

## Putting Out the Fire of Anti-Corruption Demands: The Symbolic Adoption of a National Anti-Corruption Office in Peru, 2007-2008

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### Abstract

Are national leaders really invested in curbing corruption in their countries? The present paper addresses the *realpolitik* basis of national anti-corruption measures by positing the persistence of a political cost-benefit analysis behind initiatives to curb public malfeasance, which leads to the adoption and implementation of mostly symbolic policies regardless of public discourse. The model is tested by reviewing in detail the adoption and political management of the Peruvian National Anti-Corruption Office between 2007 and 2008. The analysis confirms the theoretical expectations and provides ample evidence of the political instrumentalization of the anti-corruption agenda during the administration of President Alan García Pérez (2006-2011).

**Keywords:** Corruption; anti-corruption agency; Peru; national politics; coping mechanisms.



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### 1. Introduction

Corruption is commonly and appropriately compared to cancer. Just as this terrible disease involves the existence of altered cells that attack their own biological system, so does public corruption involve the abuse of powers granted to agents of the state, to the detriment of the functioning of the political system. The more corruption spreads, the less a system can perform its regular functions, causing significant

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damage to the political, economic, and social life of the country. From this point on, however, corruption is better compared to AIDS (Acquired Immune Deficiency Syndrome) in that they both highly increase the risk of suffering from other types of disorders. Indeed, the spread of public malfeasance has a significant impact on the declining of economic growth (higher levels of poverty), the corrosion of security forces (high criminality and terrorism) and the justice system (impunity), the exercise of civil rights (political alienation), and the functioning of regulatory agencies (pollution and health issues), among many other effects.

However, unlike cancer or AIDS, which national governments and private organizations around the world have made significant efforts to eradicate over the past two decades, the fight against corruption has gained strong support from political actors only as far as discourse goes. This means that most local and international initiatives maintain different degrees of symbolic adoption and covert resistance. More than being strived for, anti-corruption reforms and a clean and open government are policy subjects most commonly fought by political leaders, in particular those already engaged in illegal activities. Thus, despite regular surges of popular unrest and demands, anti-corruption efforts fail where they are most needed, and corruption continues to be a sickness in most developing countries.

The present study aims to discover the logic behind government actions with respect to the fight against corruption, first by discussing the actual value of anti-corruption efforts from the perspective of national leaders, then by conducting an empirical analysis of a specific government response to a scenario of popular anti-corruption demands—the adoption and implementation of the National Anti-Corruption Office (ONA, its acronym in Spanish) in Peru between 2007 and 2008.

The rest of the paper is divided as follows: Section II reviews the literature on anti-corruption and challenges its capacity to properly estimate the value of this kind of policy for political leaders. It finds that political capital and potential corruption profits are crucial elements for empirical analysis. Section III analyzes the Peruvian experience in dealing with a series of corruption scandals in the second half of 2007, revealing how the emergence and immediate collapse of the National Anti-Corruption Office was a product of the government's handling of the crisis. Finally, section IV presents the conclusions of this paper.

## 2. The Political Value of Anti-Corruption Efforts

Traditionally, the literature on anti-corruption has been dominated by a normative approach based on the *principal-agent* model (common examples are Klitgaard 1988; Pope 1999; Kaufmann 1997; and Rose-Ackerman 1998). Simply put, this model sees corruption as a consequence of the limited information and actions available to leaders to control the behavior of public officials, thus resulting in abuses of the public trust. Whether the figure of a “leader” is embodied by the political elite (Doig 1995; Khan 2006; Aron 2007; Man 2009), civil society (Kisubi 1999; Brunetti and Weder 2003; Kpundeh 2005; Shelley 2005), or international organizations (Martin 1999; Marong 2002; Carr 2006; Wouters et al. 2012), the model invariably focuses on the best available strategies to reduce corruption through the adoption and implementation of public policies and other sociopolitical interventions.

While the fight against public malfeasance undoubtedly requires the identification of potential actions to be adopted, the means to achieve the adoption of those actions have been left in the shadows. How can decisions about public policies be forced upon national decision makers when those who will adopt and implement the policies are the same ones whom those policies will affect? Such is the problem with anti-corruption policies: They will be fiercely opposed in those places where they are needed most.

A secondary approach to the study of anti-corruption efforts, which here will be called the *cleanups approach*, addresses the emergence of anti-corruption campaigns in countries affected by widespread corruption in the following terms: “The impetus to clean up corruption can be provided primarily by political

exigency rather than by genuine interest in the efficient functioning of the nation's political and economic institutions" (Mbaku 1996:108). Kate Gillespie and Gwenn Okruhlik, arguably the most relevant authors in this approach, define cleanups as "government-initiated and government-directed campaigns against corruption" (1988:60) and explain that the defining characteristic of these campaigns is that "[the] decisions to initiate them are political, as are their scope and initial targets" (1991:82). In other words, anti-corruption efforts are expected to be highly temporal, and limited by the term of office of the political leadership and the expected benefits they produce in terms of political capital and concentration of power.

Pushing political resistance to technically oriented anti-corruption reforms even further, it is possible to see the adoption of counter-reform measures (from the enactment of regulations to constitutional reforms) that facilitate the practice of public malfeasance: censorship of the media (Peters 2003; Dyczok 2006; Stanig 2015), the intervention of the judiciary and/or regulatory agencies (McMillan and Zoido 2004; Sherman 1980), increased legislative powers for the executive branch (Corrales and Penfold 2007), the spread of special procurement types (Schultz and Søreide 2008), and the deactivation of formal channels for the monitoring of public spending (Roberts 2000; Coronel 2006), among others.

