

Corruption and Politics in Uruguay

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Abstract

Transparency scores in Uruguay have improved in the last fifteen years in both absolute and comparative terms. This paper argues that this change is the result of a long-run process of transformation in Uruguayan politics from competitive particularism to an open access regime. First, this paper briefly reviews the political and institutional changes that led governance in Uruguay to be based on universalistic norms. Next, it uses public opinion and elite survey data to provide descriptive evidence about citizen perceptions of levels of corruption. Third, the paper uses media data to explore the place that corruption held in the public agenda during the last fifteen years. Finally, using court records, it evaluates the efficacy of existing structures to punish abuses. These analyses help to clarify the main features that lie behind the categorization of Uruguay as a contemporary achiever in terms of government transparency.

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Introduction

Changing the rules of the game in a low-enforcement environment seems like a useless task. As Abraham Lincoln said, “laws without enforcement are just good advice.” Although this seems like a reasonable statement, a substantial portion of the effort to combat corruption has focused on the discussion of the most effective laws to control it. Consequently, positive outcomes rooted in these supposed institutional advances are few and far between. New legislation seems to be more dedicated to the perceived legitimacy of politicians than with ending corrupt practices. As Mungiu-Pippidi points out, “transitions from corrupt regimes to regimes where ethical universalism is the norm are political and not technical-legal processes” (2011: 11).

Particularism and clientelistic linkages have been theoretically associated with a period of economic modernization (Huntington 1968, Scott 1969, Powell 1970, Mungiu-Pippidi 2011). However, many countries, having achieved significant levels of modernization, continue to be particularistic, and their party systems continue cultivating clientelistic links with citizens (Kitschelt 2000). Just as there is not a linear relationship between modernization and democracy, there does not seem to be a linear relationship between modernization and the introduction of open access regimes. It is thus relevant to analyze how political systems manage to function as open access regimes based on universally applied rules and policies.

The endogeneity of the relationship between the gross national product (GNP) and low levels of corruption as measured by Transparency International’s Corruption Perception Index (CPI) makes it difficult to know what the causal mechanism is behind this association. Do low levels of corruption lead to economic development, or is the inverse true, with development causing low levels of corruption? On the other hand, a substantial part of those countries which receive the best scores on the CPI are developed countries, which tend to be historically perceived as societies with low levels of corruption. This means that the only way to uncover the causal mechanism underlying the relationship between wealth and corruption is through the analysis of cases in which intermediate levels of GNP per capita combine with low levels of corruption, in countries which were perceived in recent history to be dominated by discretion and particularism.

Uruguay presents this combination of attributes. It is a “contemporary achiever,” a country that has only recently come to be considered an open access regime, which has registered modest economic achievements over the last 30 years. Using the case of Uruguay, this paper shows how change in the competitive equilibrium of the party system (from a system based in clientelistic competition to one grounded in programmatic competition) is what transformed Uruguay into an open access regime. In this context, the legislative reforms instituted to control governmental administration and politics, did not seek to transform the structure of competition between parties,

but rather to reinforce a change that had already taken place. That is to say, the laws that were incorporated regulate the activities of politicians and bureaucrats and were developed in a new context, where transparency is more highly valued, and where political corruption can cast doubt on the legitimacy of the system.

This paper begins with a brief overview of the evolution of political competition in the Uruguayan party system. Next, political attitudes of the Uruguayan mass public and political elites with respect to corruption are analyzed, followed by a discussion of the media's role in the national conversation about corruption. Third, legislative and institutional changes in anti-corruption policies are characterized. Finally, these pieces are synthesized to create a theoretical argument, and I return to a discussion of Uruguay's evolution to becoming an open access regime.

The Uruguayan Party System

The Uruguayan party system is one of the most institutionalized in Latin America. On the one hand, the comparative political science literature, since the generation of the concept of institutionalization (Mainwaring and Scully 1995) to more recent studies (Jones 2005) classify the Uruguayan party system as institutionalized. On the other hand, diverse indices of political attainment (Freedom House, Latinobarómetro, LAPOP, etc.) locate the Uruguayan political system in a position of regional leadership, including in these evaluations the party system and related attributes.

The notion of party system institutionalization is closely associated with the notion of stability, particularly in the electoral arena. However, the Uruguayan party system has undergone significant transformations over the past several decades: from a two-party system hegemonized by two traditional parties — the *Partido Colorado* (PC) and the *Partido Nacional* (PN) — until the 1960s, when it was replaced by a new, multiparty model in which a new party — the *Frente Amplio* (FA), founded in 1971 — displaced the traditional governing parties.

In Uruguay, from 1916 until the end of the 1960s, the party system functioned with low levels of programmatic competition. The PN, the PC, and their different factions constructed their political bases in the clientelistic distribution of public resources. This equilibrium was based in institutions, which assured easy access to goods to be distributed both for the party which currently held power and for the party that was forced into the position of opposition. Álvarez points out that, “Uruguay is a society with a strong tradition of statism and clientelism” (2012:40). Using Scheffer's 1994 categorization, both parties can be considered to be “internally mobilized” parties, those constructed from within the state apparatus.

Political campaigns based in programmatic offerings put forth by so-called “parties of ideas” (the Socialist and Communist Parties, as well as the *Unión Cívica*), were unable to pose a successful challenge to the traditional system (the PN and PC). Towards the end of the sixties, the traditional clientelistic strategy became decreasingly fiscally viable and increasingly electorally inefficient (Álvarez 2012). As a result, programmatic offerings began to garner success, and traditional sectors began to feel challenged by new party actors (chief among them, the *Frente Amplio*), which aimed to undermine their popular and middle class electoral bases using programmatic offers.

