



CAPTURED DEMOCRACY: GOVERNMENT FOR THE FEW

HOW ELITES CAPTURE FISCAL POLICY, AND ITS IMPACTS ON
INEQUALITY IN LATIN AMERICA AND THE CARIBBEAN (1990–2017)

EXECUTIVE SUMMARY

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EXECUTIVE SUMMARY



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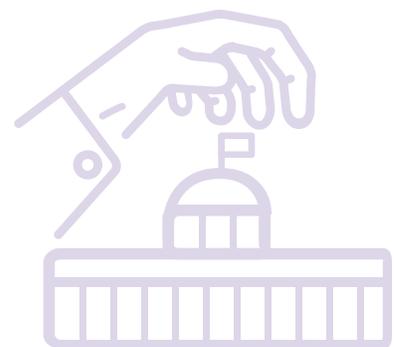
1. CAPTURED DEMOCRACIES

In democratic societies, where the common good should prevail over individual interests, an increase in poverty or inequality is the very last thing that public policies should bring about. The state's actual role is to design and implement public policies that tackle these problems and enhance and improve the rights of its citizens. If the opposite is the case, the state is said to have been 'captured'. A state that grants privileges to a few over the majority of the population is one in which public policies reduce or limit the rights of its citizens.

Fiscal policies increase poverty in six countries in Latin America and the Caribbean (LAC),¹ meaning that after the state has collected taxes and spent them on public policies, more people are living in poverty than before the state intervened. A functioning democracy must not allow this to happen.

This executive summary summarises the main findings of the *Captured Democracy: Government of the few* report, which analyses 13 cases in which elites have played a part in driving fiscal policies that were either regressive or not very progressive. It lists the most common mechanisms used, and sets out a series of recommendations for governments to ensure better-quality democracies that guarantee the common good, reduce poverty and inequality, and eliminate situations in which people are divided into first- and second-class citizens.

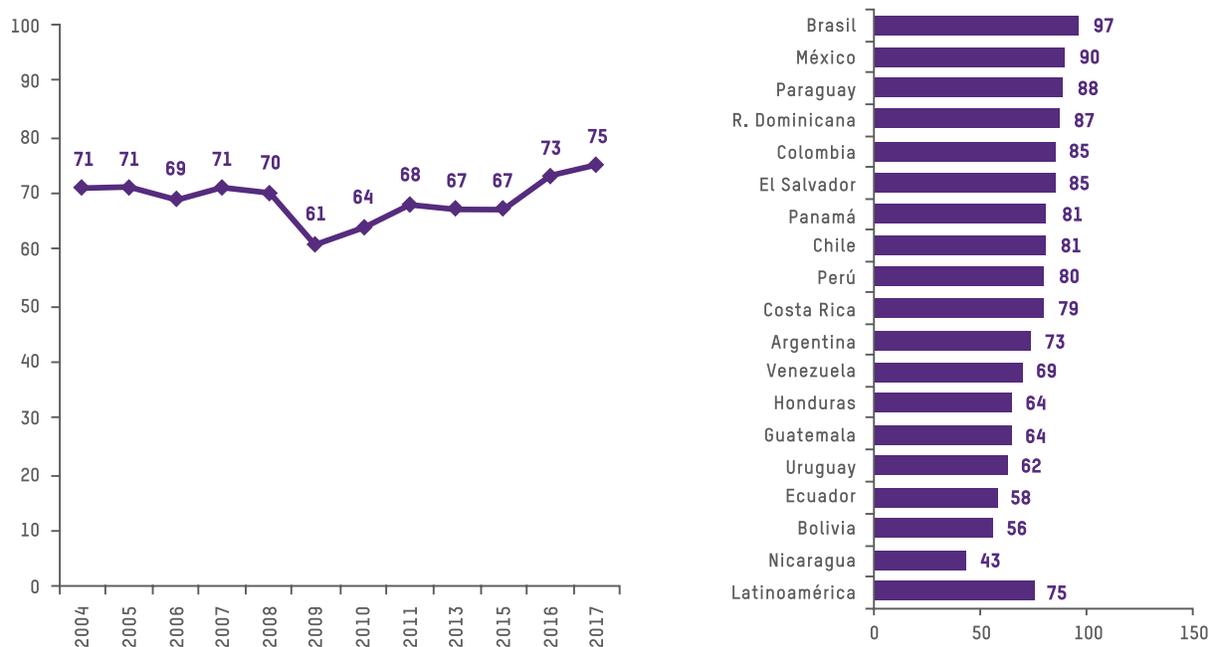
The debate about inequality is essentially political. The time has come to tackle state capture. Democracies must play a role in guaranteeing that conflicts of interest are discussed in the public arena, and that this leads to guaranteed respect for the rights and well-being of the whole population. Citizen participation is key for ensuring a counterbalance to the interests of the elites in process of discussing and defining public policies.



2. DEMOCRACY AND INEQUALITY ARE STRANGE BEDFELLOWS²

Figure 1. **GOVERNMENT FAVOURS A SMALL NUMBER OF POWERFUL GROUPS. TOTAL FOR LATIN AMERICA 2004–17; TOTALS PER COUNTRY 2017**

Q: In general terms, would you say that [country] is being governed by a small number of powerful groups for their own benefit, or that it is being governed for the benefit of the whole population? *This chart records the reply to: ‘Powerful groups for their own benefit’.



Source: Latinobarómetro (2017)

Democracy in LAC does not appear to have led to governments that truly represent the interests of the majority. Three quarters of the population of Latin America and the Caribbean believes that government is for the benefit of a small number of powerful groups.³

An increasing number of people think that democracy does not benefit them, i.e. it does not serve their interests. A 65% of Latin American and Caribbean

citizens report feeling dissatisfied with democracy.⁴

The number of people who are indifferent to the type of government that is adopted has also increased. A quarter of the population replied ‘people like us don’t care whether a regime is democratic or undemocratic’⁵.

Likewise, the main conflict between groups as perceived by citizens in the region⁶ is between the poor and the rich. 76% of those surveyed by

Latinobarómetro said that this conflict is strong or very strong. This perception is accurate; despite the progress made in recent years, LAC is still the most unequal region for income distribution.

Inequality is a significant indicator of the quality of a democracy, as all democracies are based on the premise that all people have equal rights. Unfortunately, the political and economic system

appears to work better for some compared to others; it appears to grant privileges to a few at the expense of the majority. Strengthening democracy and reining in state capture by elites is the only way to reduce inequality. We will only be able to achieve greater democracy if we can reduce inequality by ensuring that public policies don't grant privileges to an elite.

