teachers through public examinations was introduced out of concern about abuses in the discretionary process, linked to inheriting and purchasing teacher positions.

Patronage leads to high staff turnover around the election cycle, which may have a direct negative impact on the quality of public service delivery—whatever the profile of the individuals who join and leave. This negative effect is due to the fact that staff turnover may disrupt an organization's management and operations. Also in the context of municipal elections in Brazil, Akhtari, Moreira and Trucco (2017) document that a change in the governing party leads to an increase in turnover among principals and teachers in schools managed by municipalities, which negatively affects learning among students in those schools.

The extensive use of patronage may lead to the development of clientelist networks within the public sector. Those networks are a threat for a bureaucracy's professional operations. State capture by political groups weakens institutions and facilitates corruption, because it undermines the independence and the balance of power between civil servants and elected officials (as discussed in detail in Chapter 2). To summarize, patronage erodes accountability, because it enables officials to respond to the interests of their clientelist networks rather than to citizens' interests.

**To be effective as a clientelist mechanism, patronage requires discretionary power over the appointment and dismissal of bureaucrats.**

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To be effective as a clientelist mechanism, patronage requires discretionary power over bureaucrat appointment and dismissal. Politicians cannot credibly promise a public sector job if without controlling the process to appoint officials, and they cannot secure electoral support after granting jobs if they cannot threaten their clients with dismissal. Discretionary power over public employment is so important for patronage that both terms are sometimes used as synonyms in the specialized literature. However, this is incorrect. Discretion is not necessarily patronage.

In fact, granting elected officials the power to decide who joins the public sector can be an efficient option in the case of political appointments—those who fulfil senior management tasks-- or of the staff who directly support elected officials. A government leader may need collaborators with a certain ideological or technical profile to implement the political platform on which they campaigned. Further, a trusting relationship between a government's leader and their working group promotes the flow of information and facilitates decision-making, while the ability to dismiss (or promote) staff with a poor (or good) performance promotes public officials' accountability to government leaders.

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8. See Brollo, Forquesato and Gozzi (2017) and Colonnelli, Prem and Teso (2018) on Brazil, and Brassiolo, Estrada and Fajardo (2019) on Ecuador.

Selecting the best staff is in the interest of any elected official with the right motivation and incentives. With weak incentives and institutions, however, discretion opens the door to abuse, whether in the form of patronage or of other practices linked to the exploitation of rents associated to public sector employment, including nepotism (preferential hiring of relatives) and the sale of positions (taking bribes from people who wish to join public service). The challenge to regulate public sector recruitment involves achieving a balance between restricting abuse of discretion and ensuring flexibility to hire staff in cases where a given position's profile may require that. This is hard to accomplish, among other reasons, for the large size and diversity of positions in the public sector.

A challenge in the regulation of the public service is achieving a balance between restrictions to avoid abuse of discretion and flexibility to hire staff when it is needed

### Box 3.5

#### The complex task of regulating public sector employment

Setting up a professional, effective civil service entails complex challenges. The public sector is a gargantuan and extremely heterogeneous employer. In Latin American countries, public sector employment ranges from 4% to over 20% of all workers, with the regional average around 13% (Izquierdo, Pessino and Vuletin, 2018). These jobs are distributed across many different institutions. Within the executive branch alone, these institutions vary depending on the level of government (national or subnational), the sector (education, healthcare, security, etc.), and degree of autonomy (ministries, autonomous agencies, state owned enterprises, etc.).

The technical capacity of those organizations and the institutional and political incentives they face is likely to vary considerably. Moreover, within each organization public officials differ in terms of their responsibilities, tasks and profiles. Setting up a common framework to manage employment poses hence a huge challenge, given this magnitude and this diversity.

## Civil service systems

The historical development of civil service systems is linked to the goal of restricting the clientelist use of public sector employment, by professionalizing public service and decoupling it from election cycles. And yet, of course, systems to manage public employment have extended beyond this goal. They now seek to strengthen the state's institutional capacity, and therefore its effectiveness to improve the welfare of the population.

A professional civil service prioritizes merit in recruitment, tenure and promotion decisions, and grants job stability to its staff. Of these elements, meritocratic recruitment and job stability are crucial to restrict patronage in public employment. On the other side, merit-based decisions on staff tenure and promotion are necessary to motivate current officials to give their best effort and to attract candidates who are better prepared and more motivated to work in high performing environments.

Two components of professional civil services are crucial to restrict patronage: meritocratic recruitment into office, and job stability for public officials.

The modernization of public service in Latin America has achieved important progress, in particular with the enactment of legislation that requires the formal implementation of a civil service system (Box 3.6 summarizes recent civil service reforms).

### **Box 3.6**

#### Civil service reforms

Civil service reforms in Latin America can be divided into two waves. The foreign debt crisis of the 1980s brought the first wave of reform, which sought to limit the size of the state and to modernize its operations. Constitutional changes were implemented in Brazil (1988), Colombia (1991), Paraguay (1992), Peru (1993) and Argentina (1994).

A second wave of reform occurred in the late 2000s, when Bolivia (2008) and Ecuador (2009) enacted new political constitutions and Chile, Panama, Uruguay and Venezuela, among others, adopted major reforms. Those changes were preceded by the Ibero-American Charter for the Public Service (*Carta Iberoamericana de la Función Pública*), which was signed in 2003. In this document, Latin American governments acknowledge the importance of having a professional and effective civil service, as an essential tool to strengthen the state's institutional capacity, the democratic system, and social and economic development. Governments further state their willingness to keep working to improve and modernize systems to manage the public administration. Governments also recognize the central role that merit needs to play in all policies to manage the public administration, including those focused on recruitment into and promotion within the civil service (Centro Latinoamericano de Administración para el Desarrollo, 2003).

These reforms have faced important challenges, including the widespread opposition from civil servant unions and some political parties. Such opposition restricted the scope and the pace of the reforms. In some cases, progress was followed by rollbacks due to different reasons that include subsequent legislative changes that undermined the role of merit in the civil service or restricted its scope of action, reductions in the resources or powers of the institutions that manage the civil service, or the expansion of public employment under legal forms or government sectors that escape the regulations of the civil service (Grindle, 2012). The case of Argentina—where five different initiatives have been launched since the 1980s with the aim of creating a career service for public sector management, all of them short-lived or only partially implemented—shows the difficulty involved in institutionally consolidating merit within public service (Zuvanic and Diéguez, 2016).

Given that a career service seeks to endure changes of government, consensus among a country's various political groups is one of the main challenges to consolidate it. This factor seems to have positively contributed to progress in implementing civil service systems in countries like Chile and Paraguay (Iturburu, 2014; Llano, 2014a). The Political and Legislative Agreement for State Modernization, Transparency and Growth Promotion (*Acuerdo político y legislativo para la modernización del Estado, la transparencia y la promoción del crecimiento*) was signed in Chile, while the Agreement for Paraguay (*Acuerdo por Paraguay*) was signed in Paraguay.

Corruption scandals have also triggered progress in the professionalization of civil service. For example, in 2002, a series of corruption cases concerning bonus payments and electoral funding in Chile helped to push, a year later, a new law on public sector employment, which included—among other elements—the creation of the Senior Public Management System (*Sistema de Alta Dirección Pública*) (Iturburu, 2014)

Table 3.1 summarizes the legislative framework for public sector employment in 11 Latin American countries. The constitutions of 9 out of the 11 countries that were assessed mandate the creation of civil service systems, while in the remaining two cases—Argentina and Mexico—this mandate is expressed in the framework laws on public sector employment.

# 9 of 11

constitutions that were examined establish the creation of a civil service system.

More specifically, national constitutions in five countries—Brazil, Colombia, Chile, Ecuador and Panama—explicitly require using merit as the criterion for recruitment into public service. The constitutions of two countries—Colombia and Ecuador—required using merit for promotions, while in one case—Colombia—merit was required to be considered for tenure decisions (through the use of performance assessments).

Further, the constitutions of six countries—Argentina, Brazil, Ecuador, Mexico, Panama, Paraguay and Uruguay—explicitly recognize the right of public officials to job stability. The fact that these key concepts of good public sector management are mentioned directly in constitutions shows that their relevance is formally acknowledged. However, it is the provisions included in secondary legislation that are crucial for implementation.

**Table 3.1**

Characteristics of the civil service according to political constitutions

Country	Establishes a civil service system	Year	Requires meritocratic recruitment	Requires meritocratic promotion	Requires evaluation for continuation	Provides job stability <sup>a/</sup>
Argentina	No	1994	No	No	No	Yes
Bolivia	Yes	2009	No	No	No	No
Brazil	Yes	1988	Yes	No	No	Yes
Chile	Yes	1980	Yes	No	No	No
Colombia	Yes	1991	Yes	Yes	Yes	No
Ecuador	Yes	2008	Yes	Yes	No	Yes
Mexico	No	1917	No	No	No	Yes
Panama	Yes	1972	Yes	No	No	Yes
Paraguay	Yes	1992	No	No	No	Yes
Peru	Yes	1993	No	No	No	No
Uruguay	Yes	1967	No	No	No	Yes

a/ This category focuses on whether the constitution says that a public servant can only be dismissed with legitimate cause detailed in legislation.

Source: Prepared by the authors, based national legislations.

The effective implementation of merit as the main criterion that defines entry into the civil service requires that mechanisms used to select public workers ensure impartiality in the recruitment process, with all decisions based on aptitude and on the competencies needed to do the job effectively. More precisely, the key elements of competitive examinations, the gold standard in selection mechanisms to select civil servants, are:

- Broad publicity concerning the number and types of positions available; the selection criteria that are to be used; and the results of the evaluation, including lists of selected candidates. Websites to publicize this information on the Internet (for all public-sector hirings) are an essential tool for any modern civil service.
- Broad access to selection processes—particularly for entry-level positions—where anyone who meets the requirements can apply.
- Evaluation based on technical and objective criteria, through formal procedures, measuring the skills needed for the job and using—though not necessarily exclusively—test-based evidence that provides comparable and reliable information about the candidates.<sup>9</sup>

The adequate implementation of competitive examinations that meet these criteria requires a clear definition of the nature of all positions along the hierarchy—with their roles, tasks and responsibilities—and of the competencies needed to effectively carry them out.

### Policy lesson

A merit-based system for entry into the civil service requires that selection mechanisms ensure impartiality in the recruitment process, with all decisions based on aptitude and abilities needed to do the job effectively. Public examinations are the gold standard in this context. They must guarantee that the available vacancies and the relevant selection processes are adequately publicized, ensure broad access to those processes, and involve evaluations based on technical, objective and transparent criteria.

How is Latin America performing on these points? It is encouraging that, in 8 of the 11 countries that were assessed in Table 3.2, the law says that regular recruitment into a permanent professional or operational (not senior) position must be the result of a public examination. Only in Argentina, Bolivia and Mexico does the law not require competitive examinations to obtain a permanent position as a civil servant. In all cases, a permanent—or open-ended—contract grants civil servants legal protection from unjustified dismissal.

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9. While it is possible to include instruments to measure integrity in tests used in public-servant selection processes, this is still far from being a suitable alternative. As detailed in Box 3.1, despite progress made to measure integrity, it is likely that the available instruments will not work well in high-stakes contexts, such as recruitment processes. All candidates for a vacancy have an interest in manipulating any attempt to measure their honesty level when they know that doing so will increase their chances of being hired.

**Table 3.2**

Mechanisms for regular entry into public service for permanent non-managerial positions

Recruitment Mechanism	Country
Public Examination	Brazil
	Chile
	Colombia
	Ecuador
	Panama
	Paraguay
	Peru
Simplified Procedure with a Merit Component <sup>a/</sup>	Uruguay
	Argentina
	Bolivia
Direct Appointment	Argentina
	Mexico

Note: The table shows mechanisms for entry into permanent public-sector positions, whether operational or professional (not managerial), for several Latin American countries. In countries mentioned in more than one category, legislation considers several recruitment mechanisms. More details about the data and methodology are provided in the Appendix (p. 223).

a/ This category includes cases where the law requires a certain selection process, but does not explicitly state either the conditions for recruitment or how each criterion is to be weighted. It also includes cases where the selection process is not necessarily open, public, or transparent.

**Source:** Prepared by the authors, based national legislations.

## Accessing managerial positions

What happens with access to managerial positions? Civil service systems do not include political positions—e.g. ministers, deputy ministers, secretaries and undersecretaries—which are posts of free appointment and dismissal. However, as Table 3.3 shows, some countries have incorporated middle and senior managers into their civil service systems, including the use of meritocratic recruitment mechanisms.

In Argentina, Chile, Mexico, Peru and Uruguay, the law stipulates the development of civil service systems for senior public management with recruitment via competitive examinations. However, implementation varies considerably. In Brazil, the law establishes that a portion of managerial positions must be reserved for career civil servants. In Paraguay, managerial positions may be subject to competitive examinations in specific cases detailed in the legislation, or at the

discretion of the head of the relevant institution. In Bolivia, Colombia, Ecuador and Panama, managerial positions in the public sector are always subjected to free appointment and dismissal.

**Table 3.3**

Mechanisms for regular entry into public service and job stability for senior positions

Recruitment Mechanism	At-will Dismissal <sup>a/</sup>	Country
	No	Argentina
	Yes	Brazil
	Yes	Chile
Public Examination	No	Mexico
	No	Paraguay
	No	Peru
	No	Uruguay
	Yes	Bolivia
	Yes	Brazil
	Yes	Colombia
Direct Appointment	Yes	Ecuador
	Yes	Panama
	No	Paraguay

Note: Details about the data and methodology are provided in the Appendix (p. 223).

a/ The At-will Dismissal category implies that legislation makes it possible to dismiss an employee at the discretion of the relevant authority.

**Source:** Prepared by the authors, based on national legislations.

In most cases, managers selected in competitive examinations enjoy job stability, although they may be subject to performance evaluations and they may be appointed for limited periods of time only. In Chile, on the other hand, the President retains the right of free dismissal. The Chilean case is interesting, because it combines aspects of the civil service system with the political appointment system (see details in Box 3.7).

**Box 3.7****Chile's Senior Public-Sector Management System<sup>a</sup>**

Chile's Senior Public Management System (*Sistema de Alta Dirección Pública*, SADP) was set up in 2003 as a civil service system focused on senior management. It runs parallel to the system that focuses on lower level public servants.

The SADP was created after a series of corruption cases concerning bonus payments and electoral funding in Chile that led to the enactment of a new law on public sector employment. Strong social pressure meant that a consensus quickly emerged among political parties around this bill, which was drafted by a group of experts and academics.

Its design combines aspects of the civil service system with the political appointments system. The governing body—the Council on Senior Public Management (*Consejo de Alta Dirección Pública*)—conducts open selection processes where candidate trios are shortlisted. Those trios are then submitted to the head of the executive. The president must choose from that group of candidates. Appointments are for a period of three years that can be extended twice. The president remains free to dismiss these officials.

SADP implementation at first met major resistance, but an increasing number of vacancies were gradually opened to competitive examinations. By 2014, 90% of all senior managers were appointed after taking part in these public examinations.

Free dismissal has allowed for a high turnover linked to the political cycle. However, the combination of merit in recruitment with the flexibility that characterizes the political appointment system is credited with having helped to consolidate the SADP.

a. This box is based on Llano (2014b), Grindle (2012) and Zuvanic (2016).

**Diluted merit: implementation gaps**

Several factors can restrict in practice the role of merit in the civil service. In principle, a civil service system should extend to all public officials except those in political positions and positions of trust. It must not be restricted to the national government or to certain areas of the public administration. However, in Latin America, this is in fact the exception rather than the rule. As Table 3.4 shows, in only 7 of the 11 countries that were examined—Brazil, Colombia, Chile, Ecuador, Panama, Paraguay and Peru—civil service legislation covers employment in both the national government and subnational governments. In fact, in most cases—8 out of 11—the law does not apply to service providers in education and healthcare, which tend to have a significant weight in public employment. Brazil, Chile and Colombia are the exceptions. However, these and other public officials may in some cases be regulated by specific legislation.

**Table 3.4**

Characteristics of the civil service, according to the framework law on public employment

Country	Year	Scope, by levels of government <sup>a/</sup>	Includes service providers in healthcare and education	Defines a dedicated institution in charge <sup>b/</sup>
Argentina	1999	National	No	No
Bolivia	1999	National	No	No
Brazil	1990	National and local	Yes	No
Chile	2004	National and local	Yes	Yes
Colombia	2004	National and local	Yes	Yes
Ecuador	2010	National and local	No	No
Mexico	1963 (LFTSE) and 2003 (LSPC)	National	No	No
Panama	2017	National and local	No	Yes
Paraguay	2000	National and local	No	Yes
Peru	2013	National and local	No	Yes
Uruguay	2013	National	No	Yes

Note: Details about the data and methodology are provided in the Appendix (p. 227).

a/ Indicates whether the law extends to public-sector employment in the national government, local governments, or both.

b/ Indicates whether the institution designated by law as responsible for managing the civil service focuses exclusively on that task and is not subordinate to a ministry.

**Source:** Prepared by the authors, based on national legislations.

The implementation of competitive examinations might be limited—even when the law says they are compulsory—by extensive use of legal clauses that were originally designed to enable direct appointment in extraordinary circumstances, or by the practice of hiring temporary staff. Regulations concerning the hiring of temporary staff usually escape the scope of civil services.

Fixed-term contracts are legal instruments that make it possible to hire workers for specific projects that require a temporary increase in the workforce or the involvement of staff with specific skills that differ from those of the permanent staff. This kind of contracts should therefore be a complementary tool in human resource management. However, employees with fixed-term contracts have in practice become a significant fraction of public employment in several countries, whether as temporary officials or as workers under alternative arrangements. The following cases illustrate this pattern.

In 2014, 36% of the staff in Argentina's public sector had fixed-term contracts and were not considered civil servants (Iacoviello and Llano, 2017), although Decree 214/2006 establishes that this category cannot account for more than 15% of all public sector staff (Presidencia de la Nación Argentina, 2006).

In Brazil, in 2012, 41% of new employees joining the federal public administration did so with fixed-term contracts (Llano, 2014a).

In Chile, in 2017, over 60% of the central government's civilian staff had fixed-term contracts, although the law capped that percentage at 20% of all staff in any given public institution (Dirección de Presupuestos del Ministerio de Hacienda de Chile, 2018).

While fixed-term contracts are by definition temporary, it may in some contexts be possible to extend them, which encourages their use as a substitute for permanent staff.

The frequent use of fixed-term contracts may enable to escape civil service regulations, since the selection of staff on fixed-term contracts is often more discretionary. As shown in Table 3.5, Peru and Uruguay are the only two Latin American countries that require public examinations for fixed-term positions. In Bolivia, Brazil, Chile, Colombia and Paraguay, the law requires some sort of formal procedure to fill fixed-term positions, while Argentina, Ecuador, Mexico and Panama allow direct appointments.

**Table 3.5**

Mechanisms for regular entry into public service for fixed-term non-managerial positions

Recruitment Mechanism	Country
Public Examination	Peru Uruguay
Simplified Procedure with a Merit Component <sup>a/</sup>	Bolivia Brazil Colombia Paraguay Chile
Direct Appointment	Argentina Ecuador Mexico Panama

Note: The table shows mechanisms for entry into fixed-term public-sector positions, whether operational or professional (not managerial), for several Latin American countries. More details about the data and methodology are provided in the Appendix (p. 223).

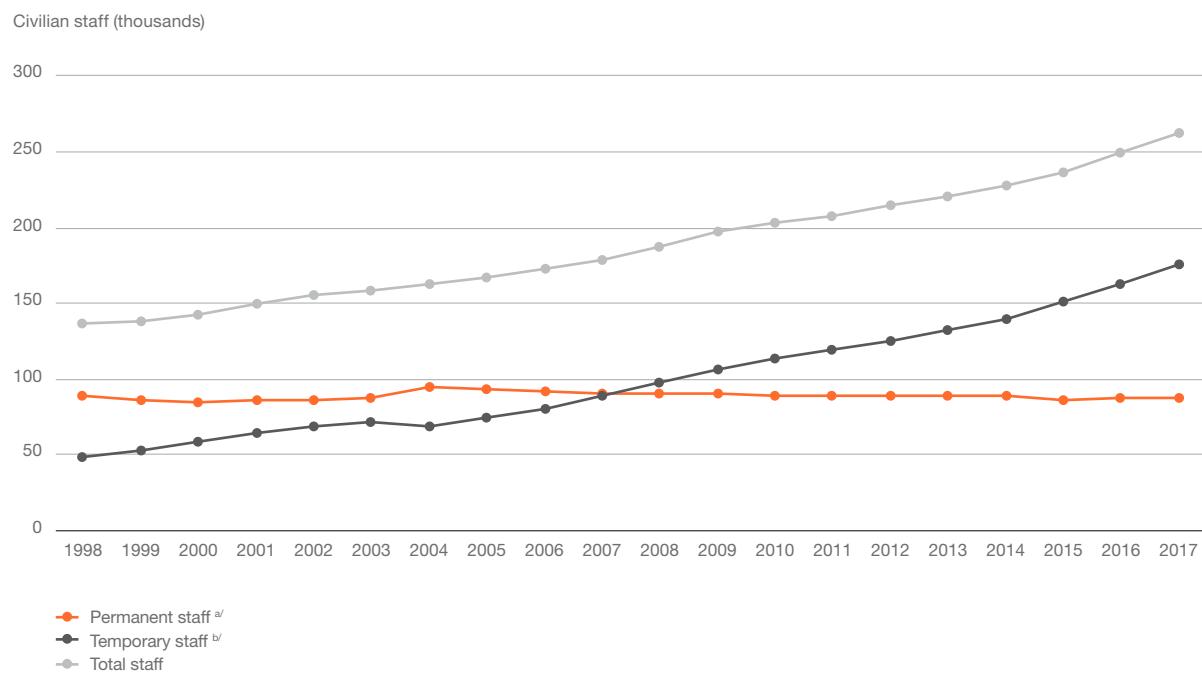
a/ This category includes cases where the law requires a certain selection process, but does not explicitly state either the conditions for recruitment or how each criterion is to be weighted. It also includes cases where the selection process is not necessarily open, public, or transparent.

**Source:** Prepared by the authors, based on national legislations.

Graph 3.6 shows changes in the total number of civilian public sector employees in Chile over the past two decades, depending on whether they had permanent or fixed-term contracts. As shown in the graph, the increase in the number of officials with fixed-term contracts fully explains the 93% expansion in Chilean public employment over this period. While access to positions with permanent contracts in Chile required public examinations, until 2017 there was no mandatory selection mechanism for staff on fixed-term contracts.<sup>10</sup>

### Graph 3.6

Evolution of civil service staff in Chile



a/ Includes the following categories: planta, jornales permanentes and código del trabajo.

b/ Includes the following categories: contrata and honorarios.

**Source:** Prepared by the authors, based on data issued by the Chilean Finance Ministry's Budget Department (Dirección de Presupuestos del Ministerio de Hacienda de Chile, 2008, 2018).

10. Since 2018, the selection of all staff with a contract must follow the provisions of Article 13 of the regulations published in the Official Journal (*Diario Oficial*) on November 10, 2018,. These regulations require transparent recruitment procedures based on merit, suitability, inclusion, and equal opportunities. However, it is worth noting that Article 14 in that same document enables authorities to opt out of these mechanisms if that decision is well grounded and they report it to the National Civil Service Department (*Dirección Nacional del Servicio Civil*).

In the case of senior officials, the use of public examinations to fill positions varies significantly. As an example, while 90% of Chile's senior officials were selected through competitive procedures, barely 8% of Argentina's senior officials obtained their positions that way (Zuvanic and Diéguez, 2016). In Argentina, the head of the executive may appoint senior officials through temporary appointments, as exceptions to the rules that require both the use of competitive examinations and the fulfillment of specific job requirements. This has permitted that only 18% of all senior public officials in Argentina comply with the requisites set for their positions. In fact, only 66% of them have completed a university degree, despite this being a legal requisite (Gasparin and Diéguez, 2018).

The civil service system for middle and senior officials in Mexico is another example of the widespread use of legal clauses to avoid competitive examinations when filling specific vacancies. Article 34 of the Professional Career Service Law (*Ley del Servicio Profesional de Carrera*) allows for the recruitment of officials by direct appointment only:

In exceptional cases and whenever the social order, public services, public health, security or the environment are disturbed or at risk in a given area of the country as a result of natural disasters, accidents, or force majeure, or whenever the prevailing circumstances may cause major additional loss or costs. (General Congress of the United Mexican States, 2006, p. 24)

Despite extreme circumstances being cited in this article, 28% of all positions granted in 2012 were filled through direct appointments, and the proportion increased to 43% in 2016 (Betanzos Torres y Osuna Gómez, 2018).

Why does the use of competitive examinations seem so elusive in some cases? First, incentives persist to use public employment in a clientelist way. Patronage persists in some contexts where competitive examinations are the formal path to join the public service. In this scenario, political will and intelligence are essential to close the loopholes that enable discretion to seep through. However, reticence to use competitive examinations, and their substitution with more flexible hiring mechanisms, also responds to reasons other than clientelism. For example, it might be a consequence of failures in the design and institutional capacity of civil service systems. The challenge here involves implementing recruitment mechanisms that focus on merit and that function efficiently, at the lowest possible bureaucratic cost.

### Policy lesson

The effective implementation of a professional civil service requires that exceptional appointments and fixed-term contracts be limited to rare cases where they are necessary. To accomplish that, formal restrictions on those sorts of hires may not suffice. They must be complemented with well-functioning channels for regular recruitment and improvements in civil service efficiency.

**An efficient civil service requires job stability to go hand in hand with effective mechanisms to assess performance and with meritocratic promotions.**

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In terms of system architecture, it is vital to reflect on whether performance evaluations and promotions are functioning properly. Protection from unjustified dismissal is an acquired labor right, as well as a necessary tool to limit patronage, since it ends officials' dependency on politicians to keep their jobs. However, strong job protections—together with prospects for promotion that are nonexistent or based on factors different than merit—disincentivize effort, which can negatively affect officials' performance and the quality of public service delivery. This highlights the importance of combining protection from unfair dismissal with the use of performance evaluations to determine tenure and promotion decisions, and with mechanisms that are sufficiently flexible to adapt public employment to the changing needs of countries.

Given the technical and political challenges of managing the civil service, it should be the responsibility of a technical agency with financial and administrative autonomy, and with the necessary resources to adequately fulfill its mission. As Table 3.4 shows, this is not often the case in Latin America. Only six countries in the region—Chile, Colombia, Panama, Paraguay, Peru and Uruguay—have dedicated institutions to manage their civil services that are not accountable to a ministry and can therefore exercise more autonomous.

### **Policy lesson**

Civil service systems should be responsibility of well-resourced technical bodies with administrative and financial autonomy.

Experience shows that long-term vision is crucial to build a civil service system. In the United States, 50 years passed between the creation (in 1883) of the agency responsible for building the civil service system with the mandate to end patronage in public employment in that country, and the moment when that agency actually managed to control the recruitment of public officials in the US federal government (in the 1930s). A modern public service cannot be consolidated overnight, but that is no reason to take lightly a task that is so relevant for the quality of a democracy.

## Keys to choose the best people for public office

- 1 The perception—and incidence—of corruption in state institutions can discourage the individuals who most value integrity from getting involved in public service. It is therefore important to complement campaigns against corruption with the effective communication of achievements on transparency and integrity.
- 2 Competitive elections where candidates' qualities are clearly visible lead to the election of better-performing politicians. Primaries could be a useful tool to promote greater competition in the candidate nomination processes within parties, especially in districts that are not closely contested.
- 3 Improving the regulations on political finance in general, and campaign finance in particular, is crucial to impact the network of relationships between politics and the private sector.
- 4 Bans and caps on individual campaign contributions, especially from corporations, can be effective to reduce the risk of political capture. Restricting the weight of each private donor limits their ability to influence policy decisions.
- 5 Restricting campaign spending can encourage electoral competition, especially in contexts where candidates' personal wealth is a major factor for success at the polls.
- 6 In order to better regulate campaign finance it is essential to reduce implementation gaps. Strengthening the monitoring capacities of authorities, increasing the harshness and scope of sanctions for non-compliance, and promoting transparency and citizen oversight are crucial tasks.
- 7 Given the challenges of managing the civil service, this responsibility must be entrusted to a technical body with administrative and financial autonomy and the resources needed to perform its tasks.
- 8 Mechanisms for entry into the civil service must reward merit, ensuring impartiality in the recruitment process with decisions based on candidate suitability and skills. Open competitive examinations are the gold standard in this context. They must guarantee that the available vacancies and the relevant selection processes are adequately publicized, ensure broad access to those processes, and involve evaluations based on technical, objective and transparent criteria.
- 9 The effective implementation of professional civil service systems requires that exceptional appointments and fixed-term contracts are limited to rare cases where they are relevant. To accomplish that, it is important to guarantee well-functioning channels for regular entry, and to push for efficiency in the civil service.



# **Transparency and citizen oversight**



- What are the basic elements of citizen oversight?**
- What characteristics should information have to foster public accountability?**
- What role do the media and civil society organizations play in the provision of information about government actions?**
- How able and willing are citizens to react to acts of corruption, and to demand integrity from public officials?**
- How to strengthen electoral and non-electoral mechanisms of political participation?**

# Transparency and citizen oversight<sup>1</sup>

While the cat is away, the mice will play, goes the old saying. In any organization, there are monitoring mechanisms in place to check the actions of individuals, to ensure that those actions are consistent with the organization's goals. Monitoring is crucial and plays a double role. On the one hand, it is preventive, since agents have less incentive to misbehave if there is a threat of getting caught. On the other hand, it is corrective, since monitoring efforts enable changes and adjustments once inappropriate actions have been detected.

Unlike private organizations, the state manages resources obtained from all citizens and implements policies aimed to maximize the well-being of society as a whole. Therefore, citizens have the most at stake in ensuring that those resources are used properly.

In all democracies around the world, citizen oversight is a key factor to enforce accountability among public officials, and therefore to fight corruption. Graph 4.1 shows, for a broad set of countries, the relationship between the level of citizen participation (voice and accountability) and control of corruption, using data from the Worldwide Governance Indicators (World Bank, 2018c). The clearly positive correlation between these variables is an encouraging starting point. In this chapter, we will show evidence of the mechanisms through which citizen monitoring enables better control of corruption.