The institutionalization of the Uruguayan party system is based, according to Buquet (2012), on the capacity it has demonstrated to generate, in the presence of external challengers, a body of rules that benefitted, for more or less extensive periods of time, political stability in democratic contexts. The twelve year military dictatorship, from 1973 to 1985, represented the system’s incapacity to include a new actor, the FA, which imposed a new competitive strategy based on party program rather than on clientelistic distribution. When the dictatorship ended, the old party system had to adapt to new economic, political, and social realities in which clientelism was no longer an option. Social modernization, economic opening, advances in technology, and the financial and fiscal precariousness of the state, as well as the appearance of a programmatic opposition, required that the traditional parties (PN and PC) phase out clientelistic competition, replacing it with programmatic strategies of competition. As Bornschier (2012) suggests, the transformation of old oligarchic systems in programmatic party systems is associated with political polarization promoted by parties of the left that challenge the old, traditional block.

Between 1985 and 2004, the Uruguayan party system reached a new equilibrium (Buquet 2012), but this new status quo required not only the modification of rules aimed to integrate a new actor, but also the shift of the lines of political competition from a clientelistic logic to a programmatic logic. Kitschelt et al. (2010) and Bornschier (2012) suggest that the Uruguayan party system is programmatic, or at least one of the most programmatic party systems in Latin America.

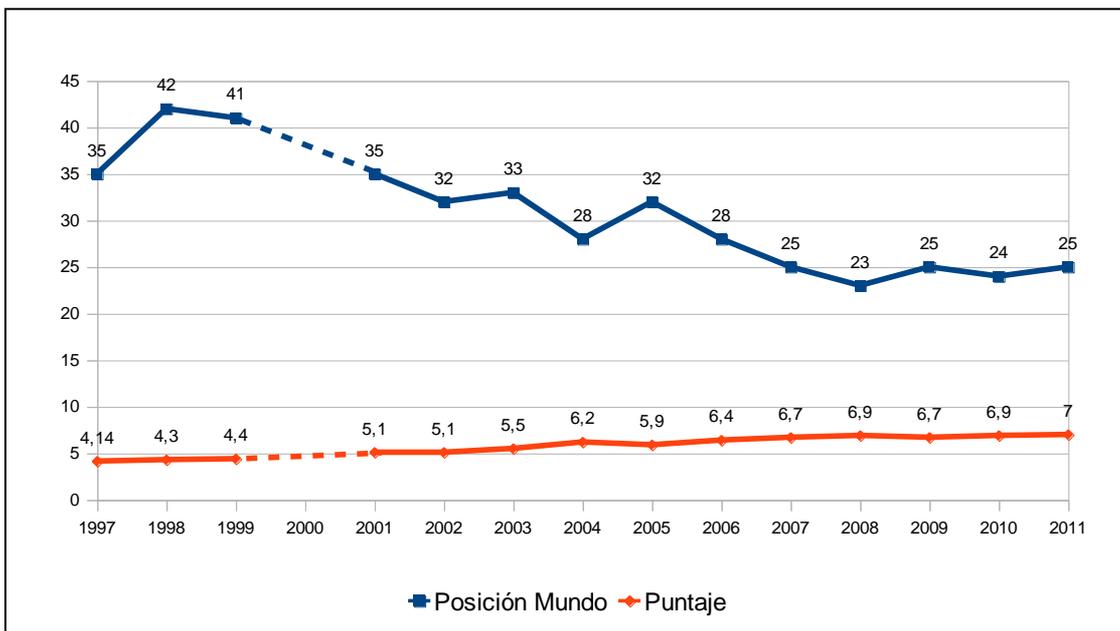
In this way, changes in political competition, which followed a similar logic to that presented by Geddes (1994), transformed Uruguay into an “open access regime.” The changes in anticorruption legislation, far from promoting a change in politicians’ conduct, are a product of a previous change in the logic of political competition.

Uruguay as a “late achiever”

Uruguay’s international image in terms of corruption is generally positive. Even though clientelism in Uruguay was a common political practice for an extended period of time, the phenomenon of

corruption never became similarly pervasive. More recently, the introduction of comparative instruments of measurement has not only confirmed this intuitive image, but has also showed that Uruguay is well located and progressing in the international context. Figure I illustrates both the score that Uruguay has obtained and the country's position in the international ranking that Transparency International has created each year for over a decade.

Figure I. Score and Position of Uruguay According to Transparency International



Source: Figure generated using Transparency International's "Corruption Perceptions Index." (http://www.transparency.org/policy_research/surveys_indices/cpi). Transparency International's scores vary from 1 to 10, with 10 indicating maximum levels of transparency.

Uruguay has achieved an important advance in ranking (from the 41st and 42nd spots to a high of 23rd in 2008), and now finds itself in a position of relative privilege. Further, the figure indicates a significant and persistent increase in the scores the country has received from Transparency International over the past decade or more. In Latin American, Uruguay is a leader, achieving the highest scores in recent years along with Chile, with a corruption profile that is clearly different from other countries in the region. Furthermore, diverse comparative political studies of public opinion, such as those published by Latinobarometer and LAPOP also place Uruguay in a position of regional leadership².

On the other hand, the few studies about corruption that have been carried out in Uruguay, while not discouraging a critical view of the phenomenon's presence, do corroborate the suggestion that

² See, www.latinobarometro.org and Seligson and Zephyr 2009.

overall levels of corruption are low. For example, a report produced by the Instituto de Ciencia Política in 2002 concludes that, “although it is evident that corrupt practices exist in Uruguay, this analysis (...) suggests that these practices are not generalized and are produced in different ways in limited arenas” (93). Additionally, recent work by the Instituto de Comunicación y Desarrollo (ICD, 2009) shows, based on surveys of the mass public, business people, and public employees, that corruption in Uruguay is perceived as being much lower than in neighboring countries. 93% of those interviewed believe that in Uruguay there is less or much less corruption than in neighboring countries, and 7% believe that there is the same amount of corruption; none of the individuals interviewed answered that there was more or much more corruption in Uruguay (Buquet 2009:117).