From this brief review of the literature, it becomes quite clear that the interests of the political leadership are at the center of the issues affecting anti-corruption adoption and implementation. Indeed, the study of political will for anti-corruption reform brings into the scholarly discussion the role of "the actors, their motives and the choices they make to promote and implement anti-corruption reforms" (Kpundeh 1998:92). Because political actors have an inherent interest in staying in power, it is possible to say that, in their most basic form, the attractiveness of anti-corruption actions should be directly proportional to the amount of political capital they produce, a crucial resource that describes the amount of support received from international and societal groups in response to specific circumstances. With this support (which can take such forms as citizen compliance, popular approval, public demonstrations of endorsement, political and financial backing, electoral preference, and so on), authorities can exert control over the political system and carry out their duties without relying on coercion alone.

Naturally, as anti-corruption is simply the struggle to curb public malfeasance, the political capital available to leaders depends on the level of stress that corruption places on the political system in general and the political elite in particular. Furthermore, it is during corruption scandals when support for the leadership drops and anti-corruption demands increase most significantly, thus producing political crises of different magnitudes but also increasing the value of anti-corruption actions in terms of political capital.

Going back to the interests of the leadership, just as it was stated that political actors have an inherent interest in staying in power, it is also true that in many cases those same actors have a covert interest in benefitting from corruption, either directly or indirectly. When this happens, political capital is forsaken and anti-corruption reform stagnates, although such facts might not be apparent at first. Because the effective implementation of anti-corruption policies would threaten a corrupt leadership, we could understandably expect these policies to be far removed from the government's agenda. However, the fight against corruption in fact creates an opportunity to stimulate support and decrease demands without the need to attack the status quo, just as the cleanups approach described: Symbolic or inherently flawed anti-corruption efforts can work as coping mechanisms to regain political capital during corruption scandals.

In short, as the political value of anti-corruption efforts shall be thought of as the benefit-cost ratio of political capital to corruption profits, measures to curb public malfeasance under corrupt leadership and anti-corruption stress will likely be adopted and implemented in a symbolic and/or defective way to protect the status quo.

To test this hypothesis, the study now turns to a review and analysis of the Peruvian National Anti-Corruption Office, 2007-2008.

### 3. The National Anti-Corruption Office

#### 3.1 Antecedents

After President Alan García of the APRA party took office on July 28, 2006, it was decided that the technical secretariat of the mostly inoperative National Anti-Corruption Council (CNA) should be overhauled. Its executive secretary, Martínez Llanos (member of the previous party in power, *Perú Posible*) was dismissed and replaced by Juan Carlos Román Torero,<sup>1</sup> who only a month earlier had been appointed president of the National Council of Notaries of the Ministry of Justice under the new administration. Regardless of the change in leadership, the CNA continued its steady decline due to an insufficient budget allocation and a lack of political support. However, to keep up appearances, the CNA could not be completely deactivated. A CNA staff member who joined the organization during the García administration remembers the state in which the office operated:<sup>2</sup>

“I did not see the council itself to have any real function, and my impression became objectively materialized when, a few months later, it disappeared. That shows that it was indeed in real decay, with little support not only at the political level but also at the economic level. We were only six people working; there was no structure...”

Regarding the specific activities in which the CNA engaged, a senior official of the Ministry of Justice described it as focused solely on the promotion of corruption awareness, neglecting other aspects of its mandate, such as the production of preventive policies and others stipulated by decree:<sup>3</sup>

“When I was appointed... the first thing that I noticed was that [some] people were participating in the [council] but were clueless of what they were supposed to do there. There was a technical secretary, Torero, who had as a work plan the production of merchandising [and] stationery, and the promotion of anti-corruption mottos through [and] publicity... The anti-corruption policy under the CNA's responsibility relied on the good mood, the interest, the will of the president of the [council].”

By decree, the CNA's presidency fell under the vice-minister of Justice, so nothing could be done unless the government desired it. However, when the political value of the existence of a high-profile anti-corruption agency finally created the right number of incentives for the García administration to act, the CNA saw its place taken by a new agency that had the APRA's stamp.

On October 19, 2007, the official newspaper *El Peruano* published Supreme Decree No. 085-2007-PCM, which officially closed the CNA and replaced it with the National Anti-Corruption Office (ONA) under the jurisdiction of the Presidency of the Council Ministers (PCM). It ordered the transfer of all its resources and stipulated that, from then on, any existing normative reference to the CNA would apply to the ONA instead. The new agency, as we will see, was an entirely different creation, boasting a range of legal powers its predecessor never possessed, not even during its heyday in 2002.

#### 3.2 Circumstances behind the Creation of the ONA

The creation of the ONA can be explained by way of the rise of a wave of indignation against a series of corruption scandals involving members of the government. The same senior official quoted earlier

<sup>1</sup> Ministerial Resolution No. 448-2006-JUS, published on September 9, 2006.

<sup>2</sup> Personal interview. Lima, Peru, November 7, 2014. Translated from Spanish.

<sup>3</sup> Personal interview. Lima, Peru, October 24, 2014. Translated from Spanish.

commented: “Many events took place in the year 2007... that forced President García to make some decisions to show that something was really being [done] in the fight against corruption.”<sup>4</sup> Indeed, the ONA represented an ideal coping mechanism: conspicuous, powerful, effective at mitigating public demands and stimulating support, yet politically dependent.