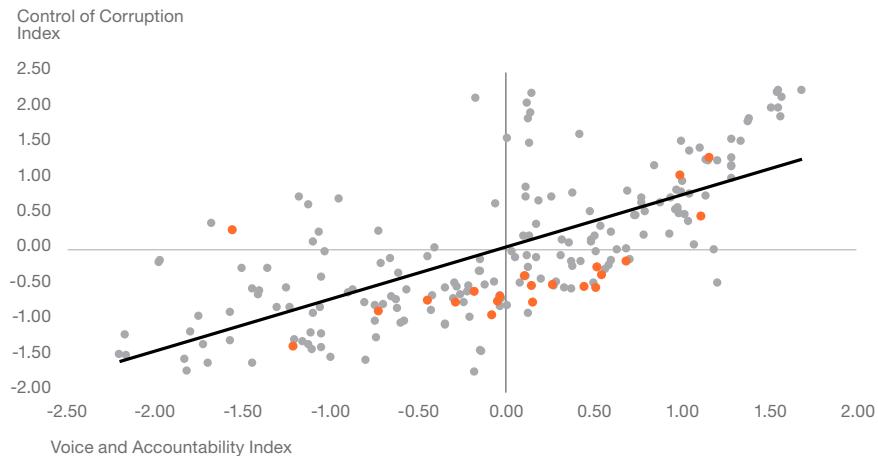
Graph 4.1 also shows that, in Latin America, control of corruption is lower than one might expect given the value of the metric concerning voice and accountability—most countries in the region are below the regression line. This seems to suggest that citizen oversight is less effective in promoting integrity, compared to other countries and regions.

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1. This chapter was written by Lucila Berniell and Dolores de la Mata, with research assistance from Matías Daniel Fernández.

### Graph 4.1

Relationship between control of corruption and citizen engagement



Note: This graph shows the correlation between the Control of Corruption Index and the Voice and Accountability Index for different countries, for the year 2017. Both indices range from -2.5 to 2.5. Higher values mean more control of corruption and more citizen engagement. Each dot represents a country (Latin American countries are highlighted in orange), while the black line shows the linear regression between the two variables. Details about the data and the methodology are provided in the Appendix (p. 228).

**Source:** Prepared by the authors, based on data from the Worldwide Governance Indicators (World Bank, 2018c).

What barriers may restrict the effectiveness of citizens' supervision role? This chapter identifies three fundamental pillars that enable accountability and citizen oversight processes to function properly, as shown in Figure 4.1.

**Figure 4.1**  
Basic pillars of effective citizen oversight



**Source:** Prepared by the authors.

The first pillar involves the availability of information on the actions of politicians and bureaucrats. This chapter addresses the challenges linked to producing and processing relevant, credible, and timely information, and making it available to citizens. Several actors are involved in these tasks. On the one hand, active transparency policies adopted by the state are very valuable to ensure that citizens obtain good-quality information. The media and civil society organizations tend to complement this, by aggregating and summarizing the information to disseminate it in accessible formats.

The second pillar involves concerned citizens who obtain and process the available information to assess the performance of officials, and who are willing to prevent or punish acts of corruption. This chapter examines some factors that may compromise citizens' ability or willingness to play this oversight role. One of these factors is the lack of expert knowledge that enables citizens to determine which events constitute acts of corruption, while others are linked to aspects that increase tolerance towards malfeasance.

The third pillar involves the availability of adequate mechanisms to enable civic engagement and citizen oversight. These mechanisms can only work well if they are accessible to all citizens. It is therefore necessary to ensure that using them is not costly—in terms of time, money, or other resources—and to prevent them from being coopted by vested interests. Elections are the main mechanism for citizens to oversee politicians and—indirectly—civil servants. Vote-buying and the clientelist use of resources seek to defuse the disciplinary role of elections, which is why this discussion pays special attention to initiatives aimed at fighting such practices. Since elections only take place every certain number of years, there are other participation channels, but citizens tend to find them more costly. This chapter reviews how the government's growing digitization and the integration of new technology into everyday life can boost citizens' role in the fight against corruption, by increasing access to information and creating channels to attend citizen demands.

To be able to engage in effective monitoring efforts, citizens need more information, better training to identify acts of corruption, and accessible channels to complain and seek redress.

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## More, better-quality information

Citizens' ability to monitor public officials will depend on how transparent their actions are, which means that citizens need relevant, credible, timely, accessible, clear, and comprehensive information.

Information is relevant when it addresses issues regarding the decisions and behavior of officials which are valuable to citizens. Credibility is necessary to dispel doubts concerning possible biases or arbitrary elements in the available information. The most reliable and useful information for citizens is the one produced by institutions with a good record of technical competence.

It is also essential for information to be timely. For example, if voters are to punish politicians who line their pockets illegally, they will need to know of any wrongdoing before elections take place. On the other hand, monetary costs—

or any other barriers—should not prevent the effective use of information by citizens. A common way to restrict access to and use of information involves disseminating it in formats that are not user-friendly, or where the level of detail makes it difficult to identify who is directly responsible for the actions that are being reported.

Finally, information needs to be comprehensive, since irregularities can happen in many different fields and at several stages in the public-policy cycle. Consequently, information must be produced and disseminated about all areas and stages of government action, to prevent corruption from moving to more opaque spaces and tasks, rather than disappearing altogether.

It is extremely difficult to ensure that all these conditions are met. Governments conduct countless, varied tasks, and these are carried out by many different public institutions and offices, so producing this quality of information is complex.

Government efforts to provide citizens with more, better-quality information involve implementing various transparency measures, including freedom of information laws as well as proactive open government initiatives and open data policies. Freedom of information laws allow citizens—individually or in groups—to request information, beyond what is freely available, from the state. Proactive open government policies involve disclosure requirement that establish standards for the information that needs to be available for citizens in specific formats and within certain deadlines, among other criteria.

Latin America is still far from attaining the levels of effective access to information that can be seen in more developed regions. However, Latin American countries have made major progress in terms of transparency, particularly concerning freedom of information laws and some aspects of open data and open government.

## The right to be well informed

**Freedom of information laws grant citizens the right to request and receive information with certain standards and within stated deadlines.**

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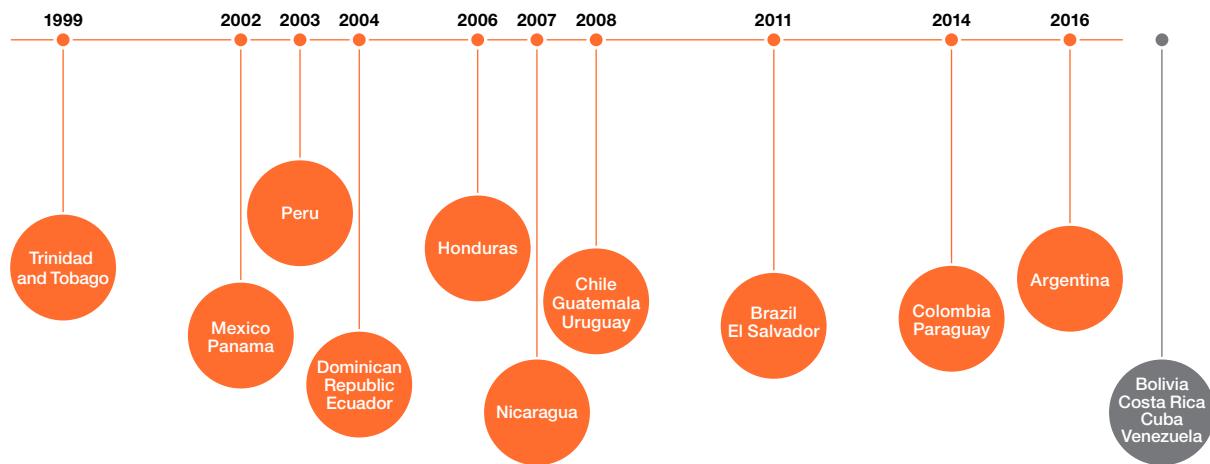
Freedom of information laws grant citizens the right to request and receive information with certain standards and within stated deadlines. Some countries have had this legislation in place for many years. Sweden has recognized this right since 1776, while in the United States and France it dates back more than 40 years. However, in much of the world it has only been implemented relatively recently.<sup>2</sup> Latin American countries have gradually joined this movement, particularly since the late 1990s and the start of the 2000s, and most countries have now enacted legislation of this nature, as shown in Figure 4.2. In Latin America, freedom of information laws have taken varied institutional forms, which are described in Box 4.1.

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2. Only 26% of the countries with freedom of information laws in place in 2018 had implemented such legislation before the year 2000 (Centre for Law and Democracy and Access to Info Europe 2018).

**Figure 4.2**

Freedom of information laws in Latin America



Note: Countries that are shown in gray have not implemented freedom of information laws. Bolivia and Venezuela have enacted rules that govern some aspects of access to public information, while in Costa Rica the right of access to information rests on provision held in the country's constitution (Organization of American States, 2013).

Source: Prepared by the authors, based on data provided by the Observatory on Principle 10 in Latin America and the Caribbean of the Economic Commission for Latin America and the Caribbean (ECLAC, 2018).

### Box 4.1

#### Institutions linked to freedom of information laws in Latin Americaa

The institutional designs proposed in various Latin American freedom of information laws generally focus on two actors that are crucial for their enforcement. On the one hand, implementing authorities, which are autarkic or enjoy functional autonomy. They work to ensure compliance with the rules, and they are charged with addressing citizen complaints and imposing sanctions for any non-compliance. On the other hand, information officers, which make up a network of public servants charged with receiving requests and sending them to the relevant officials, so the latter may respond or deliver the requested information.

Many different institutional models are evident in Latin America's implementing authorities. For example, Argentine law establishes that the implementing authority must be led by a single director, while the rules in Chile, Mexico, and Uruguay establish collegiate bodies. Further, Argentina, Chile, and Mexico enable these institutions to design, submit, and manage their own budget, while the budget for authorities in Brazil, Colombia, and Uruguay depends on the larger state institutions they belong to.

The rules give these authorities different scopes. In Mexico, for instance, the implementing authority is enshrined in the constitution, and its scope includes all branches of the federal government, as well as autonomous agencies. In Colombia, the Public Prosecutor's Office is in charge of enforcing this legislation, and its scope extends to all institutions in the various branches of state power. In Argentina and Chile, the regulatory scope of this legislation includes the executive branch, which is why implementing agencies in these countries are part of the executive. Argentine regulations require the creation of three further implementing authorities—one in the legislative branch, one in the judiciary, and a third in the Public Prosecutor's Office.

It is important to remark that freedom of information laws are tools that enable access to information not only for private citizens, but also for public officials in different institutions. Thus, a broader the scope of these regulations increases the likelihood of soliciting information that can be cross-checked across agencies and branches of government.

a. This box is based on national freedom of information laws: *Ley 27.275* (Argentina), *Lei 12.527* (Brazil), *Ley 20.285* (Chile), *Ley 1.712 de 2014* (Colombia), *Ley federal de transparencia y acceso a la información pública* (Mexico), and *Ley 18.381* (Uruguay).

While freedom of information laws show the disposition of Latin American countries to increase public transparency, it is not easy to quantify their contribution to the fight against corruption. This contribution can take two paths—making it easier to detect irregularities and playing a deterrent role. An analysis of reforms to freedom of information laws in individual states in the United States, suggests an impact through both channels (Cordis and Warren, 2014). The study shows that changes in freedom of information laws had more impact in states with greater media coverage, and in states that underwent more profound legislative changes that included tough penalties for officials found to have violated these laws. This highlights the complementary nature of transparency policies and the role of the media, as mediators in charge of delivering relevant information to citizens.

However, concerns about the chances of an incomplete or defective implementation of this type of legislation cannot be dismissed, especially in countries that are institutionally less developed. There are cases where written freedom of information laws incorporate the highest standards, but enforcement is far from ideal. For example, based on data issued by the Global Right to Information (RTI) rankings—which exclusively measure the strength of the legal framework, without considering implementation quality—Afghanistan is the country with the highest standards in its freedom of information law. And yet Afghanistan has high levels of corruption and is ranked 172nd out of 180 countries in Transparency International's Corruption Perception Index (Centre for Law and Democracy and Access to Info Europe, 2018; Transparency International, 2018).

The distance that separates written legislation from enforcement explains some results concerning the effects of freedom of information laws that may seem counterintuitive. For example, Costa (2012) found that countries who implemented freedom of information laws saw an increase in perceived corruption and drops in indicators on quality of government in the first few years after reform. This could be because, in many cases, countries with high levels of corruption enact freedom of information laws and then meet many difficulties to enforce them. Similar results emerged from research conducted by Escaleras, Lin and Register (2010), who examined the impact of this type of legislation in a 128-country sample. A positive relationship between observed corruption levels and the presence of freedom of information laws can also be due to the fact that the latter increase the probability that an irregularity will be detected, as noted by Vadlamannati and Cooray (2017).

A second issue that needs to be considered regarding how freedom of information laws work involves whether citizens actually use them, and whether that use is associated with citizen oversight to fight corruption. Examining how freedom of information laws are used in different Latin American countries is useful to answer these questions. For Mexico, Berliner, Bagozzi and Palmer-Rubin (2018) examined one million public information requests submitted in 2013–2015. These researchers found that, in almost half the cases, citizens asked for information that was relevant for public accountability, while a further third of the requests asked for information that was of personal interest. The first group includes requests regarding actual government spending, staff recruitment, infrastructure plans, asset declarations filed by public officials, and granted permits and licenses. The second group includes, for instance, details of administrative procedures, and information on requirements to access benefits in certain public programs.

A large, bold, gray percentage sign followed by the number '49'.

of requests for information  
filed in Mexico in 2013–2015  
were about issues relevant  
for public accountability.

Open data on requests for public information in other countries enable an analysis that complements the one conducted by Berliner et al. (2018). For example, Box 4.2 shows requests for public information in the Autonomous City of Buenos Aires.

Finally, if freedom of information laws are to function properly, officials need to respond within the stated deadlines, and they need to deliver information that really addresses citizens' requests. The available evidence suggests that more work needs to be done on the type and accuracy of information delivered in response to requests, and on time to delivery. For example, Lagunes and Pocasangre (2019) found that, in Mexico, the response rate to requests improved from 70% in 2007 to a little over 80% in 2015, but delays got longer. These researchers also found that, in many cases, requests on

issues that were considered sensitive for corruption received unsatisfactory responses. For instance, 60% of all requests for copies of public contracts did not result in the delivery of the information.

### Policy lesson

There are two aspects in which freedom of information laws can improve significantly in Latin America: reducing lags in the delivery of the requested information, and increasing the pertinence of the responses.

Lagunes and Pocasangre (2019) found additional room for improvement concerning for the costs of information. They concluded that, in Mexico, the percentage of requests where a fee was necessary was twice as high in 2015 as in 2007. Thus, even in Mexico—one of the most successful Latin American countries in terms of the implementation of freedom of information laws—there is still work to be done concerning delays, cost of access, and quality of information in response to citizen requests.

### Box 4.2

#### Requests for public information— The case of the Autonomous City of Buenos Aires

Graph 1 describes several aspects that characterize requests for information filed by citizens in the Autonomous City of Buenos Aires over the period 2013–2018. The first aspect that stands out in panel A in Graph 1 is the sustained increase in requests over time. This is consistent with recent implementation and appears to suggest that the increase will continue. A total of 9,964 requests were filed over this whole period. Panel B in Graph 1 describes what kinds of individuals and organizations solicited information. It shows that more than 80% of all requests were filed by private individuals, followed by NGOs. Concerning responses from the authorities, the data show that 90% of all requests were answered, although only half got timely responses (panel C in Graph 1).<sup>a</sup>

When examining the frequency with which various concepts came up in requests, issues of private interest—inspections, licenses, permits—were found to be particularly significant.

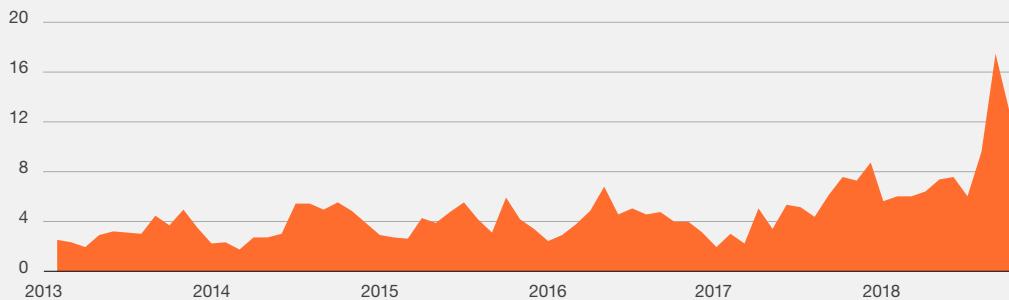
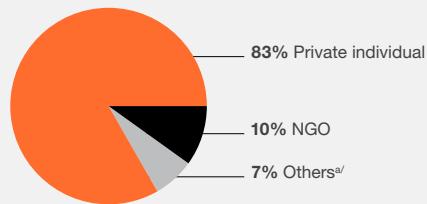
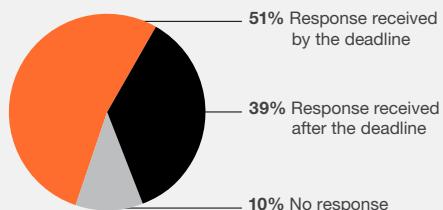
Panel D in Graph 1 shows some signs that freedom of information laws were also being used for accountability purposes. The number of requests shows an increase around elections. This seems to suggest that citizens use freedom of information laws to inform themselves better before casting their ballots. Panel E in Graph 1 shows that delays to respond were slightly higher before elections than after. While the reasons for such a slowdown are unclear, measures need to be taken to prevent hurdles to access information ahead of elections.

**Graph 1**

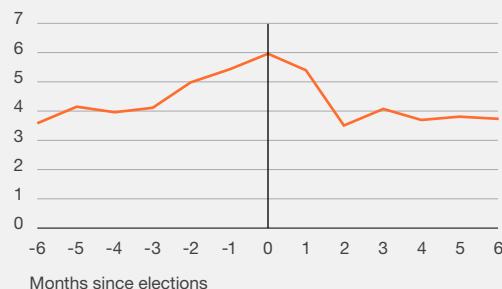
## Requests for public information in the Autonomous City of Buenos Aires

**Panel A. Requests filed per month**

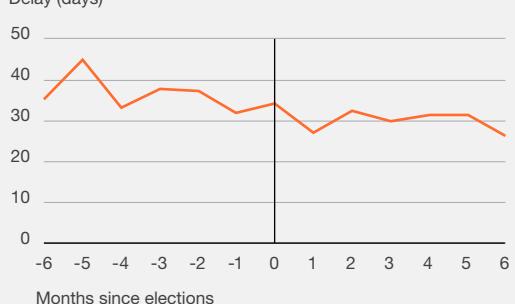
Number of requests  
per 100,000 residents

**Panel B. Type of person or institution who filed the request****Panel C. Compliance with deadlines to respond****Panel D. Requests around elections<sup>b/</sup>**

Number of requests  
per 100,000 residents

**Panel E. Delays in responses around elections<sup>b/</sup>**

Delay (days)



Note: This graph considers requests for information submitted to the Autonomous City of Buenos Aires' open data portal over the period February 2013–September 2018 (except for panel B, which only uses data from January 2016). Panels D and E respectively refer to the average number of requests per month and the average delay in days, around three local elections. Vertical lines represent the month in which the elections were held. Details about the methodology are provided in the Appendix (p. 228).

a/ This includes lawyers, journalists, political actors, community boards, homeowners' associations, private companies, and other uncategorized parties.  
b/ General legislative elections for the Autonomous City of Buenos Aires, held on October 2013, June 2015, and October 2017.

**Source:** Prepared by the authors, based on data from the Open Data Platform of the Autonomous City of Buenos Aires (2018).

a. The Law on Access to Information in the City of Buenos Aires (Ley de Acceso a la Información de la Ciudad de Buenos Aires, 1998) sets a 15-day period in which viable requests need to receive a response.

Unlike freedom of information laws, open data and open government initiatives seek a more proactive provision of information by the state. That is, the government commits to providing information without citizens explicitly requesting it.<sup>3</sup> A series of international agreements—led by non-governmental organizations in cooperation with governments on various levels—have been promoted to adopt homogeneous criteria and to make open data and open government standards more consistent.

Transparency International, the Open Government Partnership (OGP), and the Global Initiative for Fiscal Transparency (GIFT) lead very important initiatives in this field. The goals of these organizations include promoting concrete commitments by national and subnational governments to increase the availability of information on government action, giving citizens more power, fighting corruption, and using new technologies to encourage openness and accountability. Open government initiatives have been gaining strength in Latin America, and many countries in the region have joined the OGP and signed agreements with this organization since it was created, in 2011 (Graph 4.2, panel A).

There are other transnational organizations who work on more specific issues and seek to draw up standards and to secure government commitments for their effective implementation. One example is the Open Contracting Partnership, whose objective is to help governments adopt more efficient procurement practices and to get citizens involved in these processes.

To increase transparency in government action, open-government efforts have benefited from tools provided by new technologies.

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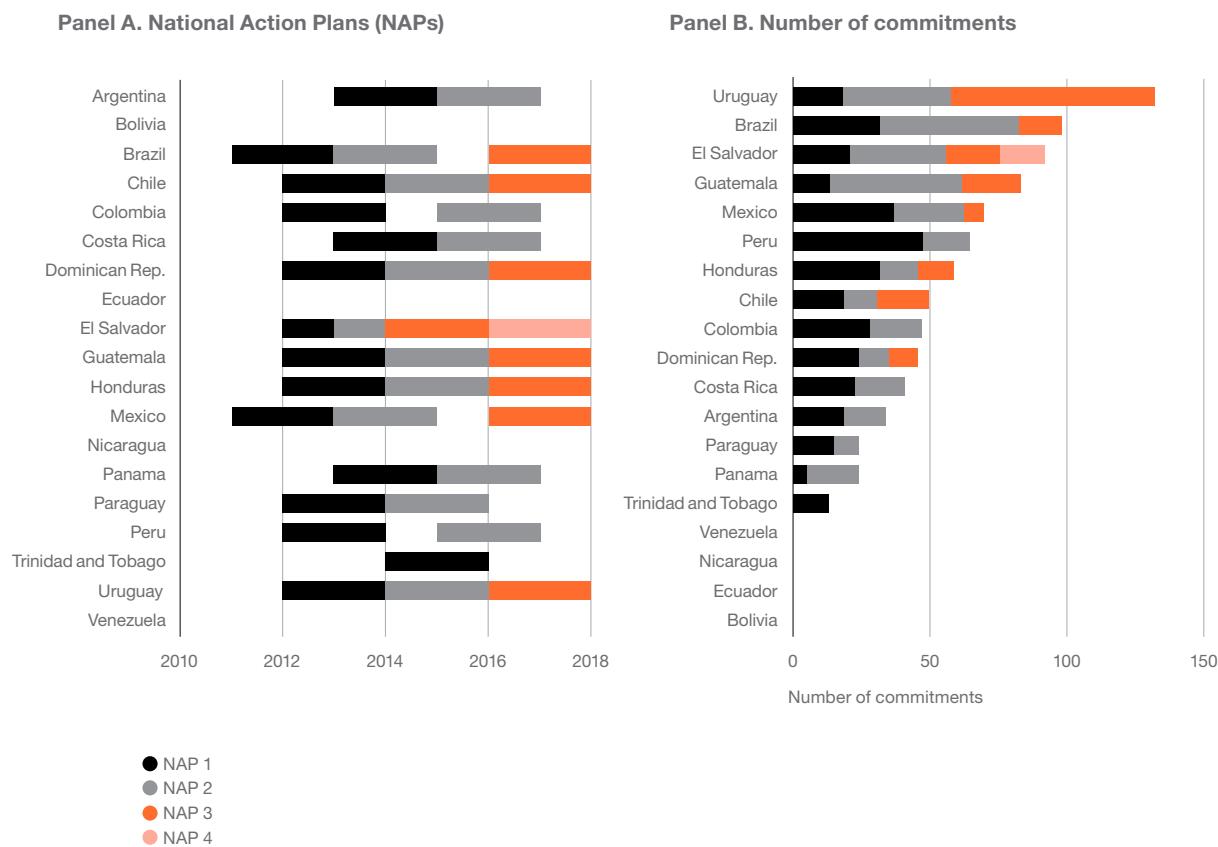
The work of organizations like the OGP has benefited from tools to increase transparency in government action made possible by technology, but also from high-level commitments that have enabled progress in specific countries. The OGP works with governments and civil society organizations on the design of National Action Plans (NAPs). Each action plan involves a two-year cycle for which participating countries make a series of specific commitments concerning open government. In each cycle, governments must draft an annual self-assessment report with civil society organizations. The OGP reviews these reports and incorporates them to an independent review mechanism available to all parties interested in the development of open government, at both the local and the international level.

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3. The general concept of open government, held in the Open Government Declaration of the Open Government Partnership (OGP), differs from the concept of open data. While the former puts forward a whole governance model to produce and give citizens information on government action, the latter refers to the necessary technical and legal aspects required for digital data to be freely used, reused, and redistributed by anyone, anytime, anywhere.

**Graph 4.2**

Commitments made by Latin American governments to the Open Government Partnership



Note: Panel A shows the start and end years of National Action Plans submitted to the Open Government Partnership by Latin American countries. Panel B shows the total number of commitments made in each action plan.

Source: Prepared by the authors, based on data from Open Government Partnership (2018).

Panel A in Graph 4.2 shows when each Latin American country launched action plans with the OGP, while panel B shows the total number of commitments held in each NAP and for each country. Brazil, El Salvador, and Uruguay lead the rankings in terms of the number of commitments signed. While these commitments are varied, an analysis of their content shows that many of them seek to improve access to information. For instance, agreements tend to heavily emphasize fiscal transparency and open data. Box 4.3 shows two examples of commitments held in OGP agreements that promote transparency and have great potential to contribute to the fight against corruption—Chile's lobbying law (*Ley de Lobby*) and Uruguay's Public-Policy Observatory (*Portal de Transparencia Presupuestaria*).

**Box 4.3****Examples of agreements made with the OGP by Chile and Uruguay<sup>a</sup>**

The Lobbying Law (*Ley de Lobby*) was one of the commitments in Chile's first OGP cycle. In 2014, Chile enacted law number 20.730, focused on regulating lobbying and activities to present private interests before national, regional, and local officials. This legislation's main goal is to record and publicize the following items: meetings and hearings requested by lobbyists and private-interest managers aimed at influencing public decisions; travels by officials in the exercise of their duties; and presents received by officials. A protocol was drafted to ensure all the relevant information is recorded and posted on a website. This law extends to all activities linked to the adoption of—or to the failure to adopt—a broad range of decisions, administrative acts, and political actions. The law does not demand the creation of a register of lobbyists and does not require lobbyists to provide information on their actions. Responsibility for reporting and recording any meetings or other similar activities therefore lies with the official who is lobbied.

Consolidation of Uruguay's Budget Transparency Portal (*Portal de Transparencia Presupuestaria*) was one of the commitments held in the country's Third National Action Plan for Open Government (*Tercer Plan de Acción Nacional de Gobierno Abierto*), for 2016-2018. It involves an Internet portal that provides reusable information about the public-sector budget, policy priorities, policies that are being promoted, and results achieved by the national government. The OGP describes this as an innovative project compared to its predecessor, the Uruguay Public-Policy Observatory (*Observatorio Uruguay de Políticas Públicas*), in terms of both its contents and the process of producing and maintaining information. The site currently holds 95% of all information about the budget, public spending, public companies, and non-state-owned public entities, in different sets of open-format data that are centralized in a single portal.<sup>b</sup> Further, this portal provides interactive tools developed thanks to exchanges with organized civil society (mainly activities that brought together technical experts from government, activists for the right to access public information, and data journalists), research about international experiences, analyses of information requests received, and also thanks to collaboration with the Latin American Initiative for Open Data (*Iniciativa Latinoamericana por los Datos Abiertos*, ILDA), the MIT Media LAB, and the Global Initiative for Fiscal Transparency (GIFT).

a. This box is based on Open Government Partnership documents (Copello, 2017) and on the *Ley de Lobby N° 20.730* (National Congress of Chile, 2014).

b. Non-state-owned public entities are public-interest, non-profit organizations that have been created by law.

The premise that open data can, by itself, prompt radical change to fight corruption sometimes seems too optimistic. For data to have an impact, it is not enough to set standards on the format of information. The contents of the information is of the most importance, and it must be meaningful for the purposes of preventing, detecting, investigating, and punishing irregular events. Recent research by the Open Data Charter (2018) suggested using a series of 30 priority datasets against corruption. Table 4.1 shows a list of those databases and classifies them by the type of source they are generally based on. Putting together this requires compiling information that is produced in different ways, including the following: i) public registers created for various purposes; ii) administrative or transactional data issued by the state, which

stem from the regular operations of the public sector and its relationship with individuals and legal entities; iii) public dissemination of statements filed by individuals and organizations.

**Table 4.1**  
Recomendaciones de Open Data Charter

<b>Registers</b>	
Lobbying registers	Government council or advisory boards register
Interest declarations	Contracts register
Company register	Register of government projects
Charity register	Campaign promises
Corruption-sensitive posts	Debarred or sanctioned contractors
Politically exposed people's list	Public procurement complaints register
Public officials register	Land register
List of government contractors	Voting records
Meeting records	Public-Private Partnerships (PPPs)
Records of changes in regulations	Asset declarations
International aid and financing	Tax records
<b>Transactional data</b>	
Licenses	Government grants
Tender and award processes	Audit data
Spending	Court data
<b>Statements by individuals and organizations</b>	
Political-party finance	
Budgets	

Note: This table shows 30 data sets whose publication the Open Data Charter considers essential to fight corruption. They are classified by type.