The report published by the ICD also allows us to view the development of corruption over time, as comparable studies were used for the Institute’s 2002 report. In the report, we can follow the evolution of one of the most robust indicators of corruption over time: the victimization of business owners by bribery. This indicator is particularly strong because it does not involve perceptions, which can be distorted by the media or social interactions; instead, it captures the actual experience of those interviewed who, at the same time, have limited incentives to answer untruthfully. In Table 1, the results from the 2002 and 2009 surveys are presented; in no case has the percentage of those interviewed who reported having paid a bribe increased. In fact, to the contrary, the percentage of respondents who reported never having been asked to pay a bribe increased substantially across the board.

Table I. Payment of a Bribe

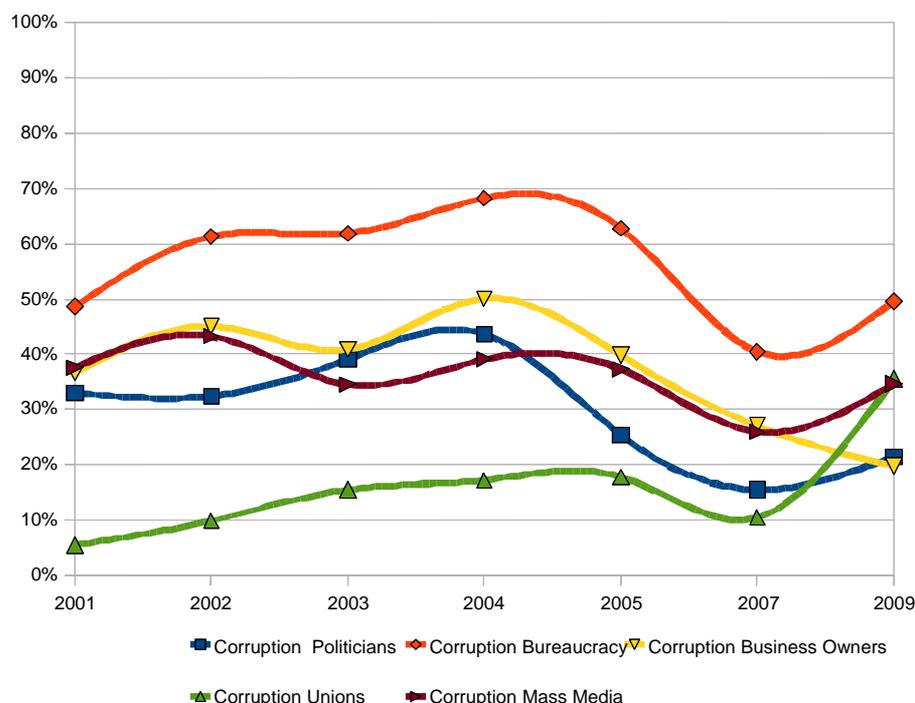
	2002		2009	
	Sometime*	Never	Sometime*	Never
Judicial Authorities	5%	92%	4%	93%
National Government	9%	88%	7%	91%
Departmental Government	14%	84%	13%	85%
Autonomous Entities	21%	76%	14%	84%
Legislators/ Politicians	10%	86%	5%	93%

Question: How frequently have you been asked or have you seen people obliged to pay bribes in...?
 * Summed responses for “frequently,” “occasionally,” and “rarely”.

Using information from the Permanent Elite Interviews carried out by the Instituto de Ciencia Política since 2001, we can observe the evolution of perceptions about corruption in different areas. Additionally, to measure more concrete aspects of corruption, the 2009 study inquired specifically

about the level of corruption in different political and social contexts in Uruguay, and its levels compared to other points in time and to other countries. Figure II presents the proportion of respondents who answered “a lot” or “some corruption” to the following question: “If you had to evaluate the level of corruption that exists in different environments, how much corruption would you say exists in...”³

Figure II. Perception of the Level of Corruption in Different Environments (annual data)



These perceptions have changed in the past decade. Figure II illustrates this evolution according to the environment being analyzed. The change in the perceptions of Uruguayan elites is not entirely consistent with the scores reported by Transparency International, as in the 2001-2004 period, the levels of corruption attributed to different environments trends upwards. Speaking broadly, the series shows a steep fall in perceptions of corruption beginning in 2005, with the lowest point registered in 2007 and a slight increase in 2009. In general, the majority of the environments analyzed currently register lower levels than average in the historical series.

³ These figures refer to the percentage of “a lot” and “some” responses, considering the distribution of responses in the following five categories: A lot; some; a little; none; did not know/did not respond.

Elite perceptions of corruption are not homogenous. Tables II A and B show perceptions of corruption in different sectors, according to the type of elite and the party identification of the elites interviewed for the 2000-2004 and 2005-2009 periods⁴:

Table II A. Perception of Corruption in Different Environments by Political Party

	Politicians		Bureaucrats		Business People		Unions		Media	
	01-04	05-09	01-04	05-09	01-04	05-09	01-04	05-09	01-04	05-09
Does Not Answer	44%	30%	76%	50%	50%	24%	21%	22%	44%	31%
P. Independiente	43%	14%	62%	57%	54%	7%	0%	0%	57%	29%
Partido Nacional	29%	17%	55%	52%	24%	26%	20%	27%	38%	26%
Partido Colorado	16%	22%	45%	47%	25%	29%	17%	29%	21%	31%
Frente Amplio	57%	20%	75%	51%	69%	35%	6%	17%	56%	40%
Total	38%	20%	62%	51%	46%	30%	13%	20%	41%	35%

"If you had to evaluate the level of corruption that exists in different sectors, how much corruption would you say exists among...". Figures are the added percentage of "a lot" and "some" responses.

⁴ The data were grouped into two time periods to compensate for the reduced number of cases resulting from the disaggregation of the data into type of elite and political party.