The events that gave birth to the ONA began in early August 2007, when an investigation carried out by several media organizations raised serious doubts about the procurement process of patrol cars in the Ministry of Internal Affairs. The issue of patrol cars for the National Police had been followed especially closely after the previous minister, Pilar Mazzetti Soler, was removed from office for a similar case six months earlier. With the new administration of minister Luis Alva Castro, a new process was started for the purchase of 698 vehicles of Chinese manufacture. This process was criticized for not ensuring that technical requirements were met, for allowing the purchase of overpriced goods, and for including only one bidder. Along with the Chinese goods, Alva Castro was challenged for the procurement, from a questionable provider, of various types of ammunition amounting to US \$3.2 million (La República 2007a:3). Immediately, Congressmembers from the opposition demanded explanations from the minister and expressed their intentions to formally interpellate him.

On August 14, the same day Alva Castro presented, during a Congressional hearing, his deposition for the above allegations, General Víctor Gandolfo Monzón, inspector general of the National Police, was dismissed for his participation in the controversial (and ultimately failed) procurement. However, the process in which General Gandolfo had been involved was not the one Congress was questioning at the moment; rather, it was the one that had brought down former minister Mazzetti half a year earlier. The sudden measure, as newspapers described it, represented an effort to make Gandolfo a sort of *coincidental scapegoat* (Aguirre 2007). The maneuver sought to exploit the similarities between the cases of Alva and Mazzetti; by creating the impression of a crackdown on procurement corruption, it was meant to silence popular demands for minister Alva's head. Furthermore, Gandolfo's dismissal could easily be mistaken as a fast response to the procurement of Chinese goods, when in fact the cases were unrelated. A clear indication of the political interests behind Gandolfo's sudden dismissal is the fact that, immediately after the affair blew over, Gandolfo Monzón was appointed to the post of permanent secretary of the Human Rights Commission of the Ministry of Internal Affairs, with a supreme decree signed by President García and Minister Alva (Yovera 2007).

Amidst the government's efforts to contain the situation, the procurement affair temporarily fell away from public attention when an earthquake of magnitude 8.0 hit the south coast of the country, killing more than five hundred people. On August 23, minister Alva Castro voided the purchase of the patrol cars (La República 2007b:1). The media insisted on pressing him over the issue; simultaneously, problems with the procurement of ammunitions elicited questions regarding the process and the minister's responsibility. However, most of the attention had effectively switched to recovery efforts in the areas affected by the earthquake and the proceedings against fugitive President Alberto Fujimori (who had flown to Chile in late 2005 and was facing imminent extradition). These circumstances relieved some of the pressure from the executive branch, normalizing the flow of popular support and demands and granting the administration political capital.

A poll conducted in mid-August (APOYO 2007a) found that 41% of people thought corruption had existed in the case of the irregular procurement of patrol cars (46% even believed that Minister Alva Castro should resign), while a second poll conducted a month later revealed that 45% of respondents believed the purchase had been canceled to protect the minister from accusations of corruption (APOYO 2007b).

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<sup>4</sup> Ibid.

However, by the middle of September President García's popular approval had climbed from 32% in July to a comfortable 44%, while that of the executive branch in general had increased from 28% to 38% (APOYO 2007b), particularly because of their well-received management of the natural disaster.

As the government enjoyed a moment of improved popularity, opposition groups were creating a new wave of pressure for the administration. On September 13, an interpellation against Alva Castro was approved (La República 2007c:1). In addition to the issues affecting the Ministry of Internal Affairs, members of the opposition were denouncing a series of irregularities in the management of funds allocated for the victims of the earthquake, involving the National Health System (Camacho 2007). The government tried to prevent this issue from producing a new wave of demands by dismissing the head of this agency, Julio Espinoza Jiménez, on August 30, but the opposition still charged against the minister of health, Carlos Vallejos Sologuren. On September 20, Congress approved a formal investigation into the allegations against the National Health System.

Amidst constant allegations of corruption directed at the García administration, the president announced an immediate increase in the minimum wage to supposedly 'counteract the effect of the increase in prices' (La República 2007d:1). In addition to this extraordinarily well-timed economic stimulus, one day later, on September 20, the news of former president Fujimori's extradition grabbed all media attention. As a result, in the following days all media outlets in the country turned their focus away from the irregular affairs of the government and placed it on the extradition process, as the final decision was given in Chile and the fugitive president was brought to Peru for justice.

However, the opposition in Congress could not be distracted like the general population was; on the last days of September, legislative initiatives in the form of a motion of no confidence and interpellation were presented against ministers Alva Castro and Vallejos Sologuren, respectively. The García administration was, thus, not out of the fire. To defuse the explosive situation, minister Vallejos immediately met with First Public Prosecutor Adelaida Bolívar to request the prompt investigation and arrest of those people involved in the National Health System scandal. In declarations to the press, he publicly expressed his condemnation of the culprits and his support for enforcement: "[T]hey are a bunch of delinquents that have tried to involve me and tarnish my honor"<sup>5</sup> (La República 2007e:2).

