

Political Will for Anti-Corruption Reform: The Weight of Political Context in the Making of a National Anti-Corruption Plan in Peru

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反汚職改革のための政治意志—ペルー反汚職国家プランにおける政治的文脈の重要性—

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過去 20 年間、国際的には財政や技術面で汚職対策が進展してきたが、実際に各国政府の方策がそれを反映していることは多くない。さらに、このテーマを扱う研究は、国内での汚職対策を阻む政治意志の欠如について、有効な解決策を見いだせずにいる。本稿は、国内の反汚職改革における政治意志の意味を再検討する方法で、この課題に取り組むこととしたい。その際、汚職対策が他の政策とは異なり、対策を進めようとする指導者たちへの政治的支援を約束するだけでは進展しないものと仮定する。むしろ汚職撲滅に向けた改革は、特定の政治指導者たちの関心に訴えるものでないと進展しない。分析の結果、ペルーでの反汚職ナショナルプランに結実する汚職対策の展開が、政治的な出来事の展開と密接に関連していたことを明らかにする。

I. INTRODUCTION

Corruption is perhaps the most recurrent and consistent problem in Latin America, a situation that is only slightly grasped by surveys that find it to be among top national problems. The cases of corruption in the region are so pervasive and frequent that the University of Chile had no problem in creating a database of those that had been ‘socially significant’ between 1998-2008 in Argentina, Brazil, Chile, Colombia, Mexico and Peru, identifying as much as 252 cases (Universidad de Chile 2010). According to TI (Transparency International) and its CPI (Corruption Perception Index), in 2012 Latin America as a region was “doing worse than the global average” (Salas 2012), and based on the 2013 CPI it was stated that “[d]espite many new transparency and anti-corruption regulations that states have agreed to comply with, the effect appears to have been minimal” (Turi Gargano 2013). Indeed, between 2002 and 2011 the regional average (including the Caribbean) consistently remained around the 3.5 level in the ten-point scale of the CPI, pointing to a mediocre performance at best.

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During the same period, on the other hand, the region endorsed international anti-corruption mechanisms such as the MESICIC (Mechanism for Follow-up on Implementation of the Inter-American Convention Against Corruption), the UNCAC (United Nations Convention Against Corruption) and its Review Mechanism, the Andean Plan to Fight Against Corruption (for Bolivia, Colombia, Ecuador and Peru), the OECD (Organisation for Economic Co-operation and Development) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (for Argentina, Brazil, Chile, Colombia, and Mexico), and others. The two sides of the story fit together when we consider that, regarding the implementation of the Inter-American Convention, “there is an alarmingly low level of satisfactory compliance with the recommendations (less than 10%) in core preventive areas... The follow-up reports show that the majority of the recommendations given to governments are not implemented satisfactorily, nor are they properly reported to the MESICIC, casting doubt about the government’s real willingness and ability to commit to them” (Peñailillo 2012: 45-46).

This paper takes on the concept of *political will*, which is said to be pivotal for an effective fight against public malfeasance, and assesses it within the study of corruption and anti-corruption reform. The result is a development of the concept more in line with the reality of political dynamics in the developing world, suggesting that political will cannot be assumed to respond automatically to political capital, but that it rather requires practitioners to consider the implications of reform for networks of corruption embedded in domestic settings. Finally, this thesis is tested by reviewing the evolution of Peruvian efforts to produce, adopt and implement a national anti-corruption plan over the period 2001-2013.

The rest of the paper is divided in the following way: Section II reviews the literature on anti-corruption reform in order to approach the concept of political will as employed by scholars in this field. Section III analyzes the theoretical implications of political will for anti-corruption efforts, finding it to be better employed by reference to both political capital and potential corrupt profits. Section IV undertakes the empirical analysis of the Peruvian experience with one specific type of anti-corruption effort: the production of a national anti-corruption plan. Finally, section V presents the conclusions of this paper.

II. ANTI-CORRUPTION REFORM: A LITERATURE REVIEW

Looking at what the academic literature has to say about anti-corruption reform, the most prominent and ubiquitous approach in both political science and economics is the *principal-agent*, which depicts the problem as concerning a *principal* who has to control the performance of an *agent* that is inherently corruptible.

From a *top-down* perspective, the principal is found in the senior officials of a political system, while the agents are naturally the bureaucratic apparatus at large. The works of

Robert Klitgaard (1988), TI's Jeremy Pope (1999), Daniel Kaufmann (1997), and Rose-Ackerman (1998), provide common examples from this perspective. Its main point of weakness can be found in the heavy reliance on the pre-existence of some level of political will already in place at the domestic leadership level, making then the assumption that the problem of corruption control is one of knowledge and information. Thus, its arguments revolve around normative statements ('good-practices') all the while taking for granted the necessary political will, or at least disregarding the issue (Doig 1995; Khan 2006; Aron 2007; Man 2009).

Once political neglect or resistance becomes apparent, however, civil society becomes the preferred principal for anti-corruption control, in what is known as a *bottom-up* approach. This is the territory of vertical accountability and policy advocacy, of TI's Advocacy and Legal Advice Centres (Keller-Herzog 2009), of publications aimed at providing guidance (such as the *Anti-Corruption Kit, 15 Ideas for Young Activists* by Transparency International 2014), and of a growing number of scholarship (Kisubi 1999; Brunetti and Weder 2003; Kpundeh 2005; Shelley 2005). This approach, however, remains under the paradigm that there is a major actor in the domestic system willing to take the role of the principal; consequently, such a premise gives way to the problem of 'collective action': in societies ravaged by systemic corruption and high corruption tolerance (such as those found in many developing countries), citizens find more profitable to adapt to the system than to push for its change (Karklins 2005; Uslaner 2008).