**Source:** Prepared by the authors, based on data from Open Data Charter (2018).

Transparencia Mexicana, the Open Data Charter and C'vica Digital (2018) looked into progress made to ensure the availability of that data for the case of Mexico. These organizations identified 72 specific data resources that match the information corresponding to the recommended 30 datasets. A total of 47 of those 72 were already available, 3 were being developed, and 22 did not comply with minimum requirements for publication or, if they did meet those requirements, were not open.

### Policy lesson

Open data strategies against corruption require integrating information from multiple sources, including various types of official registers, administrative or transactional data from government operations, and statements filed by individuals and organizations. All of this are valuable to prevent, detect, investigate and sanction wrongdoing.

## Mexico is an exceptional case of data openness in Latin America and the world.

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Mexico is an exceptional case of data openness in Latin America and the whole world. According to the Open Data Barometer, Mexico ranks sixth among the 30 countries who are most committed to open data.<sup>4</sup> In a previous measurement, in 2016, Mexico ranked 11th out of 115 countries (World Wide Web Foundation, 2017).

Although Mexico performed well, Transparencia Mexicana et al. (2018) highlighted some factors that still needed to improve, in terms of the availability of open data to fight corruption in the country. For example, some databases still lacked adequate governance and could not be cross-checked with those provided by other agencies. According to these researchers, communication problems went beyond the level of specific datasets themselves and affected agencies and their employees. The report found overlapping actions in different agencies and concluded that better coordination could lead to a more effective open-data strategy. Thus, the analysis suggests that efforts are needed to improve dialogue and cooperation among different data producers within the Mexican state, and also between the state and civil society, the media, private companies, and journalists. Collaboration makes it possible to use the available information as a tool to fight corruption. Failures were also found in the technical capabilities of teams of public servants who worked on information and data-processing systems, and even in the availability of the necessary technological infrastructure (software, for instance). Finally, researchers found that concerns regarding confidentiality and data security imposed major restrictions on efforts to deepen this data policy in Mexico.

Unfortunately, no detailed analysis of this kind has been conducted to identify which of these 30 sets of data are openly available in any other Latin American country. However, progress made in some of these dimensions can be seen on the Global Open Data Index (GODI).<sup>5</sup> This initiative monitors 15 groups of data, 6 of them linked to those that were previously identified as necessary for the fight against corruption: (i) budgets, (ii) company register, (iii) draft legislation,<sup>6</sup> (iv) land/property register and cadaster, (v) tenders and procurement processes,<sup>7</sup> and (vi) government spending.

Panel A in Graph 4.3 shows GODI scores for those six sets of data, for the three Latin American countries with the highest rankings on the global index (Brazil, Colombia and Mexico), as well as the average for all Latin American countries, and the average for high-income countries. It is evident that Latin America lags somewhat behind in terms of open data, compared to high-income countries. This is particularly the case regarding company registers (except for Mexico) and draft legislation, while both Latin America and more developed regions show very little progress in terms of land/property registers and cadaster. Brazil, Colombia,

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4. Countries who adhered to the International Open Data Charter (Open Data Charter, 2015) and countries who, because they belonged to the G20, adhered to the G20 Anti-Corruption Open Data Principles.

5. The GODI holds information on 94 places—including countries and other territories or nations—and is available on <https://index.okfn.org>.

6. It extends to the following data sets: voting records, and records of changes in regulations.

7. It extends to the following data sets: tender and procurement processes, list of government contractors, debarred or sanctioned contractors, and contracts register.

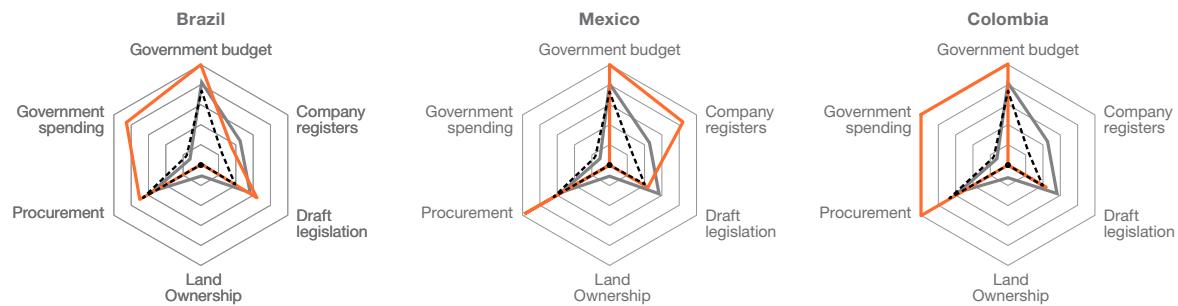
and Mexico are landmark cases for the region, since indicators for their data are above the average for rich countries in several of these sets.

Panel B in Graph 4.3 shows different aspects that capture the quality and actual openness of the data: types of licenses, formats, availability of bulk downloads, timely updates, online availability, and availability free of charge. Brazil, Colombia, and Mexico show very good figures, compared to the average for high-income countries, in almost all aspects under consideration, particularly types of licenses, formats, and online data availability free of charge. In Latin America, there is room for improvement, especially regarding the types of licenses, the option of bulk downloads, and formats.

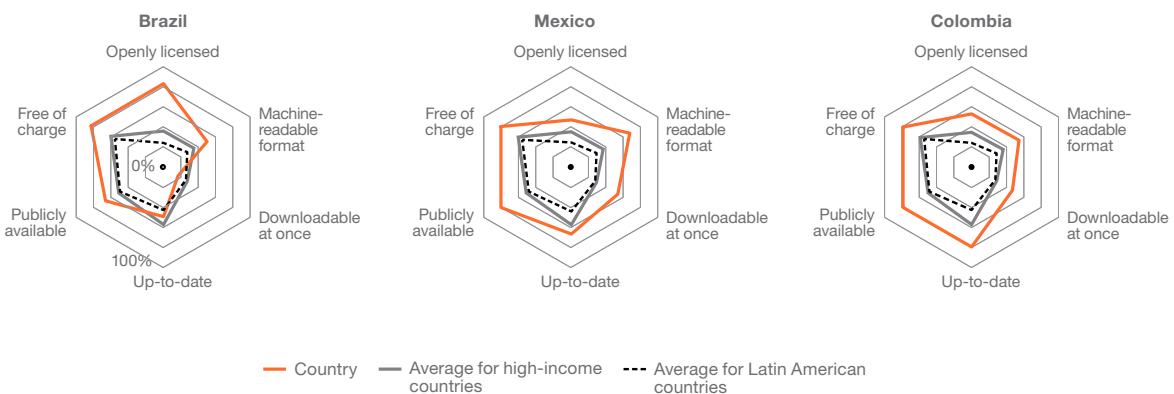
### Graph 4.3

Score for quality indicators and databases that the GODI considers essential for the fight against corruption

#### Panel A. Dataset



#### Panel B. Dimension of quality



Note: This graph considers six datasets considered essential for the fight against corruption, along with six dimensions of quality that capture their degree of openness. Panel A compares average scores of the Global open data Index by dataset, while panel B compares average scores for by dimension of quality. Scores are reported for Latin American countries, high-income countries and the three Latin American countries best ranked by the Global Open Data Index. Scores range from 0 (represented with a black point) to 100, where higher scores show higher-quality databases or indicators. Details about the data and the methodology are provided in the Appendix (p. 228).

Source: Prepared by the authors, based on data from Open Data Charter (2018) and the Global Open Data Index (Open Knowledge Foundation, 2018).

**Policy lesson**

To improve the quality of information that citizens get, it is necessary to set high standards for its production, governance, interoperability, and communication.

One general conclusion is that better coordination is needed to improve the governance around open data initiatives, to strengthen standards in the production, communication, and interoperability of data.

**Timing and ways of disseminating information**

**Timely dissemination of the results of audits is essential to maximize citizens' reactions.**

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Producing and disseminating information about the actions of public officials, and particularly about any irregularities they commit, incentivizes punishment by citizens for any wrongdoing. However, the reactions of different individuals to that information will largely depend on when and how it is delivered.

The evidence for Brazil shows this relationship. There, dissemination of the results of the random audits program enables citizens to punish at the polls any mayors who are seeking reelection and who have been involved in irregular use of resources (Ferraz and Finan, 2008).<sup>8</sup> The findings of audits conducted by the federal government to monitor how municipalities spend federal transfers are widely publicized. These reports are published online, sent to local media, and shared with federal authorities and with local judicial institutions, so that both public officials and citizens have access to the results.

The timely dissemination of the information produced is essential to maximize citizens' reactions. In municipalities where audits were conducted ahead of elections, the reelection rate for mayors stood at 20–30% in cases where two or more irregularities had been found. On the other hand, the reelection rate reached 40% in municipalities with similar audit findings, but where those findings were made public only after elections had taken place (Ferraz and Finan, 2008). Transparency was also useful for mayors who were not involved in irregularities, because citizens assessed them positively and supported them with their votes.

Similar results were found in Puerto Rico, where municipal audits managed to substantially reduce irregularities (by 67%) when findings were known—and disseminated—ahead of elections (Bobonis et al., 2016).

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8. Brazil's random audit program is discussed in Chapter 2 (p. 70).

Results have been less encouraging in other contexts where different campaigns have been tested to disseminate information about the behavior of public officials. Some studies conducted in Mexico have shown that handing out leaflets to citizens to explain how municipalities use the resources they get from the federal government does not trigger electoral punishment for irregularities (Arias, Larreguy, Marshall and Querubin, 2018; Chong, De La O, Karlan and Wantchekon, 2014).

One lesson that emerges from comparing these cases is that the way in which information is disseminated, and the channels used for that purpose, determines its impact to a great extent. When information is disseminated through mass communication channels, it becomes common knowledge—all individual citizens know that others also know the same. This enables greater tacit coordination among individuals and may trigger a stronger reaction.

Information produced by the state about its own actions becomes more valuable when it is communicated by actors with significant capacity to do so. The media, with their ability to reach people *en masse*, are major transmitters of this information. Further, civil society organizations (NGOs) are highly credible, which validates them as a source of relevant information although their often small scale can restrict their ability to disseminate news.

## The role of the media

The media can play a very important role in incentivizing civic engagement and shedding light on government action (see Box 4.4). However, this brokering role will be distorted if they are coopted by private interests. Moreover, even if they are not captured by private interests, the media can suffer a lack of credibility that will also restrict their role as information brokers.

**Capture by vested interests and lack of credibility undermine the role of the media.**

Greater coverage and competition in the media market might improve the amount of information available to citizens, as well as its quality. If more competition in this market creates incentives for the media to respond to the interests of citizens at large—rather than to certain subgroups of citizens—this will positively impact the credibility of information.

The media can play a very positive role to encourage civic engagement in the fight against corruption. Research on the impact of freedom of information laws and on the dissemination of the results of official audits in Brazil indicates that the media have a major complementary role to play in the effort to make governments actions visible. For example, irregularities found in audits trigger tougher electoral sanctions in municipalities where local radio stations report on those events (Ferraz and Finan 2008).

The media help to increase the ability of citizens to demand better-quality public goods and services, above and beyond the effect they may have on the reduction of corruption. For instance, some results suggest that the rise in newspaper circulation encourages governments to respond to people's problems with more determination (Besley and Burgess, 2002). Additionally, newspapers that report more about local politics help to improve accountability (Snyder and Strömberg, 2010).

However, mass media do not always ensure a more effective fight against corruption, particularly in scenarios with lower-quality institutions (Fergusson, Vargas and Vela, 2018; Khemani et al., 2016). When they are captured by vested interests, for instance, the media are able to divert their users' attention to issues that are not central for accountability. Through those actions, they can even disturb a democracy's foundations (Eisensee and Strömberg, 2007; Mcmillan and Zoido, 2004). Cases of co-opted media are not isolated, and there exists evidence showing alternative ways in which governments can buy a favorable treatment, for instance, through official advertising (Di Tella and Franceschelli, 2011).

### Policy lesson

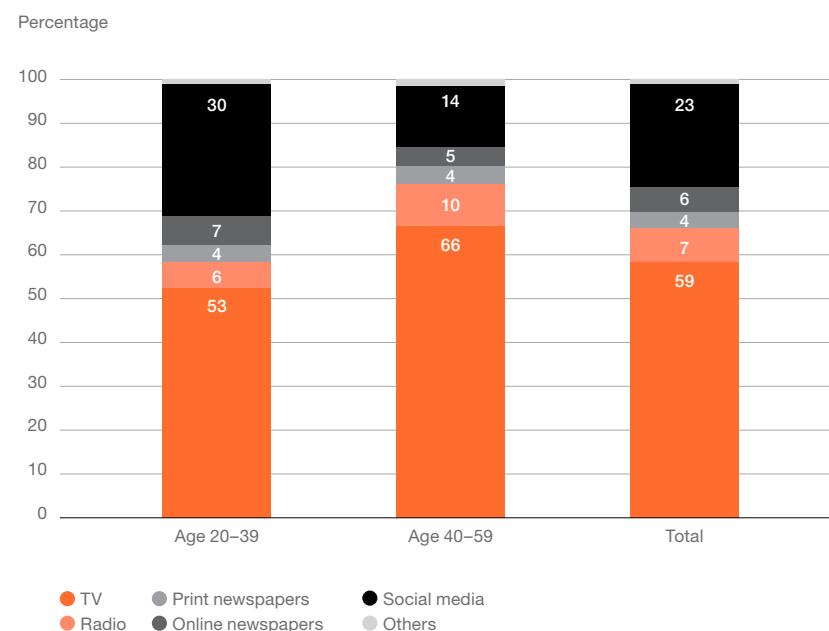
Avoiding censorship and ensuring high levels of coverage and competition are crucial to guarantee that the media play their role as mediators between citizens and government.

Objectivity and credibility are key for the media to become real allies for citizens in their task to oversee government action. However, credibility is often diminished by the institutional and political atmosphere of a country. Freedom House measurements on media independence place Latin America in the *partly free* category, with an average of 49 points in an index that ranges from 0 (the most freedom) to 100 (the least freedom). The same indicator shows that there is less media independence in the region than in higher-income countries, and that media independence in Latin America has deteriorated in recent years (Freedom House, 2018).

This pattern of reduced freedom may lead to mistrust among citizens who, as shown in Graph 4.4, continue to use traditional media as their main source of political information (especially among older members of the population). This conclusion concerning mistrust in traditional media emerges from the ECAF 2018, in which approximately 30% of all respondents stated that they did not believe in reports published by their country's main newspapers (CAF, 2019).

**Graph 4.4**

## Type of media used as main source of political information



Note: This graph shows the percentage of respondents who use each type of media as the main source of political information, by age group. The values correspond to simple mean across 10 Latin American cities. The list of cities can be found in the Appendix (p. 229).

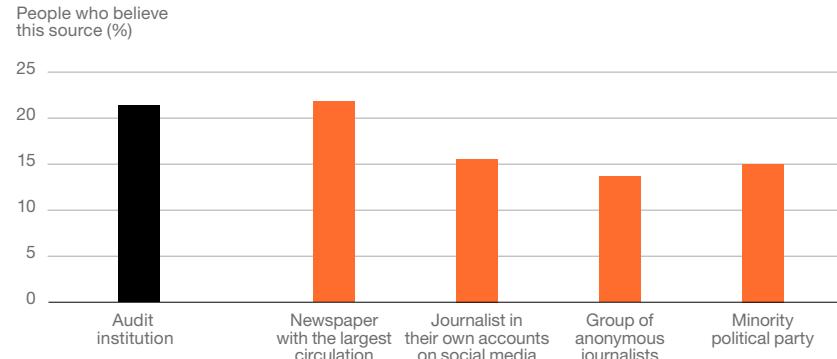
**Source:** Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

The ECAF 2018 also examined the credibility that citizens attached to various sources of information when they report on hypothetical corruption cases.<sup>9</sup> Graph 4.5 shows the percentage of people who think that information on a hypothetical case of corruption is credible, depending on the source of the report: the state's supreme audit institution, the national newspaper with the largest circulation, a journalist who reports through a personal social media account, a group of anonymous journalists who report through social media, or a minority political party. Results indicate that the state's audit institution and the national newspaper with the largest circulation enjoy the highest credibility. Independent journalists—not associated to traditional media outlets—and minority political parties are considered the least credible sources (CAF, 2019).

9. For more details about the methodology with which these data were collected, see the Appendix (p. 229).

**Graph 4.5**

Citizens' perception about the credibility of different sources of information



Note: This graph shows the percentage of respondents who think a given source of information is credible when reporting a hypothetical act of corruption. The values correspond to simple mean across 10 Latin American cities. Details about the data and the methodology are provided in the Appendix (p. 229).

**Source:** Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

## NGOs and think tanks

NGOs and think tanks are other key actors to increase the visibility of government actions. A more abundant flow of information caused by freedom of information laws and open data initiatives implies major opportunities for the emergence and consolidation of think tanks who specialize in the fight against corruption. The examples documented in Box 4.4 show that the role of civil society organizations has been crucial to investigate corruption cases in Latin America, using information that is available thanks to transparency-increasing measures.

### Policy lesson

Transparency regarding the funding of NGOs funding must be encouraged, to dispel any doubts about conflicts of interests in their activities.

NGOs and think tanks, like the media, can be captured by private interests. Independence and transparency regarding their funding is crucial to ensure they remain impartial and credible. Two potential shortcomings to the potential of NGOs as anticorruption watchdogs can be identified. One risk is that they may focus their efforts on revealing only acts of corruption linked to specific sectors or to certain political parties. A second issue these organizations may face is that a small scale can restrict their scope to investigate and report.

Despite potential risks, citizens tend to put a lot of trust on NGOs. Using information taken from the World Values Survey, trust in various institutions, including NGOs, can be assessed.<sup>10</sup> This information shows that—whatever a given country's income—citizens mistrust political parties, trade unions, the legislature, the media, and the executive branch of government more than they mistrust NGOs. This pattern also holds for Latin America. It means that NGOs have great potential to become credible intermediaries between the state and its citizens, and to increase the flow of information that actually reaches citizens concerning the performance of public officials (Inglehart et al., 2014).

**In Latin America, NGOs enjoy high credibility, which is an important asset for their role of communicating and activating citizen oversight.**

#### **Box 4.4**

#### The union of information, journalism, and civil society: success stories

*Estafa Maestra* is the name given to the result of a journalistic investigation conducted in Mexico by the news portal *Animal Político*, in cooperation with the civil society organization *Mexicanos Contra la Corrupción y la Impunidad*. This investigation was published on September 5, 2017, and exposed a system of 128 shell corporations to which the federal government funneled more than 400 million dollars, using a network of 11 state institutions, 8 public universities, several private firms, and dozens of civil servants. A major part of the scheme was discovered when university accounts were checked. However, the effort also included hundreds of requests for public information submitted to various federal and state-level agencies, as well as private investigations of several firms, and contacts with different individuals and organizations involved in this corruption network. Based on the publication of this journalistic investigation, Mexico's supreme audit institution (*Auditoría Superior de la Federación*) classified this as a corruption case. Mexico's tax authority (*Servicio de Administración Tributaria*) launched an investigation that initially examined 38 companies.<sup>a</sup>

In Honduras, the civic association *Asociación por una Sociedad más Justa* (ASJ), Transparency International's local chapter, published in 2014 a report to denounce serious irregularities in the *Instituto de la Propiedad*, the institution in charge of enforcing property rights in the country. The ASJ used the procedures enabled by the Transparency and Access to Public Information Act (*Ley de Transparencia y Acceso a la Información Pública*) to access the data and documents on which the allegations were based. This report showed evidence of missing files, stolen and manipulated documents, forged signatures, records of fraudulent titles, and payments to ensure faster procedures, among other issues. It was quickly taken up by the media and led the government to take immediate action. An external private firm was hired to audit the *institution*, several members of its board were removed from their positions, the number of departments was reduced to simplify its structure, and a staff certification plan was implemented, which led to the dismissal of 400 of the 1,400 previous employees.

a. Investigations into this case are still ongoing. No convictions have been issued to date.

10. This survey does not strictly focus on NGOs who specialize in the fight against corruption. Nevertheless, it is informative of the perceptions of citizens about the NGO sector in general.

## Concerned, well-informed, and active citizens

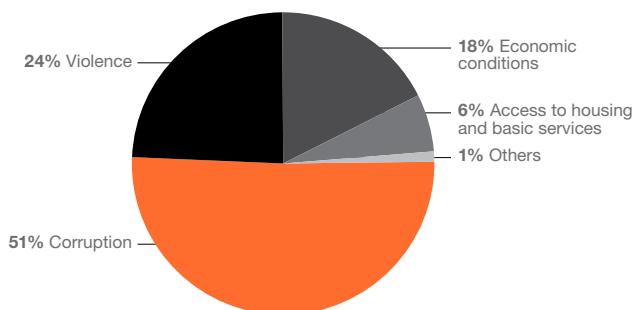
For citizens to get involved and to protect the correct use of public resources, they need to be concerned about the country's corruption problems and aware of those problems' consequences for development and for individual well-being. This seems to be the case in Latin America. According to data held in the ECAF 2018, a little over half of all respondents believed that corruption was their country's most serious problem, ahead of alternatives including violence, the economic situation, and access to housing and basic services (panel A in Graph 4.6). At the same time, citizens recognize the undesirable consequences of corruption, as shown in panel B in Graph 4.6, since most respondents believe that corruption causes great damage to their country's progress, worsens social inequality, and affects the quality of public services (CAF, 2019).

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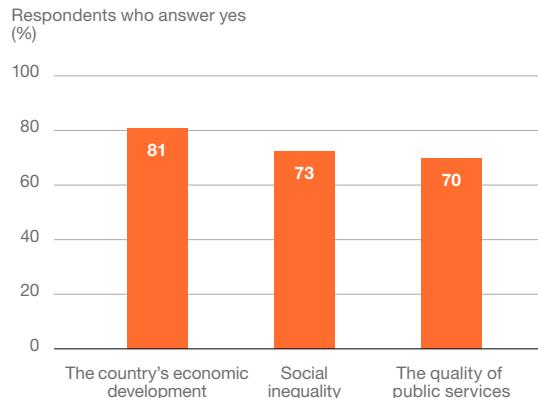
### Graph 4.6

Citizens' perception about the seriousness and consequences of corruption

**Panel A. What is the biggest problem your country faces?**



**Panel B. Corruption is harmful in terms of...**



Note: Panel A shows the percentage of respondents who think each of the listed issues is the most serious problem faced by their country. Panel B shows the percentage of respondents who think corruption is harmful in terms of... The figures correspond to simple mean across 10 Latin American cities. The list of cities can be found in the Appendix (p. 229).

**Source:** Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

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While citizens say they are concerned about corruption and its negative consequences for their country's development, a high percentage of the population believes that their countrymen do not do a lot to fight corruption. According to the ECAF 2018, 57% of all respondents believed that other fellow citizens were not concerned enough about corruption, while 60% believed they did not take it into consideration enough when voting (CAF, 2019). Why is this?

# 57%

of Latin Americans believe that their countrymen are not sufficiently concerned about corruption.

There are three essential aspects that interact for citizens to be more inclined to participate: their level of knowledge about the situation, their tolerance for corruption, and the prevailing social norms. A citizen may only have a very general notion of corruption and still be concerned about it. However, that person may know little about how resources are embezzled and, therefore, not be able to identify that type of action or to take concrete measures to fight it. Further, tolerance levels may be high, for instance, when citizens perceive that the high costs of corruption are compensated with private benefits they gain from it. Finally, social norms may consolidate the *status quo* and perpetuate scenarios where citizens tolerate corruption and fail to act against it.

## Is it lack of knowledge or excessive tolerance?

There is little evidence to help us understand how well-prepared citizens actually are to recognize instances of malfeasance. The ECAF 2018 provides particularly valuable information about this. Survey respondents were asked whether they thought there was corruption in three hypothetical scenarios that described different forms of misconduct, like influence peddling, embezzlement of public funds and negotiations that are incompatible with public service. Graph 4.7 shows that a significant percentage of people (23–34%) failed to recognize those hypothetical cases of corruption as such. Respondents were then asked whether they found those actions unacceptable, and whether they would be willing to file a formal complaint if they had evidence to substantiate it. Of all respondents, only 58–69% said that the actions were unacceptable, and a fraction of those were not willing to report them to the authorities (CAF, 2019).

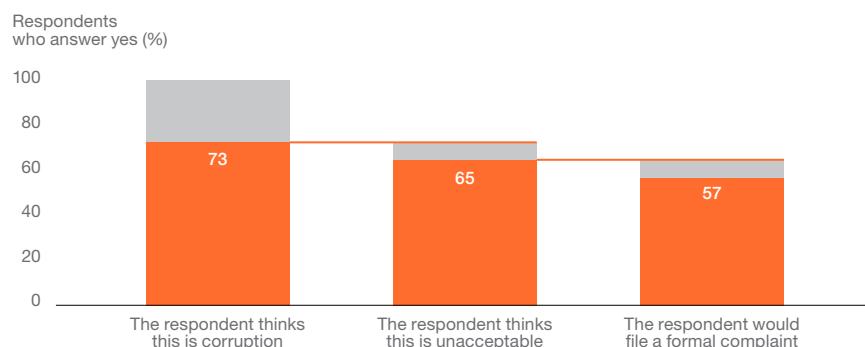
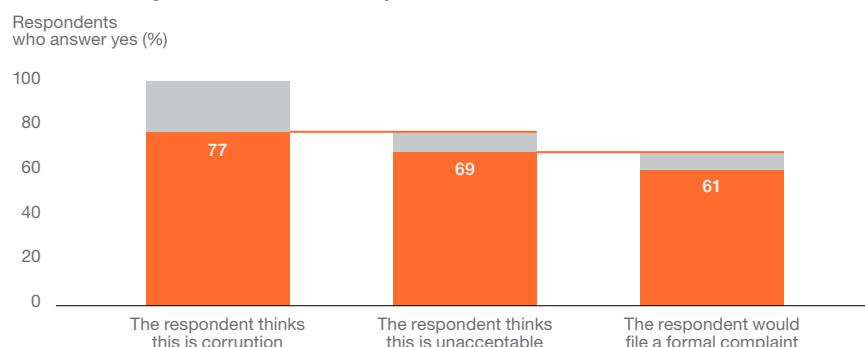
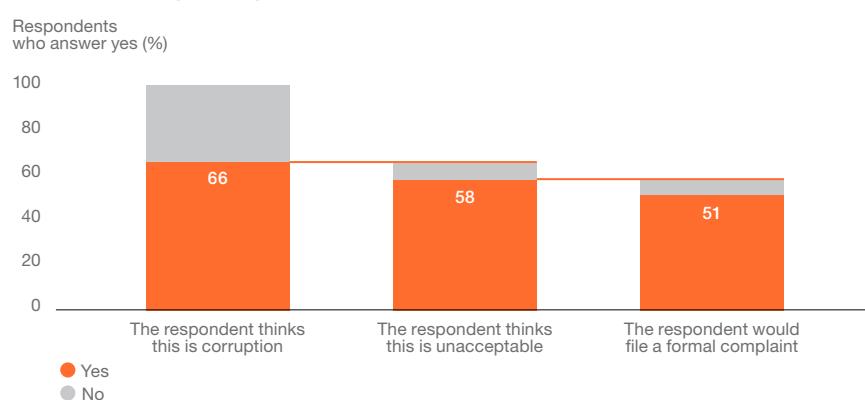
# 34%

of Latin Americans fail to recognize some typical cases of corruption as such.

These results suggest that lack of knowledge to identify corruption scenarios is one factor that mitigates citizens' chances of reporting wrongdoing. There is room to improve citizen oversight by improving people's ability to recognize inappropriate conduct by public officials.

**Graph 4.7**

Ability to identify prototypical manifestations of corruption and attitudes toward them

**Panel A. A mayor influences the appointment of an individual they trust as a judge in their city****Panel B. A mayor decides which companies are to be awarded construction contracts****Panel C. A mayor uses public funds to hand out food to improve their public image ratings**

Note: For three hypothetical scenarios, this graph shows the percentage of respondents who believe the situation describes constitutes an act of corruption, the percentage who think the situation is unacceptable (for those who identify it as an act of corruption), and the percentage who would be willing to file a formal complaint about it (for respondents who think corruption). The figures correspond to simple mean across 10 Latin American cities. The list of cities can be found in the Appendix (p. 229).

**Source:** Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

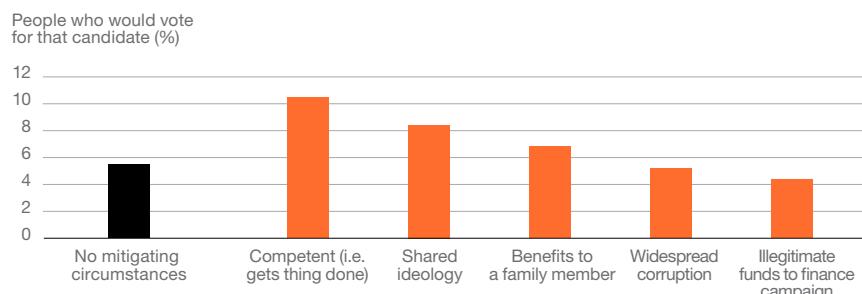
## They steal, but they get things done

The ECAF 2018 also explores different factors that may soften citizens' efforts to punish corruption.<sup>11</sup> Graph 4.8 shows respondents' willingness to vote for a hypothetical mayor who sought reelection after being involved in a corruption case. Respondents were divided into five groups. Each group got slightly different information, to enable researchers to assess how that information affected the stated intention to vote for that hypothetical candidate. The first group was only told that the mayor had been involved in a corruption case, and only 5.5% of respondents were willing to vote for him. The second group was told that the mayor, while engaged in acts of corruption, was competent in managing some public policies. This mitigated punishment for corruption and increased the hypothetical candidate's electoral support by 5 percentage points. This result suggests that a fraction of the population does indeed tolerate acts of corruption when they come from politicians who are perceived as competent, i.e. as someone who get thing done (this apologetic attitude is captured in the Latin American expression *roban pero hacen/rouba mas faz*, meaning literally *they steal but they get things done*).<sup>12</sup> When respondents and the hypothetical mayor both support the same party sanction for corruption is also mitigated to some extent, and the candidate's electoral support increases by 3 percentage points (CAF, 2019).