EXTREME INEQUALITIES



THE RICHEST 1% IN LAC OWNS 37% OF THE REGION'S WEALTH (IN 2017). THIS FIGURE HAS GROWN FROM 33% IN 2000.⁷



THE COMBINED WEALTH OF 89 BILLIONAIRES ON THE FORBES LIST TOTALS \$440BN. THIS SUM IS GREATER THAN THE INDIVIDUAL GDP OF ALMOST EVERY SINGLE COUNTRY IN THE LAC REGION.⁸



THE WEALTHIEST FIFTH OF PEOPLE IN THE REGION RECEIVE 45% OF THE TOTAL INCOME, WHILE THE POOREST FIFTH RECEIVES ONLY 6%.⁹



LATIN AMERICAN AND CARIBBEAN WOMEN EARN 16% LESS ON AVERAGE THAN MEN, DESPITE BEING BETTER QUALIFIED.¹⁰



WOMEN IN LAC WORK TWICE AS MANY HOURS PER DAY THAN MEN IN NON-REMUNERATED CARE-GIVING WORK.¹¹



RURAL INHABITANTS LIVE IN MUCH WORSE CONDITIONS THAN THEIR URBAN COUNTERPARTS. IN PERU, IN 2017, 44% OF THE RURAL POPULATION LIVES IN POVERTY COMPARED TO 15% IN URBAN AREAS.¹²

3. FISCAL POLICIES, POVERTY AND INEQUALITY

Fiscal policy is the state's main tool for tackling inequality through wealth distribution. All distribution implies balancing out wealth and earnings, and therefore, there are conflicting interests.

A range of studies have shown that fiscal policy in the region represents a missed opportunity for reducing inequality and poverty; in some cases, it even ends up increasing these problems. According to ECLAC, while direct contributions, income tax and social security

contributions reduce market income inequalities by 35% in OECD countries, in Latin America and the Caribbean, this figure is just 6%.¹³ This means that, while market-generated income inequality in the OECD countries and LAC¹⁴ are at similar levels, income inequality across the OECD is significantly decreased by fiscal policy instruments, while LAC is left still unequal: 11 of its countries are amongst the 20 most unequal in the world.¹⁵

SOCIALISE THE COSTS, PRIVATIZE THE EARNINGS

WHAT COULD BE DONE WITH THE INCOME TAXES THAT COMPANIES DO NOT PAY THANKS TO TAX INCENTIVES? IF COMPANIES PAID THEIR FAIR SHARE OF INCOME TAXES, GOVERNMENTS COULD:



EDUCATE 8–10 TIMES AS MANY CHILDREN WHO DO NOT ATTEND PRIMARY SCHOOL IN PERU AND HONDURAS.



BUILD 120,000 HOMES IN THE DOMINICAN REPUBLIC OR 70,000 IN PARAGUAY.



HIRE 93,000 DOCTORS IN GUATEMALA OR 349,000 IN BRAZIL.



HIRE 94,000 TEACHERS IN BOLIVIA OR 41,000 IN EL SALVADOR.

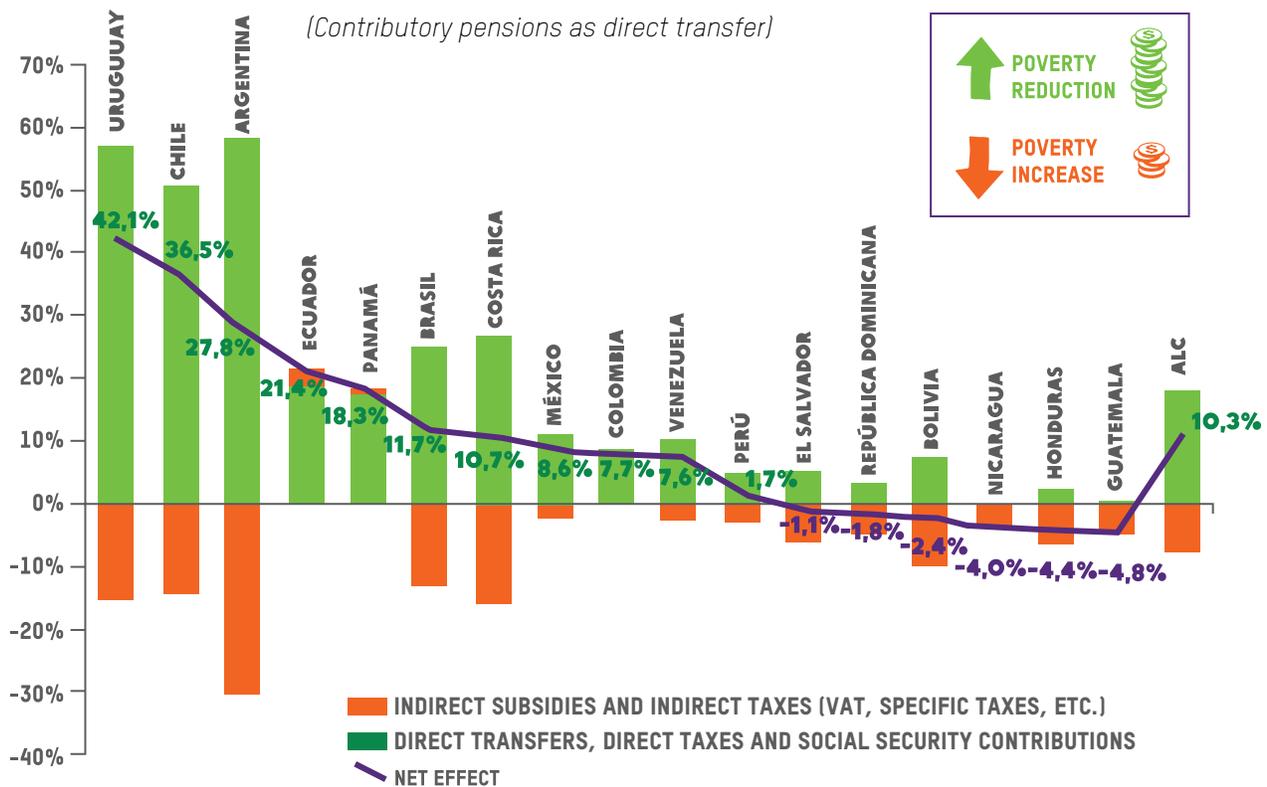
Source: Dataigualdad. Sources and methodology explicitly calculated in the www.dataigualdad.org platform.