As we cannot presume the existence of honest and willing senior officials, nor the presence of a strong civil society, only one more source of anti-corruption drive remains available: the *international anti-corruption movement*. Authors focusing on international pressure imagine international actors as potential principals, especially in the absence of domestic actors willing or able to perform that role. The international community frequently assume this task directly, as when it generates international pressure through the release of corruption rankings or policy assessments, or when it calls for the subscription of anti-corruption agreements or declarations (Martin 1999; Marong 2002; Carr 2006; Wouters et al. 2012). Other times it acts indirectly, as when it takes the form of technical and/or financial support to domestic governments, bureaucracies, and/or local anti-corruption advocacy. However, where this approach does not shine, it keeps in utter obscurity: The initial and classic idea of governmental political will is dropped in favor of organizational strategies and technical measures, thus limiting the possibilities to further a proper understanding of the conditions behind successful and failed examples of anti-corruption reform, and of the role of international pressure in these.

Moving on from a principal-agent model, and in needing to improve our understanding of the political processes behind anti-corruption reform, the literature on anti-corruption *cleanups* reflects a higher focus on domestic politics and the actors that adopt and implement policies to control public malfeasance. 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). Thus, the literature on cleanups clearly and directly discusses the events behind surges of political will, even if they usually take the form of instrumentalized anti-corruption measures; however, although rich in historical insight, it consistently lacks a clear framework of reference for the analysis of cases (Kupatadze 2012; Manion 1998; Mbaku 1996; Adebani and Obadare 2011), and so its contribution comes between the lines, in the identification of those circumstances that allowed the adoption of anti-corruption actions (even as politicized and self-serving as by nature cleanups are): *pressure* (Gillespie and Okruhlik 1988), *momentum of stress* on the regime (Cheung 2007), *regime legitimacy* (Kupatadze 2012), *political necessity* (Mbaku 1996), *instrumentalization* and *self capacity-building* initiatives (Adebani and Obadare 2011), etc.

Perhaps the most serious study of the concept of political will for anti-corruption reform is the one produced by Brinkerhoff and Kulibaba (1999; and Brinkerhoff 2000), who define it as “the commitment of [elected or appointed leaders and public agency senior officials] to undertake actions to achieve a set of objectives—in this case, anti-corruption policies and programs—and to sustain the costs of those actions over time” (1999: 3). Once it can be contemplated as an individual element, conceptually different from others with whom it may interact (such as stakeholders, advocacy strategies, specific policies, etc.), the gate is open for authors to describe it, develop indicators for identification and assessment, analyze different manifestations and levels, describe contexts and settings, and propose possible ways and means to stimulate (and even push) it (Kpundeh 1998; Persson and Sjöstedt 2012; Ruzindana 1997). In the words of Sahr J. Kpundeh, the study of political will for anti-corruption reform brings forth into the scholarly discussion the role of “the actors, their motives and the choices they make to promote and implement anti-corruption reforms” (1998: 92). So far, however, the identification and assessment of political will have failed to suggest effective means for its manipulation. In their place, the study of political will has proposed scenarios that are not easily susceptible to intervention (Persson and Sjöstedt 2012), or that rely again on political will (Kpundeh 1998), in a clear case of circular logic.

III. UNDERSTANDING POLITICAL WILL FOR ANTI-CORRUPTION EFFORTS

The critical review of the anti-corruption reform literature concluded that a central problem in the efforts to adopt and implement reforms was the issue of political will. Naturally, just as any other policy, anti-corruption requires the initiative of a politician or senior official to address malfeasance by introducing a coherent group of actions to tackle it.

As government activities are never free, the simple idea of performing an action against corruption requires us to consider the inherent costs of that action as a starting point.

Already in the 1980s, Robert Klitgaard (1988) considered the magnitude of implementation embedded in the anti-corruption idea, in an effort to provide a grounded advice to policy makers. Considering the variety of activities and instruments that could be adopted to fight corruption, each one of them with its specific cost to the organization, Klitgaard suggested that it would be inefficient to invest in all of them without considering the relative impact they potentially offered. As corruption is not an evil by itself, but only when considering its pernicious effects, the cure could not be allowed to be more expensive to society than corruption itself. Thus, Klitgaard (1988: 195) arrives to a crucial conclusion: “The ideal level of anticorruption efforts will be short of the maximum; and the optimal level of corruption will not, in practice, be zero.”

The marginal returns of anti-corruption efforts, however, are not the only (or even the most important) variable in the calculations of real-life politics. To stop at that would be to adopt the premise that social benefits and collective wellbeing are the only concerns of the leadership, when realistically speaking they usually are not. The whole concept of corruption entails the idea that social considerations are put aside in favor of private benefits. If the leadership is engaged in illegal acts, the anti-corruption drive will not just stop short of the maximum, but it will most likely stop much earlier than that. Klitgaard’s evaluation of the appropriate length of an anti-corruption campaign is perfectly reasonable when considering public administration from a normative perspective, but it becomes futile when the politics of corruption is considered.

Taking a more realistic approach, it is usually understood that besides considerations of technical and financial costs related to the adoption and implementation of anti-corruption policies, there is also the element of political capital. Anti-corruption, just as any other government activity, does not only translates into costs, but as it positively impacts society it also creates benefits for the government in the form of *political capital*, a crucial type of 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 many others) authorities are able to exert control over the political system and carry out their duties without relying on coercion alone.