**Two factors that mitigate the social sanction against corruption in the region are the perception that the politician in question is competent, and ideological alignment with the wrongdoer.**

### Graph 4.8

Willingness to vote for a hypothetical candidate who has been accused of corruption, with and without mitigating circumstances



Note: This graph shows the average percentage of respondents who, in a hypothetical scenario, would vote for a candidate who has been accused of corruption, depending on whether or not they receive additional information that may mitigate individual reactions against corruption. The figures correspond to average effects across 10 Latin American cities. The list of cities can be found in the Appendix (p. 229).

Source: Prepared by the authors, based on data from the ECAF 2018 (CAF, 2019).

Other factors explored in the survey experiment and reported in Graph 4.8 do not seem to have too much impact on support for the mayor. They include having a relative who benefits from the corrupt mayor's activities, knowing that

11. For more details about the methodology with which these data were collected (a randomized controlled trial), see the Appendix (p. 229).

12. Winters and Weitz-Shapiro (2013) examined whether certain Brazilian voters might be willing to tolerate some corruption when they perceived that politicians were competent in terms of providing of public services. While their results do not prove that point for the average citizen, there is some evidence that this mechanism is indeed significant among wealthier individuals.

money obtained through irregularities is used to fund campaigns, or believing that corruption is widespread among mayors in the region. Concerning the latter point, other researchers do argue that, when corruption is widespread, citizens' tolerance increases, because voters believe that politicians are incompetent to solve that problem and make their voting decisions based on other factors (Klašnja, Lupu and Tucker, 2017; Pavão, 2018).

## Social norms and cognitive biases

Social norms and cognitive biases are additional factors that might explain lack of action among citizens concerning corruption. Individuals may fail to adopt desirable behaviors, such as reporting irregularities, due to their own cognitive biases, or because they believe such behavior is against the prevailing social conventions. Box 4.5 sums up the evidence on using behavioral stimuli—known as *nudges* in the literature—to change individual conduct given restrictions of this kind.

### Box 4.5

#### The importance of role models

Social norms are a major barrier to introduce changes in individual conduct that counter the *status quo*. Experts in psychology have proposed that one mechanism to change individual perceptions about prevailing social norms involves highlighting the behavior of other individuals—real or fictional—who model desirable conduct, acting as role models. For example, if formally complaining about an act of corruption is perceived as strange by citizens and doing it has a high cost for individuals in terms of violating socially accepted rules, highlighting the actions of a role model who fights corruption might be a way to change the behavior of other citizens.

A recent study conducted in Nigeria shows positive results in an intervention to leverage the power of role models (Blair, Littman and Paluck, 2019). Specifically, the intervention consisted on showing a film with a cast of very well-known actors, with scenes where characters used a platform—recently launched in real life—to report corruption cases through text messages. Results showed that, in communities where the film was shown, the number of instances where corruption was reported using that platform increased, compared to other communities where the same film was shown without the scenes in which the platform was used. The intervention produced 78 additional reports over the seven months examined in this study, and its impact was 1.7 times greater than that of the last national campaign that had been launched to encourage citizens to report corruption cases.

Research conducted by Blair et al. (2019) also quantified the effects of a campaign of mass texting to remind citizens how to report corruption cases over their cell phones. The campaign was very high-impact, and each community submitted an average of 5.1 additional reports on the day the text message was sent out.

### Policy lesson

Behavioral interventions can be a cost-effective way to promote changes when prevailing social norms limit the effectiveness of active collective action to promote integrity.

Policies to support citizen oversight must seek to counter citizens' inherent restrictions in terms of exercising their monitoring role. First, efforts to instruct people on the ability to identify which actions constitute corruption should be increased. This could be achieved through large-scale educational campaigns. At the same time, it is important to understand in greater detail what factors lead individuals to tolerate wrongful conduct even when they recognize it.

The evidence in the ECAF 2018 suggests, for instance, that the embezzlement of public funds is justifiable to many as long as politicians also provide certain public goods, or when respondents and corrupt officials support the same party (Graph 4.8). However, the factors that make citizens more tolerant of wrongdoing may depend on the specific context in a country or region, and a more detailed comprehension of this context is essential to design appropriate awareness-raising strategies for any given case. Among the factors that play a crucial role are the prevailing social norms, which can be critical for any efforts to change the *status quo*.

### Policy lesson

Large-scale educational campaigns to raise awareness about the manifestations and consequences of corruption may increase the demand for accountability.

## Participation mechanisms

Two of the biggest challenges for citizen participation mechanisms to function properly involve minimizing the costs of using such mechanisms, and preventing them from being captured or manipulated by groups whose interests do not represent those of society as a whole.

Elections are the main mechanism available for citizens, which allows them to select their political leaders and to remove from public service those who are believed to lack the necessary skills or integrity. Voting does not have a high individual cost, and a high percentage of all individuals do exercise their right to vote. However, elections are not highly frequent, and that may make permanent oversight of state activity more difficult.<sup>13</sup> Moreover, as will be discussed later, electoral mechanisms are not exempt from manipulation attempts.

To supplement elections, citizens tend to also have at their disposal non-electoral mechanisms that allow them to exercise more active and frequent oversight, concerning not only politicians, but also other public officials who hold non-elected office. However, the individual costs of non-electoral participation are higher, and this participation may also require coordinated action by many

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13. Voter turnout is relatively high in Latin America (75% on average), not far from turnout in high-income countries (82% on average). However, Latin American countries where voting is voluntary have significantly lower average turnout levels (48%) (International Institute for Democracy and Electoral Assistance, 2019b).

citizens. To make matters worse, if those mechanisms are not properly designed, they may pose a risk of capture.

## The cost of participation

**The cost—in terms of both time and the probability of suffering retaliation—discourages citizens from filing formal complaints for acts of corruption.**

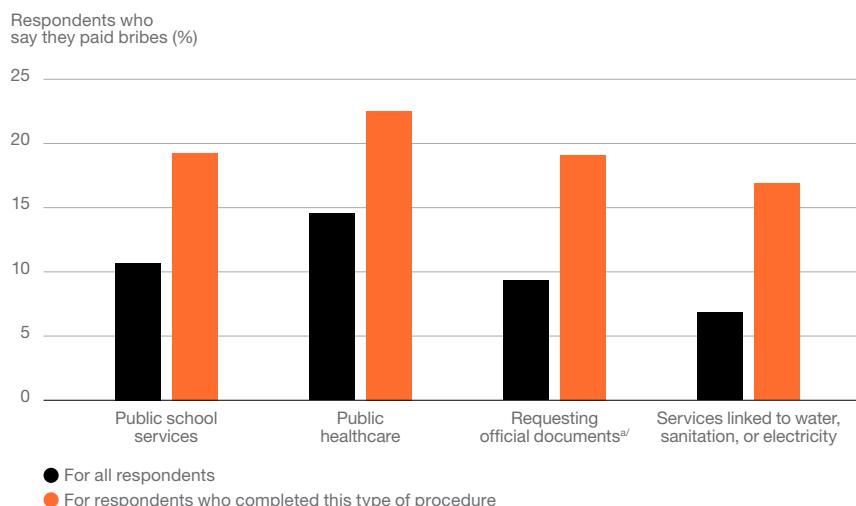
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Individual and collective efforts to oversee state action and to report acts of corruption may be costly, in terms of both time and the risk of suffering retaliation. The higher these costs, the less likely it is that citizens take action against corruption.

The Latinobarómetro survey collects information about citizen exposure to situations where public servants demand bribes, and about citizens' subsequent actions. According to this survey, 17–23% of all respondents who had completed administrative procedures to access public services over the previous 12 months were forced to pay some kind of bribe (Graph 4.9). Despite this high incidence, only 8% chose to report the event to an official or public authority. Of those who did report it, 33% said they suffered retaliation (Corporación Latinobarómetro, 2016).

### Graph 4.9

Incidence of bribe payments in administrative procedures to access public services



Note: This graph shows the percentage of respondents who said they had paid at least one bribe to obtain a public service over the previous 12 months. Black bars consider all respondents, while orange bars only consider respondents who went through the corresponding procedure to access a public service. These figures correspond to a simple mean across 18 Latin American countries. Details about the data and the methodology are provided in the Appendix (p. 231).

a/ This category includes documents like identity cards, birth certificates, driver's licenses, passports, voter identification cards, or state permits.

**Source:** Prepared by the authors, based on data from Latinobarómetro (Corporación Latinobarómetro, 2016).

The ECAF 2018 also presents evidence of the implications of the cost of citizen engagement. Initially, almost 9 out of 10 survey respondents said they were willing to formally complain about various acts of corruption they recognized (as shown in Graph 4.7). However, this willingness dropped when the cost of doing so became clearer. When asked to consider a hypothetical scenario where a public servant demanded a bribe, respondents appeared to be completely willing to report that act of corruption when they could do it over the Internet or the phone and the process only took one hour. However, they were less willing to report when they had to file their complaints in person, at a public office, through a process that takes longer (CAF, 2019).

## **Clientelism and vote-buying**

Citizen oversight is not always safe from political manipulation. Clientelism is one obvious way to erode the ability of citizens to control officials. It involves the exchange of benefits for political support between officials and citizens, which discourages demands for greater accountability. One clear manifestation of clientelism involves exchanging votes for money, goods, or services. Given that it is difficult to check and control the votes of individuals, clientelist relationships require establishing networks based on reciprocity (Bobonis et al., 2017; Finan and Schechter, 2012). In contexts where this is prevalent, accountability can be perverted to such an extent that it may be politicians who control and punish citizens, by removing benefits if voters do not support them at the polls (Stokes, 2005).

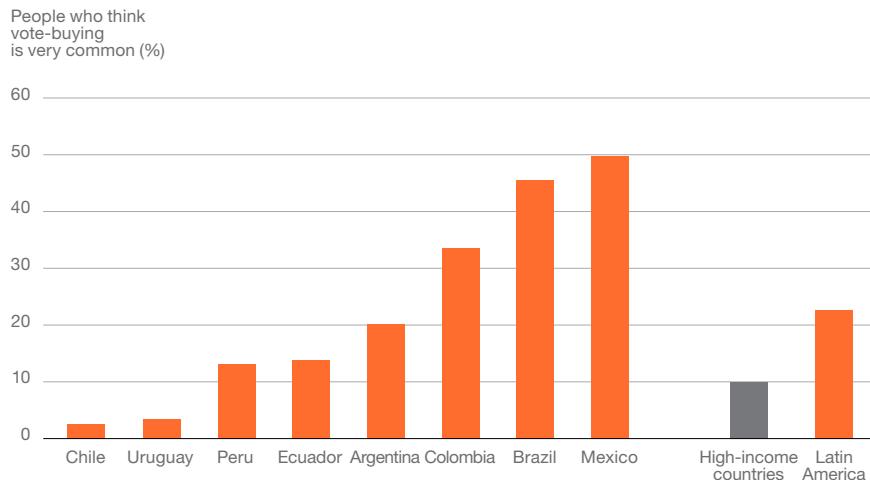


+1/3  
of the population in Brazil,  
Colombia, and Mexico  
believes that vote-buying is  
very common in their country.

According to data from the World Values Survey, vote-buying and vote-selling seem to be common in Latin America. Graph 4.10 shows that, in Latin American countries, an average of 24% of all respondents believe it is very common. In high-income countries, this percentage is a lot lower (10% on average). However, perceptions of the incidence of this phenomenon vary greatly within Latin America (Inglehart et al., 2014).

Fergusson, Molina and Riaño (2018) examined the incidence of vote-buying in Colombia in greater detail, using the Colombian Longitudinal Survey (*Encuesta Longitudinal Colombiana, ELCA*) conducted by the Universidad de los Andes. They found that approximately 1 out of 5 Colombians had sold their votes, and that lower-income individuals had a higher probability of doing so. They also found that individuals who were more tolerant toward antisocial or illegal behavior, less politically conscious, and closer to the ruling party had more chances of getting involved in clientelist relationships. Another relevant result of this research was that vote-selling apparently carried no significant social stigma for individuals who engaged in it. Finally, this research showed a higher incidence of vote-buying in municipalities with worse indicators for transparency and control of corruption.

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**Graph 4.10**  
 Incidence of vote-buying


Note: This graph shows the percentage of respondents who believe it is very common for voters in their country to be bribed during elections, for selected Latin American countries. The bars on the right indicate the averages for Latin American and high-income countries. The full list of countries are provided in the Appendix (p. 231).

Source: Prepared by the authors, based on data from the World Values Survey (Inglehart et al., 2014).

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There are several strategies to end clientelism and vote-buying, some of which are aimed at changing voters' willingness to sell their votes. These efforts have mainly involved campaigns to increase citizens' knowledge about the consequences of selling their votes, and to affect the prevailing social norms and increase social sanctions associated with that conduct.

Evidence on the effectiveness of these initiatives remains somewhat limited. Research conducted by Vicente and Wantchekon (2009) found positive results of an educational campaign aimed at voters in São Tomé and Príncipe, based on a slogan that urged citizens to vote freely and not to give in to vote-buying. A study carried out in the Philippines by Hicken, Leider, Ravanilla and Yang (2018) found that campaigns inviting citizens to commit—in a signed document—to not accepting money in exchange for their votes were more effective than those encouraging citizens to “vote freely” whether or not citizens had previously accepted money or benefits in exchange for their votes. However, Blattman, Larreguy, Marx and Reid (2018) showed that a large-scale intervention in Uganda—aimed at warning citizens of the cost of vote-buying for the community and ensuring that the whole community committed to opposing vote-buying—failed to reduce both politicians’ offers to buy votes and citizens’ acceptance levels of such offers.

Other measures to curb vote-buying focus on public officials and try to limit their capacity to use public resources with clientelist purposes. For instance, arrangements to eliminate or restrict the possibility of allocating access to social programs, services or goods in discretionary ways. Such restrictions make it

hard for officials to demand political support in exchange for favors. Reforms that accomplish this can be difficult to implement, but they are very valuable to break clientelist relations. Investment to improve the living conditions of vulnerable households, as well as initiatives to enhance transparency and accountability (like audits), are also very helpful to fight clientelism.

An example of a policy that limits the clientelist use of resources by politicians is described by Larreguy et al. (2018), who analyze the impact of a major reform conducted in Mexico to regularize property rights over land. These authors argue that the absence of clearly assigned property rights created a space for local politicians to offer illegal occupants protection from eviction in exchange for political support. This research found that regularizing property rights reduced by 7% the proportion of votes reaped by the ruling party in the municipality.

Research conducted by Bobonis et al. (2017) for Brazil showed that improving people's socioeconomic situation led to a reduction in clientelism. These authors found that households who benefited from a development program which improved their socioeconomic conditions also experienced a drop in the probability that they ask for private benefits from local politicians, both during and after an election campaign. An improved socioeconomic situation also had an impact on election results, and it led to a reduction of 19–22 percentage points in the probability that these households would vote for the incumbent mayor if this person sought reelection.

Financial audits in municipalities also seem to be effective mechanisms to restrict both politicians' incentives to offer benefits in exchange for political support and citizens' willingness to sell their votes and to request politicians' help. Bobonis, Gertler, González-Navarro and Nichter (2019) showed that municipal audits conducted by Brazil's federal government managed to reduce by 52% the probability that mayoral candidates engage in vote-buying during the following election campaigns. This effect persisted in subsequent elections, although it became slightly smaller. While the practice of offering goods in exchange for votes continued just as in the past, audits appeared to have made it more difficult for politicians to actually deliver those goods. The results of this study show that when politicians' behavior changed, so did the attitudes of voters, who became less willing to sell their votes. In audited municipalities, the number of interactions between households and politicians fell by 40%, and requests for assistance by households dropped by 31%. Citizens updated their beliefs once they saw that promised goods were not delivered, and that made them less prone to engage in clientelist agreements in the future.

### Policy lesson

To reduce vote-buying and other forms of clientelism, both the demand and the supply of this sort of exchanges must be addressed. First, it is necessary to reduce politicians' discretion to grant favors or benefits for clientelist purposes. To supplement this, campaigns to raise awareness about the value of independent voting can be expanded in areas where the problem is particularly prevalent.

Beyond buying votes, politicians have appealed to clientelist exchanges to *mobilize voters*—that is, incentivize people to vote when they were not planning to do so—or even to move people from one electoral district to another in order to change the make-up of the electorate. Hidalgo and Nitcher (2016) showed evidence of the fact that these practices had significantly influenced municipal elections in Brazil, and that the monitoring of electoral processes plays a crucial role to prevent such practices.

## Community-based monitoring

**Community-based monitoring initiatives seek to enable citizens to engage more actively and to directly control specific public policies and programs.**

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Citizens traditionally face situations—such as bribes, unfinished public works, embezzlement, etc.—that directly impact the amount of goods and services they receive, and the quality of these goods and services. In order to solve these problems, bottom-up community-based monitoring initiatives have been developed to enable citizens to engage more actively and to control specific public policies and programs more directly. This approach starts from the notion that community members have an incentive to control providers to demand better services, and that public service providers and politicians will change their performance based on the responses they get from citizens (Molina, Carella, Pacheco, Cruces and Gasparini, 2017)

Molina et al. (2017) divided community-based monitoring interventions into four broad categories: information campaigns, citizen scorecards, social audits, and complaint and grievance redress mechanisms. These types of interventions all differ in terms of the stage of the monitoring and accountability process that they seek to strengthen. While use of these kinds of initiatives has increased in recent years, we still know little about their effectiveness.<sup>14</sup>

Information campaigns seek to encourage citizen engagement by acting on the first requisite for participation—the flow of information about public service management and delivery. These campaigns often also include information on how citizens should oversee suppliers.

While transparency policies—such as freedom of information laws—try to increase the volume of information that reaches citizens, information campaigns that seek to strengthen community oversight provide much more specific information and tend to focus on beneficiaries of the relevant public policies and programs.

The success of an information campaign will largely depend on a strong system to support it. In 1996, the Ugandan government conducted a survey among primary schools, to obtain information about the amount of money they received through a transfer program for non-wage expenditure. The national government transferred those funds to schools through local governments. When survey data were cross-checked with administrative records of national government transfers to local governments, they showed that schools were only getting 20% of those resources (Reinikka and Svensson, 2004, 2005). To fight embezzlement and get citizens—particularly the education community—involved in oversight efforts, the national

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14. Molina et al. (2017) were the first to systematize the evidence on community-based monitoring mechanisms in medium- and low-income countries, based on methodologically rigorous research. However, they only identified 15 studies of this kind, and only two focused on initiatives carried out in Latin America (see Box 4.6).

government decided to implement a two-pronged informational strategy. On the one hand, monthly transfers of funds to local governments were published in national newspapers. On the other hand, schools were asked to publish news of any funds they actually received, with the aim of informing the education community. This campaign increased from 20% to 80% the percentage of funds that schools actually received (Reinikka and Svensson, 2004, 2005), and it positively impacted student registration and learning (Reinikka and Svensson, 2011).

A second type of initiative is the use of scorecards that produce and publicize information on the performance of public service providers in order to encourage participation. Ideally, these initiatives involve the creation of spaces for interaction between citizens and providers, where the available information—generally taken from performance and citizen-satisfaction surveys—can be discussed and an action plan can be developed.

Box 4.6 describes Mexico's Program to Support School Management (*Programa de Apoyo a la Gestión Escolar*), which encourages parents to get involved with schools to manage specific funds that ought to be used for solving problems with school equipment and for the maintenance of educational facilities. It is up to parents to define an action plan and to allocate responsibilities for its implementation, based on the information they gather concerning specific school infrastructure needs.

A third type of community-based monitoring initiative involves social audits. These are more complex, since they strengthen all stages of the monitoring process. They involve disseminating information about a specific project; training groups of citizens so they may conduct oversight tasks; facilitating spaces for interaction among citizens, suppliers and public servants; regularly monitoring and producing information about progress made in the project; and presenting the final project to the whole community. Social audits could also potentially delegate to citizens the power to make specific decisions on a given project. Box 4.6 describes the Colombian program Visible Audits (*Auditorías Visibles*), which was designed to promote greater transparency in the use of funds obtained through royalties from mining activities. These funds are transferred to subnational governments to fund basic works of infrastructure, in fields like education, healthcare, nutrition, and water.

## Box 4.6

### Examples of community monitoring programs in Latin America

#### **Program to Support School Management, Mexico<sup>a</sup>**

The Program to Support School Management (AGE, by its Spanish acronym) run by Mexico's department of basic education (*Dirección General de Educación Básica*) seeks to boost parental involvement in schools. To that end, the program earmarks funds that need to be managed by parents' associations. Parents' associations can invest those funds in infrastructure or supplies, depending on the needs they themselves identify at their schools. Resources are granted once a year.

The program has clear guidelines on how to create parents' associations in individual schools, how to draw up plans of improvements to guide the use of resources, how to purchase and deliver materials and maintenance services, and how to prepare the accountability reports. At the same time, participating parents are trained in resource management and other skills they need to increase their involvement in the school environment. This program allows parents to spend more time in schools and to interact more regularly with teachers and school administrators. This interaction enables not only a more efficient use of resources based on school needs, but also closer monitoring of school activities.

Gertler, Patrinos and Rubio-Codina (2012) quantified the impact of this initiative by examining variables linked to school results. They found that the program reduced the number of students who fail to be promoted to the next grade by 5.4% and the number of students who needed to retake the year by 4%. However, the program did not change the year-on-year dropout rate. The initiative had higher impact on the first three years of primary school, where fail and retake rates are generally higher. Finally, the program had no effect on poorer communities, which may be an indication of the major difficulties faced by more vulnerable parents to express their preferences regarding schools.

#### **Visible Audits program, Colombia<sup>b</sup>**

Colombia's presidential committee to fight corruption launched the Visible Audits program in 2008, to promote greater transparency in the use of funds obtained thanks to royalties from mining activities. These funds are transferred to 400 subnational governments to fund public works in education, healthcare, nutrition, and water. The Visible Audits program only audits projects aimed at improving the provision of public services in each community. Almost 40% of these projects are on water and sanitation works, while a further 35% focus on education and housing. The typical project audited in this program takes 335 days and involves two community meetings with 50 citizens each. Each project manages an average of approximately 3.4 million dollars, over 80% of which is funded with royalties (Molina, 2013).

Once a public works project has been selected in a municipality, Visible Audits unfolds in several stages. First, citizens are called—through written invitations, radio programs, newspapers, and local TV—to attend a first meeting in the neighborhoods that are set to be affected by the project. In the first meeting, which must be attended by citizens from different social groups, the project and the contractor are presented, citizens are informed of their rights and responsibilities, and a group of beneficiaries willing to monitor the project—the Local Monitoring Team (*Equipo Local de Seguimiento*)—is put together.

Throughout the execution of the project, periodic meetings are held, bringing together local authorities, neighbors, the monitoring team, and representatives of the firm in charge of completing the project, to report progress and enable citizens to make suggestions and recommendations. Before the firm receives its final payment, there is a meeting with the community to present the completed project.

The Visible Audits program has had a positive effect on citizen satisfaction with projects and on effective execution, according to citizens' own assessments (Molina 2014).

a. This description is based on Gertler et al. (2012) and Consejo Nacional de Fomento Educativo de México (2009).

b. This description is based on Molina (2013, 2014) and Ministerio de Hacienda de la República de Colombia (2013).

Finally, a fourth type of community-based monitoring initiative involves redress mechanisms. They seek to strengthen the formal channels to issue complaints by citizens. These mechanisms aim to reduce the costs involved in filing such complaints, and to incentivize officials to respond to them, imposing penalties for leaving complaints unanswered. These channels include hotlines to voice complaints, informal mediation and conflict-resolution instances, and specialized courts.

While they show great potential, the proper working of these instruments faces multiple threats, including the risk of capture and the lack of response by public officials. Successful community-based monitoring experiences teach us a few lessons that need to be taken into consideration for their design and implementation.

- To be robust, these initiatives need to:
- Provide accurate, accessible information from reliable sources.
- Ensure that this information reaches the target population.
- Open up spaces for interaction between citizens, suppliers, and public officials, with a frequency that does not become too costly.
- Ensure diversity in citizen representation.
- Give citizens the tools and the information they need to know when and how to make formal complaints.
- Provide a specific training to citizens involved in these experiences—for instance, so they can identify misconduct by suppliers.
- Ensure that public officials are committed to changing behavior of service providers when citizens report wrongdoing.

### Policy lesson

Community-based monitoring schemes are useful in specific cases, as long as low participation costs are ensured and risks of capture are mitigated. This bottom-up approach should be a complement—rather than a substitute—for traditional, top-down monitoring.

## Technology as an ally

Given the increasing digitization of government operations, the growth in the number of Internet users, and the adoption of new technologies in everyday life, new opportunities have started to emerge to empower citizens in their monitoring role. New technologies make it faster and cheaper to issue formal complaints for irregularities, enable the integration of more citizens in the efforts to monitor state activity at all levels of government, and make it possible for citizens to produce information about the conduct of public officials.

In recent years, the number of online platforms to issue formal complaints has increased in all countries.

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In recent years, the number of online platforms to issue complaints has increased in all countries. Units specialized in the fight against corruption, and state institutions more generally, include on their websites forms, email addresses and other channels through which citizens can issue their complaints, while many countries are working to create one-stop shops for this purpose.

Colombia's Secretary of Transparency (*Secretaría de Transparencia*) provides information that allows to examine all petitions, complaints, and corruption allegations submitted in 2014–2017. The number of complaints for corruption was substantial (about 9,400) and increasing during the period in question. While from this information it is not possible to link the rise in the number of complaints with the new technologies that are available, the evidence suggests that these new tools make it easier for citizens to act. Of the total number of complaints that were examined, 58% had been filed by individual citizens, 23% by the private organizations (including companies and trade unions), and 8% by civil society organizations. The remaining 10% had been filed by government institutions (Observatorio de Transparencia y Anticorrupción de Colombia, 2018).

This analysis shows that, over the relevant period, almost 60% of all complaints were linked to procurement, while those linked to the pre-contract stage of procurement processes showed the biggest increase. Having available simple tools to file complaints allows the detections of inadequate conduct in the early stages of the public-policy cycle.

Technology-based citizen oversight strategies can be used to supplement the efforts of the state's auditing institutions. In Colombia, the Secretary of Transparency and the Ministry of Information and Communication Technologies (*Ministerio de Tecnologías de la Información y las Comunicaciones*) have developed an app called *Elefantes Blancos*. This platform enables citizens to report, by means of uploading photos taken with their cell phones, public works that are abandoned—whether they have been completed or not—or that are being used for purposes other than those for which they were built. The app seeks to identify these public works and, through joint action with territorial authorities and oversight agencies, make sure that they are completed and used for their original purposes.

The I Paid A Bribe initiative launched in India is another good example. It provides an online platform where users who are asked to pay bribes in government facilities can report the event, the institution involved, the municipality where it happened and the amount of money that was requested. Users may sign their reports or upload them anonymously. One critical aspect is that they cannot name specific individuals in the reports. With the data uploaded to this platform it is possible to know the amount of money that is usually paid, and where and in which institutions the practice of asking for bribes is more common. Similar platforms are now active in 14 countries. In Latin America, they have been implemented in Colombia and Guyana, while Argentina, Brazil and Mexico are planning to do so soon.

Mexico's Democracy without Poverty (*Democracia sin pobreza*) initiative offers an online platform to report cases of vote-buying and clientelist uses of social programs to manipulate voters. This platform allows citizens to file the allegations

anonymously and to provide details about the vote-buying strategy—handouts in cash or goods, benefits from social programs, or threats of being denied benefits—and the amounts of money and political party involved.

While platforms to report corruption are increasingly popular, there is still little evidence of their effectiveness in fighting corruption. Ryvkin, Serra and Tremewan (2017) researched the key aspects in the design of initiatives that rely on voluntary and anonymous reports to maximize their impact. In contexts where there is more than one provider of the service in question, the most effective platforms to report irregularities are those that allow citizens to mention the specific location (not just the city) where the relevant public office is, even if there is no mention of the specific public servant. This information can then be used as a tool for citizens to choose among the available providers. Moreover, that information would expose the offices with the highest incidence of wrongful practices, which would in turn create incentives to stop such practices, given the risk of penalties.

Ryvkin et al. (2017) showed that platforms that collect information about the amounts paid in bribes without providing specific locations may work to raise awareness about the problem, but are not useful as deterrent tools. Finally, these researchers showed that these platforms are more effective when reports can only be filed by citizens, rather than by civil servants, since the latter have more incentive to file false reports. To minimize such risks, these kinds of platforms would need to be able to verify the identity of the person who filed the report and to validate its content. This also poses major challenges in terms of ensuring confidentiality of those who file reports.

### **Policy lesson**

Technological platforms to report irregularities and to address complaints by citizens are powerful tools that serve to produce information about the behavior of officials and to boost citizen engagement.

## Keys to increase transparency and citizen control

- 1 The information that is given to citizens needs to be relevant, credible, timely, accessible, clear, and comprehensive. To that end, initiatives on access to information and open-government strategies need to improve the standards for the production, governance, interoperability, and communication of information and data.
- 2 Some aspects to improve in the application of freedom of information laws are the timing and accuracy of the responses to citizen requests, especially those about issues that are relevant for public accountability.
- 3 A good open-government strategy to promote integrity needs to integrate information from different sources, including various types of official registers, administrative or transactional data from government operations data, and statements filed by individuals and organizations.
- 4 The media and of civil society organizations play a significant role to process and disseminate information on government actions among citizens. These agents' impartiality and credibility is very important in this context. States must avoid censoring or biasing the media, while encouraging high levels of media coverage and competition in that market. Concerning NGOs, transparency about their funding is necessary in order to dispel any doubts about conflicts of interests in their activities.
- 5 Lack of knowledge among citizens about specific manifestations of corruption and their consequences may reduce social sanction against them. To counter this, it may be useful to launch large-scale educational campaigns to train citizens on how to identify cases of wrongful conduct by public officials.
- 6 Sometimes, the prevailing social norms discourage active participation and the report of irregularities by citizens. Some behavioral interventions, in the form of nudges, may be used to promote desirable conduct—for example, by showing role models that encourage citizens to formally complain about acts of corruption.
- 7 Clientelism, and vote-buying in particular, distort electoral systems. The most effective ways to mitigate it involve restricting politicians' discretion to hand out benefits (e.g. access to social programs) based on clientelist criteria. This can be supplemented with campaigns to reduce citizens' willingness to exchange their votes for favors.
- 8 The tools for bottom-up community-based monitoring show a high potential for success in some circumstances, provided that their design reduces the cost of participating and mitigates the risk of capture. However, they must be applied in very specific cases, always as a complement—rather than a substitute—for traditional, top-down monitoring by the state.
- 9 Technology opens a window of opportunity to boost citizen oversight. Decentralized platforms to file reports and complaints are one example of this. In order to ensure better use of these tools, it is essential to close the digital gap that continues to exclude many citizens and impedes that many governments, particularly at subnational levels, implement technological solutions successfully.