It is also essential to examine the impact of fiscal policy on monetary policy as well as income inequality. Around 2011, governmental fiscal policy increased poverty, i.e. after collecting taxes and executing public spending, the number of people earning less than \$4 PPP (purchasing power parity) per day increased in six countries in the region (Guatemala, Honduras, Nicaragua, Bolivia, the Dominican Republic and El Salvador).¹⁶ On average, poverty in the region was only reduced by 10% as a net effect of fiscal policy.¹⁷

The main cause of the negative or reduced impact of fiscal policy on poverty was indirect taxation and subsidies, which increased poverty levels in all

countries except Ecuador, Panama and Colombia (see Figure 2). Poverty creation by indirect taxes like value-added tax (VAT) is only compensated for through public spending in eight countries. This means that in six countries in the region, the poorest people are net contributors to the fiscal system, rather than beneficiaries. Therefore, their basic human rights such as access to public health and education, are reduced instead of enhanced as a result of fiscal policy. This is the exact opposite of what a state should do and goes against its constitutional obligations.¹⁸ Only a state that has been captured by the interests of the elites can promote fiscal policies that increase poverty.

Figure 2. POVERTY REDUCTION ACCORDING TO THE ACCUMULATED AND COMBINED EFFECT OF FISCAL POLICY INSTRUMENTS IN LAC, C.2010 (%). (POVERTY LINE AT US\$4 PPA PER DAY)



Source: Calculated using data from N. Lustig. (2017). *The Impact of the Taxation System and Social Spending on Income Distribution and Poverty in Latin America: An Application of the Methodological Framework by the Commitment to Equality Project (CEQ)*.

TAXES THAT INCREASE POVERTY



IN BRAZIL IN 2009, THE ISOLATED EFFECT OF INDIRECT TAXATION AND SUBSIDIES INCREASED THE NUMBER OF POOR PEOPLE BY 9,154,870.



IN ARGENTINA IN 2012, THE ISOLATED EFFECT OF INDIRECT TAXATION AND SUBSIDIES INCREASED THE NUMBER OF POOR PEOPLE BY 2,207,848.



IN EL SALVADOR IN 2011, THE ISOLATED EFFECT OF INDIRECT TAXATION AND SUBSIDIES INCREASED THE NUMBER OF POOR PEOPLE BY 156,672.

Table 1. IMPACT OF INDIRECT TAXES AND SUBSIDIES ON THE NUMBER OF PEOPLE LIVING IN POVERTY IN THE YEAR SPECIFIED

COUNTRY	YEAR	CHANGE IN NUMBER OF PEOPLE LIVING IN POVERTY (LESS THAN \$4 PPP (PURCHASING POWER PARITY))
Brazil	2009	9,154,870
Argentina	2012	2,207,848
Mexico	2010	718,508
Guatemala	2011	426,035
Bolivia	2009	319,111
Venezuela	2013	306,210
Peru:	2009	263,914
Chile	2013	222,913
Honduras	2011	218,190
Dominican Republic	2007	165,345
El Salvador	2011	156,672
Nicaragua	2009	106,793
Costa Rica	2010	95,451
Uruguay	2009	89,449
Panama	2016	-8,014
Colombia	2010	-76,794
Ecuador	2011	-106,241

Source: own calculation based on data from:

N. Lustig. (2017). *The Impact of the Tax System and Social Spending on Income Distribution and Poverty in Latin America. An application of the methodological framework by the Commitment to Equality Project (CEQ).*

World Bank, Global Development Indicators, based on (1) United Nations Population Division. World Population Prospects: 2017 Revision. (2) Census reports and other statistical publications from national statistical offices, (3) Eurostat: Demographic Statistics, (4) United Nations Statistical Division. Population and Vital Statistics Report (various years), (5) U.S. Census Bureau: International Database, and (6) Secretariat of the Pacific Community: Statistics and Demography Programme. The Dominican Republic data comes from the National Statistics Office (ONE) National Household Income and Spending Survey ENIGH 2006-2007.

4. WHAT IS STATE CAPTURE?

The formulation and implementation of policies does not happen in a vacuum. It usually takes place in areas where there are asymmetries of power. When public policies are designed in highly unequal contexts, elites tend to saturate the resulting policies with their interests.

The levels of inequality and public dissatisfaction with the democratic system in LAC are a reflection of systems in which *'elites co-opt, corrupt or pervert the nature of democratic institutions in order to impose policies that maintain the privileged status of said elites... This process has developed in democratic systems where, in some cases, a few design public*

policies for their own benefit, which contributes to a vicious circle of reproduction of inequalities and leads to imbalances in the exercise of rights and political representation'.¹⁹

This report focuses on examining capture as *'the exercise of abusive influence by an elite, for its own interests and priorities and in detriment to the common interest, over the cycle of public policies and state entities, with potential effects on inequality and the correct exercise of democracy'*.²⁰

In this context, several elements have to be considered in order to analyse the capture of a policy, as set out in **Figure 3**.

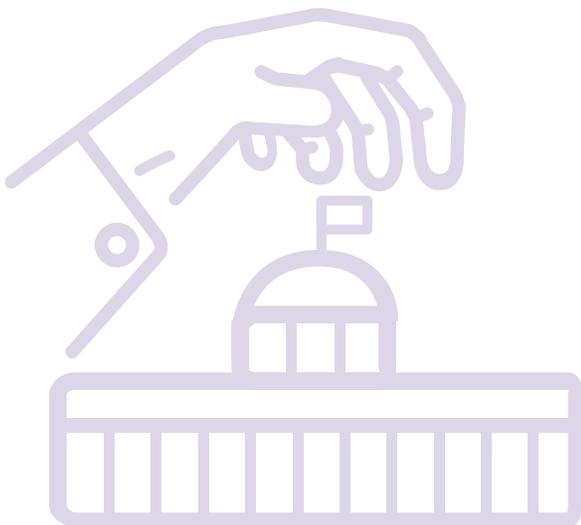
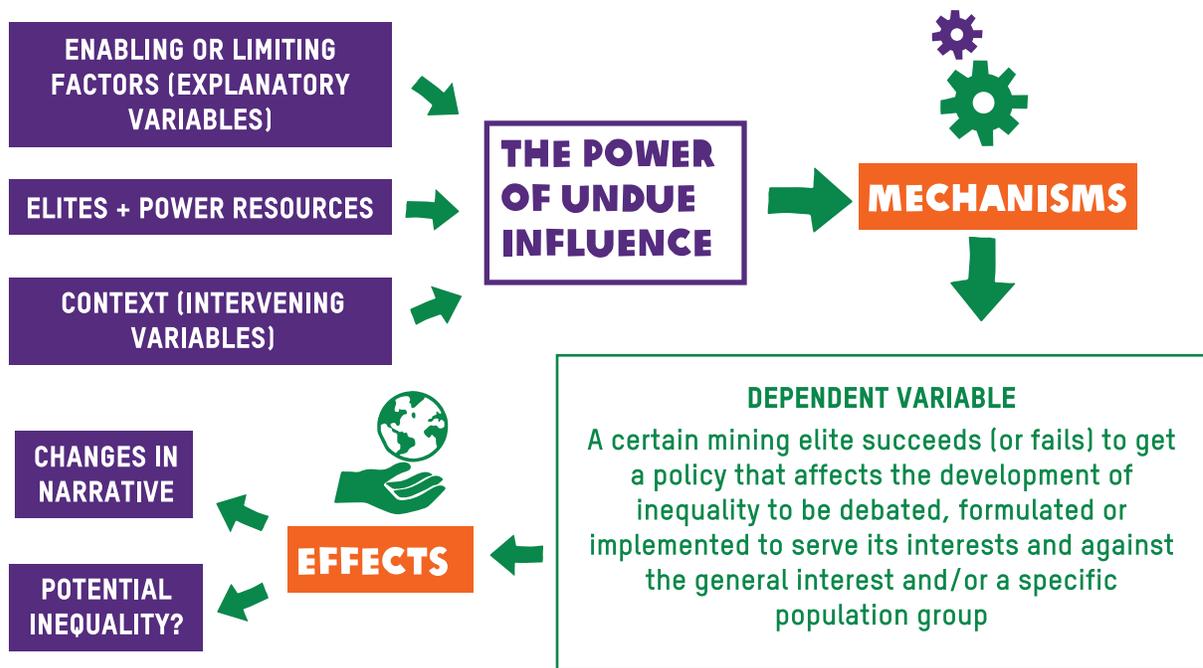