This capital, when we drop the assumption of a virtuous and devout leadership, explains the reason why certain policies are adopted while others are ignored. Not surprisingly, political capital is especially important in democracies, where it has the ability to directly translate into popular support and power. Therefore, Klitgaard’s idea could be converted into a more useful statement: anti-corruption efforts are pursued as long as they are politically profitable for the leadership.

Although the above assertion is also applicable to most government activities, anti-corruption is not like any other policy: it targets government itself, contrary to others that mostly involve civil society. The contradiction or dilemma is obvious. Going back to the subject of efficiency in a scenario of corrupt leadership, there is a clear incompatibility between the objective pursued and the actors called on to pursue it. To give an analogy, it is equivalent to expecting a thief to arrest himself. Thus, the situation quickly takes a turn for the worse when we consider that political capital can be completely forsaken in favor of higher rewards in the form of proceeds from corruption. We can take political capital completely out of the equation, and expect a political leadership to reject any anti-corruption activity that might create obstacles to their network of corruption. Certainly, the relative weight of political capital against illegal incomes will depend on the subjective preferences of the political actors, but when the latter are prioritized we should expect anti-corruption reform to completely stagnate; and this is a major peculiarity of anti-corruption policies, for other types of policies do not introduce additional costs to their implementation beyond regular resources. All else being equal, anti-corruption measures have a higher ratio of costs to political capital than most other types of policies.

Once we stop assuming that the political leadership is inherently interested in gaining political capital through the adoption of anti-corruption policies, and that even the contrary can be true (corrupt politicians can actively oppose reform), the implementation of campaign promises and international conventions become less likely, while counter-reform efforts become a real possibility. In fact, public anti-corruption announcements and the ratification of international conventions may even fit a strategy of anti-corruption resistance, in which the temporal acquisition of political capital is fostered without having to engage in real implementation later on. The case of the IACAC and the MESICIC described in the introduction of this paper is a reflection of such situation.

The key to begin exploring the consequences of this reasoning, then, is to explicitly adopt a description of political will that might reflect the real-life politics of developing countries: *For an honest government, anti-corruption policies should only be attractive in direct relation to the political capital they can generate for them; for a corrupt government, anti-corruption policies should be avoided in direct relation to the interests they threaten.* Such is the hypothesis that is tested in the following section by reviewing Peru's experience with the production, adoption and implementation of a National Anti-Corruption Plan from 2001 to 2013, spanning the governments of presidents Valentín Paniagua (2000-2001), Alejandro Toledo (2001-2006), Alan García (2006-2011) and Ollanta Humala (2011-2016).

IV. EMPIRICAL ANALYSIS OF THE PERUVIAN EXPERIENCE, 2001-2013

1. President Paniagua's *A Perú Without Corruption*

The experience of systematic anti-corruption efforts in Peru can be said to have effectively began in the year 2000 as a consequence of the collapse of the Fujimori regime (1990-2000). After painfully getting over an electoral process marred with claims of fraud and abuse of power, the public release in September of a videotape showing presidential advisor Vladimiro Montesinos bribing an opposition member of Congress ignited national outcry and a process of collapse that concluded with the discovery of a complex corruption network, the escape and resignation of president Alberto Fujimori, and the installation of a Transitional Government with the appointment of minority leader Valentín Paniagua. The measures that were adopted and implemented by the Paniagua administration to address the spread of corruption in the country put malfeasance finally in the center of the political agenda: between December of 2000 and July of 2001, Peru saw the emergence of an anti-corruption subsystem composed of specialized public procurators, prosecutors and courts of law; the adoption of legal norms to facilitate and empower the work of the subsystem; impressive results in terms of asset recovery and the dismantlement of the Fujimori-Montesinos network; and, the official launching of a national policy discussion on corruption prevention through the work of the *INA* (National Anti-Corruption Initiative).

The INA¹ was created on April 11, 2001, as an official forum for the discussion and proposal of anti-corruption policies that included actors from the public and private spheres, and civil society. Additionally, and perhaps more importantly, the INA was set to formulate a thorough diagnosis on the phenomenon of corruption in the country, and produce a national dialogue upon which the basis for a future National Anti-Corruption Plan (NACP) could be established.

The INA's focus on fostering the creation and adoption of a NACP is evident in the Initiative's main product, the document entitled *A Perú Without Corruption (Un Perú Sin Corrupción)* (INA 2001), which not only addresses specific guidelines for the creation of a NACP, but largely discusses specific measures under the title "Guidelines and Recommendations of the Anti-Corruption Plan" (Lineamientos y Recomendaciones del Plan Anticorrupción) (p. 21). This amalgam of guidelines for the formulation of a future plan and explicit anti-corruption measures is explicit in the document: "The INA proposes to have in mind four essential requirements and four central guidelines for the elaboration of the National Plan to Fight Corruption" (p. 14). This statement is followed almost immediately by offering that "[s]urely, the political will is going to help refine and execute the National Anti-Corruption Plan in the shortest period and with the best result possible" (p. 14). Thus, it is clear that *A Perú Without Corruption* was meant to serve as both as a manual for the production of a NACP by the next administration, and as its draft.