On September 30, the Office of the Comptroller General entered the fray to announce that the Ministry of Economy would be audited and investigated with respect to its responsibility in authorizing the National Health Systems' irregular expenditures, amounting to over US \$6 million (Mella 2007). With that decision, three ministries were now involved in corruption scandals, and media coverage and congressional actions were becoming hard to sway, as they disregarded the actions the government took to cope with the situation. It was becoming increasingly clear that, to cope with these events, more complex and costly measures would have to be taken to secure political capital, particularly because it was unlikely additional episodes like the earthquake or Fujimori's extradition would occur, thereby distracting the public's attention. The popular approval that President García enjoyed in the aftermath of the natural disaster had quickly declined; by October 18, his rating and that of the executive branch had fallen 14 points from September levels (APOYO 2007c), "mostly driven by the increase in food prices and the corruption scandals involving his administration"<sup>6</sup> (Info Región 2007). Indeed, 10% of those surveyed expressed their belief that the scandals affecting the ministers of Internal Affairs and Health had been the country's biggest problem in the previous weeks, while 20% believed these issues should be the government's priority (Alva Castro and Vallejos were singled out as the top two ministers who should be replaced) (APOYO 2007c). If media

<sup>5</sup> Translated from Spanish.

<sup>6</sup> Translated from Spanish.

coverage kept fueling popular criticism and the Congressional actions of opposition groups gained momentum, it would become increasingly difficult for the government to ignore the need for clear anti-corruption reforms without seeing its legitimacy decline to dangerous levels.

The government's strategy to cope with the pressure and stabilize its political capital involved the activation of three coping mechanisms. The first mechanism was a *smokescreen* targeting former president Alejandro Toledo and executed by a member of an opposition party. On October 4, the country woke up to rather strange news: Congressman Gustavo Espinoza Soto, elected with the Unity for Peru party but later disenfranchised, had given a press conference the day before, accusing former president Alejandro Toledo (2001-2006) of raping a young woman. According to Espinoza (who had allegedly accessed a police report on the case): "Mr. Alejandro Toledo ... raped, on September 19, a person, Diana Arévalo Sagástegui, after [having] an orgy, after [having consumed] alcohol and drugs"<sup>7</sup> (Perú21 2007a). The reaction from members of Toledo's party, *Perú Posible*, was immediate. Besides accusing Espinoza of gross defamation against their leader, they claimed that the Congressman acted only as a pawn of the incumbent party. Their suspicion was further fueled by the fact that Espinoza had been seen at a meeting with APRA congressman Javier Velásquez Quesquén that same morning. Reports of Espinoza's connection to the APRA would be repeated two years later, calling attention to his constant support of the incumbent's projects in the national parliament (El Comercio 2009). The smokescreen, on the other hand, would last for only two weeks before the facts of the incident shattered Espinoza's allegations, disproving any involvement of the former president in such an affair. In the meantime, an opinion poll showed that 82% of respondents were aware of the scandal, but only 33% of them saw Espinoza's allegations as a smokescreen; 38% believed that Toledo had actually been involved in the illicit affair (APOYO 2007c), thus proving the effectiveness of this coping mechanism with respect to the popular perception.

The second mechanism involved a combination of *scapegoating* and *anti-corruption discourse*. On October 7, Alva Castro announced a thorough pruning in the Ministry of Internal Affairs, including the dismissal of more than twenty officials allegedly involved in the infamous procurement of the Chinese patrol cars. The minister declared (Mella and Faura 2007):

"We have terminated the contracts of civil officials that were in charge of the purchases in the Ministry, and relieved the heads and members of the National Police that also participated in the acquisitions. In total, they are more than 20. We have been selecting the new personnel since last week. We want specialized and competent people [who] behave with efficiency and transparency."<sup>8</sup>

The political rationale was clear: although he had initially defended the procurement process, the only way to get past the incident at this point was to sacrifice mid-level bureaucrats, a measure that would have no real impact on the leadership structure. The press recognized the true nature of the measure, describing it as "an effort to [save] [minister Alva Castro's] head only a few days before confronting a possible motion of no confidence"<sup>9</sup> (Mella and Faura 2007), and supporting the reading that "the purge inside the Ministry, even though it was designed to secure [Alva Castro's] permanence in office, also contradicts his own version [of the procurement process] provided until some days ago"<sup>10</sup> (Caretas 2007a:16). Furthermore, as expected, the so-called 'purge' was more symbolic than genuine, as no immediate sanctions were made; most officials who were relieved from their posts remained in the Ministry

<sup>7</sup> Translated from Spanish.

<sup>8</sup> Translated from Spanish.

<sup>9</sup> Translated from Spanish.

<sup>10</sup> Translated from Spanish.

in different, but still relevant, positions, and were thus dismissed only from involvement in procurement processes (Aguirre and Camacho 2007).

The two mechanisms described above were powerful enough to save Alva Castro's post. On October 10, the opposition failed to get the motion of no confidence approved by Congress. Immediately afterwards, President García confirmed his support of Alva as minister of Internal Affairs, a position he would occupy for one more year. However, public opinion did not welcome the rescue of the minister of Internal Affairs; 78% of surveyed people in October disapproved of the fact that the motion of no confidence had failed, and the number of people who believed that Alva Castro should resign almost doubled to 83% from the 46% who had been of that opinion in August. One in every six people believed the government had come out of this event in a debilitated state. The message was clear: "If the president is to try and recover popular support [by] making changes in the ministries, ...the ministers of internal affairs and health need to be removed. The scandals of corruption and incompetence that have taken place in their sectors have tried the citizens' patience"<sup>11</sup> (APOYO 2007c:1). The suggested anti-corruption measure, however, was what the government was trying to avoid through the activation of coping mechanisms.

Although Alva's problem had been formally dealt with, minister Vallejos, on the other hand, was still in the middle of the storm. New evidence of massive corruption in the National Health System spawned a new wave of criticism from all sectors. To control the situation, Vallejos announced the dismissal of as many as fifty public officials working in the corruption-filled agency, with the alleged goal of reorganizing it (La República 2007f:7). On the next day, October 16, the first arrests were made by orders of the attorney general, with the media covering this demonstration of anti-corruption enforcement and bringing final satisfaction to the public's demands.