**Keeping  
private  
interests  
in check**



**What mechanisms do private individuals and companies use to influence public policy decisions?**

**How can institutions be strengthened to effectively prevent, detect, and punish active bribery?**

**What elements need to be included in a system to manage conflicts of interests?**

**How can public infrastructure provision be improved to foster integrity?**

**What arrangements promote the adoption of internal anti-corruption controls in state-owned enterprises?**

# Keeping private interests in check<sup>1</sup>

Private individuals and companies have strong incentives to influence public-policy decisions, because they can extract rents when those decisions reflect their interests. The Odebrecht case clearly illustrate this phenomenon. In order to obtain very large construction contracts, this firm invested more than 700 million dollars in bribes it handed out to individuals who were in a position to design and award contracts of this kind in more than 10 countries.

This chapter offers recommendations to protect public-policy decisions from being illegitimately influenced by vested interests. First, it highlights the importance of decentralizing decision-making powers within the state and splitting them among several independent agents, as well as ensuring that processes—and the resulting decisions—are transparent. Observing these general principles on decentralized, independent, and transparent decision-making will make it more difficult for vested interests to prevail.

Next, the chapter addresses the mechanisms through which the private sector obtains preferential access to the state and it discusses specific institutional tools to mitigate the risks associated with those connections. Paying bribes is one of the most obvious ways to coopt public policy. Since this clearly corrupts decision-making processes, bribery cases tend to get a lot of media attention, and to be met with widespread opposition within society. Countries generally have clear—though not always effective—legislation in place to punish this practice. Some examples show that strong institutions on this issue—with well-designed laws and the ability to implement them—really do discourage firms from engaging in illegal practices. Latin American countries have been working to brace their legal instruments in recent years, but major challenges remain to implement them. The ability to investigate and punish these crimes has proved limited in the region. Anti-bribery laws increasingly often make legal entities legally responsible for domestic and international corruption crimes, which seeks to encourage companies to adopt internal control and compliance programs. The data suggest that self-reporting by firms is one of the main sources that reveal bribery cases, which emphasizes the value of internal detection and prevention schemes. Compliance programs generally have several components, such as designing rules for internal processes, creating special units, and training staff. One aspect that has received particular attention, given its potential to expose irregularities, involves promoting denunciation by internal informants—a practice known as whistleblowing.

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1. This chapter was written by Gustavo Fajardo, with research assistance from Matías Italia and Julián Martínez Correa.

**The criminalizing of offences like bribery must be supplemented with measures to protect public policy decisions from the imposition of private interests.**

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There are other, more subtle ways in which private citizens and companies seek to earn the favor of public officials. Making donations to support political parties and campaigns, hiring executives or consultants who previously worked in the public administration, and ensuring close social relationships are all factors that can help a firm to receive preferential treatment by the government. In many cases, it may be impossible or impractical to simply ban the actions that facilitate the exchange of favors. For example, it would not be sensible to establish by law that corporate executives cannot be friends with individual public officials. Criminalizing conducts like bribery must therefore be supplemented with further measures to protect public-policy design and implementation from the imposition of vested interests. Instruments to identify and manage conflicts of interests are highly relevant, as are those aimed at reducing the risks associated with lobbying and with revolving doors.

Institutions governing the information on beneficial ownership are also crucial to regulate the behavior of private companies in their interactions with the state, since that information makes it possible to identify the vested interests behind legal entities and their financial operations.

The final part of the chapter addresses the importance of strengthening key sectors and actors. Some government tasks are known for being particularly vulnerable to corruption, so they deserve special attention in any integrity agenda. This is the case for tasks in which the government makes decisions that are particularly valuable for private companies, such as awarding large contracts, which increases the incentives of firms to interfere with the process. In particular, the discussion focuses on the procurement of public works of infrastructure and on natural resource management, since these are risky activities that are very relevant for Latin American economies.

Preventing corruption in public works requires taking measures throughout a project's life cycle, from initial design to construction and management. It is important to brace the capacities of procuring and oversight institutions, and to clearly allocate their responsibilities to prevent conflicts of interests. Tenders must minimize the discretion of public officials when defining the criteria to select suppliers. All this needs to be supplemented with clearer contract renegotiation procedures, whose results must also be public and easily accessible.

Finally, it is important to acknowledge the role of state-owned enterprises in this debate. These companies are very involved in vulnerable tasks —such as procurement of goods, services and construction works— and are therefore a target for private interests. The foreign bribery report published by the OECD (2014) stated that employees of state-owned companies were offered more bribes than any other type of public official —27% of bribed individuals in the 427 cases under analysis were in this category. The Odebrecht case also shows that state-owned enterprises were partners in many of this company's irregular operations.

The roots of corruption risks in these organizations may be linked to their governance structures. Given that these companies are owned by the state as a whole, no single individual or agency has a strong incentive to monitor their performance. Thus, the recommendations to mitigate risks focus on these aspects. The top priority involves adopting corporate governance formulas that assign managers clear responsibilities and mandates, while exercising strong, independent oversight over these companies' use of resources. This would create incentives to strengthen management and audit processes within state-owned enterprises.

## Governance in decision-making

As discussed in Chapter 1 of this report, corruption negatively impacts productivity. This happens through several channels. First, it affects the composition of firms in the economy. When the ability to influence public officials determines which firms survive and which do not, connections protect inefficient companies and innovation becomes less valuable. Further, influential firms tend to use their clout to make sure competition is removed or restricted, which has very negative consequences for growth and welfare (CAF, 2018). Second, corruption affects incentives and investment within companies. When firms see that buying influence in public service is profitable, they move resources from alternative uses to that activity.

These practices may damage aggregate productivity, but at the level of each individual firm there may be very strong incentives to try to capture government decision-making. This is especially true when corruption is widespread. Paying bribes, for instance, can be a strategic reaction to the fact that other industry players do it, or it may even be the only way to avoid exclusion from the market. Therefore, promoting integrity in deals between the government and private firms requires a sustained and systematic oversight of the business sector.

**Companies have strong incentives to influence government decisions, particularly when corruption is widespread.**

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Government decisions that attract private interests are many and very varied, and they involve a wide range of public officials and public-sector institutions. These decisions include the design of legislation, the allocation of contracts, the intensity of monitoring by oversight bodies, judicial sentences, among many others. Box 5.1 presents and describes the evidence concerning some of the specific benefits of having preferential access to government decision-making.

**Box 5.1****What do firms gain from their connections?**

**Getting government contracts** by manipulating the processes to design and allocate them. The Odebrecht case has made this a very current issue. This occurs with relative frequency in Latin America and beyond, and it has been addressed in the academic literature. For example, Goldman, Rocholl, and So (2013) reported that, in the United States, well-connected companies do more business with the public sector than firms who lack good connections, and they quantified the difference between the two groups at an estimated 270 million dollars per election cycle. **Obtaining licenses and permits to exploit resources.** This is especially relevant in extractive industries. Burgess, Hansen, Olken, Potapov, and Sieber (2012) used satellite images to show that local governments in Indonesia allow logging beyond the legal limits. Deforestation levels increase on election years, which suggests an exchange of illegal logging permits for resources that are at least partially used in political campaigns. These results show that such conduct can have consequences for the environment.

**The design of favorable regulations,** which often become a source of monopoly rents. Faccio and Zingales (2017) showed that there is considerable between-country variation concerning policies to regulate competition in the telecommunications industry, which in turn affects concentration ratios and prices. When these researchers examined the reasons behind policy heterogeneity, they found that more democratic countries have regulations that encourage competition. On the other hand, when dominant firms in the industry have strong political connections, they secure more protectionist rules in their favor, against the interests of consumers.

**Access to loans and bailouts.** The evidence indicates that better-connected firms are perceived as less risky, based on an implicit signal that governments will vouch for them in case of financial stress. Along these lines, Faccio, Masulis, and McConnell (2006) showed that well-connected companies had preferential access to bailouts issued by their governments. Using data from firms in 35 countries, they also found that, among companies who had been rescued, those with political connections performed worse financially than those who lacked such connections. Focusing on Pakistan, Khwaja and Mian (2005) found that inequalities in access to credit is concentrated in loans granted by public banks. In authors' sample, private banks do not grant political favors, but well-connected companies take out 45% more public-bank loans than firms without such connections.

**Access to insider information.** Knowing government plans and actions in advance enables firms and individuals to monetize that information. One example is shown by Akin, Coleman, Fons-Rosen, and Peydró (2018), who examined events around bank bailouts implemented by the US government after the fall of Lehman Brothers. They found that, inside those banks, certain individuals with close ties to the government engaged in stock trades that allowed them to make a profit, because they had information on the allocation of bailout funds to specific institutions.

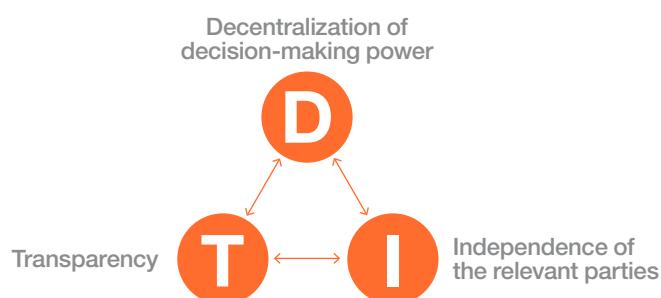
**Leniency in law enforcement.** Yu and Yu (2011) showed that, among firms who commit fraud, those with good political connections face a lower risk of being found out (38%). Further, companies who commit fraud invest more resources in their political connections than companies who play by the rules. Fulmer, Knill, and Yu (2018) obtained similar results. They found that executives with good connections are handed less severe sanctions in civil and criminal proceedings based on investigations conducted by the US Securities and Exchange Commission (SEC), suggesting interference of the Executive branch on prosecuting and sentencing institutions. Fisman and Wang (2015) reported that, in China, well-connected companies fail more frequently to comply with regulations concerning industrial safety, and the mortality rate among their workers is twice as high as in firms without good connections.

To prevent capture by vested interests, decision-making processes need to be protected, through arrangements specific to the task in question. However, three general principles should guide the design of decision-making processes in public policy —decentralization, independence, and transparency (Figure 5.1).

Decentralization implies ensuring that decision-making power is not held by one person or a few people, but rather shared by several officials, agencies, technical committees, etc. who can act as mutual counterweights. A firm will find it easier to influence a decision if it is up to just one individual to make it, and there is no need to coordinate with several actors. Further, from the perspective of an individual public official, having more influence on the process increases the capacity to extract rents and makes corruption more attractive. This was shown by Cheung, Rau, and Stouraitis (2012), who examined data on 166 cases of bribes paid to public officials in 52 countries to secure contracts. They found that, among the officials involved, a higher ranking predicts higher rents from the transactions. High-ranking officials were paid bribes worth 4.4% of the associated contracts, while bribes to low-ranking individuals were worth 1.2% of the resulting contracts.

**Three principles must guide decision-making in public policy —decentralization, independence, and transparency.**

**Figure 5.1**  
General principles for public policy decision-making



Even when decision-making power is nominally decentralized, it is essential that all parties involved be independent from each other. This crucial condition is undermined when there are conflicts of interests. A major source of conflict emerges when individuals with political connections are appointed to decision-making roles with the —implicit or explicit— task of defending their patrons' vested interests. This highlights the importance of meritocracy to guarantee the independence of officials, as was discussed in Chapter 3.

Finally, transparency needs to be a cross-cutting government principle (see Chapter 4). These three conditions —decentralization, independence, and transparency— can reinforce each other, which can trigger virtuous (or vicious) circles in governance. Sharing decision-making powers more widely —even if imperfectly— will tend to increase the independence of the parties involved. More independent actors will want to leave records and to make decision-making processes more visible. Greater transparency will make it easier for citizens to ensure that public-policy decisions are made through democratic, inclusive mechanisms. Conversely, opaque processes will favor unwarranted discretion, the protection of vested interests, and the proliferation of patronage networks.

## Institutional tools to control private interests

This section digs deeper into the institutional investment that governments need to make to keep the influence of private citizens and firms in check. These investments include capacity-building and the development of judicial tools to prevent and punish active bribery, a scheme to detect and solve conflicts of interests, and an effective regulation of lobbying. As a complement, this section also underlines the importance of improving information concerning beneficial ownership to understand whose interests lie behind opaque financial transactions.

### Anti-bribery laws

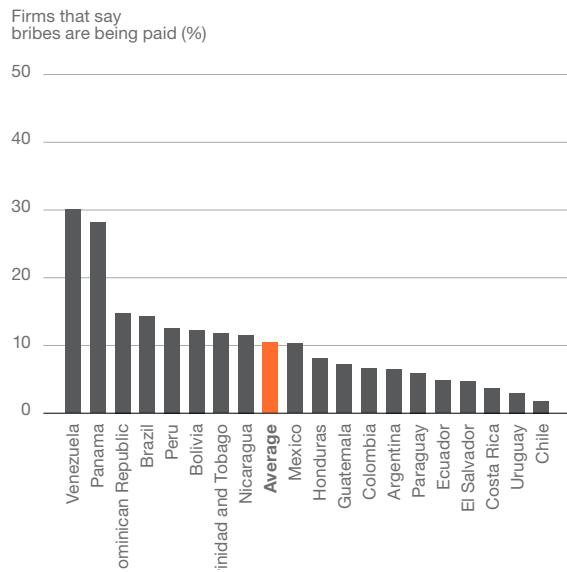
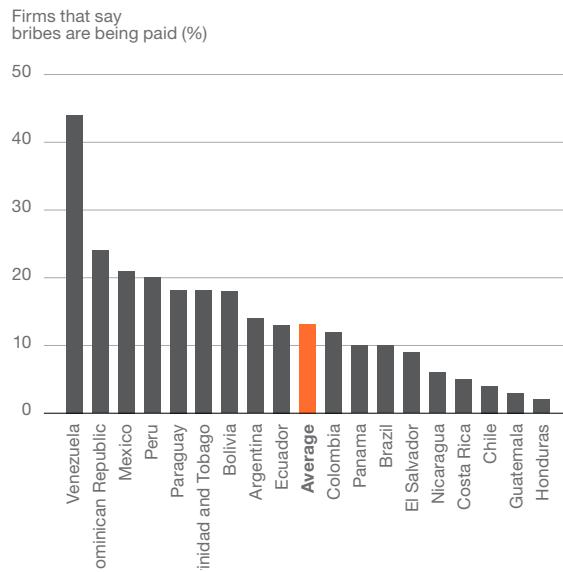
Paying bribes is probably the most flagrant way in which private individuals and companies capture government decisions.

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Paying bribes is probably the most flagrant way in which private individuals and companies coopt public-policy decisions. Thus, a significant part of the discussion on measures to fight corruption focuses on preventing bribery. The frequency with which bribery cases are revealed suggests that this is a pressing issue in Latin America, and media coverage around this issue shows its importance for the public. However, there are no accurate measurements of the real incidence of bribery, precisely because they are clandestine transactions. The World Bank's Enterprise Surveys are one of the few sources that enable an estimate. This instrument asks business owners and executives whether companies like their own pay bribes to the authorities for various reasons. Graph 5.1 presents some of the results for Latin America. Panel A shows that 10.4% of respondents say firms pay bribes to get things done. Panel B only includes companies who obtained or tried to obtain a state contract. Of these, 13.2% said that similar firms pay bribes to secure public-sector contracts. Both measures show significant differences between countries (World Bank, 2019).

**Graph 5.1**

Incidence of bribery: perceptions among business executives

**Panel A. To get things done****Panel B. To secure government contracts**

Note: Panel A shows the percentage of respondents that say firms like their own pay bribes to secure services linked to customs clearance, taxes, licensing, regulations, and so on. It is calculated as a percentage of all companies that were surveyed. Panel B shows the percentage of respondents that say firms like their own pay bribes to secure government contracts. It is calculated as a percentage of all manufacturing companies that obtained or tried to obtain a government contract over the 12 months prior to the survey. Percentages (unweighted) are reported by country, along with a simple mean across these countries. Based on the most recent available data for each Latin American country (over the period 2009–2017). More details about the data are provided in the Appendix (p. 231).

Source: Prepared by the authors, based on the Enterprise Surveys Indicators database (World Bank, 2019).

Statistics based on actions taken by the US Department of Justice (DOJ) to enforce the Foreign Corrupt Practices Act (FCPA) also show a relatively high prevalence of bribery in Latin America. 44% of all cases solved by the DOJ since 2010 involve bribe payments to public officials in at least one Latin American country (Foreign Corrupt Practices Act Clearinghouse, 2019).

**44%** of all cases solved by the US Department of Justice since 2010 in compliance with the FCPA involve bribe payments to Latin American public officials

At a basic level, criminalizing of bribery is the first step needed to prevent it. Indeed, active bribery of public officials is held in the United Nations Convention against Corruption (UNCAC) as a conduct that needs to be classified as a crime. It is defined as “the promise, offering or giving” to a public official of an illegitimate benefit so that this official will “act or refrain from acting in the exercise of his or her official duties” (United Nations, 2004, p. 18).

However, having strong judicial institutions on this matter requires more than just classifying bribery as a crime. The following two measures are often recommended in this context: making legal entities legally responsible for crimes of corruption, and prosecuting transnational bribery (that is, the practice of paying bribes to foreign public officials).

The establishment of liability of legal persons for cases of corruption seeks to incentivize collective responsibility within organizations. The idea is that, if a given conduct harms the whole organization, all its members will have an interest in preventing it. The design of legislation on this matter rests on that rationale. The general formula involves assigning civil or criminal liability to a legal entity for failing to implement an internal compliance program, whenever its staff or executives engage in corrupt transactions for the organization's benefit. Penalties often range from fines to the loss of legal personhood.

Regarding foreign bribery, its criminalization makes it possible for a country to take legal action against legal persons who, while under its jurisdiction, offer or pay bribes to public officials in other countries. Prosecuting this practice is a central aspect in the anticorruption agenda of organizations such as the OECD. Partly, these laws seek to discipline the conduct of transnational companies in their operations in countries with low institutional quality. Growing economic and commercial integration increases the need to monitor the actions of firms in their cross-border operations.

Several Latin American countries have gradually updated their legal frameworks to adapt to international standards on these issues. Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, and Peru have already adopted the OECD's Anti-Bribery Convention —which demands that states establish norms concerning international bribery and corporate liability— and take part in the ongoing review process required by the OECD. Argentina's *Ley 27.401 (Ley de responsabilidad penal empresarial)*, Brazil's *Lei 12.846 (Lei Anticorrupção)*, and Colombia's *Ley 1.778 of 2016 (Ley antisoborno)* are some examples of recent reforms. These laws closed gaps in the national legal frameworks and have prompted a certain convergence among them, by including sanctions —whether civil, administrative, or criminal— for legal entities who engaged in acts of corruption involving domestic or foreign public officials. These instruments also contemplate sentence reductions, or exemptions, when firms have compliance programs in place, or when they cooperate with the authorities.

## The impact of effective legislation

The United Kingdom's Bribery Act (UKBA) is considered one of the most effective laws in this field, along with the United States' FCPA (Eriksson et al., 2016). The UKBA is applicable to cases of both domestic and international bribery, while the FCPA focuses specifically on foreign bribery. The UKBA makes criminalizes passive and active bribery, including facilitation payments. Criminal liability falls on individuals, and on companies when they do not have internal compliance systems in place. The UKBA has jurisdiction over UK firms and firms with ties to the UK —for instance, through subsidiaries— regardless of where the bribes were paid. Firms face unlimited fines, while individuals risk fines and prison sentences.

A recent study explored the effects of this legislation since it was enacted in 2010 (Zeume, 2017).<sup>2</sup> If this law is effective, its enactment should have affected the stock value of British corporations, since it makes it more difficult for them to obtain favors in exchange for bribes. Moreover, this legislation should have a greater impact on firms that operate in places with a higher incidence of corruption. The study follows that logic by comparing corporations highly exposed to countries perceived as corrupt (based on Transparency International's Corruption Perceptions Index) with less exposed firms. The main conclusion is that companies exposed to corrupt markets did indeed lose more value. Regarding the magnitude of the effect, a hypothetical firm with all its subsidiaries in Somalia (the world's most corrupt country, according to the Corruption Perceptions Index) would have lost 6 percentage points of its value more than a firm with all its subsidiaries in the least corrupt countries (Denmark, Sweden, and New Zealand).

Another important finding is that the UKBA reduced the expansion of British firms in highly corrupt regions, and their sales in those markets grew less than the sales of firms headquartered in continental Europe (outside the jurisdiction of the UKBA). This illustrates why international coordination is so important when setting legislative standards. Companies from countries who punish wrongdoing in international operations more harshly lose market share to firms under more lenient institutions. Thus, there is usually very strong pressure from the business community to prevent the unilateral adoption of more strict regulations in their own jurisdiction. To reduce this opposition, it is in the interests of countries with more solid institutions to assist others and coordinate the adoption of shared legal standards.

## The scope of implementation

Countries' ability to ensure enforcement is as important as having the necessary legal instruments in place —it is the credibility of UK institutions that allows the mere approval of the UKBA to have an impact on firms. However, efforts to implement these instruments often face major challenges.

It is very difficult to make a rigorous assessment of countries' ability to detect and punish bribery, for reasons that include a lack of enough relevant data. The diagnosis of court decisions on foreign bribery cases - offered by the OECD (2014) provides some evidence of the general state of the legal fight against corruption. Out of the 41 jurisdictions that were examined, 25 had never sanctioned a legal entity for this crime, while 18 had never sanctioned either individuals or legal entities for bribery.<sup>3</sup> Of course, foreign bribery cases (and thus, sanctions) should be less common in countries with less presence of multinationals. Still, the 25 countries who have never punished legal entities account for 25% of the sample's exports. The largest exporters who have never

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2. The UKBA was first implemented in July 2011.

3. This implementation indicator may seem a bit ambiguous —in theory, if the law were deterrent enough, there would be no corruption cases, and therefore nothing to punish. However, the data suggest that, in this context, strong institutions lead to more instances of punishment.

sanctioned a firm are Spain, Mexico, and Ireland.<sup>4</sup> Brazil emerges as one of the most active jurisdictions in this field, although all that activity has taken place in recent years (OECD, 2018a).

Some of the reasons that explain apparent foot-dragging to punish foreign bribery involve procedural and technical aspects that are also relevant to prosecute other criminal conduct. Statutes of limitations and difficulties to produce sufficient evidence are among the hurdles that have been identified in this context. These cases can take very long to reach a court decision. The OECD (2014) report on foreign bribery estimated that, by 2013, the average time taken to conclude cases stood at seven years, and this number was rising. It is therefore important to promote independence and to invest in capacity-building in investigative bodies, and also to adjust statutes of limitations for corruption crimes (OECD, 2018a).

In cases that require international cooperation, it is important to enable the exchange of information among the authorities of the countries involved, to ensure that investigations can move forward. There is still plenty of room for improvement on this point. Currently, in cases of foreign bribery, the authorities investigating bribe payers rarely alert the corresponding authorities in bribe-receiving jurisdictions. Instead, information usually arrives through the media.

### Policy lesson

Strong anti-bribery institutions require well-designed laws, independent and well-equipped investigative agencies, and channels for cooperation between jurisdictions in transnational cases. Statutes of limitations must take into consideration the long preparations required in complex cases.

## Integrity within organizations

As noted earlier, one goal of establishing corporate liability is to incentivize the implementation of compliance programs within firms.<sup>5</sup> A central issue in these laws involves defining the necessary elements of a compliance program, and how these are verified. These requirements usually include: internal reporting channels, codes of conduct, rules to prevent wrongdoing in public tenders and contracts, employee training programs, risk analyses, whistleblowers protection policies, and due diligence systems.

One concern is that firms may adopt programs that are simply designed to formally comply with legal requisites (because, for example, such programs are needed to contract with the government), without ensuring effective change. Whether

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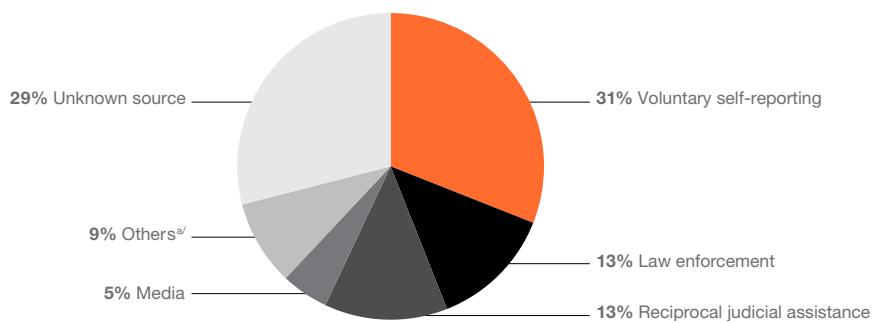
4. Spain has sanctioned individuals.

5. The names given to internal oversight and compliance programs differ among countries. In Argentina, who adopted in 2017 the Act on Criminal Responsibility for Legal Entities (*Ley de Responsabilidad Penal de las Personas Jurídicas*), these are known as integrity programs (*programas de integridad*) (Congress of the Argentine Nation, 2017).

this concern is well-founded will depend on how legislation is implemented. If companies who violate the law are punished, others will internalize the threat and will have an incentive to adopt meaningful compliance programs.

### Graph 5.2

Original source of information concerning cases of foreign bribery



Note: This graph refers to international bribery cases closed over the period 02/15/1999–06/01/2014.

a/ This category includes inside informants, international organizations, investigations into different crimes, financial intelligence units, and citizen complaints.

Source: Prepared by the authors, based on OECD (2014).

While no systematic evidence has been collected about the effects of compliance programs, some data suggest that they can be very important.<sup>6</sup> Around 32% of all cases solved by the US Department of Justice to enforce the FCPA stemmed from voluntary reports filed by the relevant firms (Foreign Corrupt Practices Act Clearinghouse, 2019). The OECD's analysis of 427 cases of foreign bribery delivers an almost identical rate —the most common origin of OECD investigations (31% of all cases) was also corporate self-report, as shown in Graph 5.2. As noted in that report, the pattern may reflect companies' willingness to plead guilty in exchange for reduced sentences in jurisdictions where that is a possibility (OECD, 2014).

Company members, in turn, find out about wrongdoing mainly through internal audits, due diligence practices for mergers and acquisitions, and denunciations by internal informants (OECD, 2014). This shows that legislation demanding corporate compliance programs may be very valuable, and its success will largely depend on a given country's capacity to enforce it.

#### Policy lesson

Establishing corporate liability for corruption offences with significant, credible sanctions, is crucial to motivate companies to adopt internal compliance programs.

6. It is difficult to produce methodologically sound evidence in this matter.

## Informants

**Employees can find out about irregularities in a firm much more easily than external agents.**

Of all the elements that usually make up compliance programs, one that has been researched in great detail involves the promotion of internal informants, also known as whistleblowers. Box 5.2 shares some lessons from the literature on this issue. Whistleblowers are individuals who find out about irregularities committed in the organization where they work and report them to company executives or to external actors. The existence and strength of internal reporting channels have become more significant as an element of organizational integrity schemes. Consequently, many countries have enacted specific legislation to protect informants or have incorporated provisions on the issue within broader laws (on public-sector ethics, anti-trust, anti-corruption, among others). Some countries even provide monetary rewards for informants whose report lead to recovery of assets or financial improvements in public sector agencies.

### Box 5.2

#### How to encourage whistleblowing?

Given how difficult it is to detect irregularities from outside an organization, an alternative is to encourage internal whistleblowers. Dyck, Morse, and Zingales (2010) examined 216 cases of corporate fraud reported in the United States in 1996–2004, including some well-known examples like those of Enron and WorldCom. They found that the main source of tips were indeed employees (17% of all cases), ahead of non-financial regulators (13%), the media (13%), auditors (10%), financial regulators (7%), and other actors. Employees face the lowest costs to collect information about what happens in an organization, since they typically obtain it through their regular work. However, incentives to formally report irregularities are not always strong enough. The results shown by these authors suggest that financial rewards play a crucial role—in industries where such rewards are more likely, staff made up a much higher proportion of all informants. This study also assessed the effects of a legislative reform in the United States (the Sarbanes–Oxley Act) that forced firms to create mechanisms for anonymous internal reports by employees to auditing committees, and granted informants better protection against dismissals. The results suggest that this reform did not increase denunciation. This, in turn, shows that additional protection does not significantly change the incentive structure—even with low risks of dismissal, being an informant has a high social cost. The employee’s progression in the firm may be halted, and protections from dismissal are irrelevant if the report increases the probability that the company is forced to shut down.

Using evidence from lab experiments, Butler, Serra, and Spagnolo (2019) also found that financial rewards incentivize internal denunciation, and that these intrinsic incentives do not displace extrinsic motivations.

### Policy lesson

**Companies’ compliance programs must include internal reporting channel, as well as provisions to protect and encourage whistleblowers.**

## Managing conflicts of interests

Bribes are not the only threat to integrity in public-policy decision-making. Even in the absence of bribes, public officials may face conflicts of interests —situations where the duties attached to public service clash with personal interests. It is important to highlight that the existence of a conflict of interests does not in itself amount to an act of corruption, although it does entail a risk that needs to be addressed. Faccio (2006) examined data from 20,200 companies in 47 countries, which she describes as *politically connected* when at least one shareholder (with more than 10% of the voting shares) or high executive was a member of parliament or a minister. This study found that the degree of overlap between the business sector and the political system —measured as the percentage of politically connected firms— was associated with higher levels of corruption. The author also found that regulations that impose more strict limits on politicians' business activities reduce the prevalence of connected firms.