The raw materials for an official NACP produced by the INA, however, were soon forgotten by the new administration of president Alejandro Toledo, whose leadership failed to follow up on its successor's efforts to prevent corruption from an institutional perspective. An anecdote told by a senior official of his government² helps us grasp the lack of political will:

“Almost nobody in the Ministry (of Justice) knew of the small booklet published by the INA. How was that possible, if it had been handed over? The printed edition came out sixty or ninety days after Toledo had taken office... Then, how was that possible? Where were [the booklets]? Didn't public officials know [of their existence]? ... Orders were given to investigate and locate the documents. Much to the surprise [of the minister of Justice], they were found in boxes stored in a shut down bathroom. They had never been distributed.”
(Translated from Spanish)

Aware of an increasing scenario of domestic and international corruption intolerance brought about by the Fujimori-Montesinos case and the approach taken by the Transitional Government, president Toledo was quick in addressing the pressure and to appoint a so-called 'anti-corruption czar' (Valenzuela 2001), decision immediately followed by the creation of the *CNA*³ (National Anti-Corruption Commission), first of its kind at the national level. The timing for such measure was crucial: in the short span of four months, the 59% of popular approval enjoyed by Toledo when he first took office in late July of 2001 had eroded at an impressive rate, reaching 32% as early as November of that year. Under those circumstances the government was in desperate need for new sources of legitimacy, strategically looking for it in the creation of the CNA on November 17, 2001.

The CNA, naturally, was put in charge of proposing a NACP, but officially referring to it now as “national policy of prevention and fight against corruption” (*política nacional de prevención y lucha contra la corrupción*) (article 3, section *a*), and establishing an additional “Annual Plan of Prevention and Fight Against Corruption” (*Plan Anual de Prevención y Lucha contra la Corrupción*) (Article 3, section *d*). This seemingly innocuous change of terms, together with the legal, financial and political weaknesses that would eventually paralyze the work of the anti-corruption commission, had the unfortunate effect of relegating the creation of a proper NACP to a secondary task, and even to have the title “national anti-corruption plan” appropriated by the CNA in reference to its own internal plan (CNA 2002a; 2002b: 3; 2002c). Thus, while the *national policy* mentioned above was properly sent⁴ to the Prime Minister (CNA 2003) as required, it was never approved and fell completely into oblivion.

The government's actual disposition towards anti-corruption activities, and its revision from seeming support, to neglect, to finally opposition, was naturally reflected in the dire fate of the NACP during this period, which is described best by a consultant who was involved in the commission's work⁵:

“[The CNA] was supposed to take into account mostly the guidelines developed by the INA... [An expert] was invited to work on what was going to be the National Anti-Corruption Plan... Here it is important to mention this: The CNA, like any anti-corruption agency in any country, needed to be supported by political will in order to fulfill its objectives. And [the CNA] also depended on the intentions and direction [the government] wanted to give to the fight against corruption; in some cases, it can end up interfering with it... At some point the government itself stopped providing the necessary support to the commission... [Nonetheless,] we managed to produce some documents: A mid-term plan, the annual plans (following bureaucratic requirements)...” (Translated from Spanish)

Thus, as time passed, the appearance of political will to support a NACP or any other substantial anti-corruption initiative steadily dropped, until annual internal plans were all that the commission could hope to produce. By 2003, the government of president Toledo had already obtained all the political capital it could from promoting anti-corruption activities through the CNA (corruption had fallen in popular importance behind more prominent issues⁶), and so the commission quickly lost its appeal. The swift and sudden way in which the government handled the disempowerment of the CNA, starting with its beheading, supports this view. The last official meeting of commissioners of the CNA took place on February 6, 2003. Exactly one week later, and without notice, the president of the commission was appointed ambassador of Perú in Argentina,⁷ departing from the country a day later. The rush was so great that his resignation was only made official two months later, on April 25, which meant that the ministerial resolution had to explicitly state that it had retroactive efficacy. Finally, on April 30, the official newspaper *El Peruano* published Supreme Decree No. 047-2003-PCM, which modified the norm that had created the CNA, rendering it harmless for the government and putting the blame on the complaints made by competing government agencies. Following these measures, the CNA was further secured from political activism by the appointment of a political operator⁸, Juan Paz Espinoza, as the Executive Secretary of the commission on May 1. This position had been officially created by the amending norm (published on April 30) to supersede the administrative duties of the president. By doing so, the government managed to (1) avoid the appointment of a new president, (2) disable any official meeting of commissioners, (3) guarantee its control of the CNA’s activities, and (4) still keep the commission running (at least formally). For the next two years no meeting of commissioners would be organized, and most of the activities would revolve around anti-corruption training for public officials and civil society.

With the effective deactivation of the CNA (which formally kept existing, but focusing all its scarce resources on activities of promotion and training), the possibilities for a NACP proper were also buried, for both their fates were implicitly tied by executive decree.

2. President Toledo's National Anti-Corruption Plan 2006

A systematic approach to the fight against corruption in Peru would not resurface until February 2004, when explosive allegations of corruption implicating the former head of the National Council of Intelligence (and former advisor of president Toledo), César Almeyda, caused a political crisis that threatened to cut Toledo's term in office short⁹. National news coverage read:

“Acknowledging the gravity of the recent events taking place as a consequence of the Almeyda-Villanueva audio, politicians, entrepreneurs, laborers, civil society and members of the church that had gathered at the National Agreement Forum urged the government to dictate ‘political, social and judicial measures to get over the situation...’ At the time we went to press, president Alejandro Toledo, prime minister Carlos Ferrero and the congressmembers of *Perú Posible* remained assembled at the Presidential Palace reviewing the measures that the Prime Minister will announce today as part of the plan to fight corruption.” (Translated from Spanish) (*La República* 2004)