The third and final mechanism was the creation of the ONA on October 18 and the appointment of judge Carolina Lizárraga Houghton as chief of the new agency on October 20.

One week later, the wave of corruption news and anti-corruption demands came to an end. On October 30, Congress stated that it had found no criminal responsibility in the performance of minister Carlos Vallejos (Perú21 2007b).

Overall, the stressful events that had taken place between August 14 and October 30 had news of governmental corruption hitting the front pages of major newspapers<sup>12</sup> in the country 50% of the time, more than double the average of 24% for the 2006-2011 period. Because the events had been dealt with, the decline in the executive branch's popular approval came to a halt, and although 25% of respondents to a poll in November cited the corruption scandals as among the reasons for García's disapproval, by that time the administration had overturned the trend and recovered a modest 4% (APOYO 2007d).

### 3.3 Rise of the ONA

The ONA represented the government's main institutional response to the deep decline in its reserves of political capital. As such, the powers vested in the new anti-corruption agency and the person appointed to lead it demonstrated a significant effort to indicate the administration's commitment to the fight against corruption in a politically profitable yet restrained way. In this sense, the ONA was intended to be regarded as an upgrade of the role the CNA had fulfilled over the past six years. Taking its place as the main anti-corruption agency in the country, it boasted a wider range of powers, was placed back under the jurisdiction of the Prime Minister, and received a new anti-corruption *czar*. At the same time, the ONA faced an even more strained relationship with the rest of the government, as the García administration stifled the

<sup>11</sup> Translated from Spanish.

<sup>12</sup> Sample taken from the newspaper *La República*, a politically neutral outlet and one of the most important in the country.



involvement of civil society,<sup>13</sup> introduced normative elements that would create fierce resistance in other agencies involved in corruption control, and scratched its budget a short time after its creation, thus asphyxiating it.

The inspiration for a new anti-corruption agency could not have existed before the García administration became subjected to stress. By the end of August 2007, less than two months before the ONA was created, the CNA was still carrying out its functions as usual, signing interinstitutional agreements and planning a ‘mega event’ for International Anti-Corruption Day, to be celebrated on December 9 (CNA 2007a). In fact, according to the written proceedings of its tenth meeting, held on October 15 (barely three days before its deactivation), none of the councilmembers seemed to be aware of the government’s plans. On that occasion, the representative of the PCM in the council had addressed only the “declarations from the president, regarding the re-launching of the [CNA]”<sup>14</sup> (CNA 2007b), stating that the proposal was still under evaluation, and that he believed a consultative council should be retained. The CNA’s president, and vice-president of Justice, Erasmo Reyna, had further prompted the council to continue carrying on its activities as usual, since according to him there were no overlapping functions between it and the ONA that would require the dissolution of the former. Three days later, however, the government signed Supreme Decree No. 085-2007-PCM, deactivating the CNA, erasing the figure of the council, and replacing it with an executive agency under the leadership of anti-corruption judge Carolina Lizárraga.

The decision to place Lizárraga in charge of the ONA was by no means arbitrary, nor technical. The new czar had first attracted media attention in 2004 when she ordered the arrest of the former head of the National Council of Intelligence, César Almeyda (Chávez 2004), and then again in 2006 when she requested that Interpol locate former First Lady Eliane Karp (La República 2006:4). These actions, in addition to her previous participation in the proceedings against the Fujimori-Montesinos network of corruption that had captured the state during the 1990s, gave her a legitimacy that was rare in the Peruvian judiciary and resulted in the association of her name with the fight against corruption in the country.

In the days before her appointment to the ONA, Lizárraga had even ordered the arrest of the public officials involved in the National Health System scandal, which helped the government eventually overcome the scandal. These circumstances evidently made her a perfect candidate for endowing the new government agency with the level of media attention, popularity and legitimacy necessary for success in stimulating support and reducing demands. The political magazine *Caretas* noted: “[W]e have to acknowledge a certain spectacular side in the appointment of Lizárraga. Like closing a circle, it was her who, on Tuesday 16, in one of her last decisions as judge, ordered the arrest of those involved in the overpriced procurement processes of the [National Health System]”<sup>15</sup> (Caretas 2007b:13). Indeed, Carolina Lizárraga’s own account of her designation confirms the president’s intention to use her as a crucial element of the coping mechanism that was the ONA (Prensaperu2009 2009a):

“[The president’s office summoned me] regarding something about an anti-corruption czar. So I went and replied that I was not yet ready for [the appointment], that I was very happy in my position [as anti-corruption judge]; but he told me that I had to help him and that they were at a dead end... He needed my support to carry out this anti-corruption crusade.”<sup>16</sup>

<sup>13</sup> Although the ONA would soon create a consultative council, it was a significant departure from the role and responsibilities that civil society had in the CNA.

<sup>14</sup> Translated from Spanish.

<sup>15</sup> Translated from Spanish.

<sup>16</sup> Translated from Spanish.

The government's strategy proved to be immediately successful among the media and civil society. Through an official statement, the executive director of Transparency International's national chapter *Proética*, Cecilia Blondet, expressed her complete support of the decision: "Lizárraga is a very good appointment, it is an incredibly appropriate decision. I think she is a well-prepared judge in academic terms, and at the same time she is very brave; and you need both elements to take over this kind of responsibility"<sup>17</sup> (Proética 2007). However, other actors of the opposition and the state apparatus (particularly those belonging to the anti-corruption subsystem) were quick to criticize not the person, but the institution.