Table II B. Perception of Corruption in Different Environments by Type of Elite

	Politicians		Bureaucrats		Business People		Unions		Media	
	01-04	05-09	01-04	05-09	01-04	05-09	01-04	05-09	01-04	05-09
Legislators	17%	13%	50%	43%	35%	20%	13%	15%	29%	22%
Government	18%	5%	38%	38%	27%	22%	18%	19%	31%	31%
Business People	55%	33%	80%	52%	41%	30%	19%	27%	40%	33%
Union Workers	64%	35%	82%	67%	80%	54%	3%	22%	62%	55%
Intellectuals	46%	20%	66%	59%	51%	30%	11%	22%	51%	38%
Total	38%	20%	62%	51%	46%	30%	13%	20%	41%	35%

First, we observe that between one period and the next, the perception of corruption among politicians has decreased. The most important change is seen among members of the FA and those who are members of the *Nuevo Espacio* party. While they were members of the opposition, the majority believed that there was some or a lot of corruption, but during the past administration, when the FA⁵ was the governing party, the majority of those identified with the FA responded that there was little or no corruption among politicians. Interestingly, the levels of corruption perceived by members of the traditional parties (PN and PC), previously governing parties that were in the opposition in 2009, do not follow the inverse pattern. In fact, members of the PN report lower negative perceptions in some categories from 2005-2009, compared to the 2001-2004 period.

In regard to the other environments, we also observe a generalized decrease in the percentage of respondents who perceive some or a lot of corruption, with decreases of varying magnitudes. The exception, once again, is members of the PC, who perceive higher levels of corruption across the board. Those who affiliate with the PN perceive higher corruption in the second period among business people and union workers. Finally, it is worth mentioning that the group most skeptical about corruption levels of those interviewed was the governors, who departed from the general tendency and only perceived decreasing levels of corruption among politicians and business people.

Regarding the comparison of current levels of corruption with levels in the past, 62% of those interviewed reported that current levels of corruption are lower or much lower than in previous

⁵ *Nuevo Espacio* became part of the *Frente Amplio* beginning in 2004.

years. Those who believed that current levels of corruption are the same as in previous years make up nearly a third of those interviewed. Only 4% of the sample believed that levels of corruption are higher today than in the past. It is notable that no respondent answered that corruption is much higher currently than in the past.

Table III. Perception of Current Levels of Corruption Compared to the Past by Type of Elite and Political Party

		Does Not Know/ Answer	Much Less	Less	The Same	More
Type of Elite	Legislator	0%	17%	34%	38%	10%
	Government	0%	39%	46%	14%	0%
	Business People	5%	5%	30%	55%	5%
	Union Worker	0%	20%	65%	10%	5%
	Intellectual	4%	0%	50%	46%	0%
Party Allegiance	Does Not Answer	13%	0%	27%	60%	0%
	P. Independiente	0%	0%	25%	75%	0%
	Partido Nacional	0%	0%	9%	78%	13%
	Partido Colorado	0%	0%	0%	75%	25%
	Frente Amplio	0%	28%	63%	8%	1%
Total		2%	17%	45%	32%	4%

When the same information is analyzed by type of elite or by party allegiance, we observe starker differences in current perceived levels of corruption. For example, among governors, a substantial percentage (39 percent) believes that corruption is currently much lower in the past. Legislators and intellectuals are divided between those who believe that levels of corruption are currently lower than in the past (34 percent), and those who believe that these levels are the same (38 percent). The majority of business people (55 percent) believe that corruption is the same now as in the past, while union workers take a strikingly different position, with more than 80 percent believing that the current situation is better or much better.

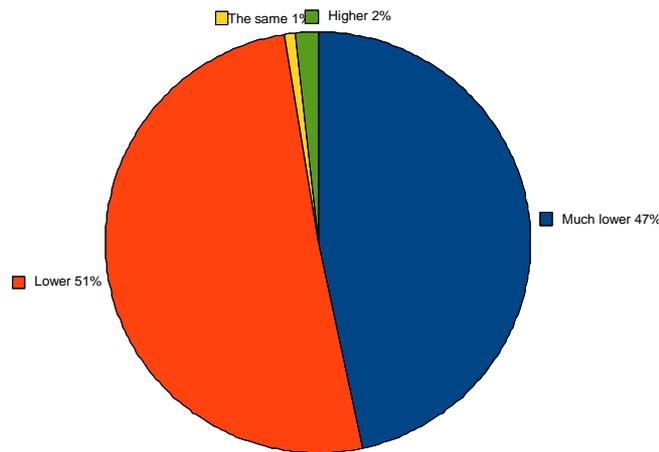
Regarding elite expectations about the evolution of levels of corruption in the future (Table IV), we observe that, in general, 54 percent of those interviewed think that in the next five years, levels of corruption will decrease in Uruguay. More than a third believe that levels of corruption will remain the same, and only seven percent believe that levels of corruption will increase. These results indicate optimism about the future of corruption in Uruguay; however, this optimism is moderate: only 14 percent believe that this decrease in corruption will be substantial.

Table IV. Expectations about Corruption in the Next Five Years by Type of Elite and Political Party

		Does Not Know/ Answer	Will Decrease Substantially	Will Decrease a Little	Will Stay the Same	Will Increase a Little	Will Increase Substantially
Type of Elite	Legislator	7%	17%	38%	24%	10%	3%
	Government	0%	18%	57%	25%	0%	0%
	Business People	10%	0%	30%	40%	15%	5%
	Union Worker	0%	30%	45%	20%	0%	5%
	Intellectual	13%	4%	29%	54%	0%	0%
Party Allegiance	Does Not Answer	20%	7%	20%	47%	7%	0%
	P. Independiente	25%	0%	0%	50%	25%	0%
	Partido Nacional	9%	0%	4%	70%	13%	4%
	Partido Colorado	0%	25%	0%	50%	0%	25%
	Frente Amplio	1%	20%	60%	16%	1%	1%
Total		6%	14%	40%	32%	5%	2%

Figure III illustrates that practically all of the Uruguayan elite believe that national levels of corruption is lower or much lower than in other countries in the region. This astounding majority is present in all elite sectors analyzed here. No individual interviewed believed that corruption in Uruguay is much higher than in neighboring countries, and the percentage of those who believe that it is higher or the same is very small (3 percent).