On February 3, prime minister Ferrero unveiled the government's plan to address corruption by proposing a ten-point agenda that was to be carried out in the following months, including the strengthening of the Judiciary, the reform of the constitution to make the statute of limitations inapplicable to crimes of corruption, the revamping of the CNA, among others. Over a year later, however, Ferrero was confronted in Congress for the government's failure to follow through with the implementation of its ten-point agenda, in particularly concerning the issues of constitutional reform and the state of the CNA, which remained without a president (Congreso de la República 2005). Indeed, the Toledo administration had put aside all anti-corruption efforts, and had opted instead for purely symbolic measures: On May 6, 2005, a few days before Ferrero's presentation in Congress, the government had changed the norm that created the CNA, thenceforth granting the executive secretariat the capacity to hold official meetings of commissioners in the case of absence of the president. Such measure, although seemingly aimed at reactivating the commission, had the real objective of furthering the political dependence of the commission, as four months earlier, on January 13, the government had terminated the appointment of Juan Paz as executive secretary and put Alberto Ygor Martínez Llanos in his place,¹⁰ who was an official member of the incumbent party (in fact, he had unsuccessfully run for Toledo's party *Perú Posible* on the congressional elections of 2000¹¹). Thus, the government could be shown to comply with one of the measures offered a year earlier, at least on paper.

It was not until January of 2006, scarcely six months before the end of Toledo's term, that the first formal endeavor to produce a NACP was finally initiated. Soon after the CNA was transferred from the *PCM* (Presidency of the Council of Ministers) to the Ministry of Justice¹², the government (under the advise of Vice-Minister of Justice Jaime Reyes Miranda, who had previously worked with the CNA from his previously held post of Secretary General

of the PCM, and who had just become the commission's new president¹³ only nine days earlier) made the decision on January 25 to constitute a task force¹⁴ to produce (in no more than sixty days) what would later be entitled the *National Plan to Fight Corruption and Citizen Ethics*. In reality, such a document was already envisaged as one of the functions ascribed to the CNA by Supreme Decree No. 002-2006-JUS of the Ministry of Justice (article 4, section a). Hence, just as before, the commission and the possibilities for a NACP were formally tied together. However, the electoral context had made anti-corruption efforts a valuable political commodity once again, and so the Toledo administration found in the production of a NACP an appealing source of legitimacy, one that could be better exploited by fostering the creation of a specific commission for that purpose, incorporating a broad array of public and private actors (including members of the national media) that could guarantee it a fair amount of exposure. Furthermore, the decree that established the task force contemplated the official constitution of a secondary and contributory commission to review existing anti-corruption legislation¹⁵, supposedly with the intention to inform the work of the task force. Once again, however, the government soon withdrew its political support once the incumbent party's presidential candidate dropped from the race¹⁶ and its symbolic anti-corruption gesture lost its usefulness, and neither the task force nor the commission were able to see their efforts come to any real fruition.

The task force held its first work session on March 29, 2006 (MINJUS 2006a), less than two weeks before the first round of national elections and after two-thirds of its awarded period had already passed. The commission in charge of reviewing the relevant legislation, on the other hand, was not created until May 12, a short eleven weeks before president Toledo had to leave office; for this reason, it was unlikely that this commission could have had any significant impact in the work of the task force, especially considering that it only held its first session on June 02 (MINJUS 2006b), while the second took place as late as July 05 (MINJUS 2006c), twenty-three days before the change of government. When the task force finished its work, the draft of NACP was finally presented at one of the last sessions of the Council of Ministers of the Toledo administration. The account of that event is provided by a former senior official¹⁷:

“The intention was to have [the NACP] approved before the change of government. The problem was that, when it was discussed at the Council of Ministers, the opinion of Prime Minister Kuczynski was that (as the [Toledo] administration was already in its way out) it was better to leave it up to the next administration... Unfortunately, the minister of justice could not attend that [particular] session of the Council of Ministers, so [Vice-Minister Reyes Miranda] was alone [to present the plan].” (Translated from Spanish)

Thus, although Prime Minister Kuczynski had co-signed the decree creating the task force for the creation of what should have been the first NACP in Peru, once the electoral period was over and it actually came the time to formally adopt it, the weight of this

responsibility was left to the next administration, which, as it will be soon explained, continued the exploitation of this document as a purely symbolic anti-corruption measure.

3. President García's National Anti-Corruption Plan 2008-2011

The NACP produced under the auspice of the Toledo administration was printed (as an official project of the Ministry of Justice) in the official newspaper *El Peruano* on August 12, 2006, already under the government of president Alan García of the APRA party. This new administration, aware of the value of such symbolic measure, quickly adopted it as its own.

Although refusing to have it formally approved by the new Council of Ministers, the Ministry of Justice had it printed and published it online in 2007 as mostly a product of the García administration, re-dating it accordingly. To this end, the content and timetable of the matrix originally established by the previous government was slightly altered in order to reflect the ongoing state, remaining otherwise untouched. But even more telling of the purely symbolic nature of the plan, the new print had Minister of Justice María Zavala stamp her name under the foreword originally written by Jaime Reyes Miranda (president of the task force), taking care to eliminate the names of former president Toledo and former Minister of Justice Alejandro Tudela, and adding a few sentences stating the APRA's achievement of the anti-corruption project began by its predecessor (MINJUS 2007a).