Figure 3. PROCESS OF ANALYSIS AND VARIABLES LINKED TO POLICY CAPTURE.



Source: Cortés and Itriago, *ibid.*, p.25

The theory of how capture occurs as outlined in **Figure 3** is:

An elite that has specific *power resources* (e.g. economic) in a *particular context* (e.g. governmental elections), in which *variables or factors that enable capture* come into play (e.g. deficient regulation of private campaign financing for public posts), could use its power to employ some kind of *influencing mechanisms* (e.g. illicit funding of a particular candidate with the expectation that s/he might favour them in the near future, when s/he takes on his/her public role). The consequences of this type of capture on inequality may be reflected in *blocking public initiatives with redistributive impact* (e.g. blocking

tax reforms where the direct taxation component is increased as part of the total fiscal burden), as well as in the *maintenance or strengthening of a narrative or line of discourse that justifies privileges* (e.g. hijacking ideas or debates where the elite and like-minded actors flood the communications media, justifying the preservation of a large number of tax incentives as strategies for promoting investment or job creation).

5. THE MECHANISMS. FISCAL CAPTURE METHODS USED BY ELITES IN LAC

Inequality is the enemy of democracy. The strong concentration of wealth and power in LAC affects the decision-making arena, because conflicting interests cannot be treated fairly in discussions. An analysis of all the case studies studied for this report provides us with some general trends for the mechanisms used by the elites, and the factors that help or limit them in capturing fiscal policies (see **Table 2**).

Studying the mechanisms used by elites provides us with a clear picture of the relational cycle between inequality, capture and democracy. The higher the concentration of power (which comes from wealth and other sources), the higher the capacity of the elites to create or shape laws, policies and institutions that enable their privileges.

This relational cycle shows us that, in order to tackle capture, we have to tackle inequality; and in order to tackle inequality, we have to tackle capture. As the Universal Declaration of Human Rights has taught us, these elements are indivisible. This is why we must move ahead simultaneously in both guaranteeing economic, social, and cultural rights, as well as civil and political rights.

The main mechanisms used by the political and economic elites in LAC to capture fiscal policies are outlined below. The recommendations that we make are targeted at the governments. If they are taken into account, they will help reduce elite capture of fiscal policy and other policies. In general terms, these measures are focused on facilitating more balanced participation of all citizens in decisions affecting public policies, because this limits the disproportionate influence of elites, thus strengthening democracy and helping prevent capture.

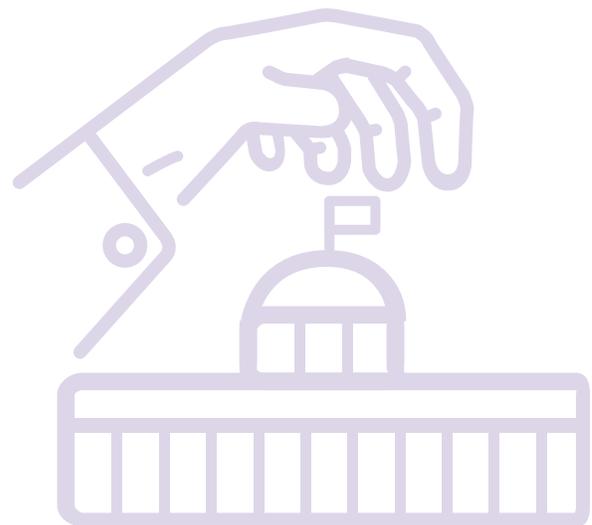


Table 2. THE CAPTURE MECHANISMS USED BY ELITES IN ORDER TO INFLUENCE DECISIONS ABOUT FISCAL POLICIES IN THE CASES ANALYSED

CASE STUDY	Communications and media campaigns	'Revolving door'	Extraordinary regulatory procedures	Exploitation of weaknesses in the political and electoral systems	Advocacy and lobbying	Technical smokescreen	Exploitation or regulation of regulatory frameworks	Prosecution in constitutional courts	Bribes and/or influence peddling	Marches and protests	Opacity in tax havens
Fiscal policy in Guatemala, 1996–2018	X	X		X			X	X	X		
Fiscal reform in Argentina, 2017		X									
Tax reform in Peru, 2014	X	X	X	X		X					
Tax incentives in the Dominican Republic, 2014							X				
The Honduran state and its fiscal incentives for companies, 1990–2018		X	X	X							
Financial income tax in Argentina, 1990–2000	X	X				X					
Financial income tax in Chile, 2014	X				X			X			
Financial income tax in Peru, 2014	X	X	X		X						
Financial income tax in Ecuador, 2015–16	X									X	
Suspension of Regulation XVI or anti-circumvention regulation in Peru, 2014	X	X	X		X	X					
Tax on soya beans in Paraguay, 2004–17	X	X	X	X	X					X	
Pension system reforms and their implications on the public debt in El Salvador, 1996–2017	X	X	X		X	X	X				
The Odebrecht case in Latin America and the Caribbean, 2001–16			X	X	X		X		X		X

CAPTURE MECHANISM 1: MEDIA CAMPAIGNS

One of the two most common mechanisms for influencing fiscal policies in the cases examined is media campaigns (69%). Media conglomerates in the region affect the quality of democracy. This phenomenon is so common that it has become known as ‘*latifundio mediático*’ or ‘media feudalism’.²¹ In recent years this concentration has become even more pronounced in online, television and print media. For example, in the region’s largest markets – Argentina, Brazil, Chile, Colombia and Mexico – four or fewer companies account for an average of 88% of market share of broadband access provision.²²

This level of concentration enables large economic groups to control the media agenda and thus public opinion. Business elites have made huge investments

in communications media across the region. The media is backed by wealthy groups that often promote their interests by portraying biased information as objective, in breach of journalistic ethics.