Figure III. Perceived Levels of Corruption in Uruguay Compared to Neighboring Countries (2009)



The figures presented here corroborate the idea that Uruguay is a country where corruption is the exception rather than the rule. Corrupt practices do not appear to occur with greater frequency in any given sector of the population, and although there is variation in perceived levels of corruption among social and political groups, the generalized pattern of perceived corruption is similar among these groups. These characteristics are not the product of anticorruption policies that the state has put in place, but rather are the result of a long-term pattern of change which has consolidated in the past decades. The clientelism of the past, while conceptually distinct from corruption, created an environment of political discretion that does not seem to have degraded into corruption in the present day. In part, this is the product of a change in the equilibrium of political competition between Uruguayan political parties that has brought with it a drastic reduction in particularism and discretionarily in state's action and, for many years, has promoted a normative change aimed at regulating the actions of politicians and political administrations.

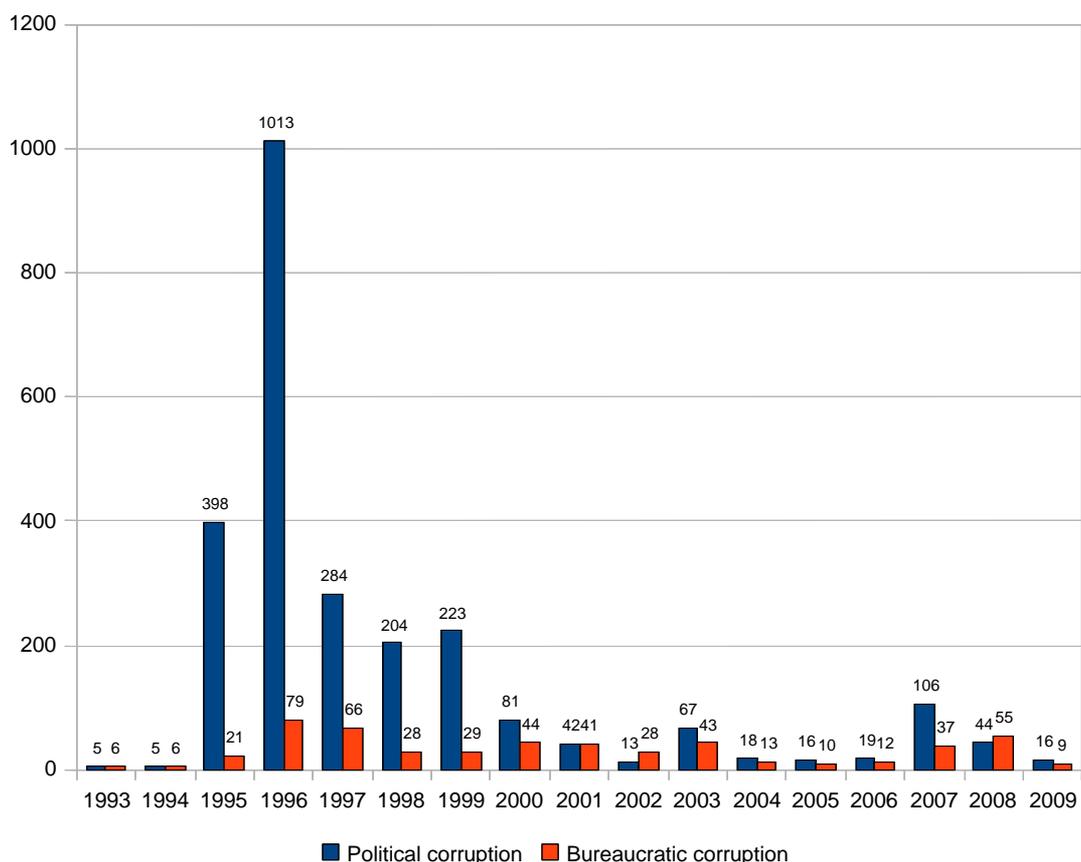
The Construction of Anti-Corruption Institutions in Uruguay

Corruption as an issue of public concern entered the Uruguayan public agenda in the second half of the 1990s. Political debates in the second post-dictatorial administration (1990-1995) revolved in large part around the issue of corrupt politics. However, there is no way to assure that the interest or importance that the media ascribed to the phenomenon of corruption in those years defined the space for its future evolution. Figure IV shows the change in the number of articles about corruption

published by the press in Uruguay between 1993 and 2009. Here we observe that the explosion in coverage between 1995 and 1996 does not indicate a new or permanent tendency.

The importance that the theme of corruption held in public debate in the period from 1995 to 1999 seems to be the result of its incorporation into the list of permanent themes of public discussion in Uruguay, unlike the period prior to 1995. This intuition is confirmed by viewing the numbers from 2000 onward, when the number of mentions of corruption registered stays within the range of 50 to 155 — substantially higher than the 25 mentions recorded in 1993 or the 12 recorded in 1994. As a result, if the second half of the nineties seems to be an exceptional or atypical period, the new normal registered following these years shows increased media attention to the subject.

Figure IV. Number of Articles in the Press about “Corruption in Uruguay” From 1993 to 2009



Source: Figure generated using the *Biblioteca del Poder Legislativo's* database.