That same year, the García administration had a second encounter with the issue of a NACP, this time in the form of international pressure. In light of the bleak levels of implementation of the recommendations made by the MESICIC, the technical secretariat of this group "created a technical assistance program to support States Parties in the creation of a national Plan of Action to implement the recommendations formulated by the Committee of Experts" (OAS 2011a). In October of 2007, project consultant Franz Chevarría Montesinos (who was also a member of Peru's National Anti-Corruption Office, which had been created after the official deactivation of the CNA) presented a draft project entitled *Action Plan for the Implementation of the Recommendations of the Committee of Experts of the Mechanism for Follow-Up on the Implementation of the Inter-American Convention Against Corruption* (MINJUS 2007b), addressing the specific measures and responsibilities to be taken by the State in order to satisfy the recommendations made by MESICIC in the first two rounds of review. On the basis of this document, a national workshop was held in Lima between February 14 and 15, 2008, with the participation of domestic actors such as NGOs, civic and professional associations, constitutionally autonomous organizations, and public officials in general. The idea was to elaborate and improve on the project developed by Chevarría, providing it with popular legitimacy in the process, and to have it officially adopted by the government later on. Thus, the Action Plan financially backed by the OAS was meant to become the foundation, if not the embodiment itself, of a National Anti-Corruption Plan in Peru, as it would be the case in other countries of the region, such as

Uruguay (Corrupción en la Mira 2010). However, when the government finally produced an official (but not legally decreed) plan in December of 2008, members of civil society were quick to point that it had not taken into consideration the measures elaborated in the OAS-backed Action Plan. In fact, there was no mention at all of the document. The report from civil society (Arias 2010b) sent to the MESICIC as part of the Fourth Round of review stated:

“It is significant that [the Action Plan] was not included in the National Anti-Corruption Plan (in no part of the latter is the Anti-Corruption Action Plan mentioned), which could be demonstrating that those who were in charge of relaunching the National Anti-Corruption Plan at the end of 2008... were in fact unaware of the existence of this other document. And, what is more troublesome, this omission constitutes the demonstration of the lack of continuity in a subject as important as that of the anti-corruption policy in Peru.” (Translated from Spanish)

The story behind the NACP 2008-2011 is particularly telling of the meaning this kind of anti-corruption measures have for the political status-quo. On October 5, 2008, four audio recordings (taken in a surreptitious way) were presented at an important political TV program, showing Alberto Quimper Herrera, director of the Peruvian public company in charge of the promotion of investment in the hydrocarbons sector (*Perupetro*), discussing with former APRA minister Rómulo León Alegría the payment of bribes in order to award oil contracts in favor of Discover Petroleum, a Norwegian company (La República 2008). The scandal (dubbed *Petrogate*) became quickly the biggest corruption-related political crisis in the post-Fujimori period, forcing the resignation of the president of *Petroperú* (the Peruvian state-owned petroleum company) the same night, followed by the minister of Energy and Mines a few days later, and eventually making the whole Council of Ministers present their resignation, which had to be accepted by president García under the increasing pressure from opposition forces (Chirinos 2008). To control the crisis, president García saw fit to offer the position of prime minister to independent leader Yehude Simon, who was already popular for his honesty and his commitment to transparency in the public sector. Regarding Simon’s appointment, political magazine *Caretas* (2008) expressed:

“What does Simon’s appointment by Alan García mean? First, an important reduction in the presence of the APRA apparatus, which only keeps the portfolios of Jorge Villasante in [the Ministry of] Labor and Enrique Cornejo in [the Ministry of] Housing... With the previous prime minister the [APRA] party held an organic level of influence that today no longer exists.” (Translated from Spanish)

Furthermore, the designation of Simon represented García’s public expression of support for anti-corruption reforms: “The fight against corruption, just as President García outlined, will cover a big part of [Simon’s] agenda” (Translated from Spanish), *Caretas* commented. In the opinion of Alfredo Torres, director of the consulting firm APOYO, “[t]he impact of [Simon’s] designation over the image of the president has been moderate... but it

is necessary to keep in mind that, if not for the change of ministers, the approval of the administration would have probably suffered a significant blow as a consequence of the ‘Petrogate’ scandal” (Translated from Spanish) (APOYO 2008a: 1).

The Petrogate scandal, however, kept thriving in regards to the direct actors involved. Media coverage had not left alone the corruption affair, exposing almost every day new details on illegal activities carried out by the implicated parties, and the situation worsened with the public prosecutor’s orders to initiate proceedings against fourteen members of the Petrogate network on October 21, 2008. Soon the media began anew to question the specific role of senior officials of the García administration in the corrupt affair, as information surfaced regarding meetings that the former ministers of Health, Justice, and Internal Affairs (Núñez 2008) had held with members of the network. The National Congress, too, continued its investigation, and former ministers and other officials close to President García were summoned for enquiry. These incidents caused popular approval for President García and the executive branch to fall 3% and 1% by mid-November, respectively, with 42% of surveyed people expressing disapproval due to the high degree of corruption affecting the government (compared to 37% the previous month). The domestic environment expressed skepticism regarding García’s discourse in relation to the fight against corruption: 56% believed that the administration had done nothing to address this issue since it had taken office in 2006 (APOYO 2008b).

Amidst this enduring pressure (reflected, and partly represented, by news of corruption appearing in the front page of national newspaper *La República* during 78% of this period—much higher than the average of 24%), new Prime Minister Yehude Simon presented on November 14 a project of National Anti-Corruption Plan for public discussion, which was then revised and formally presented in its final version on December 24. The measure helped stimulate political support towards his person and that of President García, with Simon’s popular approval increasing 2% between November and December and disapproval of García’s administration due to corruption falling (APOYO 2008c).

Beyond its normative value, however, it is now clear that the Plan was not intended to be anything more than a measure aimed at coping with anti-corruption demands and political pressure: Although presented in the prominent forum of the National Agreement (Andina 2008a) and having attracted praises from members of the organized civil society (Andina 2008b), it was never officially approved by the government. Thus, the NACP represented the symbolic measure that allowed the APRA administration to regain the political capital lost during the Petrogate crisis; once the crisis was over, the Plan was mostly tossed away, as its implementation would have considerably affected the anti-corruption status quo of the country and the corrupt networks that kept thriving beyond the Petrogate affair.