Although evidence of their consequences can be found at the aggregate level, managing conflicts of interests requires a granular approach. It is virtually inevitable that conflicts emerge in any public office, and the relevant analysis should be done at the level of individual tasks, with the objective of preventing that officials get involved in decisions where their judgment may be compromised. For example, a judge may recuse herself from a case or a legislator may opt out of a committee when they have conflicts of interests in those specific events, while they may otherwise continue to hold their positions.

The management of conflicts of interests fundamentally involves three kinds of provisions: bans and lists of activities considered incompatible with public service, mandatory disclosures of interests, and mechanism to recuse conflicted officials from certain activities.

**Managing conflicts of interests requires a granular approach, to identify specific tasks or decisions in which a given public official should not be involved.**

### Incompatibility

The strictest provisions forbid public officials from engaging in certain occupations and contractual relationships. A partial list of common bans includes the following: being employed by or having another contractual relationship with the private sector, having -family members as subordinates, and being a party to a contract with the government or with the specific agency where the official works (Reed, 2008).

Imposing these restrictions is a logical way to rein in conflicts of interests. However, to ensure compliance, these restrictions need to be realistic and in accordance with the working conditions of the official. Considering that this kind of rule highly restricts access to additional sources of income, it is important for public officials to be well paid. If they are not, they may resort to corruption and informal arrangements to compensate for low wages (Chen and Liu, 2018; Gorodnichenko and Sabirianova Peter, 2007).

The situation is more complex for politicians, because they hold positions for relatively short periods following which they may leave public service. Banning any ties with activities outside these positions is a very strong restriction. In fact,

it may prove counterproductive if it restricts the type of person who can afford to get involved in politics or if it encourages politicians to hide relevant information. Some incompatibilities must stand —including simultaneous work for a private company or holding stock in firms who do business with the government. However, there are good reasons to put less emphasis on overarching bans and to focus instead on effective disclosure of interests and on mechanisms to recurse officials from compromised decisions (Reed, 2008).

## Assets and interests disclosure

**Declarations of assets and interests are a crucial component to safeguard the objectivity of the officials in charge of making public policy decisions.**

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Disclosure of assets and interests by public officials are crucial for managing conflicts of interests. There is no standard legal instrument that regulates this matter across countries. Instead, provisions regarding disclosure demands may be found in constitutions, in legislation of various kinds, or in parliaments' rules of procedure (Djankov, La Porta, Lopez-de-Silanes, and Shleifer, 2010). Obligations can be general and periodic —mandatory statements for all public officials at regular intervals— or they may be specifically required when conflicts emerge. The two formulas often coexist, and they each pose different implementation challenges. General requirements may provide huge quantities of information that is difficult to process —particularly when they are mandatory for all public officials, including those in low level positions— so they require investing in capacity-building. This problem can be mitigated by restricting the obligations to officials at certain levels of the decision-making process. One-off declarations can be more efficient, but they rely on self-reporting and require solid knowledge by public officials concerning what is a conflict of interests. This highlights the relevance of awareness-raising campaigns about the obligations included in codes of conduct and legislation on public-sector ethics. To promote truthful, timely self-reports and discourage individuals from hiding their interests, violations of these obligations need to be effectively punished.

Some aspects of the design of these obligations need to be highlighted. First, declarations should go beyond a simple accounting exercise of incomes and assets. That information may be useful to detect irregular growth in the wealth of public officials. However, one essential goal of these statements is detecting conflicts of interests, so they should provide a comprehensive account of a given public official's interests and include information on positions and activities, even those from which they do not gain concrete economic benefits.

Another important point has to do with the publication of these statements. On the one hand, making the information public increases transparency and may improve its effectiveness as an oversight mechanism to control public officials. On the other hand, there are privacy concerns, particularly in countries where citizen security is a major issue. Viable solutions include partial publication, granting access to some information: e.g. only declarations by public officials above a certain rank, only information concerning certain assets and possessions, or lists of interests without information on monetary values.

There is evidence of the effectiveness of asset declarations. Fisman, Schulz, and Vig (2019) researched the case of India, where in 2003 it became mandatory for candidates in state and national elections to report details about their assets and

those of their partners and dependents.<sup>7</sup> This information was later collected and published by civil society organizations and the media. Punishment for incorrect declarations included fines, disqualification from office, and up to six months in jail. This reform had a strong effect, since it increased by 13 percentage points the rate of exit from politics among election winners. Citizens appeared to interpret that this improved the quality of candidates who remained in politics, because reelection rates increased. However, the most significant result was that, following reform, the states most affected by it —that is, those with higher politician turnover rates— experienced the largest growth in income. This suggests that introducing mandatory asset declarations improves government quality, although the study did not include results on corruption levels.

It is a bit more difficult to find solid evidence about the specific elements in the design of these obligations that make them more effective. That is precisely what Djankov et al. (2010) attempted to do. These authors set up a database with rules concerning disclosures of interests for members of the lower chamber of the legislature in 175 countries, and they measured whether legislators were required to provide details on seven issues: assets, liabilities, expenses, income, potential conflicts of interests (for instance, unpaid work for private organizations as a consultant or a board member), gifts, and travel. The authors drew two important distinctions. First, that information that had to be disclosed to the legislature vis-à-vis what needs to be disclosed to the public in general; second, the requirements to disclose information on values of income and wealth vis-à-vis information on the sources of income and wealth. This latter distinction —between values and sources— is important to identify conflicts of interests. For example, it is one thing to know how much money a legislator is making from private-sector positions and quite another to know the exact source of that income. Comparing different countries shows that disclosure obligations are associated with lower levels of perceived corruption, especially when these disclosures are made public and include details about the sources of income of officials.

### Policy lesson

Asset declarations and disclosures of interests are particularly effective when they are public and include information concerning positions, activities and sources of interests. The scope of obligations must be proportionate to the institutional capacity to process the information and to effectively punish non-compliance and false statements.

Graph 5.3 characterizes obligations to file statements in Latin America and —for comparison purposes— high-income OECD countries, based on information collected by Rossi, Pop, and Berger (2017) and updated until 2015. Panel A shows that almost all countries in both regions have legal provisions in place that require public officials to file declarations (bars on the left). However, only one in four Latin American countries with legislation on this issue establish by law public access to the information held in those declarations, while almost all high-income countries do (panel A, bars on the right). Panel B shows that, in Latin America, regulations stipulate sanctions for failing to comply with this requirement or for providing false

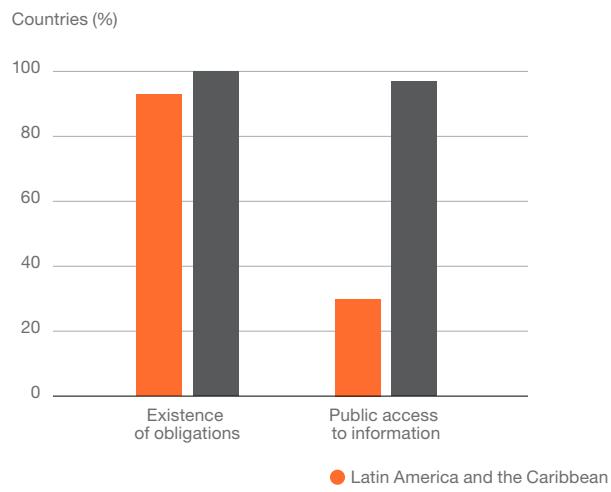
7. Candidates were also required to file information about their education and criminal record.

information more frequently than in high-income countries. Panels C and D show differences in the type of information that needs to be included in declarations. The percentage of countries that require values of income and assets is higher in Latin America than it is in high-income countries, but the opposite is true for information about activities and positions, which may be major sources of conflicts of interests.

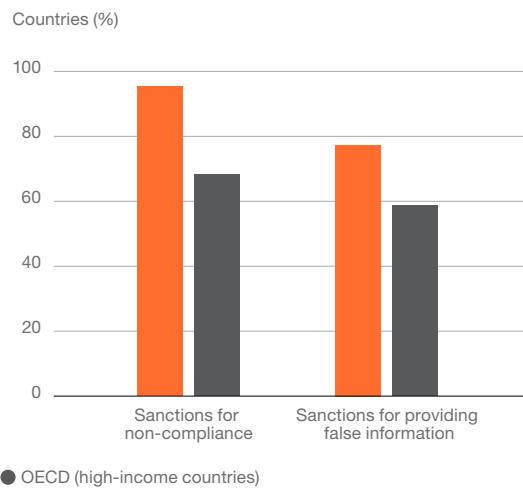
### Graph 5.3

#### Requirements on disclosure of assets and interests

**Panel A. Requirements of declarations and access to information**



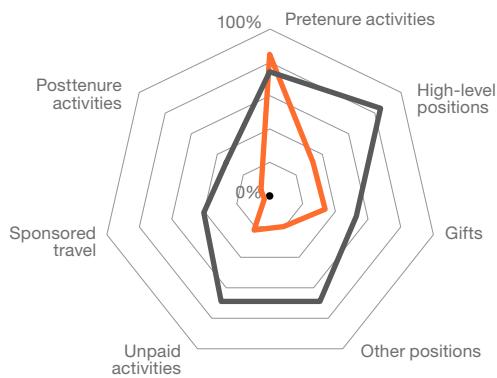
**Panel B. Sanctions**



**Panel C. Disclosure requirements on assets and income**



**Panel D. Disclosure requirements on activities and interests**



— Latin America and the Caribbean   — OECD (high-income countries)

Note: Panel A (bars on the left) shows the percentage of countries in Latin America and the Caribbean and in the OECD that impose legal obligations to disclose interests and financial information on public officials. For all countries that impose such obligations, the graph shows the percentage that include provisions to grant public access to the information (panel A, bars on the right); the percentage that stipulate sanctions for non-compliance and for providing false information (panel B); the percentage that require disclosure of specific items concerning income and assets (panel C); and the percentage that require disclosure of specific items concerning activities and interests (panel D). This graph is based on 2015 data. More details are provided in the Appendix (p. 232).

Source: Prepared by the authors, based on data found in Rossi, Pop, and Berger (2017).

This diagnosis suggests that there is room for improvement in the legal instruments that govern this issue in Latin American countries. In particular, it is important to expand obligations to include information on the positions and activities of public officials, even when these are not a source of recurring income. Also, as noted above, these declarations are more effective when they produce publicly available data. This is why it is important to ensure a certain level of dissemination, while addressing concerns about public officials' security and privacy.

## Conflict resolution

Finally, the legal framework needs to include mechanisms to resolve any conflicts of interests that may arise. Broadly speaking, there are three ways to address these conflicts. The first one, applicable to elected positions, involves allowing the relevant official to take part in the decision-making process once they have disclosed the potential conflict. This approach rests on the premise that, once a public official's private interests and conduct are known, citizens will deliver their verdict at the polls. This strategy is very risky, given the difficulties voters encounter to access and process information (see Chapter 4), besides the fact that electoral punishment may not be deterrent enough to ensure impartial behavior by officials. A second approach involves leaving it to the relevant public officials to recuse themselves from the decision-making process when there is a conflict of interests. Finally, a third option leaves the decision in the hands of a higher-ranking official or a committee. All of these approaches pose implementation challenges. The main challenge to effectively manage conflicts of interests usually lies at the disclosure stage, so institutional investments should be prioritized there.

## Revolving doors and lobbying

Movements from public office to the private sector is another source of potential conflicts of interests. Two major concerns emerge here. The first one is that the relevant official will use privileged information they obtained while working in government to illegitimately benefit a private company. The second one is that an official's conduct while in public office may be compromised by their desire to please future employers.

Legislating on this issue is not simple, since it requires balancing the risks to integrity in public policy with individuals' right to pursue their professional career once they have left public office. Provisions usually focus on mitigating risks and increasing transparency. Countries often demand a cooling-off period to pass before an individual can go from the public to the private sector, or vice versa. These requirements may be useful. However, if they are too strict and enforcement is loose, they may incentivize non-compliance through activities that go unrecorded.

Lobbying is one of the most common destinations for public officials and their advisers once they have left the public sector. It is very difficult to estimate the size of the lobbying industry or the frequency with which former politicians and civil servants join it. Countries generally lack comprehensive records

**Cooling-off periods set minimum times that must pass before an individual can go from the public sector to the private sector, or vice versa.**

about it. However, some studies may shed some light on these questions. For example, Transparency International EU tracked 485 members of the European Parliament (MEPs) who left office after the 2009–2014 term. Of these MEPs, 171 left politics and 51 joined registered lobby organizations. Concerning the European Commission, more than half of all commissioners who served over the same period were later involved with registered lobbyists (Freund and Bendel, 2017). In democracies, it is legitimate for individuals and organizations to communicate their opinions and interests to their political representatives. Indeed, political representatives are expected to be accountable to their constituents, which implies knowing their preferences and taking them into consideration when making decisions. Thus, a crucial challenge when regulating lobbying activities is finding the limit between acceptable and illegitimate influence, and translating that threshold into concrete behaviors that can be monitored and acted upon.

A central question in this debate is, what do private individuals and companies get out of lobbying? If it is about having active spokespeople or deeper knowledge of decision-making processes, lobbying may be a legitimate practice. However, if it involves buying preferential access to key decision-makers for private benefit, it is a threat to the integrity of the decision-making process. This question is difficult to answer, given a general lack of information about this industry. The United States is probably the country who has made the most progress to ensure transparent lobbying, based on the enactment of the 1995 Lobbying Disclosure Act and on the work of independent organizations who have collected relevant information. This has triggered some research into the implications of lobbying in the US context.

**Research suggests that, in many cases, the value of a lobbyist lies in who they know, rather than what they know.**

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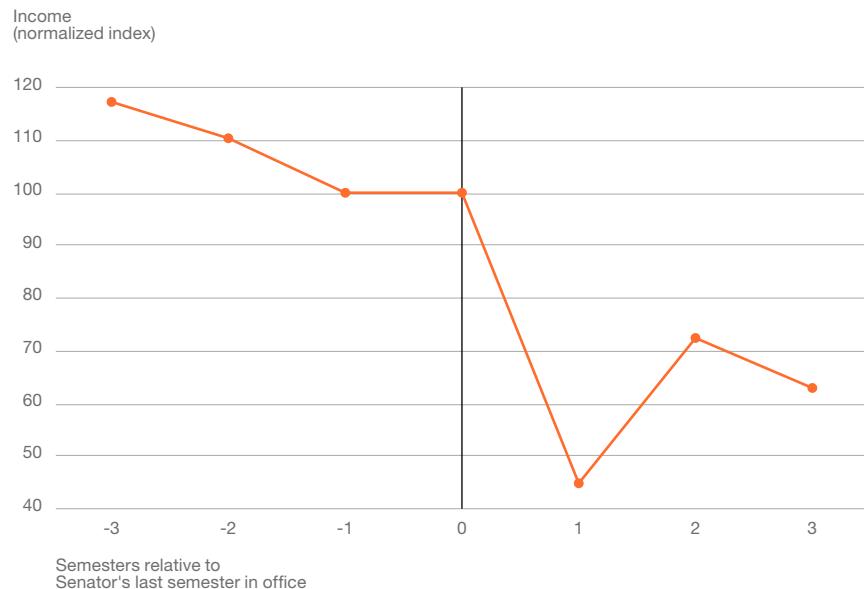
Some results suggest that lobbying is sometimes used to buy preferential access to individuals with important roles in the decision-making process. For example, professional lobbyists who once belonged to a political party get paid more for their services when that party is in power (Eggers, 2010). Blanes i Vidal, Draca, and Fons-Rosen (2012) showed that the income of lobbyists who had previously worked as a given Senator's staffer drops sharply when that Senator leaves Congress (Graph 5.4). These patterns indicate that a lobbyist's value lies in who they know, rather than in their skills or knowledge.

These findings do not mean that there is no legitimate room for lobbying, but they do warn about the need to better monitor its implications for the public-policy process. It is important to acknowledge and regulate formally this activity, and to increasing transparency in its exercise. First, this implies collecting more systematic information about lobbyists (for instance, through centralized records) and their interactions with public officials. But this is only one side of the equation. To identify how these activities affect public-policy decisions, it is also crucial to gather information on the actions of public officials. This information needs to be comprehensive and to include members of different branches and agencies of government, because influence on politicians and public officials can manifest itself in many ways. For example, some results suggest that interest groups in the United States use lobbying to stop unfavorable legislation in the early formulation stages (Maheshri, 2010). Identifying this kind of effect requires information about all bills from the moment they are designed to the stage of a potential vote. Research for

Argentina found that private individuals and companies who attend hearings with public officials have a higher probability of being granted government contracts (Freille et al., 2019).

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**Graph 5.4**  
Lobbyists' income and political connections



Note: This graph shows the median income of lobbyists who had previously worked for a Senator, in a window of time around the corresponding Senator's exit from Congress. Income is normalized to an index that takes the value 100 in the Senator's last semester in office (marked with a vertical line).

Source: Prepared by the authors, based on data from Blanes i Vidal, Draca, and Fons-Rosen (2012).

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This approach, based on regulation and transparency, requires acknowledging and accepting lobbying as a practice and a professional activity that is legitimate within certain bounds. An alternative approach based on banning lobbying runs the risk of perpetuating informal channels for influence, which —because they are underground— are always opaque to institutions and citizens alike.

A further concern is that different social groups have very unequal opportunities for dialogue with public officials. Better organized groups with more resources —such as business associations— have better chances to make their voices heard than the less powerful. While this does not, in itself, amount to corruption, it may bias policy decisions in favor of better-connected elites. To counter this, it would be important to supplement regulations and transparency concerning lobbying with initiatives aimed at increasing communication between political representatives and the people they represent.

### Policy lesson

Lobbying must be recognized and accepted as a legitimate activity, while acknowledging the risks it entails and the need for regulation and high levels of transparency. Suitable oversight requires the systematic collection and publication of information on lobbyists' identities, their interactions with public officials, and the actions of these officials in the exercise of their attributions. Creating spaces for interaction between citizens and their political representatives may help counter the advantageous access usually enjoyed by better-organized, more powerful groups.

### Transparency and information on beneficial ownership

To be able to detect and prove conflicts of interests and bribery cases, it is essential to have reliable and up-to-date information on property records and financial transactions. Therefore, another important area of action against public policy capture is linked to legislation and the capacity to observe property and control structures of legal entities. This is a cornerstone to prevent money laundering, which has historically found a haven in the financial opacity attained through the use of shell companies and figureheads.

A recent research study looked into the case of the Panama Papers to estimate the value of bank secrecy for companies. In April 2016, confidential documents were leaked from the Panamanian law firm Mossack Fonseca, with details on approximately 214,000 shell companies created in tax havens. A few specific examples show how firms used these offshore companies. Siemens used offshore vehicles —some of them through Mossack Fonseca— to operate accounts from which bribes were paid to Latin American public officials. The energy company Saipem did the same to hand out 275 million dollars in bribes in exchange for contracts worth more than 10 billion dollars to build oil and gas pipelines in Africa. Based on the leaked data, O'Donovan, Wagner, and Zeume (2019) identified 397 listed firms who used the secret companies that were revealed. Their main finding was that the leak caused average losses of 0.7% in the market value of the firms involved, due to the sudden loss of future profits obtained through bribes and tax evasion —the two main uses of bank secrecy. These authors found that the loss of value was particularly significant for firms who were active in countries with high levels of corruption and in countries whose leaders were also identified in leaked documents as users of shell companies.

**Beneficial owners are the natural persons who control or benefit from a legal instrument.**

The response to this situation requires, among other things, improving the information on *beneficial owners* —that is, the individuals who control or benefit from a legal entity, be it a firm, a trust, or any other. Identifying these beneficial owners is crucial to identify the individuals who are really behind financial operations.

The development of the institutional framework to improve beneficial ownership information is a topic of great current relevance, where international cooperation is very important. The Financial Action Task Force (FATF) is the main institution in

charge of setting standards to prevent money laundering and terrorist financing. Among other things, it issues recommendations on the implementation of beneficial ownership information systems and assesses different countries' progress in the area.

In many countries of Latin America and the Caribbean, deficiencies start at a very basic level, with the lack of a clear definition of beneficial ownership in national legislations. The FATF provides some guidance on this definition. Beneficial owners of a legal entity are, in principle, the natural persons who own more than a certain percentage of it (the FATF suggests 25%). If there are any doubts concerning this first criterion, the natural persons who exercise control through other means (for instance, controlling a certain fraction of a company's voting shares or being in position to appoint and remove its executives) are considered. Finally, if no one is identified through those methods, the senior managing official of the organization should be considered its beneficial owner (FATF, 2014). A recent analysis by the IDB found that, out of 26 Latin American countries that were examined, only 5 defined the concept of beneficial ownership in accordance with FATF recommendations (Knobel, 2017). Most countries' definitions had loopholes. For example, some did not contemplate senior managers as beneficial owners when no other owners had been identified, and some did not establish a threshold of ownership over which individuals would be considered beneficial owners.

One of the FATF's recommendations is ensuring the availability of "adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities" (FATF, 2012, p. 23). This information needs to be accessible through requests submitted to the legal entity (which must keep the information updated) or to third parties (such as banks) who must apply due diligence protocols. This information can also be centralized in beneficial owners registers, although their creation and maintenance requires a high investment in terms of capacities. As shown in Table 5.1, out of 10 Latin American and Caribbean countries included in the FATF's most recent evaluation round, three were considered non-compliant with this recommendation, three were partially compliant, four were largely compliant, and none had attained full compliance (FATF, 2019).

Countries generally have provisions in place for legal entities to file information concerning their ownership and control structures and to update periodically before competent authorities. However, most countries present limitations concerning beneficial ownership information, particularly in cases of complex corporate structures or where ownership or control are exercised from abroad. Other deficiencies involve keeping the information up to date —particularly because there is little control of transfers of shares— and enforcing punishment for non-compliance with these obligations (in some cases, no specific sanctions are imposed for failing to keep updated records of shareholders, while in other cases sanctions are ineffective).

**Table 5.1**

Degree of compliance with FATF recommendations concerning  
beneficial ownership of legal persons

Degree of compliance	Country
	Honduras
Non-compliance	Nicaragua
	Panama
	Colombia
Partially compliant	Mexico
	Peru
	Trinidad and Tobago
	Costa Rica
Mostly compliant	Cuba
	Guatemala
	Dominican Republic

Note: This table shows the degree of compliance with the FATF recommendation on transparency and beneficial ownership of legal entities (Recommendation 24), for Latin American countries subjected to the fourth round of FATF ratings.

Source: Prepared by the authors, based on data from FATF (2019).

### Policy lesson

Improving the information on beneficial owners of legal entities is necessary. Firms must have clear responsibilities to file and update information about their ownership and control structures, with a real threat of sanctions for non-compliance. It is particularly difficult to collect information on instances of foreign ownership or control, so international cooperation in this matter must be strengthened.

A further pillar of transparency in this context involves customer due diligence protocols —the regulations that require certain institutions to identify the beneficial owners of legal entities with whom they engage. Financial institutions and some designated non-financial activities and professions— lawyers, notaries, real estate agents, dealers in precious metals, and casinos, among others —are required to do so. In this field, there is also a lot of room for improvement for Latin American and Caribbean countries.

## Vulnerable sectors and actors

Some government tasks involve decisions that are particularly valuable for private individuals and companies, which increases the incentive to influence those decisions, and the risk of corruption. These tasks include the awarding large contracts, such as those to build public works of infrastructure; the issuance of licenses and permits; and the adoption of resolutions when regulating companies.

This leads to the emergence of a sectoral component of corruption, since risky tasks are commonly associated to certain industries. Transparency International bases its Bribe Payers Index (BPI) on surveys to senior business executives about their perceptions. The results from the 2011 BPI are presented by activity, and they classify 19 economic sectors based on the perceived corruption levels in them (Haroon and Heinrich, 2011). Figure 5.2 lists the most vulnerable sectors according to the BPI. García-Santana et al. (2019) showed that, in Spain, the industries with the lowest levels on the BPI —that is, those with higher levels of perceived corruption— suffered from worse resource allocation among firms, which led to lower productivity growth in those industries vis-à-vis less corrupt ones.

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**Figure 5.2**

Industries that are vulnerable to rent-seeking



Note: This figure shows the seven industries with the worst results in Transparency International's 2011 Bribe Payers Index.

**Source:** Prepared by the authors, based on Haroon and Heinrich (2011).

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For the remainder of this chapter, the discussion focuses on institution for the governance of public infrastructure provision and management of natural resource, two corruption-prone activities that are particularly relevant in Latin America and the Caribbean. State-owned enterprises are a crucial actor in this debate, since they are often in charge of those activities. Therefore, some recommendations aimed at reducing corruption risks in state-owned enterprises are also offered.

## Construction and public infrastructure

**Public infrastructure projects are often very specific and complex, which allows for discretionary decision making.**

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The provision of high-quality public infrastructure at a reasonable cost is one of the main challenges faced by Latin American and Caribbean governments. Part of the challenge involves improving the procedures that govern the provision and operation of public works. Infrastructure projects are often very specific and complex, which creates room for discretion in decision-making. Additionally, information asymmetries tend to be significant, which weakens citizen oversight. Frequent conflicts of interests, few checks and balances, and opaque procedures make it easier for vested interests to capture this sector.

Recent research on Latin America and the Caribbean suggests that infrastructure projects can indeed be used by politicians to reward those who supported their election campaigns. Ramos (2018) showed that, when the probability of being audited falls, Brazilian mayors request more transfers of funds from the central government to build public works, which they then use to award contracts to campaign donors. Greater discretion in this type of spending changes the amount of resources allocated to public works, and their destination. Gulzar et al. (2019) found that, in Colombia, mayors who received higher campaign contributions did not increase the amount of resources allocated to public works, but they did award contracts in a way that rewarded donors. Moreover, contracts awarded to the most generous donors showed worse execution results in terms of costs and compliance with deadlines.

The evidence shows that irregularities can materialize at various stages in the life cycle of a construction project. In their analysis of 63 Odebrecht projects investigated by the courts or the media, Campos et al. (2019a) found that 30 presented irregularities before and during the tender (in the design and implementation criteria to evaluate offers). However, problems arise equally after the contract has been awarded (in renegotiation stages). Renegotiations emerge as a major pathway for corruption. Among contracts awarded to Odebrecht in eight Latin American countries in 2001–2016, those where bribes were paid (or where investigators suspect bribes were paid) showed increases of 71.3% in value through renegotiations, while the corresponding increase amounted to only about 6.5% in projects where no irregularities have been reported (Campos, Engel, Fisher, and Galetovic, 2019c).

Overall, the evidence suggests that stronger institutions are needed at every stage of the public infrastructure provision process.

## Project selection

The first distortions emerge when deciding what projects need to be undertaken. Ideally, project selection should be based on social profitability. However, those calculations are technically difficult and liable to cooptation. The most significant recommendations for this stage refer to the institutional architecture and to the choice of formulas that are used to make investment decisions.

First, infrastructure plans need to focus on the services they hope to provide and on quality, rather than on the number of works or the amount of inputs used. The first step to do this involves defining outcome variables that enable the assessment of alternative investments, while also improving accountability. This can be very demanding, but it should be the goal of infrastructure programs, in order to discipline project selection and to discourage projects that are both expensive and socially inefficient.

It is also important to separate the roles of agencies in charge of the planning and the execution of projects. More generally, the definition of projects must be independent from the selection of suppliers. This mitigates conflicts of interests and reduces the risk of using infrastructure projects specifically to return favors or to benefit specific contractors.

## Tenders and supplier selection

The stage where criteria to evaluate tenders and select suppliers is also vulnerable. One of the main risks involves firms gaining illegitimate early access to the specifications, or even changing those specifications in order to exclude potential competitors and improve their own chances. Another source of risk is the inclusion of subjective elements in the formulas to evaluate bids, which often happens when measuring candidates' technical merits. This makes the process more vulnerable to exploitation for the benefit of one firm above others.

To obtain those favors, firms need the support of officials in a position to control decision-making in evaluation committees. While there generally are institutional frameworks in place to audit all these processes, they are vulnerable too, either because auditing committees are complicit or because special decrees are used to reduce their power.

The crucial answer to these risks involves making extra efforts to increase the independence of all the public officials and institutions who take part in tenders and making it more difficult for them to coordinate their activities. As noted above, capture is easier when the unit that defines a project also influences the composition of selection committees. The risk increases when the same individuals can make decisions to reduce project oversight.

**Capture is easier when those who define and select projects also have influence on the composition of tender evaluation committees.**

Whenever possible, it is also preferable to use standardized documents and criteria for tenders, to further complicate the design of specifications tailored to the benefit specific firms, while also reducing or eliminating the weight of subjective criteria during evaluations.

### Policy lesson

The design and selection of projects should be based on social welfare criteria, and kept separate from the selection of suppliers. Ideal tenders minimize discretion when setting evaluation criteria, and they encourage competition. Projects must be subject to oversight by independent and capable institutions.

There are close ties between preventing corruption in tenders and safeguarding competition in the construction industry. As previously noted, when firms manage to change specifications and conditions in their own favor, they seek to exclude rivals through unnecessary demands or requirements. However, there are also cases where a group of firms collude to allocate projects among themselves. For example, a firm may ask an alleged rival to submit a losing bid in order to secure a contract for itself, and later return the favor in the following tender. In its statement to the US Department of Justice, Odebrecht admitted that it had been involved in a similar scheme with other construction companies. Once the firms in the cartel established which one would get a given project and the price to be charged for it, everyone agreed that to let that pre-selected firm be the only one to submit a competitive bid, while the rest submitted losing bids (US Department of Justice, 2016).

Some authors have argued that favoritism in bidding processes (corruption) and collusion are complementary. More specifically, the claim is that favoritism facilitates corruption, as discussed in Box 5.3. This suggests that strengthening anti-trust agencies is also important to expose and sanction corruption.