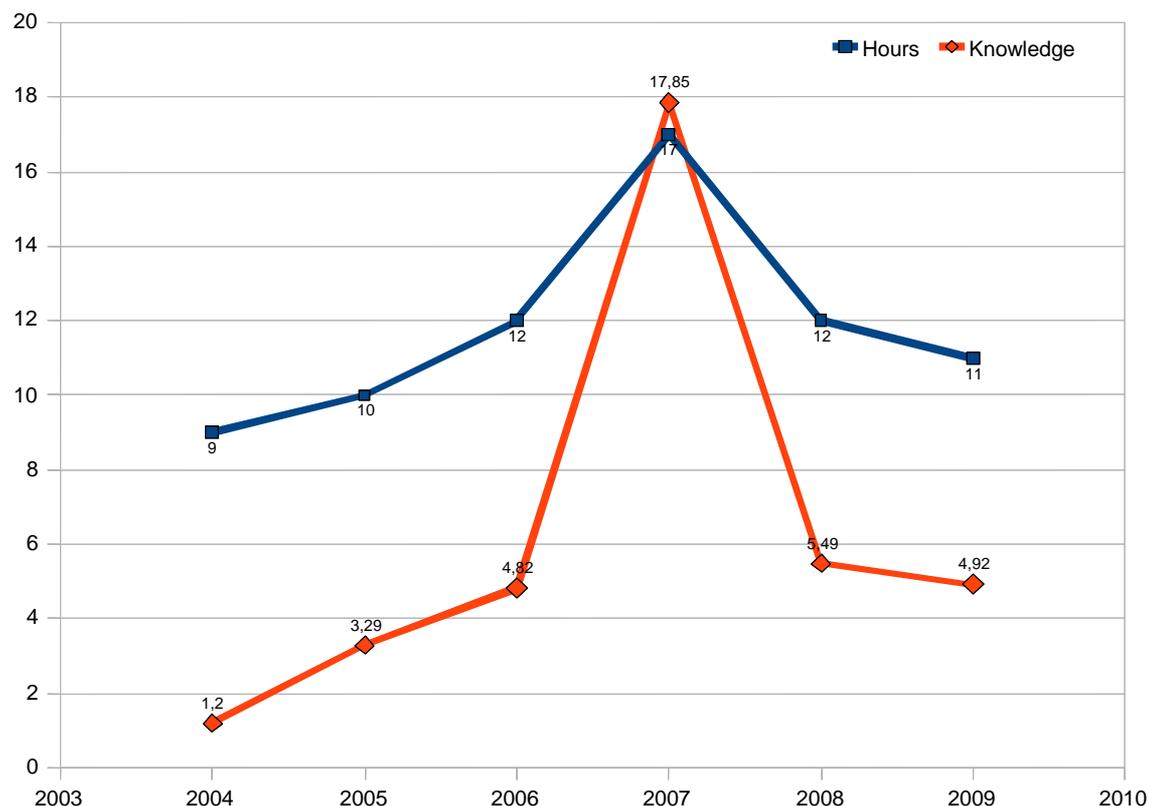
In the figure we also observe how the variation in the total number of press articles dealing with corruption in Uruguay responds in large part to increases or decreases in the number of references to cases of political corruption (cases in which elected officials were implicated). This is undoubtedly due to the interest that political corruption provokes relative to bureaucratic corruption,

and again suggests the exceptional nature of the number of mentions registered in the second half of the 1990s, particularly in 1995 and 1996. Press mentions of cases of bureaucratic corruption vary much less over this time period, although the pattern of press mentions does tend to follow — in general — that observed in mentions of political corruption.

Analysis of the number of seconds that news programs on open access television dedicate to the theme of corruption in Uruguay allows us to look for differences in the informational agendas of print versus television media. Figure V indicates that during 2007 a significant increase in television coverage of corruption took place. Observing figure IV, which illustrates the appearance of stories in print media, we observe that this year also registered a somewhat higher number of mentions than in the rest of the decade. As with the case of the press, levels of interest in television do not appear to be influenced by the number of occurrences, but rather by their quality. Only cases with important political repercussions led to an increase in media attention to the topic of corruption. Increases and decreases in the amount of time dedicated to stories about corruption in Uruguayan news programs were not related to the actual number of occurrences of corruption, but rather to their importance. Whereas 2007 is a year in which the number of seconds dedicated to the subject is three times higher than in other years in the time series, the number of relevant news stories is the lowest of all years shown here.

Thus, in 2007, it is not that more individual cases of corruption received public attention; rather, the cases which received the most attention were of greater relevance than those reported on in other years. If we accept that the perception of corruption is influenced by public treatment of cases, we should then think that it is political corruption, particularly those which take place in the highest rungs of government, that have the greatest impact on these indices.

Figure V. Comparison of Broadcast Time Dedicated to Corruption and Perceptions, 2004-2009



Source: Figure generated using data from “Foco: auditoría de medios” and Latinobarometer

One way to begin to establish this relation is to compare the time news outlets dedicated to themes of corruption with changes in public opinion regarding corruption. Figure V compares the time dedicated to the issue by the news — measured in hours⁶ — with the percentage of respondents who report having some knowledge of corruption, according to Latinobarometer’s reports. Television, more than print media, appears to influence public opinion; the figure illustrates a tight association between television coverage and public opinion. When the number of hours of television devoted to the topic of corruption increases, so do citizen perceptions of corruption; similarly, a drop in minutes of television devoted to the subject is associated with a drop in public opinion indicators. Particularly noteworthy is the sudden and simultaneous jump in 2007, which reaffirms this relationship between the media and public opinion. This corroborating evidence does not allow us to make any statistical generalizations, due to the small number of observations; however, it is

⁶ We report the measurement of time in hours and not in seconds just for the scale allows visual comparison of the evolution of the indicators.

indicative of the complicated and delicate connection between democracy and corruption. Democracy favors media treatment of the subject, as much because of the press freedom which democracy promotes as the interest that corruption generates in political competition. But media treatment of corruption can influence public opinion, creating negative sentiment towards both specific politicians and politics in general. These political attitudes, stimulated by the media, have the potential to undermine sources of democratic legitimacy, denaturalizing and, eventually, causing its fall when corruption is endemic to the system. At any rate, these patterns in media attention and the public agenda speak to the fact that corruption, particularly political corruption, is not accepted by the Uruguayan citizenry. At the same time, observing temporal variation allows us to see that peaks in media coverage and public perceptions are isolated incidents, which might affect the political legitimacy of specific actors or institutions, but do not suggest a generalized pattern that might negatively affect the diffuse legitimacy of democracy as a regime in Uruguay.