4. President Humala's National Anti-Corruption Plan 2012-2016

Following the public presentation of the NACP 2008-2011, in February of 2009 the PCM decreed the creation of a high level commission for the proposal of measures to execute the plan,¹⁸ and a multisectoral task force in charge of following-up and coordinating their implementation.¹⁹ These executive decisions, however, were not actually carried out to any appropriate extent: According to an official report from Congress (Congreso de la República 2010) prepared almost two years later, the task force limited its activities to request and obtain periodic compliance reports from the ministries, and to upload them on the PCM's website, which was a far cry from its duty to coordinate and supervise the NACP's implementation.²⁰ Indeed, the report (p. 38) informed that:

“It is to be noted that the Multisectoral Task Force has informed the Special Commission of the progress in the execution of the National Plan to Fight Corruption, providing the information received from the Ministries mentioned above; nonetheless, [the Task Force] does not provide information regarding compliance with the objectives, actions and goals in a comprehensive or general manner, and, furthermore, it does not provide information either on the management indicators that could allow the measurement of progress in the implementation of the aforementioned Plan.” (Translated from Spanish)

A follow-up document presented in March of 2011 (Congreso de la República 2011) informed that the available compliance reports offered by the task force had fallen behind schedule, providing information only up to September of the previous year. According to a consultant appointed in 2010 to oversee the work of the task force²¹:

“Before [I arrived], the group only reported its activities, they would report by sending documents to the PCM that were then filed... All the Ministries complied with providing information like ‘we have tended to forty requests for [access to public information],’ but that was completely useless because no one would systematize the information or check how it had been generated, if it was correct or not.”

Such situation added concerns to the fact that the task force had failed to be incorporated to the *CAN*²² (Anti-Corruption High Level Commission) established over a year earlier (which had taken the place of the previous high-level commission), and whose decree of creation had mandated the PCM to make immediate arrangements to that purpose. The high level commission for the proposal of measures to execute the plan, on the other hand, had never even got off the ground. A former senior official of the PCM²³ explains that it “never worked; it never came into existence... If you had not showed me [its decree, I would not have even remembered it]. The one that worked was the task force; this [high level commission] did not work at all.” (Translated from Spanish) This was confirmed by the consultant of the PCM²⁴ quoted earlier: “We didn't find any minutes of installation or anything of the sort.” (Translated from Spanish)

After the aborted effort to have a NACP officially adopted and/or effectively implemented during the government of president Alan García, the new administration that took office on July 28, 2011, moved swiftly towards boosting its political capital by undertaking anti-corruption efforts on three different lines: Control of corruption, through the revamping of the anti-corruption procurator's office; corruption prevention, through the appointment of a new coordinator of the CAN and the strengthening of its budget; and international linkage, by having Peru join the brand new OGP (Open Government Partnership). Amidst this changing scenario, the government fostered the production of the first official National Anti-Corruption Plan of the country, approved by Supreme Decree No. 119-2012-PCM of December 8, 2012.

Behind the cover of an anti-corruption reform agenda, however, the same rationale exhibited by previous administrations went on unaffected, meaning that the above anti-corruption measures were in fact only carried out for the political capital they provided, which at the time was higher than the sum of the resources spent and the threat they posed to corrupt profits. Although the activities mentioned did not correspond to the line of action of a corrupt administration, they also did not prove to go beyond the provision of symbolic measures once considered in detail: While the CAN does represent an important forum for the exchange of experiences and the coordination of activities, it effectively occupies an institutional space that should have been filled by a more autonomous, well-funded and powerful agency in charge of preventing corruption; and the later upgrade to the status of law awarded on January of 2013 (a month after enacting the NACP 2012-16) further secured such position. A similar situation became apparent in the case of the OGP: Although Peru's commitments to this international organization were initially upheld (at least regarding the formalities involved), once civil society pressed the government for the inclusion of an Autonomous Authority of Transparency into the OGP's national Action Plan, the Humala administration went from a position of seeming willingness towards anti-corruption actions to one of open defense of the status quo, prompting Transparency International's national chapter *Proética* (2015) to express in an official communication: “[T]he published plan does not follow the deadlines nor the conditions in which it had to be formally approved, which voids it for the [Open Government Partnership].” (Translated from Spanish)

In regards to the NACP, it is possible to identify its instrumentalization for political purposes in two ways. First, the project, approved a month earlier by the heads of the most relevant organizations of the country seated at the CAN, explicitly noted that “the members [of that forum], with the participation of the Comptroller General in his status of guest, unanimously approved the proposal...” (*los integrantes de la CAN, con la participación del Contralor General de la República, en calidad de invitado, aprobaron por unanimidad la propuesta...*). In this way, it is possible to bring attention to the government's role in the production of the NACP as having the double benefit of demonstrating its concern with

corruption to other societal and political actors, while gaining their support by adopting their pre-approved project.

Second, the way the document removed from the original proposal (produced by external consultant Franz Chevarría, who had authored the OAS' Action Plan for Peru in 2007) the matrix of implementation, which included the indicators, timetables, goals and actors responsible, suggests a lack of interest in seeing the activities prescribed actually carried out. Thus, the plan that was ultimately adopted only addressed objectives, strategies and actions, stating by the end of the document that "it is during the six months after this document is officially published that the General Coordination of the CAN, within the scope of a participatory process, will define the indicators, goals, actors responsible and the mechanism for the follow-up and evaluation of the National Plan Against Corruption 2012-2016" (Translated from Spanish) (CAN 2012). Details on this promised process, however, remain scarce, and while the matrix of indicators was eventually produced and presented by the CAN in an interinstitutional workshop (CAN 2013) on July 12, 2013, it was never incorporated into later publications of the plan, nor has there been public reports on the level of implementation that a follow-up mechanism was supposed to provide.