The contents of Supreme Decree No. 085-2007-PCM described an office "with technical and functional autonomy, with enough attributions for the development of State measures to prevent and fight corruption." Indeed, despite the fact that its autonomy was actually limited by the fact that the president himself designated the chief of the ONA and that the agency depended on the budget allocated by the PCM, the powers granted to the new agency were quite broad. In addition to its expected preventive functions, the ONA was formally capable of opening investigations on its own initiative, allowing it to take part in any case it saw fit (*article 3, section c*); of carrying out the analysis, processing, and transmission of information regarding potential cases of money laundering; of requesting information from the UIF to that end (*article 3, section k*); and of notifying public procurators of any corruption case that might come to its attention (*article 3, section l*). In this way, the ONA was entrusted not only with preventive tasks, but also with strong control capabilities, which resulted in the perception that it intruded in the exclusive functions of constitutionally autonomous bodies such as the Office of the Comptroller General (OCG) and the Public Prosecutor's Office. This 'seed of destruction' had already been a well-documented problem with the CNA (PCM 2006) and had been eventually responsible (at least officially) for its harsh devolution in 2003; yet, once again, the flagship anti-corruption agency of the country was being designed with inherent structural flows stimulating environmental harassment from competing agencies. To exacerbate the situation, President García's attitude during the initial deployment of the ONA aroused institutional resentment of the new agency. While presenting Lizárraga as the new anti-corruption czar, he used the opportunity to criticize the performance of the already existing apparatus (La República 2007g:2):

"[The ONA] is a new point of attack against corruption. Until now the existing institutions [have] not been enough. I am not satisfied with their work; if I were, I would not be supporting [the creation of] a new agency to act as a stimulus to work on this subject."<sup>18</sup>

The president of the Supreme Court, Francisco Távora, had already expressed his disapproval of the ONA for what he saw as a duplicity of efforts, a waste of resources that could have been employed to strengthen the anti-corruption system already in place (La República 2007h:3). Evidently, García's expressions were not well received and did not help Lizárraga's position. Shortly afterwards, the president directly challenged the comptroller general, Genaro Matute Mejía, whom he criticized for being vocal against the ONA though having stayed quiet in the previous government during its corruption scandals (Salazar 2007). This conflict between Matute Mejía and the ONA would continue until 2008, with the former holding that Lizárraga's agency had no legal right to conduct investigations, and the latter trying to establish an institutional space of its own. In early January 2008, after a legal report produced by the OCG was released, objecting to the ONA's function, Lizárraga defended her office by stating:

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<sup>17</sup> Translated from Spanish.

<sup>18</sup> Translated from Spanish.

“This office was created to have an area of investigations and an area for the promotion of ethics and anti-corruption policies, and if an anti-corruption office is not allowed to know the reasons behind the corruption phenomenon, then it would not have any reason to exist.... [I]f we carry out an investigation [it] is not only so that someone can be punished, but also to be able to exemplify what is going on, the reasons and the solutions.”

The truth, however, was that the ONA had been given a Trojan horse with those investigatory powers. In describing the interinstitutional relations between the anti-corruption office and the independent agencies of the state involved in controlling public malfeasance, a staff member of the ONA<sup>19</sup> said:

“What happens is that the ONA created a lot of resistance at the beginning... As ironic as it may be, the National Anti-Corruption Office was devastated in terms of criticism by the Office of the Comptroller General... The problems were solved later on, but the demolition work had been so great, what with the Public Ministry, the OCG... Everyone saw that it was an interference, all the state [apparatus]. So, it gave me the impression that we had very little [political] backing.

When the ONA [was] created, it [was] done with an investigatory unit. There were journalists, prominent lawyers; in other words, there were people [who] supposedly entered to push forward all those cases [of corruption]. But I think it was the area that received most of the attacks, and due to which [the ONA] collapsed in political terms, as it represented the provision of powers [to which the agency was not entitled]. Everyone complained: ‘But why, if you already have public prosecutors, the Public Ministry, public procurators, the OCG...?’”

Regarding these attacks, the chief of the ONA remembers (Prensaperu2009 2009b):

“I realized (and [was] very disappointed) that nobody cared about corruption. This office was created and [all of a sudden] everyone else became an anti-corruption champion; [but then] the office came to an end and nobody ever talked anything about the subject anymore....

It was such an immediate attack! I did not even have an office yet and I was already being summoned by Congress at the end of November to explain about the post, about the budget... I did not even have a budget yet! There was no support from other institutions; rather, there were attacks.”<sup>20</sup>

Not only did the ONA’s official functions create severe tensions with the OCG and raise doubts about its proper institutional space, they were also overwhelmingly broad for the limited human and financial resources allocated to it. In other words, the ONA did not have the material capacity to fulfill its controversial duties. The area of investigations, which Lizárraga defended so fiercely, included five consultants under the direction of Iván Meini Mendez. Meini had previously worked as part of the procuratorial team on the Fujimori-Montesinos case, led first by José Ugaz and then by Vargas Valdivia, and was regarded as an expert in the field. His trajectory, therefore, provided this section of the ONA with the same kind of legitimacy delivered by Lizárraga to the agency as a whole. Meini, however, was not in Peru at the time. According to some of the members of the area of investigations<sup>21</sup> who, attracted by his reputation, had entered the ONA in January, Meini had a postdoctoral position in another country and therefore was not present to take part in the investigations until late March – that is, until almost half a year had passed since the creation of the ONA.