### **Box 5.3**

#### Does corruption facilitate collusion?

Favoritism when awarding contracts may facilitate corruption. Lambert-Mogiliansky and Kosenok (2009) illustrate this phenomenon with a scenario where two companies compete for a series of contracts, which winners are selected by an auctioneer (who is a government employee). Each company has an advantage in certain types of projects. For example, one may specialize in bridges, while another specializes in tunnels. A society's preferences change over time—sometimes a bridge is preferred, sometimes a tunnel—but the awarding officer enjoys discretion to pick the kind of project that is demanded. Firms may offer bribes to the awarding officer, but they want to avoid competing among themselves with their bribes. Thus, they need a contract awarding mechanism that allows them to easily observe when one of them has deviated from the collusive agreement. One mechanism that accomplishes this is alternating the contracts between firms, so that if one of them gets two consecutive contracts it will be obvious that it has broken the deal. The results presented by these authors showed that this solution is only viable because the awarding officer enjoys discretion to determine the type of contract. The collusion agreement rests on a rule where the awarding officer alternates the type of contract to suit the characteristics of each firm—first a bridge, then a tunnel, then a bridge, and so on. In this scenario, the social costs are very high: the kinds of projects that are built are socially inefficient, and the price paid for them is higher than it would have been in the absence of corruption.

## Renegotiation

Finally, there are often irregularities when contracts have already been signed and construction work is ongoing. Contract amendments are common in infrastructure projects. This is partly due to legitimate reasons, since these projects are complex and long, and they often run into unforeseen circumstances. However, weak institutions may give rise to an excessive, overly permissive use of contract renegotiations. In such scenarios, firms can be virtually certain that, if they are awarded a contract, they will be able to renegotiate it later. This distorts the whole process. First, companies have an incentive to bid artificially low to win the tender, in the expectation that they will be able to set more favorable conditions later. Moreover, the most competitive bids do not necessarily come from most efficient candidates, but rather from those better connected to renegotiate. This can increase project costs, because it leads to the selection of less suitable suppliers. Box 5.4 presents some examples of how companies respond strategically to the use of contract amendments to reap larger profits.

**When contract renegotiations are used too often and in permissive ways, firms can anticipate that they will be able to renegotiate terms if they are awarded a contract.**

### Box 5.4

#### How do bidders react to the likelihood of renegotiations?

Shortcomings in the governance of contract renegotiations have been documented in several contexts. Ryan (2019) examines the case of tenders for energy contracts in India. There, energy generation companies could index the prices they specify in their bids to changes in input costs, but they prefer not to do so. Instead, they bid artificially low, knowing that if their inputs face a price hike, the government agencies will allow them to change the prices quoted in their bids. Indeed, the author finds that 48% of all firms who are awarded contracts request subsequent amendments. Jung, Kosmopoulos, Lamarche, and Sicotte (2019) analyze road construction projects in the US state of Vermont. They find that bidding companies are able to foresee that the amounts of certain inputs would need to be changed later, and they use that knowledge to bid strategically—they charge higher (lower) margins per unit for inputs whose quantities they know will rise (fall) after the tender.

Inefficiencies caused by poor governance of contract renegotiations take place even in the absence of corruption, but corruption usually exacerbates the problem. First, companies' ability to secure favorable conditions immediately after the tender is often linked to their connections to relevant public officials. The best-connected firms can afford to bid more aggressively, and they are the main winners of that system. Further, renegotiations may sometimes be used to include additional works that were not part of the original projects.

Finally, the high prevalence of amendments is self-fulfilling —when the expectation is that a renegotiation is very likely, there are few incentives to design contracts well in the first place. Restricting the changes that can be made after tender would force the parties to be more careful when bidding and signing contracts.

In Latin America, there is a very high incidence of renegotiations in infrastructure contracts, which are used for a wide range of purposes, from extending completion deadlines to adding new works to the original projects (Guasch and Straub, 2009).

The processes for renegotiation of contracts have to be strengthened. They should be conducted by committees with high degrees of independence and technical competence. Moreover, certain changes to the original contracts should be forbidden. For example, whenever additional works of construction are needed, they must be procured through new tenders, and never included in pre-existing contracts through addenda (Campos, Engel, Fisher, y Galetovic, 2019b).

### Policy lesson

Contract renegotiations should be assessed by teams with adequate technical competence, in transparent procedures. Some amendments must be avoided, such as those that add new construction works to the original contract.

Another needed improvement in public infrastructure tenders is linked to transparency. It is necessary to make the most of digital tools to record tenders, including all the information produced throughout the cycle of a project. Any renegotiations and contract amendments must also be recorded, and be made available alongside original documents. Some standards are being developed for this, such as the Open Contracting Partnership's Open Contracting Data Standard.<sup>8</sup> Besides the publication of documents and data, the inclusion of independent monitors (for instance, civil society organizations) can be valuable to foster integrity in the process of awarding of contracts.

## Traditional contracts and PPPs

Renegotiations affect both traditional public procurement contracts and contracts signed as public–private partnerships (PPPs). PPPs are long-term arrangements where the private party in charge of the construction also manages the infrastructure in question for a given period of time. PPPs' contractual design has some advantages. It spreads the risk between the public sector and the private sector and promotes high levels in infrastructure quality and maintenance.

**The advantages of PPPs will only materialize with the right institutional framework, particularly regarding renegotiations.**

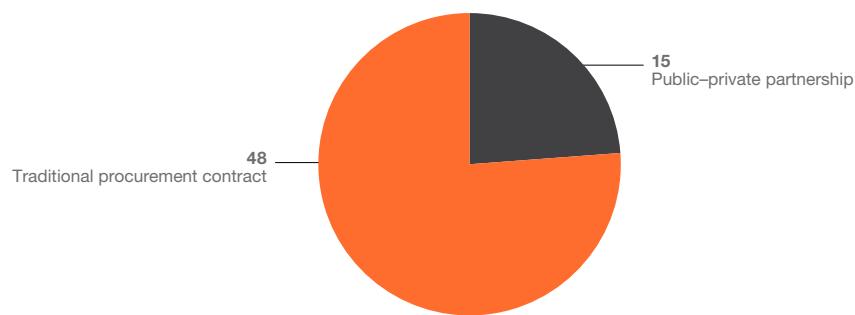
However, getting the advantages of PPPs to materialize depends on the prevailing institutional framework, particularly concerning the governance of renegotiations. If renegotiations are not well controlled, companies may anticipate great flexibility to amend contracts and they may submit reckless bids in the tender. In this context, the purported spreading of risks between the public sector and the private sector would vanish, and all risks would be borne by the public sector, and ultimately by citizens. This also implies that PPPs also lose their ability to filter inefficient projects, as firms anticipating favorable renegotiations have incentives to venture into projects with negative social value.

8. Available at <https://standard.open-contracting.org>

In a nutshell, both contracts signed under PPP formulas and those awarded as traditional public works are vulnerable to problems caused by an indiscriminate use of renegotiations. In all cases, renegotiations change the incentives of the actors involved, entail efficiency losses, and facilitate corruption. In fact, the irregularities in which Odebrecht incurred (which have been revealed following the firm's confession to the US Department of Justice) affect projects of both types. Graph 5.5 considers data concerning 63 Odebrecht projects that have been subjected to legal or journalistic investigation for alleged irregularities, and it shows that approximately 25% of those projects were funded through PPPs (Campos et al., 2019a).

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**Graph 5.5**  
Odebrecht projects and type of contract



Note: This graph shows the classification by type of contract of the 63 Odebrecht projects investigated by official authorities or the media for alleged irregularities in Latin American countries, over the period 2001–2016.

Source: Prepared by the authors, based on data from Campos et al. (2019a).

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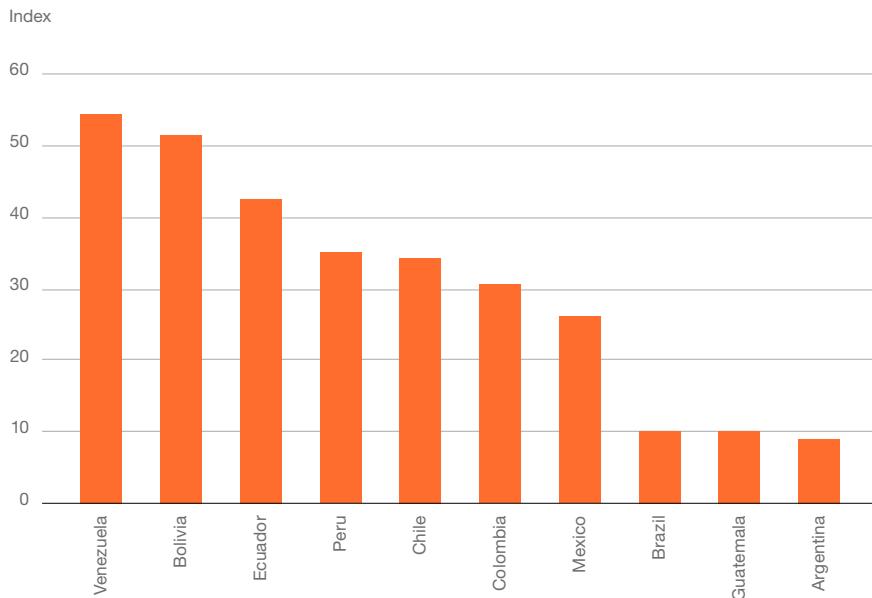
## Extractive industries and natural resources

Natural resources pose major governance challenges, as documented in Chapter 2 of this report. Some authors have documented an inverse relationship between exploitation of natural resources and indicators of economic progress, which has prompted the hypothesis that an abundance of natural resources negatively affects development (Frankel, 2010; Robinson, Torvik, y Verdier, 2006; Sachs and Warner, 1995). However, there are also success stories that contradict this idea. The current consensus suggests that the negative effects of natural resources are not inevitable, while recognizing that this sector needs very solid governance.

Extractive industries are economically very important for many Latin American countries. Hailu and Kipgen (2017) put forward an Extractives Dependence Index (EDI) which seeks to show different countries' dependence on non-renewable resources such as oil, gas and minerals. While there is no direct interpretation of its value, the EDI ranges from 0 to 100, and a higher score indicates greater dependence. Graph 5.6 shows that, of the 10 Latin American countries who were considered, seven scored above 25, which suggests that extractive industries play a major role in their national economies.

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**Graph 5.6**  
Extractives Dependence Index (EDI)



Note: This graph shows scores of the Extractives Dependence Index (EDI) for Latin American countries. This indicator ranges from 0 to 100, where higher scores imply greater dependence on extractive industries. All data are for 2011, except those used for Argentina (2009).

Source: Prepared by the authors, based on data from Hailu and Kipgen (2017).

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The management of natural resources presents corruption risks in two different stages. The first one involves the allocation of exploration and exploitation licenses (Venables, 2016). Reserves of extractive resources —such as oil, gas, and minerals— are economically very valuable, which encourages competition to secure the income associated with their exploitation. The state generally retains the property rights for these resources and awards exploration and extraction permits and licenses to private companies, which very often coexist with state-owned firms in this industry. The task of awarding licenses entails the risk that public officials with enough discretion could take advantage of that position for their own benefit.

In this stage, the risks are clearly similar to those involved in the procurement of public works. In both cases, the government must allocate significant resources among interested firms. Therefore, there are common lessons. The normative and institutional framework needs to ensure that legitimate technical and financial criteria are applied to award licenses and exploitation rights, that the parties involved in decision-making are not impaired by conflicts of interests, and that the beneficial owners of every contract are known.

A relevant second stage in the management of extractive resource is the administration of the resources that are produced. The amount of income collected from extractive industries generally does not depend on government performance. This leads to the concern that citizens might have fewer options to discipline officials, who might use those resources to reduce accountability through clientelist practices. There is some evidence that is consistent with that concern, although it is not conclusive (Ardanaz and Tolsá Caballero, 2016; Monteiro and Ferraz, 2014).

**Extractive industries entail governance risks in two stages —the awarding of permits to operate, and the management of the revenues.**

Recommendations on this topic focus on adopting rules for the allocation of resources and accounting practices that reduce excessive discretion. The income that the government gets from extractive industries needs to be reported in detail, specifying the different revenue streams —taxes, royalties, fees, bonuses, etc.— and ensuring that it is possible to compare that income with payments made by the firms. Further, it is crucial to clearly define the role of state-owned enterprises (SOEs) and the flow of resources among SOEs and private companies, as well as any transfers of funds between SOEs, the government, and government agencies. Clear records must also be kept of any quasi-fiscal expenditures incurred by SOEs, such as paying for social services, public infrastructure, fuel subsidies, national debt servicing, and so on.

It is also important to set clear and transparent rules to allocate and use the revenues from extractive industries. The amount of resources destined to the national budget, stabilization funds and transfers to subnational governments must be clearly stated.

### Policy lesson

Revenues from extractive activities must be subject to high standards of transparency, with clear, accurate records of the source and use of these funds. Flows of resources produced by state-owned enterprises in these industries and the financial relationship between those enterprises and national governments merit special attention.

The Extractive Industries Transparency Initiative (EITI) produces standards and issues recommendations concerning transparency in this sector. The EITI makes suggestions to produce and publish information on every aspect of the performance of these industries, from data on exploration and extraction to analyses of the socioeconomic impact of programs and projects funded with revenues from these industries.

### State-owned enterprises

Finally, just like there are vulnerable activities, there are also some organizations within the state that are particularly exposed to the risk of corruption. In fact, these two phenomena are closely linked —some organizations face higher risks because they carry out vulnerable tasks.

State-owned enterprises deserve special attention. The report on foreign bribery drafted by the OECD (2014) examined 427 bribery cases and found that SOE employees received bribes more often than any other category of public official. Approximately 27% of officials who took bribes belonged to that group, far ahead of the next category (customs officials, with 11% of all cases). The revelations and investigations linked to the Odebrecht case also show that SOEs were implicated in many of the company's irregular operations.

As noted above, the risks of corruption in SOEs are higher in certain tasks, as is the case with the state at large. An OECD study based on data from SOE employee surveys showed that bribe-taking and procurement processes are perceived as high-impact risks. Additionally, favoritism and patronage in staff recruitment are identified as one of the main risks faced by these organizations. This latter point suggests that many of the recommendations that emerged from Chapter 3 to improve public-sector recruitment mechanisms are particularly relevant for SOEs (OECD, 2018b).

**The vulnerability of state-owned enterprises' to irregularities is partly linked to their corporate governance arrangements and their relationship to political institutions.**

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The vulnerability of SOEs to irregularities is largely linked to weaknesses in their governance arrangements and their relationship to political institutions. Corporate governance models in place very often fail to clearly define the responsibilities of managers and executives concerning firm performance, so any incentives to develop internal oversight systems vanish. Furthermore, the line between operational goals and political goals is often blurred, which spurs conflicts of interest. For example, if members of the national government have discretionary powers to appoint these companies' executives and managers, the latter may become agents for political interests, while incentives to implement oversight mechanisms diminish.

Several international organizations have worked on the design of better corporate governance strategies for SOEs. In particular, CAF has issued comprehensive recommendations that include aspects of the legal framework of SOEs, the exercise of ownership by the state, the roles of the board and the management, the rights of shareholder, compliance programs, and policies concerning whistleblowing and conflict resolution. Table 5.2 outlines CAF's main guidelines.

**Table 5.2**

CAF recommendations on SOE corporate governance

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**Legal framework**

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Separation of the state's regulatory and ownership functions  
Corporate legal structure for SOEs  
Allow capital restructuring in SOEs  
Market conditions for SOE financing

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**Ownership function**

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Ownership statement from the state, with governance commitments  
Operational autonomy for SOEs  
Board of directors independent from government  
Central ownership entity identified  
Public accountability of central ownership entities  
State as active shareholder

Continued →

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**Board and management**

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Board of directors required  
Board functions and special authorities  
Board responsible for financial information, risk-management and off-shore transactions  
Board charter required  
Alternative directors and proper board structure  
Independent directors  
Nomination process defined and minimum criteria to be director  
Board responsibilities and rights formally defined in by-laws or charter formally stated in regulations or rules of procedure  
Sufficient and opportune information to directors  
Adequate director compensation  
Separate management from governance (board)  
Chairman selected from external directors  
Upper management responsibilities formally defined  
Regular board meeting and disclosure directors assistance  
Board committees required  
Special authorization for related party transactions  
Board evaluation

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**Shareholders rights**

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One share, one vote  
Reports of related party transactions  
Effective shareholders communication  
Encourage minority shareholders participation in Annual General Meetinga (AGM)  
Supermajority voting to authorize special corporate transactions  
AGM exclusive authority to decide on special matters  
Shareholder meeting charter  
Minority right to call extraordinary AGMs  
Precise AGM agendas  
Facilitate proxy voting  
Director's liability allowed

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**Control environment**

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Internal audit system required  
Independent external auditor  
No other services from external auditor  
In economic groups, same external auditor required  
Time limits for external auditors to preserve independence  
Same accounting and auditing standards as listed companies

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**Disclosure**

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Financial information in accordance with international accounting standards  
Time limit for external auditors in order to preserve the Independence  
Transparency of shareholders agreements  
Corporate Governance annual report

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**Conflicts resolution**

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Alternative dispute resolution required

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**Source:** Prepared by the authors, based on Bernal, Oneto, and Penfold (2012).

## Main recommendations and Latin America's situation

First, governments are advised to act as owners in all the companies they fully or partially own through a single centralized entity. Failing that, they can exercise their ownership through a coordinating agency (OECD, 2015). An institution of this kind can define uniform reporting systems for SOEs and prevent coordination issues that emerge when oversight is dispersed through multiple ministries or state agencies (Musacchio, Pineda, and García, 2015). It is also important that the state's ownership role be clearly separated from any tasks the state may carry out as regulator in the relevant industry.

Penfold, Oneto, and Rodríguez Guzmán (2015) put together the Index on Transparency in Corporate Governance for SOEs (*Transparencia de Gobierno Corporativo para las EPE*) from data that 105 SOEs in 13 Latin American countries posted on their websites. Their results outline current practices in the region. This research found that the state's ownership role was exercised by a specialized agency only for 45% of firms in the sample. Conversely, it was common for property rights to be allocated ambiguously to the state, without a specific institution being identified to exercise the ownership.

**7%**  
of SOEs have a  
system of staggered  
appointments of  
board members.

Another central element of SOE governance involves defining clear criteria to select board members. SOE boards must act as a buffer between the operational and technical roles of managers and any political goals that are external to the firm. Hence, it is important for board members to be independent, capable individuals recruited through objective, transparent procedures. Ownership entities or coordinating agencies must define these procedures. SOE boards should receive clear mandates concerning expectations about performance and integrity, and they should enjoy autonomy to accomplish these expectations.

The study by Penfold et al. (2015) suggested that SOE board members in Latin America are often appointed directly by the president of the country, while sometimes these positions are held directly by the relevant ministers. Only one third of all SOEs have independent board members, and only 7% have in place a system of staggered appointments, a practice that could favor board independence by isolating it from the political cycle.

Countries should also harmonize the legal frameworks within which the different SOEs operate, and subject them to the general norms on corporate liability for corruption in the country. Such harmonization would also facilitate the creation and operation of coordinating agencies or centralized ownership entities. The data presented by Penfold et al. (2015) evidenced great heterogeneity in legal structures of SOEs in Latin America, which frequently grants them special regimes that differ from those applied to private-sector firms.

**Lesson from Policy**

Harmonizing the legal framework of state-owned enterprises and centralizing their supervision can facilitate monitoring and improve standards for the recruitment of board members. Governments must convey clear expectations concerning integrity and incentivize the adoption of internal control mechanisms, while respecting these companies' operational autonomy.

Internally, it is also important to adopt uniform and clearly defined legal responsibilities for employees and board members of SOEs. Situations where members of the same board face different liability regimes depending on whether they are public officials or independent members need to be avoided (OECD, 2016a). Finally, all these measures need to be supplemented with external, independent regulators and auditors.

## Keys to keep private interests in check

- 1 Protecting public policy from the risk of capture by vested interests requires prosecuting the most flagrant offences, like bribery; regulating activities that create conflicts of interests; improving information on beneficial ownership of legal entities; and strengthening the governance of especially vulnerable sectors.
- 2 Strong institutions against active bribery can change the behavior of firms towards practices that foster integrity. This requires well-designed legislation, and the ability to enforce it.
- 3 To improve the enforcement of anti-bribery laws, the capacities and independence of institutions with investigative duties need to be braced, and mechanisms for cooperation between jurisdictions must be improved. It may also be useful to adjust statutes of limitations for certain crimes, considering how long it takes to investigate them.
- 4 Compliance programs are valuable and their adoption by companies needs to be incentivized. To accomplish that, it is essential to establish corporate liability for corruption offences. Compliance schemes should include provisions to effectively promote whistleblowing.
- 5 Asset declarations and disclosures of interests are particularly effective when they are public and include information concerning positions, activities, and sources of interests. These obligations need to be consistent with the existing institutional capacity to process the information that is provided, and they should consider any concerns about the privacy of public officials.
- 6 Lobbying must be recognized as a legitimate activity within certain limits. This practice needs to be regulated and made more transparent, to mitigate the risks of undue influence. To this end, it is important to systematize and publish information on lobbyists, their interactions with public officials, and the actions and decisions of those officials.
- 7 Countries need to improve their information on beneficial owners, and national legislations must clearly define the relevant responsibilities on this issue. It is particularly important to increase transparency of complex corporate structures and instances of foreign ownership or control. Another policy objective should be keeping beneficial ownership information updated.
- 8 Some government activities are particularly vulnerable to wrongdoing, so they require specific, more solid institutional arrangements. The supply of public infrastructure, the exploitation of natural resources, and the operations of state-owned enterprises are some cases of particular relevance for Latin America.
- 9 Strong safeguards are needed throughout the processes involved in providing and managing public infrastructure. The design and selection of projects should be based on social welfare criteria, and kept separate from the selection of suppliers. Ideal tenders minimize discretion when setting evaluation criteria, and they encourage competition. Independent, capable oversight institutions are also needed.

- 10** Contract renegotiations should be assessed by teams with adequate technical competence, in more transparent procedures. Some amendments must be avoided, such as those that add new construction works to the original contract. Improved governance of renegotiations is pertinent to both traditional procurement projects and public–private partnerships (PPPs).
- 11** Revenues from extractive activities must be subject to high standards of transparency and integrity. Allocation mechanisms must be clear regarding the origin and destination of these funds, and that clarity should also be reflected in accounting practices. It is particularly important to define and precisely record financial transactions between governments and state-owned enterprises.
- 12** The state should exercise its role as owner of SOEs through formulas that promote integrity. Harmonizing the legal framework of SOEs and centralizing their supervision can facilitate monitoring and improve standards for the recruitment of board members. Governments must convey clear expectations regarding integrity and incentivize the adoption of internal control mechanisms, while respecting these organizations' operational autonomy.



# **Appendix**



# Appendix

## Graph 1.1

The following countries and territories are included:

For Latin America and the Caribbean: Argentina, The Bahamas, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela.

For North America: Canada and the United States.

For the European Union: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

The simple mean across countries is reported for each region.

## Graph 1.2

The percentage of individuals who have been asked for a bribe is calculated based on respondents' answers to the following question: "Over the past year, has any public servant—whether a public official, a police officer, or a member of the administrative staff in a public-sector institution—requested a bribe from you?" ("*¿En el último año algún empleado público, ya sea funcionario, agente de policía o administrativo, le ha solicitado una coima?*") (CAF, 2019).

## Graph 1.3

This graph uses the indicator *corr2* from the World Bank's Enterprise Surveys Indicators (World Bank, 2019). This indicator is calculated for manufacturing firms and is based on the following questions: "Over the last year, has this establishment secured or attempted to secure a government contract?" and "When establishments like this one do business with the government, what percent of the contract value would be typically paid in informal payments or gifts to secure the contract?".

Data used for each country refer to the following years: Argentina (2017), Bolivia (2017), Brazil (2009), Chile (2010), Colombia (2017), Costa Rica (2010), the Dominican Republic (2016), Ecuador (2017), El Salvador (2016), Guatemala (2017), Honduras (2016), Mexico (2010), Nicaragua (2016), Panama (2006), Paraguay (2017), Peru (2017), Trinidad and Tobago (2010), Uruguay (2017), and Venezuela (2010).

## Graph 1.4

The following countries are included:

For Latin America and the Caribbean: Antigua and Barbuda, Argentina, Aruba, The Bahamas, Barbados, Belize, Bolivia, Brazil, the Cayman Islands, Chile, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, the US Virgin Islands, Uruguay, and Venezuela.

For North America: Canada and the United States.

For the European Union: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

The Control of Corruption Index—from the Worldwide Governance Indicators—captures perceptions of the extent to which public power is exercised for private gain. This is a standardized variable that ranges from -2.5 to 2.5, where higher values indicate better control of corruption (Kaufmann, Kraay and Mastruzzi, 2010; World Bank, 2018c).

## Graph 1.5

In all three panels, income data have been taken from the Worldwide Development Indicators, for each year in which corruption was measured. This analysis is restricted to countries and territories with a GDP per capita (in dollars, adjusted for PPP) of less than 40,000 dollars (World Bank, 2018b).

Panel A considers countries and territories with information on GDP and the 2018 Corruption Perceptions Index (162 in total). The figures for Latin American and Caribbean countries are highlighted: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, and Uruguay (Transparency International, 2018).

Panel B uses the indicator *corr2* from the World Bank's Enterprise Surveys Indicators (World Bank, 2019). This indicator is calculated for manufacturing firms and is based on the following questions: “Over the last year, has this establishment secured or attempted to secure a government contract?” and “When establishments like this one do business with the government, what percent of the contract value would be typically paid in informal payments or gifts to secure the contract?”. This panel considers countries and territories with information on GDP and the indicator *corr2* (137 in total). The figures for Latin American and Caribbean countries are highlighted: Antigua and Barbuda (2010), Argentina (2017), The Bahamas (2010), Barbados (2010), Belize (2010), Bolivia (2017), Brazil (2009), Chile (2010), Colombia

(2017), Costa Rica (2010), Dominica (2010), the Dominican Republic (2016), Ecuador (2017), El Salvador (2016), Grenada (2010), Guatemala (2017), Guyana (2010), Honduras (2016), Jamaica (2010), Mexico (2010), Nicaragua (2016), Panama (2006), Paraguay (2017), Peru (2017), Saint Kitts and Nevis (2010), Saint Lucia (2010), Saint Vincent and the Grenadines (2010), Suriname (2010), Trinidad and Tobago (2010), Uruguay (2017), and Venezuela (2010).

Panel C considers countries and territories with information on GDP and the Control of Corruption Index from Worldwide Governance Indicators for 2017 (188 in total). The figures for Latin American and Caribbean countries are highlighted: Antigua and Barbuda, Argentina, Aruba, The Bahamas, Barbados, Belize, Bolivia, Brazil, the Cayman Islands, Chile, Colombia, Costa Rica, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, and Uruguay (World Bank, 2018c).

## **Graph 1.6**

This graph includes the following countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Paraguay, Uruguay, and Venezuela.

The figures are weighted averages for each country, using the weights suggested by Corporación Latinobarómetro.

## **Graph 1.7**

The following 10 cities are included: Buenos Aires, La Paz, São Paulo, Bogotá, Quito, Mexico City, Panama City, Lima, Caracas, and Montevideo.

Corruption perceptions levels are calculated based on the answers to the following question: “I will now mention a list of activities. I would like you to tell me how likely it would be for you to be asked for a bribe if you had to engage in any of them: get a permit for home renovations, expedite an administrative procedure, avoid paying a fine for a traffic violation” (“Ahora voy a mencionarle una lista de actividades y me gustaría que me diga ¿qué tan probable es que le pidan una coima si tuviera que hacer alguna de las siguientes actividades?: pedir permiso para reformar su vivienda, agilizar un trámite, evitar pagar una infracción de tránsito”). For each activity, respondents could give a score of 1 to 5, where 1 was “Not at all likely” (“Nada probable”) and 5 was “Very likely” (“Muy probable”) (CAF, 2019).

The following question was used to calculate the percentage of individuals that mistrust politicians: “In your opinion, how many politicians in your country put their own personal interests above citizens’ interests?” (“En su opinión ¿cuántos políticos de su país ponen su interés personal por encima de los intereses de la ciudadanía?”). Individuals were taken to mistrust politicians when they answered “All” (“Todos”) or “Most” (“La mayoría”), and not to mistrust politicians when they answered “Some” (“Algunos”) or “None” (“Ninguno”) (CAF, 2019).

## Graph 1.8

This graph includes the following countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Paraguay, Uruguay, and Venezuela.

Individuals who reported having completed an administrative procedure at a state facility over the previous 12 months were considered. The average time taken to complete the procedure was calculated based on answers to the following question: “Now we would like to know how long the procedure took, in total. Please consider all the time you invested to complete the procedure: the number of times you went to that facility, travel time, waiting time, the time you spent talking to public servants on site (if applicable). If you completed the procedure online or over the phone, please count the minutes involved. How long did the procedure take, in total?” (*Ahora queremos saber cuánto se demoró Ud. en total. Calcule todo el tiempo que invirtió hasta que el trámite estuvo listo: el número de veces que fue, el transporte, la espera, el tiempo de atención si tuvo que ir a una oficina. Calcule los minutos si lo hizo por internet o teléfono. ¿Cuánto tiempo en total gastó en el trámite?*). (Corporación Latinobarómetro, 2017). This question obtains information expressed in minutes and hours. For the purposes of this graph, all answers were converted to hours.

Perceptions concerning the chances of bribing public officials were based on the following question: “Imagine one of your friends, a foreigner who does not know our country, asked you what chances one has to bribe someone at a ministry to be able to obtain a contract” (*Imagine que un amigo suyo extranjero, que no conoce nuestro país, le preguntara ¿qué probabilidades hay aquí de poder sobornar a alguien en un Ministerio para poder conseguir un contrato?*). Individuals were considered to believe that bribery is possible when they answered “It depends” (*Depende de los casos*), “Quite good chances” (*Tiene bastantes probabilidades*), or “Many chances” (*Tiene muchas probabilidades*). They were considered not to believe bribery is possible when they replied, “There is no chance, they shouldn’t even try” (*No tiene ninguna probabilidad, que ni lo intente*), or “There is little chance” (*Tiene pocas probabilidades*) (Corporación Latinobarómetro, 2017).<sup>1</sup>

The figures are weighted averages for each country, using the weights suggested by Corporación Latinobarómetro.