Since the beginning of the 1990s, diverse international and regional organizations have recommended that countries adopt a series of reforms and strategies intended to control corruption. As in other political arenas, there seems to be a technical consensus regarding the desirability of more transparent politics, and the importance of the fight against corruption. The impact this consensus has had on the implementation of similar reforms in a number of countries is not insubstantial. Particularly, those norms of institutional integrity and transparency seem to have an important place in the international discussion of corruption. However, the international, technocratic consensus about these policies is not able to explain why these policies have been adopted at different moments in different countries, or why they have taken on specific characteristics in these contexts. As Weylan (2006) has suggested, although these principles have been integrated into the politics and institutions of a wide range of countries, the patterns of change we observe are not as deep or as uniform as some political scientists have suggested.

On the other hand, various studies that analyze the approval of transparency measures in different countries indicate that the role of crises of system legitimacy — derived from the appearance of cases of corruption — is to motivate the approval of these kinds of laws. Rose-Ackerman (2001) suggests that political scandals and economic crises are catalysts for reform processes. Political actors seek to increase their legitimacy — or that of the political system — through the implementation of reforms that aim to increase transparency. In other words, politicians seek to respond to the citizenry, which demands outputs and poses a challenge to the legitimacy of the party system and of the political system, itself. In this sense, from the perspective of party cycles and assuming that the formulation of public policies is rational, crises put on display legislative holes that ought to be filled.

Finally, it is important to bear in mind that, in order to become policies, recommendations have to pass through the necessary intermediary political institutions, power structures, and national political

processes both in normal times and in moments of crisis. As a result, political actors are able not only to delay their execution to fit with the political cycle, but also are able to turn reforms into mere formalities whose aim is to momentarily satisfy the citizenry or the international community.

During the 1990s, multilateral credit organizations (the International Monetary Fund and the World Bank) began to concern themselves with the effects of corruption on governability and economic development. A variety of civil society groups were founded which were similarly concerned about this issue, and promoted global evaluations of corruption, as with Transparency International and its Corruption Perception Index. Concern and diagnostics were accompanied by the recommendation of normative and institutional changes to combat corruption. These prescriptions indicated that old judicial mechanisms, antiquated criminal codes, and traditional finance offices, needed to undergo a number of reforms to become new institutions that would directly combat corruption.

In 1998, the Uruguayan parliament ratified the Inter-American Convention against Corruption; from the mid-1990s until the 23rd of December of 1998, the institution held a series of debates that ended in the ratification of Law 17.060. This law established new criminal categorizations, altered some that already existed, and created the *Junta Asesora en Materia Económico-Financiera del Estado* (today the *Junta de Transparencia y Ética Pública, JUTEP*)⁷, commonly known in Uruguay as the “Anti-Corruption Junta.” Unlike the old institutions that controlled the bureaucracy, this new institution was dedicated exclusively to tracking and preventing corruption.

In this way, citizens’ concern with reports of corruption involving formerly important government officials through the mid-nineties combined with an international environment that promoted reforms aimed to lessen corruption to create the context of the parliamentary debate that eventually led to Law 17.060. Discussion of the law was colored both by internal interests and the international consensus calling for institutional and legislative reform to combat corruption. However, the time spent in the debate, the way in which it took place, and its contents do not demonstrate that Law 17.060 was promulgated solely in response to citizen demand or international pressures. Nor is there any indication that legislators voted to approve the law believing that it would not be enforced.

On the one hand, the new institution was restricted in its ability to act (its role is fundamentally prosecutorial or investigatory), and works under the aegis of the executive office. The political compromises reached, clearly indicates legislators’ distrust of an institution that would potentially be too powerful or independent. On the other hand, illicit enrichment was not specified as a crime in the new code, a normative change which was specifically supported by International organizations. Uruguayan legislators argued that establishing this sort of crime would shift the burden of proof from

⁷ Only at the end of 1999 with decree 354/99 were the rules introduced in Law 17.060 put in place, allowing the integration and operation of the *Junta Asesora en Materia Económico-Financiera del Estado*.

the prosecution, requiring the accused to defend their innocence and thus violating one of the principles of the liberal penal code.

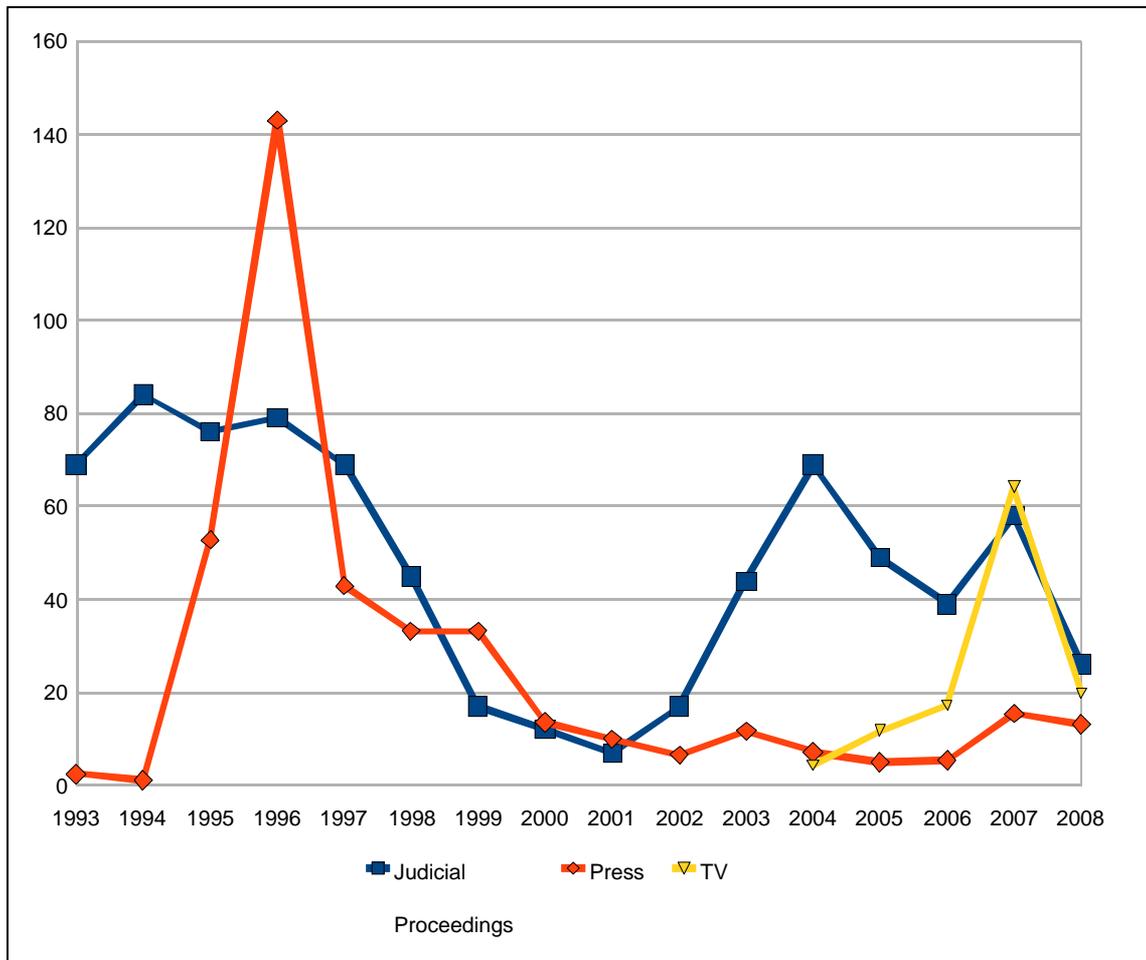
Although the results of the parliamentary debate can be seen as a lost opportunity for greater advances, it demonstrates that legislators were worried not only about the political and electoral capital to be gained from passing such a law; rather, there was a serious preoccupation on the part of legislators regarding the law's potential effects. Given the political and international incentives at the time the anticorruption law was passed, the legislative debate had the potential to turn into a contest, with the most ambitious proposals about redefining criminal categories, penalties, and authorities for the new anti-corruption authorities winning out.