<sup>19</sup> Personal interview. Lima, Peru, November 5, 2013. Translated from Spanish.

<sup>20</sup> Translated from Spanish.

<sup>21</sup> Personal interview. Lima, Peru, October 24, 2014.

In addition, the material situations in which the area of investigations had to work did not match its alleged importance:<sup>22</sup>

“There were problems every month regarding us getting paid or not. The administrator, Patricia Guillén, felt distressed because every month she received communication from the PCM stating that they did not know if we were going to get paid or not. And we did not have proper work conditions: we worked in a basement that flooded more than once....

The office was not well equipped. I remember Patricia always complaining about money. There were always money issues because (I think) there was not a specific budget allocated to this project, but rather we kept using the money [left over] from the CNA.”

Another staff member of the ONA corroborated the budgetary challenges as they continued to stress the agency's duties throughout the period and eventually precipitated its dissolution:<sup>23</sup>

“When the CNA was dissolved and the ONA was created, the [project coded PER/02/027 established between the PCM and the United Nations Development Programme (UNDP) in 2002] went on. Even though they were two offices with different denominations, the project that oversaw the whole administrative part remained the same. [So the anti-corruption agency] was transferred from the Ministry of Justice to the PCM with all its resources in order to implement the new office... [According to the UNDP project,] the ministry to which the agency was ascribed was supposed to provide the resources for its sustainability and functioning. When the agency joined the PCM, it did so with very few resources, and we had to request additional resources in order to increase our budget; but they did not do it. They stopped transferring funds.”

When asked about the lack of financial support from the government, Carolina Lizárraga described how the ONA had been victim of a political charade (Prensaperu2009 2009a):

“I worked at the ONA for almost eight months, of which only five months and a half saw actual work being carried out... When I arrived, I had no office, no personnel, no budget; I had nothing... I put some [conditions] and [president García] said that everything was going to be fine and that we would get everything little by little... I think that in one opportunity he tried to fulfill [his promise]: He and [Prime Minister] Del Castillo signed, at a Council of Ministers, an urgent decree providing us with funds, but the minister of economy said, ‘No, this cannot be executed’... [So the ONA] was practically cancelled.”<sup>24</sup>

### 3.4 Dissolution

Ultimately, a lack of political will to support the work, or even the existence, of the National Anti-Corruption Office became painfully evident only six months after its creation. The ONA, after all, had been envisioned from the beginning as a coping mechanism and was never intended to affect the stability of the leadership or the anti-corruption status quo. It simply did not have the political backing to assert a power that had been given to incite antagonism from other public agencies. After Carolina Lizárraga tried to perform its formal functions as chief of an anti-corruption agency and was caught unwisely giving an advanced opinion on a matter affecting the public image of the prime minister, the time had come for the García administration to stop investing in a political measure that had outlived its usefulness.

In April of 2008, when the ONA was still finding its rhythm, allegations of a possible conflict of interest and influence peddling appeared on the news involving Prime Minister Jorge del Castillo Gálvez

<sup>22</sup> Ibid. Translated from Spanish.

<sup>23</sup> Personal interview. Lima, Peru, November 4, 2013. Translated from Spanish.

<sup>24</sup> Translated from Spanish.

and his son, Miguel, who was an advisor for a minor television network, RBC. According to a member of the opposition, the Ministry of Internal Affairs had suddenly increased its allocation of publicity to RBC from S/. 0 in 2007 to S/. 283 thousand (roughly US \$100 thousand) in the first months of 2008 alone, raising suspicions about the prime minister's possible role in redirecting resources for the benefit of his son's employers. The scandal immediately broke, and Del Castillo and Alva Castro were summoned by the parliamentary Commission of Audit to present their depositions while members of the incumbent party closed ranks around them. The dissident voice in the executive branch, however, came from the chief of the ONA, who, getting ahead of further details of the case, publicly expressed that evidence could exist of an "ethical conflict, because the prime minister's son works at [RBC], and the Council of Ministers works as a decision-making body"<sup>25</sup> (Perú21 2008a), thus suggesting that Del Castillo had to be involved. By doing so, the ONA was effectively dismissing its own political *raison d'être*. Lizárraga realized almost immediately the effect her words could have, and tried to show a more supportive stance by expressing the ONA's "great consideration for the prime minister and belief in his version"<sup>26</sup> (Perú21 2008b). However, the challenge could not be withdrawn. To avoid losing face, Lizárraga moved the focus of her intervention from the actions of the government to its legal structure and proposed the introduction of formal guidelines regulating the matter of state publicity. Although this maneuver may have seemed an appropriate deflection for the anti-corruption czar, in fact she was still pressing the system. Her suggestion was just another type of challenge, moving the threat to the status quo from an individual control approach to an institutional preventive one.

The effects of Lizárraga's public statements about the government's backing of the ONA was explicitly pointed out by one of its staff members:<sup>27</sup>

"The Executive withdraws its support to the ONA because it got affected by allegations against Del Castillo's son, and of course, the media went and took Lizárraga's statements; and she, being impartial, provided an opinion that apparently was not well received by the prime minister and the president, because from then on all support was really taken away."

Of a similar reading was a senior official of the OCG,<sup>28</sup> who pointed to this incident as the beginning of the end for the ONA: "[Carolina Lizárraga] provided [an] opinion beforehand regarding Del Castillo, and in that moment she fell, as she depended on the PCM... [That statement about Del Castillo] killed her."