Political elites also exercise control by promoting their interests through the media. They are known to sometimes use public television as government propaganda, invest public funds into advertising and, in some cases, threatening or closing down media outlets. All these practices limit independence and diversity of information, leading to UNESCO and the Inter-American Human Rights Commission (IACHR) to express concern.²³



MEDIA CAMPAIGNS

WHAT IS IT?

USING CONTROL OF INFORMATION TO DEFINE THE ISSUES THAT ARE RAISED AS PART OF THE PUBLIC DEBATE AND HOW SUCH DISCUSSIONS SHOULD BE APPROACHED. IN THIS WAY, THEY CONTROL THE DEBATE AGENDA AND THE FORMULATION OF PUBLIC OPINION AS A WAY OF ENSURING THEIR OWN INTERESTS.

CASE STUDY

Paraguay (2012). The Paraguayan congress discussed ways of taxing soya bean exports in 2012.

‘In June 2012, the circumstances that brought about the parliamentary coup against Fernando Lugo are reliable proof of the power relations between opponents and supporters of a new fiscal arrangement. The ABC Color daily newspaper, owned by late businessman Aldo Zuccolillo, a member of the Zuccolillo Group and a main shareholder in the Cargill Paraguay company, the country’s main soya bean exporter, played a prominent role in the media campaign that accompanied the process of removing Lugo from power.’^{24, 25}

WHAT CAN BE DONE TO DEMOCRATISE COMMUNICATIONS?

The IACHR Special Rapporteur for Freedom of Expression²⁶ proposes the following standards that states need to guarantee for promoting democratization in the communications sector:

- Ensure the existence of transparent, public and equitable criteria for the allocation of radio frequency spectrums, and the new 'digital dividend';
- Promote effective policies and practices that enable access to information and equal participation of all sectors of society, so that their needs, opinions and interests may be considered in public policy design and decision making;
- Also, to adopt legislative and other types of measures as necessary for ensuring pluralism, including laws to prevent public or private monopolies and the unfair or excessive concentration of the communications media.
- Legislate for community broadcasting so that an equitable share of the spectrum and the digital dividend is allocated to community radio and TV channels;
- Ensure that respect for freedom of expression, including the diversity of media in terms of their editorial line or type of property, is guaranteed during analogue-digital transitions.

In order to guarantee independence, state advertising will also have to be regulated, journalists will have to be protected against threats, and public information media that are not at the service of the government will have to be developed.

The cases studied in the report show that business groups have fast and swift access to the media, and can quickly position their opinions about fiscal reforms. These same media outlets express their support for the interests of the economic groups in their editorials. On the issue of capital gains taxes, they sow fear of disinvestment and a reduction in growth; on the issue of avoidance and evasion, they claim that the bureaucratic burden needs to be eliminated through deregulation; on the issue of public service management, they defend privatization and portray the government as wasteful, and accuse it of stealing from the citizens. The media also controls

public opinion to such an extent that in some cases they succeed in getting some population groups that will never be affected by the proposed tax measures to come out against them.

It is therefore evident that economically and/or politically powerful groups, through the media, use their capacity to promote their interests in the fiscal debate and limit the rights of citizens to obtain the information they need for formulating their own points of view based on their own interests. The impact of this manipulation in the democratic debate about fiscal policies is a fundamental hurdle in the relationship between the state and its citizens.

SOCIALISE THE COSTS, PRIVATISE THE EARNINGS

FEWER RESOURCES FOR GUARANTEEING THE RIGHTS OF PARAGUAYAN CITIZENS.

THE FAILURE TO TAX AGRIBUSINESS COMPANIES' REAL EARNINGS PLACES PARAGUAY IN THE BOTTOM FOUR COUNTRIES IN THE REGION FOR THE AMOUNT RAISED FROM COMPANIES AS A PERCENTAGE OF GDP, WITH JUST 2.6% OF GDP COMPARED TO THE REGIONAL MEDIAN OF 3.4%²⁷. AS AGRIBUSINESS IS ONE OF THE STRONGEST SECTORS IN THE COUNTRY, AN INCREASE IN ITS CONTRIBUTIONS MUST BE CONSIDERED IN ORDER TO PROVIDE THE GOVERNMENT WITH MORE FUNDS TO FINANCE MORE AND BETTER PUBLIC SERVICES, AND TACKLE POVERTY AND INEQUALITY.



CAPTURE MECHANISM 2: 'REVOLVING DOOR'

The 'revolving door' is the other most common mechanism (in 69% of the cases studied) yet is not subject to a great deal of public scrutiny. The flow of high-ranking posts between the public and private

sectors, including international organizations, is regarded as routine. However, such transitions reveal conflicts of interests among the political and economic elites.



REVOLVING DOOR

WHAT IS IT?

THE UNHINDERED MOVEMENT OF HIGH-RANKING POSTS BETWEEN THE PUBLIC AND PRIVATE SECTORS, DOMESTICALLY OR INTERNATIONALLY. THIS MAY ALSO INCLUDE INTERNATIONAL ORGANIZATIONS.

CASE STUDY:

Argentina (2017). 40% of high-ranking officials in the treasury and public finance ministry are former CEOs or managers. 33% had an exclusive career path in the private sector.²⁸

WHAT CAN BE DONE TO PREVENT THE REVOLVING DOOR?

International organizations can help prevent this phenomenon by:

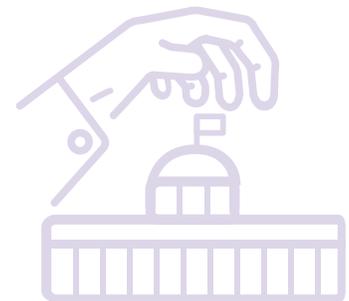
- Regulating the income, movement and entry of public officials through explicit laws and codes of conduct.
- Establishing 'cooling-off' periods before and after holding public posts if coming from or going to the private sector.
- Enacting strict codes of conduct in the exercise of public duties to minimise the risks posed by abstract conflicts of interest.
- Instating obligatory recusal in matters linked to former clients or employees.
- Strengthening the bodies that control and assess these types of cases, both governmental and non-governmental.
- Establishing penalties for failure to fulfil relevant codes.