In consequence, it seems reasonable that the national political context, the effects of international preoccupation with corruption, and the diffusion of ideas about controlling it, can explain some of the law's contents; however, the resulting law also appears to be deeply connected to Uruguay's institutional heritage. This is a central point, not only for understanding the evolution of Uruguay's current anti-corruption institutions, but also looking forward at potential developments in these institutions.

Legislative advances over the course of the eleven years since Law 17.060 was promulgated resemble the characteristics of the previous legislative process. Marginal changes to the law have not advanced or altered the fundamental decisions that were taken following the debate in the Uruguayan parliament in the second half of the 1990s. The characteristics of this process of institutional construction speak to the fact that these new norms are the product of the same, new equilibrium of political competition that they seek to regulate. This is the regulation of political activity by party agents, themselves.

When we compare changes in the number of jail sentences to the time news outlets dedicated to reports of corrupt practices and the number of articles appearing in newspapers, the data follow similar trends (Figure VI). That there is no dissociation between the impact of reports of corruption and the number of individuals processed by the Judicial Authority indicates that the new laws work and are being applied.

Figure VI. The Number of Criminal Proceedings by the Judicial Authority, Number of Publications in the Press, and Time Dedicated to Corruption on Open Access News (1993-2008)*



Source: Figure created using data from the *Instituto Técnico Forense del Poder Judicial*, from “Foco: auditoría de medios” and the *Biblioteca del Poder Legislativo*’s database.

* In order to make these trends comparable, the number of press articles was divided by 10 each year, and the number of seconds the news dedicated to corruption was divided by 1000 each year.

The bias towards the view of politics as rational in the realm of transparency has privileged the discussion of specific legislation aimed at controlling behavior without advancing the discussion of which political and institutional conditions predispose politicians to promote regulations which condition political practices. The Uruguayan case illustrates how legislative advances that respond to competitive equilibriums in political competition (and particularly to the characters of “open access regimes”) generate institutions that assure politicians that that regulation will not be used politically and, as a result, assures these institutions’ effectiveness and viability.

Conclusion

Uruguay is a country with a long democratic tradition, but also with a long history of political particularism. The way in which a substantial portion of the citizenry related with the state, both at the national and local levels, had a significant discretionary component until the 1960s. The intermediation of political brokers was the norm in order to obtain state services, and patronage defined the logic of recruitment into work in the public sector. Although there is no way of knowing whether corruption was common, this discretionarily in Uruguayan politics marked the regime as not adhering to universal criteria in the application of public policy.

The exhaustion of clientelism as a political strategy occurred because it could no longer be sustained economically, and also because a new political actor, the FA, entered and gradually altered the status quo of political competition to one based in programmatic appeals. Social modernization, economic opening, technological advances, and financial fiscal precariousness defined the context of the consolidation of this change following the end of the dictatorship, and particularly during the 1990s. Clientelism as a strategy came to be expensive and anachronistic as technological advances, for example, made transactions like obtaining a telephone simpler: rather than taking months or years and requiring political connections, this transaction would now take place in the period of a few days for the connected and unconnected, alike.

Anti-corruption legislation in Uruguay did not bring this change; rather, it was a *product* of this change. This explains the means and the reach of the new system of norms, which was substantially stricter and later in its implementation than those in other countries in the region. These reforms were not instituted in response to a crisis of legitimacy like those that had oriented other parties to approve such norms, but rather the need to regulate political practices and the bureaucracy in the new context of programmatic competition. The transformation of Uruguay into an “open access regime” with low levels of corruption created the necessity for politicians to regulate their own actions, and those of the bureaucracy more generally. Corrupt practices, which had never been the norm in Uruguayan politics, were considered dysfunctional under the new sets of rules guiding the political system.

The Uruguayan transition from particularism to universalism is a transformation which can be best understood in the context in which clientelistic competition became unsustainable, a change that was driven in large part by the transformation of the party system from one in competitive equilibrium to incorporate a third party challenger. This highly institutionalized party system, which demonstrated once again its ability to adapt, is the key to this political transformation, which is a cause and not an effect of anti-corruption legislation and institutions in Uruguay.

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