Under these circumstances, the NACP 2012-2016 can be said to have focused more on stimulating political capital for the government than in effectively fighting corruption.

V. CONCLUSIONS

The present study began by suggesting that the lack of anti-corruption progress usually found in most countries of Latin America is not a consequence of either technical or financial constraints, but rather due to a misconception regarding the source and nature of reform efforts. Thus, by readdressing the concept of political will for anti-corruption efforts, the level of political will could be explained by considering both political capital and corrupt profits as sources of stimulus for domestic leaders. To test the validity of this claim, the study turned to review the development of a national anti-corruption plan in Peru from 2001 to 2013.

As each stage of the evolution of the NACP showed, the effort to produce, adopt and implement such a document followed closely the state of political events and the characteristics of the office holder. Thus, while the Transitional Government of Valentín Paniagua had no choice but to declare a war against corruption in the short eight months that it held office, leaving to the new democratically elected government the responsibility of adopting the plan outlined by the INA, the administration that followed saw the project of a NACP as a source of legitimacy and political capital. President Toledo dropped the project almost immediately after taking office, burying it inside the symbolic experiment that was the CNA and picking it up again in the last months of his administration, but still refusing to

have it officially adopted after the electoral process had come to an end. Following suit, president García used the NACP as a measure to boost popularity during the worst corruption-related political crisis of the post-Fujimori period; after the crisis was solved, however, the symbolism of the document became apparent as the government once again refused to officially adopt it. Finally, the Humala administration showed an initial preference for political capital above corrupt profits, engaging in a successful process to have the first National Corruption to Fight Corruption officially decreed within the first three years of government (when the performance of the administration had not yet invited any significant anti-corruption demands); however, it still remained true to the theoretical premise of this paper by stripping the plan of strict commitments, thus making implementation (and evaluation) effectively unnecessary.

A revised understanding of the political dynamics inherent in the problem of anti-corruption reform offers a new direction for domestic and international advocacy actors to invest their limited resources. It is necessary to recognize the real political conditions that are precluding nations from controlling corruption before growing evidence of failed implementation makes the current global anti-corruption era fall to the threat of skepticism and tip over. Thus, the evidence from Peru's making of a NACP highlights the dire reality regarding political will for fighting public malfeasance, showing that conventional strategies to fight corruption need to be updated and protected from a political leadership whose partnership cannot be presumed any longer.

¹ Supreme Resolution No.160-2001-JUS.

² Personal interview. Lima, October 21, 2013.

³ Supreme No. 120-2001-PCM.

⁴ Official Letter No. 978-02-CNLCC/PE.

⁵ Personal interview. Lima, November 7, 2013.

⁶ While a study sponsored by the World Bank (2001) during the Paniagua administration had found that 85% of respondents identified corruption as the second most important obstacle in the country (only outdone by 'unemployment'), a national survey conducted by Proética (2002) and published in November of 2002 found that corruption had fallen to the third place with 63%, behind 'economic crisis' and 'unemployment,' and even to a fourth place (behind 'crime') when considering spontaneous answers. Meanwhile, a study conducted in March of 2002 showed that 46.1% of surveyed people were aware of the existence of the CNA, and that almost half of them trusted that it would accomplish its mission (Universidad de Lima, 2002).

⁷ Supreme Resolution No. 044-2003-RE.

⁸ Description provided by a staff member of the CNA in personal interview. Lima, November 14, 2014.

⁹ The threat to democratic order even prompted the OAS (Organization of American States) to approve CP/RES. 860 (1398/04) on February 12, 2004, expressing its support to the constitutional government of president Toledo but reiterating that the fight against corruption was a shared objective of the international organization.

¹⁰ Ministerial Resolution No. 006-2005-PCM.

¹¹ Alberto Ygor Martínez Llanos occupied the place N° 85 in the list of congressional candidates, as it is shown in Resolution No. 216-2000-JNE of the National Electoral Jury, published on the official newspaper *El Peruano* on February 19, 2000.

¹² Supreme Decree No. 082-2005-PCM.

¹³ The term *commission* is used here to avoid confusion. Actually, on January 16 of 2006 the CNA was reinvented by the Ministry of Justice as the National Anti-Corruption *Council*, which was given a slightly different structure (Supreme Decree No. 002-2006-JUS).

- ¹⁴ Supreme Decree No. 004-2006-JUS.
- ¹⁵ Ministerial Resolution No. 188-2006-JUS.
- ¹⁶ On January 31, 2006, the presidential candidate for the incumbent party *Perú Posible*, Rafael Belaúnde Aubry, announced its resignation, thus leaving the party out of the presidential race.
- ¹⁷ Persona interview. Lima, November 18, 2014.
- ¹⁸ Supreme Resolution No. 034-2009-PCM.
- ¹⁹ Ministerial Resolution No. 044-2009-PCM.
- ²⁰ Ministerial Resolution No. 044-2009-PCM, Article 5, sections *a* and *b*.
- ²¹ Personal interview. Lima, November 11, 2014.
- ²² Supreme Decree No. 016-2010-PCM.
- ²³ Personal interview. Lima, October 25, 2014.
- ²⁴ Personal interview. Lima, November 11, 2014.

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