Source: P. Canelo & A. Castellani. (2016). "Revolving Door" in Argentina – Analysis of the Current National Cabinet and Comparison with the International Experience. IDAES-UNSAM/CONICET, Argentina. [Spanish]

The cases that were analysed reveal that this is one of the most common mechanisms used by elites as a way of influencing fiscal decisions. Former employment in the financial sector appears to be a regular feature of postholders in the region's finance ministries and treasuries. The presence of agricultural businesspeople is also notable in the agriculture ministries, as is their involvement in debates about how not to tax agribusiness (for example, in Paraguay). A case study of El Salvador reveals a major factor that must be considered: the constant two-way traffic in

high-ranking executives from pension funds to public posts that are responsible for regulating the sector, and vice versa.

The revolving door is linked to significant risks: *'conflicts of interest, capture of public decision-making by economic sectors or large companies and the transfer of privileged information, contacts and know-how from public offices to some private organizations to the detriment of the state and the rest of the companies in that sector'*²⁹.



CAPTURE MECHANISM 3: EXTRAORDINARY REGULATORY PROCEDURES

When democracy entails a long process of deliberation, political and economic elites may wish to skip them. The cases we examined show that extraordinary measures like executive orders, extraordinary sessions, urgent legislative bills that are exempt from being read in one of the chambers, fast-tracked approvals and addenda to contracts have become routine mechanisms whenever elites want to make changes to fiscal regulations (62% of cases studied).

The opposite mechanism, delay, is also used in countries like Paraguay, where debates on legislation for taxing grain exports took place eight years after the first bill was presented in 2003. In the area of public spending, the recurring use of addenda to original contracts is common in public works contracts. In the Odebrecht case, this was used routinely, alongside bribery.



EXTRAORDINARY REGULATORY PROCEDURES

WHAT IS IT?

ROUTINE BREACHES OF ORDINARY MECHANISMS ESTABLISHED BY REGULATIONS AND INSTITUTIONAL PROCESSES THAT SHOULD ENSURE THE PARTICIPATION, DELIBERATION, IMPARTIALITY AND INDEPENDENCE NEEDED FOR PROMOTING THE COMMON GOOD IN PUBLIC DECISIONS.

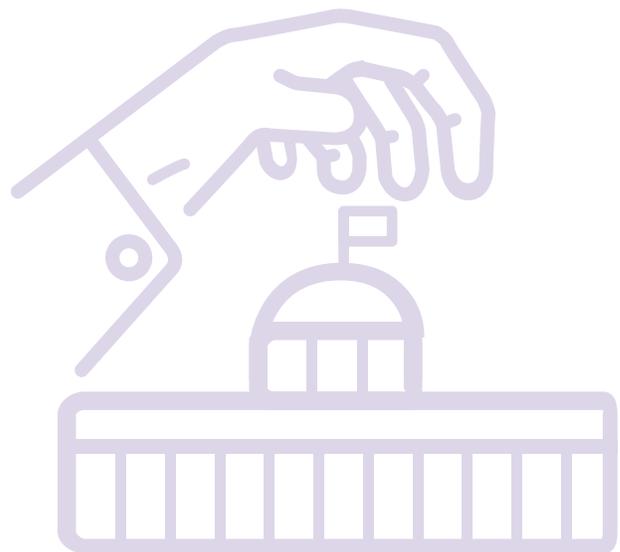
CASE STUDY:

Contracts for PPPs in Peru (2015). *'62% of PPP contracts in Peru have been negotiated and addenda have therefore been made to the contracts. In this context, it is common for companies to manipulate the terms of the contract or make aggressive offers with deliberately non-viable proposals in order to win the concessions. The idea is to renegotiate the contract a short while after the agreement has been signed.'*³⁰

WHAT CAN BE DONE TO PREVENT THESE ROUTINE BREACHES OF ORDINARY PROCEDURES?

The following steps must be taken to strengthen the wider, reflective and participative debate about fiscal laws and reforms as well as satisfactory public works and project allocation processes:

- Guarantee level-headed studies of tax reform proposals or state budgets, loans and major contracts.
- Guarantee that budgeting cycle deadlines are met.
- Guarantee that independent teams of experts are in place to advise members of Congress in making fiscal decisions.
- Guarantee that analysis based on constitutional law is conducted regarding fiscal reforms and their impact on economic, social and cultural rights.
- Guarantee that the public receives comprehensible information about debates and decisions, and how they can put forward their own positions or proposals.
- Guarantee the necessary time and conditions for participation of all social sectors in fiscal debates, especially women's groups.



CAPTURE MECHANISM 4: EXPLOITING WEAKNESSES IN POLITICAL AND ELECTORAL SYSTEMS

In the cases studied, 54% revealed business elites securing fiscal policy privileges through the funding

of political parties or opportunistic dynamics in the creation of parties.



EXPLOITING WEAKNESSES IN POLITICAL AND ELECTORAL SYSTEMS

WHAT IS IT?

PARTY SYSTEMS AND ELECTORAL SYSTEMS CAN CREATE INCENTIVES FOR ELECTED OFFICIALS TO SERVE MINORITY INTERESTS OR MORE BROAD-BASED SOCIAL INTERESTS. THEY CAN ALSO CREATE AREAS OF OPPORTUNITY IN WHICH PRIVATE ACTORS CAN INFLUENCE THE PUBLIC POLICY CYCLE WITH THEIR SPECIFIC INTERESTS. RELEVANT ASPECTS INCLUDE THE REGULATION OF PARTY FUNDING, RELATIONSHIPS AND BALANCES BETWEEN EXECUTIVE AND LEGISLATIVE BRANCHES, THE PRE-REQUISITES FOR SETTING UP POLITICAL PARTIES, ETC.

CASE STUDY:

Party funding in Guatemala. According to the International Commission Against Impunity in Guatemala in 2017 (known as CIGIC in Spanish), there are *‘three ways that explain the methods and motivations for illicitly funding political campaigns: companies that donate to parties for specific interests or ideological affinity; national or international companies invest in politicians to secure business deals; fundraisers-businesspeople collect contributions without reporting them or accounting for them and then go on to benefit funders.’*⁷³¹

WHAT CAN BE DONE TO STRENGTHEN THE DEMOCRATIC POLITICAL SYSTEM?