## Graph 1.11

The following 10 cities are included: Buenos Aires, La Paz, São Paulo, Bogotá, Quito, Mexico City, Panama City, Lima, Caracas, and Montevideo.

The percentage of positive responses to the question: “Do you think this is an act of corruption?” (*¿Lo considera un acto de corrupción?*), is considered for the following three scenarios:

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1. They do not need to have completed an administrative procedure.

- A mayor appoints a judge: “A city mayor influences the appointment of an individual they trust as a judge in that city” (“*El alcalde de una ciudad influye en el nombramiento de una persona de su confianza como juez en la ciudad*”).
- A mayor discretionally awards contracts: “A city mayor personally decides what companies are to be awarded construction contracts in projects funded by the city government” (“*El alcalde de una ciudad decide personalmente qué empresas recibirán contratos de construcción de proyectos con fondos de la alcaldía*”).
- A mayor embezzles funds to hand out gifts to voters: “A mayor uses public funds earmarked for infrastructure to hand out food in a given neighborhood, in the hope of improving their public image ratings” (“*Un alcalde utiliza fondos públicos destinados a infraestructura para entregar alimentos en un barrio/vecindario y así mejorar su imagen política*”).

## Graph 2.1 and Graph 2.2

The following countries are included: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Paraguay, Uruguay, and Venezuela.

Individuals who reported having completed an administrative procedure at a state facility over the previous 12 months were considered. The average time taken to complete the procedure was calculated based on answers to the following question: “Now we would like to know how long the procedure took, in total. Please consider all the time you invested to complete the procedure: the number of times you went to that facility, travel time, waiting time, the time you spent talking to public servants on site (if applicable). If you completed the procedure online or over the phone, please count the minutes involved. How long did the procedure take, in total?” (“*Ahora queremos saber cuánto se demoró Ud en total. Calcule todo el tiempo que invirtió hasta que el trámite estuvo listo: el número de veces que fue, el transporte, la espera, el tiempo de atención si tuvo que ir a una oficina. Calcule los minutos si lo hizo por internet o teléfono. ¿Cuánto tiempo en total gastó en el trámite?*”) (Corporación Latinobarómetro, 2017). This question obtains information expressed in minutes and hours. For the purposes of these graphs, all answers were converted to hours.

For Graph 2.2, perceptions concerning the chances of bribing public officials were based on the following question: “Imagine one of your friends, a foreigner who does not know our country, asked you what chances one has to bribe someone at a ministry to be able to obtain a contract” (“*Imagine que un amigo suyo extranjero, que no conoce nuestro país, le preguntara ¿qué probabilidades hay aquí de poder sobornar a alguien en un Ministerio para poder conseguir un contrato?*”). Individuals were considered to believe that bribery is possible when they answered “It depends” (“*Depende de los casos*”), “Quite good chances” (“*Tiene bastantes probabilidades*”), or “Many chances” (“*Tiene muchas probabilidades*”). They were considered not to believe bribery is possible when they replied, “There is

no chance, they shouldn't even try” (“*No tiene ninguna probabilidad, que ni lo intente*”), or “There is little chance” (“*Tiene pocas probabilidades*”).<sup>2</sup>

The figures are weighted averages for each country, using the weights suggested by Corporación Latinobarómetro.

### **Graph 2.4, Graph 2.6, and Graph 2.7**

Graph 2.4 includes the following countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Haiti, Jamaica, Mexico, Nicaragua, Panama, Peru, Puerto Rico, Paraguay, Uruguay, and Venezuela. All data are for 2017.

Graph 2.6 and Graph 2.7 include the following countries: Argentina (2014), Bolivia (2014), Brazil (2014), Chile (2013), Colombia (2014), Costa Rica (2012), the Dominican Republic (2013), Ecuador (2014), El Salvador (2014), Guatemala (2011), Honduras (2016), Mexico (2012), Panama (2012), Paraguay (2012), Peru (2014), and Uruguay (2014).

The Control of Corruption Index (Graph 2.4 and Graph 2.6)—from the Worldwide Governance Indicators—captures perceptions of the extent to which public power is exercised for private gain. This is a standardized variable that ranges from -2.5 to 2.5, where higher values indicate better control of corruption (Kaufmann, Kraay and Mastruzzi, 2010; World Bank, 2018c).

The Rule of Law Index (Graph 2.4)—from the Worldwide Governance Indicators—captures perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence. This is a standardized variable that ranges from -2.5 to 2.5, where higher values indicate more rule of law (Kaufmann et al., 2010; World Bank, 2018c).

The public-sector wage premium (Graph 2.6 and Graph 2.7)—from the Worldwide Bureaucracy Indicators—, calculates the average percentage difference between public sector and private sector wages, controlling for factors such as education, age, gender, and location (urban or rural). Two alternative gaps are computed: one using only formal employment in the private sector wages and the other using all employment (formal and informal) (World Bank, 2018a).

### **Graph 3.1**

The individuals were classified as reporting a preference for working in the public sector when they answered “Public sector” to the following question in the ECAF 2018: “If you had to look for a job in the coming months, would you rather look mainly in the public sector or in the private sector?” (“*Si usted tuviera que buscar empleo en los próximos meses, ¿preferiría hacerlo principalmente en el sector público o en el sector privado?*”) (CAF, 2019).

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2. They do not need to have completed an administrative procedure.

Also using the ECAF 2018, the level of tolerance for corruption was based on individuals' answers to the following question: "I'm going to describe a few hypothetical scenarios. Please tell me if you think those scenarios constitute acts of corruption" ("A continuación, le voy a describir algunas situaciones hipotéticas. Por favor, dígame si identifica estas situaciones como actos de corrupción"). The question referred to these three scenarios:

1. A mayor appoints a judge: "A city mayor influences the appointment of an individual they trust as a judge in that city" ("El alcalde de una ciudad influye en el nombramiento de una persona de su confianza como juez en la ciudad").
2. A mayor discretionally awards contracts: "A city mayor personally decides what companies are to be awarded construction contracts in projects funded by the city government" ("El alcalde de una ciudad decide personalmente qué empresas recibirán contratos de construcción de proyectos con fondos de la alcaldía").
3. A mayor embezzles funds to hand out gifts to voters: "A mayor uses public funds earmarked for infrastructure to hand out food in a given neighborhood, in the hope of improving their public image ratings" ("Un alcalde utiliza fondos públicos destinados a infraestructura para entregar alimentos en un barrio/ vecindario y así mejorar su imagen política").

In each of those three cases, individuals were classified as *not tolerant* when they identified the scenario as an unacceptable act of corruption, and *tolerant* when they described the scenario as an acceptable act of corruption or as not constituting an act of corruption at all.

The following levels of tolerance for corruption were then generated:

- Low: Individuals who were tolerant in one of the three scenarios or none.
- High: Individuals who were tolerant in more than one scenario—i.e., in two or three.

### **Graph 3.3, Graph 3.4 and Graph 3.5**

For elections in Argentina, spending data (Graph 3.3 and Graph 3.4) for 2015 and campaign finance data (Graph 3.5) for 2011 and 2015 were obtained from the National Electoral Chamber (*Cámara Nacional Electoral*, CNE)<sup>3</sup>. Campaign finance data for 2007 (Graph 3.5) were obtained from the Dinero y Política project<sup>4</sup> at Fundación Poder Ciudadano. All data include primary elections. Public funding includes support to print ballots, as well as campaign funding. The number of votes was taken from the National Electoral Department (*Dirección Nacional Electoral*, DINE)<sup>5</sup> and refers to general elections.

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3. <https://www.electoral.gov.ar/financiamiento/ingresos-egresos.php>, accessed October 21, 2018.

4. <http://dineropolitica.org>, accessed October 21, 2018..

5. <https://www.argentina.gob.ar/interior/dine/resultadosyestadisticas/2015>, accessed October 21, 2018.

Data for Brazil were obtained from the Superior Electoral Tribunal (*Tribunal Superior Eleitoral*, TSE)<sup>6</sup>. Total spending emerges from the sum of the amounts spent by all candidates in presidential (Graph 3.3) and legislative elections (Graph 3.4), minus transfers among candidates. Total funding (Graph 3.5) is calculated from the income accounts of all candidates in elections to the presidency, the lower house of Congress and the Senate, minus transfers among candidates. Funding was identified as public when the source was either the Party Fund (*Fundo Partidário*)—in all elections—or the Special Fund for Campaign Finance (*Fundo Especial de Financiamento de Campanha*)—in 2018.

Data for Chile were obtained from the Electoral Service (*Servicio Electoral*)<sup>7</sup>. Total spending emerged from candidate and political-party accounts in presidential (Graph 3.3) and legislative elections (Graph 3.4). Contributions from parties to candidates—in cash and in kind—were deducted from party accounts, to avoid double-counting. Sums recorded as refunds were removed from both party and candidate accounts. Total funding (Graph 3.5) emerged from the income accounts of all candidates in elections to the presidency, the lower house of Congress and the Senate. Public funding comprises advance payments for parties and refunds for both candidates and parties. Political-party contributions to candidate accounts were removed from the latter to avoid double-counting. Following Engel, Jaraquemada, Campos and Vergara (2018), loans taken out from financial institutions were not taken into consideration.

Spending data (Graph 3.3) for Colombia's presidential elections were taken from the records of candidates who took part in the campaign, systematically collected in the official report *Cuentas Claras*<sup>8</sup>, while the number of votes was taken from Colombia's National Civil Status Register Office (*Registraduría Nacional del Estado Civil*)<sup>9</sup>. Spending data for Colombia's legislative election (Graph 3.4) were taken from the website of the organization Transparencia por Colombia<sup>10</sup>, which collects information from all candidate reports held in the official report *Cuentas Claras*.

Spending (Graph 3.3 and Graph 3.4) and 2018 funding data (Graph 3.5) for Mexico were taken from the National Electoral Institute (*Instituto Nacional Electoral*, INE)<sup>11</sup>. Funding data for 2012 (Graph 3.5) were taken from the INE's report (2013). The public funding figure is the sum of local and federal public funding.

Finally, in the case of Uruguay, presidential election data (Graph 3.3) were taken from the Electoral Court (*Corte Electoral*)<sup>12</sup>. Data on legislative-election spending (Graph 3.4) and 2014 funding (Graph 3.5) were taken from a report published by Acuña, Piñeiro Rodríguez and Rossel (2018). Funding data for 2009 (Graph 3.5) were taken from the *¿Quién paga?* project developed by the news portal *Sudestada*. These two sources systematically collect statements filed by the candidates.

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6. <http://www.tse.jus.br/eleicoes/estatisticas/repositorio-de-dados-eleitorais-1>, accessed January 31, 2019.

7. <https://www.servel.cl/estadisticas-2/>, accessed January 31, 2019.

8. <http://www.cnecuenciasclaras.com>, accessed February 1, 2019.

9. <https://www.registraduria.gov.co/-Historico-de-Resultados,3635-.html>, accessed February 1, 2019.

10. <http://transparenciacolombia.org.co/datos/>, accessed March 3, 2019.

11. <http://fiscalizacion.ine.mx/web/portalsif/inicio>, accessed January 31, 2019.

12. [https://www.corteelectoral.gub.uy/estadisticas/rendiciones\\_cuentas\\_2014](https://www.corteelectoral.gub.uy/estadisticas/rendiciones_cuentas_2014), accessed January 31, 2019.

Spending data shown in Graph 3.3 and Graph 3.4 were converted to current dollars (for the month when any given election was held) using data from Bloomberg (2019).

## Tables 3.2, 3.3 and 3.5

*Permanent positions* are those with open-ended contracts. *Fixed-term contracts* are those with a stated duration signed under different denominations and conditions as contemplated in national legislations, as described in Table A 3.1 and Table A 3.3.

Countries that are included in the *Public Examination* category are those where the law requires competitive procedures to fill this type of position. This implies that the selection process involves weighting and assessing candidate backgrounds and holding examinations to evaluate a candidate's knowledge, experience and suitability, which are then expressed in quantifiable, comparable values.

The *Simplified Procedure with a Merit Component* category includes cases where the law requires a certain selection process that takes into consideration elements like candidates' educational background, experience and skills, but does not explicitly state how those criteria are to be weighted. It also contemplates cases where access to the selection process is not necessarily public, broad or transparent.

Last, recruitment processes classified as *Direct Appointment* refer to cases where the relevant authority has the power to appoint a public official in a direct, discretionary way.

In all cases, the most recent legislation was considered, including the latest relevant reforms and amendments.

Legislation used to classify countries according to their recruitment procedures is listed below, based on rank of positions and contract duration:

**Table A 3.1**

Legislation used for Table 3.2: permanent non-managerial positions

Country	Recruitment Mechanism	Position Title	Legislation
Argentina	Simplified Procedure with a Merit Component	Personal de Planta Permanente	Act 25,164/1999, arts. 8 and 18; Decree 1,421/2002, art. 8; Decree 214/2006, arts. 1–19 and 56–64
	Direct Appointment	Personal de Planta Permanente (Régimen de estabilidad no concursado)	
Bolivia	Simplified Procedure with a Merit Component	Funcionario de carrera	Act 2,027/1999: <i>Estatuto del Funcionario Público</i> , arts. 23–24; Act 2,104/2000, arts. 17, 22, 28, 33 and 34; <i>Decreto Supremo 25,749/2000</i> ; <i>Resolución Ministerial 699/2014</i>
Brazil	Public Examination	Servidor público	Act 9,527/1997, arts. 10–11; Decree 9,739/2019
Chile	Public Examination	Planta, Código de Trabajo	<i>Decreto con Fuerza de Ley 29/2004</i> , arts. 14, 17 and 18
Colombia	Public Examination	Empleos públicos de carrera administrativa	Act 909/2004, art. 29; Decree 4,500/2005, arts. 1–7
Ecuador	Public Examination	Puesto público de carrera	<i>Ley Orgánica del Servicio Público (LOSEP) of 2010</i> , art. 5 inc h) and art. 65
Mexico	Direct Appointment	Operarios de Base	<i>Ley Federal de los Trabajadores al Servicio del Estado (LFTSE) of 1963</i> , arts. 6 and 62
Panama	Public Examination	Servidor público de carrera administrativa	Act 9/1994, arts. 2 and 51; <i>Decreto Ejecutivo 453/2018</i> , arts. 3–4; Act 23/2017, art. 2; Manual de Procedimientos para el Reclutamiento y Selección de Recurso Humano en el Sector Público Panameño of 2018.
Paraguay	Public Examination	Funcionario público	Act 1626/2000, art. 4; <i>Resolución SFP 150/2012</i> , arts. 5 and 7; Decree 3857/2015, arts. 5, 8 and 14–18
Peru	Public Examination	Servidor civil de carrera	Act 30057/2013, art. 67
Uruguay	Public Examination	Funcionario presupuestado	Act 19121/2013, art. 3

**Source:** Prepared by the authors.

**Table A 3.2**

Legislation used for Table 3.3: senior positions

<b>Country</b>	<b>Recruitment Mechanism</b>	<b>Free Dismissal</b>	<b>Source</b>
Argentina	Public Examination	No	<i>Resolución 82 E/2017 de la Secretaría de Empleo Público</i>
Bolivia	Direct Appointment	Yes	Act 2,027/1999: <i>Estatuto del Funcionario Público</i> , art. 5; Decreto Supremo 25,749/2000, art. 12
Brazil	Public Examination	Yes	Decree 9,021/17
	Direct Appointment	Yes	
Chile	Public Examination	Yes	<i>Decreto con Fuerza de Ley</i> 29/2004, art. 8; Act 20,955/2017
Colombia	Direct Appointment	Yes	Act 909/2004, art. 5
Ecuador	Direct Appointment	Yes	<i>Ley Orgánica del Servicio Público (LOSEP)</i> of 2010, art. 83
Mexico	Public Examination	No	<i>Ley del Servicio Profesional de Carrera en la Administración Pública Federal (LSPC)</i> of 2003, arts. 22–29
Panama	Direct Appointment	Yes	Act 9/1994, art. 2
Paraguay	Public Examination	No	Resolución SFP 150/2012, art. 8
	Direct Appointment	No	Act 1,626/2000, art. 8
Peru	Public Examination	No	Act 30,057/2013, art. 59
Uruguay	Public Examination	No	Act 19,121/2013, arts. 63–64

**Source:** Prepared by the authors.

**Table A 3.3**

Legislation used for Table 3.5: fixed-term non-managerial positions

Country	Recruitment Mechanism	Position Title	Source
Argentina	Direct Appointment	Planta Temporal, Contrato, Locación de servicio	<i>Convenio Colectivo de Trabajo</i> , Decree 214/2006 arts. 11, 12, and 30–31
Bolivia	Simplified Procedure with a Merit Component	Eventual, Funcionario interino	Act 2,027/1999: <i>Estatuto del Funcionario Público</i> , art. 6; <i>Resolución Ministerial</i> 699/2014
Brazil	Simplified Procedure with a Merit Component	Contratação temporária	Act 8,745/1993, art. 3
Chile	Simplified Procedure with a Merit Component	A Contrata	Resolution 1/2017, arts. 13–14
Colombia	Simplified Procedure with a Merit Component	Contrato de servicios, Planta temporaria	Decree 1,227/2005, arts. 1–3
Ecuador	Direct Appointment	Contrato por servicios ocasionales	<i>Ley Orgánica del Servicio Público (LOSEP)</i> of 2010, art. 58
Mexico	Direct Appointment	Operativos de confianza, Eventual, Provisional	<i>Ley Federal de los Trabajadores al Servicio del Estado (LFTSE)</i> of 1963, arts. 63–64; <i>Ley del seguro social</i> of 1995, art. 5 A, fracción VII
Panama	Direct Appointment	Eventual	Act 9/1994, art. 2
Paraguay	Simplified Procedure with a Merit Component	Personal contratado, Personal del servicio auxiliar	Law 1,626/2000, arts. 5–6; Decree 3,857/2015, art. 9
Peru	Public Examination	Servidor de actividades complementarias	Act 30,057/2013, art. 75
Uruguay	Public Examination	Contrato de trabajo, Contrato de provisorio	Act 19,121/2013, arts. 81–94

**Source:** Prepared by the authors.

## Table 3.4

The following pieces of legislation were reviewed to draw up this table:

- Argentina: Act N° 25,164/1999 – *Ley Marco de Regulación de Empleo Público Nacional* (1999), and Decree 1,421/2002 – *Reglamentación de la Ley 25.164*.
- Bolivia: Act N° 2,027/1999: *Estatuto del Funcionario Público*, and Act N° 2.104/2000: *Ley modificatoria a la Ley N° 2.027 del Estatuto del Funcionario Público*.
- Brazil: Act 8,112/90 – *Regime Jurídico dos Servidores Públicos Civis da União*.
- Chile: *Decreto con fuerza de Ley N° 29/2004*.
- Colombia: Act N° 909 – *Ley de Empleo Público, Carrera Administrativa y Gerencia Pública* (2004), and Decrees 1,227, 2,539 and 4,500 of 2005.
- Ecuador: *Ley Orgánica del Servicio Público (LOSEP)* of 2010.
- Mexico: *Ley Federal de los Trabajadores al Servicio del Estado (LFTSE)* of 1963, *Ley del Servicio Profesional de Carrera en la Administración Pública Federal (LSPC)* of 2003, and *Reglamento de la Ley del Servicio Profesional de Carrera en la Administración Pública Federal* of 2007.
- Panama: Act No. 9 of June 20, 1994, “*Por la cual se establece y regula la Carrera Administrativa*”; Act No. 127 of December 31, 2013, “*Que establece un régimen de estabilidad laboral para los servidores públicos*”; and Act No. 23 of May 12, 2017, “*Que reforma la ley 9 de 1994, que establece y regula la carrera administrativa, y dicta otras disposiciones*”.
- Paraguay: Act N° 1,626/2000 *De la Función Pública* (2000), Resolutions N° 328/2013 and N° 44/2018 of the Secretariat for Public Service (*Secretaría de la Función Pública*), and Decree 3857/2015.
- Peru: Act N° 30,057 – *Ley del Servicio Civil*.
- Uruguay: Act N° 19,121/2013 – *Nuevo Estatuto del Funcionario*.

In all cases, the most recent legislation was considered, including the latest relevant reforms and amendments.

## Graph 4.1

The Control of Corruption Index captures perceptions of the extent to which public power is exercised for private gain.

The Voice and Accountability Index captures perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as of the level of freedom of expression, freedom of association, and a free media

Both indexes range from -2.5 to 2.5, where higher values indicate better control corruption and greater citizen control. (Kaufmann, Kraay and Mastruzzi, 2010; World Bank, 2018c).

The 202 countries and territories covered in the Worldwide Governance Indicators were included, and the values for the following Latin American countries are highlighted: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, the Dominican Republic, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, and Venezuela.

The positive correlation between both indicators persists even when controls for other features—including GDP per capita and other indicators linked to government effectiveness, regulatory quality, and the rule of law—are included.

## Box 4.2 – Graph 1

Panel B shows the distribution of requests by type of person or institution who filed them from 2016 (before 2016, users were not asked to provide that information when they filed their requests).

In panels D and E, the average number of petitions and the average delay in days by time since election is computed, subtracting the time trend of each variable and a shock for October 2015, month in which the incumbent mayor of Buenos Aires ran for president.

## Graph 4.3

The crucial areas that were assessed emerge from comparing the Global Open Data Index with the recommendations held in the Open Data Charter. Out of 15 datasets analyzed by the former, 6 refer to information that the Open Data Charter considers essential for the fight against corruption.

For each dataset, the index takes a value ranging from 0 to 100, based on the score for six quality indicators: Openly licensed, Machine-readable format, Downloadable at once, Up-to-date, Publicly available and Free of charge. The first two are worth 20 points, while the remaining are worth 15 points each. A given country's total score is a simple mean of the points it obtained across the 15 datasets.

Panel A compares the index for the six datasets that are considered essential to fight corruption. In panel B, scores were rescaled 0–100 for each indicator, and the simple mean of all scores for that indicator was compared for the six examined datasets.

The Latin American average considers the following countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Jamaica, Mexico, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, and Venezuela.

The classification of countries according to incomes is based on the World Development Indicators (World Bank 2018a), while the following are classified as high-income countries: Antigua and Barbuda, Australia, Austria, Bahamas, Barbados, Belgium, Canada, Chinese Taipei, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hong Kong, the Isle of Man, Israel, Italy, Japan, Latvia, the Netherlands, New Zealand, Northern Ireland, Norway, Oman, Poland, Portugal, Puerto Rico, Saint Kitts and Nevis, Singapore, Slovenia, Sweden, Switzerland, the United Kingdom, and the United States.

### **Graph 4.4, Graph 4.5, Graph 4.6, Graph 4.7, and Graph 4.8**

The following 10 Latin American cities are included: Buenos Aires, La Paz, São Paulo, Bogotá, Quito, Mexico City, Panama City, Lima, Caracas, and Montevideo.

Information experiments conducted in the ECAF 2018 were used for Graph 4.5 and Graph 4.8. These experiments involved randomly splitting respondents into different groups and giving different information to different groups, so the reaction of each group to the information they were given could be analyzed. Dividing respondents into groups at random ensures that groups have similar characteristics on average—in terms of demographics, socioeconomic status, etc.—and differ only in terms of the information they are given. This enables researchers to link differences in responses to certain questions exclusively to the information given to each group.

In Graph 4.5, the experiment sought to assess the credibility of information provided by different sources. Respondents were all told of a hypothetical scenario concerning a minister involved in an irregular purchase of office supplies, but they were divided at random into five groups, and each group was told that this hypothetical information came from a different source. They were then asked, “How credible would you find the news?” (“*¿Cuán creíble le parecería esta noticia?*”).

The graph shows what percentage of respondents thought that it would be “Quite credible” (“*Bastante creíble*”) or “Very Credible” (“*Muy creíble*”). The credibility of the newspaper with the largest circulation does not differ significantly from the credibility that respondents grant to the audit institution.

In Graph 4.8, the experiment sought to collect evidence on the role of information (or of the lack of it) for voting decisions, and on the role of other factors that might act to mitigate electoral punishment.

The following hypothetical scenario was presented to all respondents: “Imagine you live in a neighborhood very much like your own, but in a different city. The mayor of that city—let’s call him Miguel—is a lawyer with a long career in the public sector. Mayor Miguel is now seeking reelection, and he is facing a younger candidate with no experience in politics” (“*Imagine que vive en un barrio/vecindario muy parecido al suyo, pero en otra ciudad. El alcalde de esa ciudad, a quien llamaremos Miguel, es un abogado con una larga trayectoria en el sector público. El alcalde Miguel ahora se postula a la reelección, y se enfrenta a un candidato más joven sin experiencia en política*”). Depending on the group, they were also given the following additional information:

A control group (not shown in the Graph) was not given any additional information.

The group *No mitigating circumstances* was also told the following: “We know that Mayor Miguel has also accepted bribes from several businesspeople while in office, in exchange for public works contracts and licenses for the provision of public services” (“*Se sabe que durante su gestión el alcalde Miguel ha aceptado sobornos de varios empresarios a cambio de contratos para obras y concesiones de servicios públicos*”). The remaining groups were told that information, and also the following:

- *Competent*: “While in office, there have also been significant improvements in schools, healthcare facilities, and the state of city streets” (“*También durante su gestión, ha habido mejoras significativas en las escuelas, centros de salud, y en el estado de las calles de la ciudad*”).
- *Shared ideology*: “Miguel is standing for the party you generally support” (“*Miguel es un candidato del partido que usted generalmente apoya*”).
- *Benefits to a family member*: “One of your relatives was favored by the significant number of new jobs created by these contracts” (“*Un familiar suyo se vio favorecido por el considerable nuevo número de puestos de trabajo generados por estos contratos*”).
- *Widespread corruption*: “People believe that most candidates in that state are involved in similar cases to the one Mayor Miguel is involved in” (“*Se estima que la mayoría de los alcaldes de ese Estado están involucrados en casos similares al del alcalde Miguel*”).
- *Illegitimate funds to finance campaign*: “He devoted the money he obtained from these bribes exclusively to fund his reelection campaign” (“*Los fondos que consiguió con esos sobornos los usó exclusivamente para pagar gastos para su campaña de reelección*”).

They were then asked the following question: “Where 1 is ‘not at all likely’ and 5 is ‘very likely,’ how likely are you to vote for Miguel as city mayor?” (“*Donde 1 es nada probable y 5 muy probable, ¿qué tan probable es que Usted vote por Miguel para alcalde de la ciudad?*”). Bars in the graph show the percentage of respondents who said it was “very likely” (5), based on the information they had been provided.

The willingness to vote for this hypothetical candidate suspected with corruption in cases where he favored a member of the respondent's family, where corruption was widespread, and where he used the money to fund his political campaign did not differ significantly from the situation where there were no mitigating factors.

### **Graph 4.9**

The following Latin American countries are considered: Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru and Uruguay.

This graph is based on the following question on Latinobarómetro 2016: "Have you been in contact with that public service? And how often have you had to pay a bribe, make a gift, or do a favor to access that public service?" ("*¿Ha tenido Ud. contacto con dicho servicio público? ¿Y cuán a menudo ha tenido que pagar un soborno, dar un regalo o hacer un favor para acceder al servicio público?*"). It reports the percentage of respondents who answered the latter question with "Once or twice" ("Una o dos veces"), "A few times" ("Unas pocas veces"), or "Often ("A menudo"). Results are shown both considering all respondents and excluding respondents who said "I have not been in contact with them" ("No ha tenido contacto").

### **Graph 4.10**

The classification of countries according to incomes is based on the World Development Indicators (World Bank 2018a), where the following are classified as high-income countries: Australia, Estonia, Germany, Hong Kong, Kuwait, the Netherlands, Poland, Singapore, and Chinese Taipei.

### **Graph 5.1**

This graph shows indicators *corr4* (panel A) and *corr2* (panel B) from the World Bank's Enterprise Surveys Indicators (World Bank, 2019). The indicator *corr2* is calculated for manufacturing firms and is based on the following questions: "Over the last year, has this establishment secured or attempted to secure a government contract?" and "When establishments like this one do business with the government, what percent of the contract value would be typically paid in informal payments or gifts to secure the contract?". The indicator *corr4* is calculated using all surveyed firms and is based on the following question: "It is said that establishments are sometimes required to make gifts or informal payments to public officials to 'get things done' with regard to customs, taxes, licenses, regulations, services etc. On average, what percentage of total annual sales, or estimated total annual value, do establishments like this one pay in informal payments or gifts to public officials for this purpose?".

They are based on the most recent available data for each country: Argentina (2017), Bolivia (2017), Brazil (2009), Chile (2010), Colombia (2017), Costa Rica (2010), the Dominican Republic (2016), Ecuador (2017), El Salvador (2016), Guatemala (2017), Honduras (2016), Mexico (2010), Nicaragua (2016), Panama (2010), Paraguay (2017), Peru (2017), Trinidad and Tobago (2010), Uruguay (2017), and Venezuela (2010).

### Graph 5.3

This graph uses information taken from Rossi, Pop, and Berger (2017) concerning the following countries:

Latin America and the Caribbean: Antigua and Barbuda, Argentina, The Bahamas, Belize, Bolivia, Brazil, Colombia, Costa Rica, Dominica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela.

OECD (high-income countries): Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, the United Kingdom, and the United States.





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Corruption has been one of the main concerns of Latin Americans for some time now. This is hardly a surprise, considering the significant negative effects that corruption has on development. It affects the productivity and economic growth of countries, it reduces the capacity of the state to provide public goods and services, and it can weaken society's trust in institutions.

Recent scandals have led to a resurgence of the issue, and currently the fight against corruption is a central point of public debate in Latin America.

With this report, CAF contributes to the ongoing reform agenda in order to promote integrity in public policies. The study covers different areas of action, including the functioning of control and oversight instances within the state; the importance of electoral and civil service systems to attract independent and honest public officials; the role of transparency initiatives and citizen control; and the strengthening of institutional and legal frameworks to limit the influence of private interests in public policy decisions.