Shortly afterwards, due to all the political and financial deprivations the anti-corruption office was facing, Lizárraga's team began to present their resignations one by one. It was clear to all of them that the true nature of the National Anti-Corruption Office created by initiative of President Alan García was nothing more than a symbolic gesture to assuage demands for anti-corruption actions. In the words of a staff member:<sup>29</sup>

"Actually, I think that the anti-corruption office was created with a decorative intention. I think there were very capable people, with good intentions of making it work, but I think that it did not work because [the government] never wanted it to work; that is, it was created so that it didn't work."

<sup>25</sup> Translated from Spanish.

<sup>26</sup> Translated from Spanish.

<sup>27</sup> Personal interview. Lima, Peru, November 4, 2013. Translated from Spanish.

<sup>28</sup> Personal interview. Lima, Peru, October 23, 2014. Translated from Spanish.

<sup>29</sup> Personal interview. Lima, Peru, November 5, 2013. Translated from Spanish.

Two consultants from ONA agree with the above opinion, and are even more outspoken about the government's intentions:<sup>30</sup>

"It was an office created so that it didn't work. It was an office created with greater faculties than those of the CNA: faculties of investigation, formulation of public policies, creation of a national anti-corruption plan... [but] it was created so that it didn't work...

I think it was an office created to distract public attention saying, 'We investigate corruption,' when in reality they did not do it. I think the people [who] were there played the role (and I include myself) of useful idiots, and we realized it too late..."

On August 15, 2008, barely ten months after the ONA had been created, the government announced its dissolution. With only minimal media coverage and public criticism, *El Peruano* published Supreme Decree No. 057-2008-PCM, formally deactivating the ONA and transferring its core preventive functions to the Secretariat of Public Management of the PCM. Other functions would be transferred to the OCG in turn.

Former anti-corruption procurator Ronald Gamarra said the deactivation of the ONA showed that the García administration never had any real political will to appropriately implement such an anti-corruption measure. In response, and to prevent more criticism, Prime Minister Jorge del Castillo stated that the decision had been made following the requests of the political opposition, which had asked for the ONA's deactivation<sup>31</sup> (Perú21 2008c). However effective this excuse was in preventing the decision from becoming politically costly in terms of popular support, through its deactivation, members of the opposition finally saw the ONA's true meaning: "[This] demonstrates that the ONA was a ghost office, created as a façade to hide the acts of corruption committed by the government, such as the overvalue of food products after the earthquake in Ica..."<sup>32</sup> said Congressman Isaac Mekler (La Primera 2008). And he was right.

#### 4. Conclusions

Why do governments plagued with corruption scandals engage in anti-corruption efforts? While a normative perspective on the issue might find the question either unnecessary or of negligible importance, a political approach provides a bleak but natural answer: They don't. Indeed, to introduce the benefits of corruption into a cost-benefit analysis of anti-corruption strategies is to completely alter the balance of incentives for the national leadership, one that results in the selection of purely symbolic and/or defective measures to fight public malfeasance so as to stimulate the provision of political capital without threatening the interests of the incumbent party or the status quo.

Seen in this way, the spread of the anti-corruption discourse over the past two decades and the constant levels of corruption in most of the developing world are not inconsistent, but reasonable. The rise of an international anti-corruption movement has provided corrupt leaders with as many coping mechanisms to deal with the political consequences of public malfeasance as it has created sources of pressure. As a consequence, the introduction of new anti-corruption legislation or structures cannot be taken at face value, for their true nature resides in the way in which they are managed over time. For example, Brinkerhoff (2000:43), in identifying the five key characteristics of political will, explicitly

<sup>30</sup> Personal interview. Lima, Peru, October 24, 2014. Translated from Spanish.

<sup>31</sup> The tactic of shifting the blame for anti-corruption devolution was not new, as it had been used in a similar fashion to behead the CNA in 2003 (PCM 2006). On that occasion, the blame had been placed on the OCG.

<sup>32</sup> Translated from Spanish.

differentiates between *mobilization of support* from *continuity of effort*, asking: “Does the reformer treat the effort as a one-shot endeavor and/or symbolic gesture, or are efforts clearly undertaken for the long term?” In other words, the level of technical expertise exhibited in the adoption of the most promising anti-corruption policy can, and must, be clearly differentiated from the actions taken to implement such policy in a way consistent with its technical, political, and economic demands. Only by looking at the latter can we also differentiate a true anti-corruption measure from a purely political coping mechanism.

The case reviewed here is but one example of the ways in which political leaders hijack the anti-corruption movement and use it against itself. The creation and political management of the ONA in Peru reveals two related but analytically different issues: 1. Anti-corruption demands can be defused through palliative measures (a.k.a. *coping mechanisms*) that stimulate support but do not curb corruption; and 2. Anti-corruption policies can be used as effective coping mechanisms when momentum exists. Following these, the ONA cannot be said to have failed as an anti-corruption initiative; instead, it is much more accurate to say that the ONA was successful in accomplishing the task for which it had been created: To reduce anti-corruption demands, produce political capital, and preserve the *status quo*.

What does this mean for future anti-corruption interventions, both local and abroad? While an answer will require a deeper study of the forms and roles that coping mechanisms take in response to political stress, issue attention and corruption tolerance could be the keys to tipping the balance in favor of political capital over illegal benefits. As corruption can never be discounted, high-profile monitoring imbued in political capital could make the cost of coping mechanisms too high to sustain, thus making real anti-corruption reform consistent with private political interests. What such monitoring activity would entail, and who is best suited to carry it, are questions better left for future research and case-by-case analyses.

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