Governments in the region should:

- Encourage the development of national pacts related to the main policies with the capacity for creating wellbeing and its redistribution. Evidently, fiscal policy will be one of these.
- Reform the electoral systems to prevent the emergency of ‘pirate’ parties, by proposing basic, socially based requisites with voting quotas, without discarding the possibility of the emergence of new structures that will revitalise politics.
- Impose limits on private funding of political parties and candidates, in terms of absolute totals as well as caps per contributor.
- Ensure transparency of party funding and sources of funding.

For example, Brazilian conglomerate Odebrecht funded campaigns across LAC, obtaining benefits in the form of public works contracts. To illustrate the rights that could have been fulfilled if these public funds had been allocated to public policies, it is estimated that the US\$163m (RDS\$5.4bn)³² Odebrecht admits to having illicitly earned in the Dominican Republic thanks to bribes could have paid for:³³

- 9,140 low-cost dwellings, safeguarding people's right to housing.
- A doubling of the salaries for the 42,500 public employees who earn less than RDS\$10,500 per month (less than the cost of the basic family basket) for a year, thus ensuring their right to a decent salary.
- An eight-fold increase in investment in national health insurance for cancer treatments, guaranteeing access to lifesaving medications for patients.

CAPTURE MECHANISM 5: LOBBYING

In 46% of the cases studied, lobbying was employed by business elites to influence public decisions, targeting both the executive and legislative branches of government. This is influenced by a series of factors. For example, money allows for hiring experts: both

specialist lobbyists and people with wide networks of relationships that enable them to approach and occupy spaces in which they can exert their influence. For example, Odebrecht always made a point of doing this when selecting its representatives in each country.



LOBBYING

WHAT IS IT?

LOBBYING IS A ROUTINE ACTIVITY IN THE DEMOCRATIC PROCESS THAT **CAN BECOME PROBLEMATIC WHEN SOME SECTORS HAVE DISPROPORTIONATE CAPACITY TO LOBBY COMPARED TO OTHERS. THIS CAPACITY IS DETERMINED BY THE ELITE'S ACCESS TO GREATER RESOURCES/FUNDS.**

CASE STUDY:

Tax reform in Chile (2014).

*'The way in which the modification to the tax reform bill was negotiated would not have withstood even a basic lobbying law, such as the one that will come into effect in Chile in the next few months. Meetings in private homes attended by government and congressional authorities with private sector representatives should have been recorded in the officials' diaries.'*³⁴

WHAT CAN BE DONE TO REGULATE LOBBYING AND PREVENT EXCESSIVE LOBBYING CAPACITY BY ELITES?

Governments in the region should:

- Promote laws to regulate and ensure transparency of lobbying in order to restrict the influence of elites in public policy design and legislation.
- Keep a register of lobbyists that also includes their allocated budgets for lobbying.
- Guarantee formal spaces in public institutions in which all people and organizations can present their proposals and interests in fiscal debates.

As well as formal lobbying mechanisms, informal lobbying is another determining factor: elites know each other well; they often attended the same schools³⁵ or spend time in the same recreational spaces.

It is therefore easy for them to approach decision makers, while those without such networks (such as those living in poverty) generally have to go through significant bureaucratic processes or exert pressure by marching in order to be heard by those in office.



CAPTURE MECHANISM 6: KNOWLEDGE CONTROL OR THE 'TECHNICAL SMOKESCREEN'

Debates on taxation or public spending take place far away from the majority of the population, even though they relate to fundamental rights to things like life or health. However, fiscal debates – especially the tax-related aspects – can be made to appear merely technical in nature and too complicated and difficult for most people to discuss. This can make them appear completely unrelated to rights or democracy. In 31% of the cases studied, we found such 'technical smokescreens' were used by elites to capture the debate.

Knowledge can also be bought or funded. This is why the business sector has a much greater capacity for putting forward proposals or questioning them compared to the rest of the population. The business sector can fund think tanks, which very often represent and defend corporate interests as if they were purely objective arguments.

The technical smokescreen excludes most people from decision making and allows sectors with more resources and influence to play a disproportionately large role in shaping fiscal decisions according to their own objectives – and against the common interest.



TECHNICAL SMOKESCREEN

WHAT IS IT?

THE PRACTICE OF REPACKAGING POLITICAL DECISIONS AS TECHNICAL ONES. THIS PREVENTS PUBLIC DEBATES AND JUSTIFIES DECISIONS BY FORMULATING ARGUMENTS THAT ARE DIFFICULT FOR THE CITIZENRY AT LARGE, AND EVEN DECISION MAKERS IN PARLIAMENT, TO UNDERSTAND OR TAKE PART IN.

CASE STUDY:

Tax reform legislative bill in Peru (2014).

*'This law (and its justification) went through almost unperceived and there were no major reactions from public opinion; most of the population remained passive. The law had a distinct "technical nature"; it was difficult to understand what it was aimed at, as well as to estimate its cost/benefit. An Ipsos Apoyo survey found that 74% of the population reported "not having knowledge about the economic measures proposed by the government in order to promote and boost investment", and this percentage increased in line with the level of poverty of the population.'*³⁶

WHAT CAN BE DONE TO DEMOCRATISE ACCESS TO KNOWLEDGE, ENCOURAGE PUBLIC DEBATE AND ENSURE TRANSPARENCY OF FISCAL INFORMATION?

Governments across the region should:

- Promote the development of public communications products aimed at the citizenry that clearly explain all the available options for tax and budget reforms during the whole public policy cycle, not just after the proposals have been approved.
- Promote public research forums that will work with organizations and groups that cannot afford to pay external advisers.
- Make it a requisite to ensure transparency about funding sources for think tanks and private universities.
- Strengthen the school curriculum and teaching about fiscal issues.

CAPTURE MECHANISM 7: EXPLOITATION OR CREATION OF REGULATORY FRAMEWORKS FOR PARTICIPATION

In the cases studied for this report, in 31% problems were identified with the facilities for citizens and unions to take part in fiscal decision making on an equal basis.

States are responsible for guaranteeing equitable policies that balance the capacities of all sectors involved that sit at the table. Without balancing the voices of large corporations and the wealthy with those of people living in poverty, such participation spaces merely reproduce inequalities and legitimize decisions made with unequal participation.

This especially affects women, who rarely take part in fiscal decisions despite on average suffering the consequences of fiscal injustices much more than men because they are over-represented in the poorest strata and have an unequal distribution of unpaid caring duties.

On the other hand, citizen participation is the best strategy for reducing elite capture. Student protests in favour of public education in Chile in 2014 had a defining influence on the design of the fiscal reform that introduced progressive taxation measures. The Chilean business sector managed to reduce the progressive nature of the tax reform, but not to the extent that they would have achieved if the reforms had not been linked to the search for the funding needed for the education system demanded by the student protests. It is essential for an active citizenry to set out their demands and wishes within as well as outside formal participation spaces.



EXPLOITATION OR CREATION OF REGULATORY FRAMEWORKS FOR PARTICIPATION

WHAT IS IT?

A MECHANISM THAT ELITES EMPLOY TO TAKE ADVANTAGE OF OR **CREATE REGULATIONS THAT ENABLE THEM TO PARTICIPATE IN DECISION MAKING TO THEIR OWN ADVANTAGE** AND THE DETRIMENT OF OTHER INTEREST GROUPS.

CASE STUDY:

Tax incentives in the Dominican Republic (2014).

It was observed the formation of decision-making committees on tax incentives for companies that do not open any space for citizen participation and in which the interests of the private sector are over-represented.

'The discussions take place away from the finance ministry, which at best is a member of the governing body, with common voting capacity [...]

The Ministry of Finance is not a member of any of the government bodies and is not even part of the border and industry incentive schemes... In three out of the four incentive schemes, the business groups are present in the government structure... In practice, the ministries whose

remit includes the sectors that will benefit from the incentive are the committee chairs. The ministries of industry and tourism tend to be biased towards their sectors. Only the Ministry of Finance has an overview of the whole system.’³⁷

WHAT CAN BE DONE TO PROMOTE AND PROTECT CITIZEN PARTICIPATION?

Governments across the region should:

- Create citizen consultation and decision-making spaces during the process of designing public policies at both executive and legislative levels, including specific measures for tax reforms, public budgets, and the approval of loans and large-scale public works contracts.
- Guarantee technical support for social organizations that require it in order to participate in decision-making or consultative spaces.
- Ensure that the composition of these decision-making and consultation bodies is diverse and balanced between the different sectors of society. Avoid the power of veto that gives a sector the official power or right to refuse to accept or allow reforms.
- Promote representation of women’s voices in consultation, participation and decision-making spaces, using affirmative action to ensure that they participate on an equal basis.
- Push for legal reforms that increase participation in public decision making, such as citizens legislative initiatives, revocation of mandate, etc.
- Introduce legislation that protects the rights to free expression, citizen vigilance of its rulers and peaceful protest.
- Ensure the enactment of laws and systems that guarantee transparency of public administration and the right to information, at both central and local levels.
- Comply public information laws and enforce penalties when they are not applied.
- Strengthen the teaching curriculum and practice to promote critical thinking, awareness of rights, and a culture of citizen participation.

SOCIALISE THE COSTS, PRIVATISE THE EARNINGS:

THE SOCIAL COSTS OF TAX EXONERATIONS IN THE DOMINICAN REPUBLIC.

THE VOLUME OF TAX EXONERATIONS RECEIVED BY COMPANIES THROUGH TAX INCENTIVES TOTALS US\$720M EVERY YEAR. THIS COULD INCREASE THE HEALTH BUDGET BY 70%, TRIPLE THE POTABLE WATER AND SEWAGE SYSTEM BUDGET, OR INCREASE THE HOUSING BUDGET TWENTY-FOLD.³⁸



CAPTURE MECHANISM 8: JUDICIALIZATION OF PUBLIC POLICY DECISIONS IN CONSTITUTIONAL COURTS

In three of the cases studied (23%), business elites used the constitutional courts to halt tax reforms that did not suit their interests. If one of the branches of state “is porous to the influence of elites and the regulations authorise pre-eminence over the rest, then the interest of the majority could well be harmed...”

This is why it’s important...to have an independent and efficient judicial branch which facilitates negotiation between political actors...and the processes to elect and identify the members who sit on the constitutional courts, the most important courts of justice for guaranteeing the rule of law”³⁹



JUDICIALIZATION OF PUBLIC POLICY DECISIONS IN CONSTITUTIONAL COURTS

WHAT IS IT?

A MECHANISM FOR DELAYING OR BLOCKING FISCAL REFORMS BY USING THE COURTS, AS OPPOSED TO THE NORMAL LEGISLATIVE CHANNELS, TO SETTLE LEGISLATIVE OR FISCAL REFORM BILLS THAT AFFECT THE INTERESTS OF THE ELITES.

CASE STUDY:

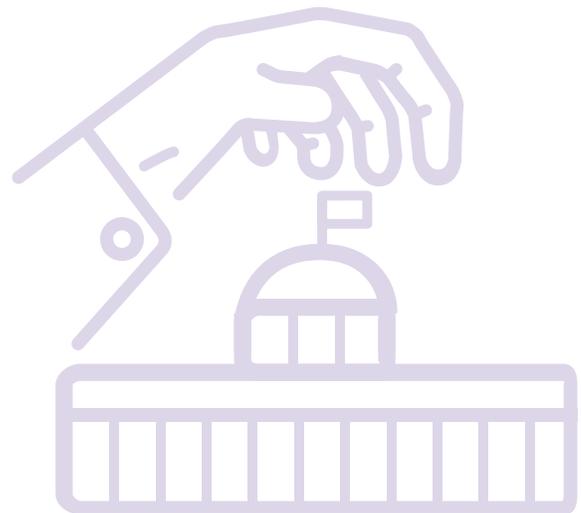
Tax reforms in Guatemala (1996–2018).

Since 1985, the Guatemalan Constitutional Court has received hundreds of petitions for halting or watering down the tax reform proposals.⁴⁰ The Court has sweeping powers for cancelling any kind of tax reform, and it appeared to have been at least useful for the interests of economic elites, according to a study that covers the period up to 2011.⁴¹

WHAT CAN BE DONE TO STRENGTHEN CONSTITUTIONAL COURTS IN THEIR ROLE AS GUARANTORS OF THE COMMON GOOD?

Constitutional courts should be the guarantors of citizens' rights, govern the obligations of states with regards to public policies and impartial when it comes to the access it grants people and social groups.⁴² In this vein, the following measures should be promoted:

- Implement suitable and impartial mechanisms for the selection of judges that ensure a diverse and unbiased composition, without influence from elites of any type.
- Ensure that judicial decisions or legal opinions issued by Constitutional Courts on fiscal or tax matters take into account the international obligations enshrined in human rights treaties.
- Establish mechanisms for scrutiny and accountability of judges' performance, aimed at preventing or penalizing the use of the judiciary to favour the interests of elites to the detriment of the rights and interests of the State or of society.
- Implement training programmes for judges to ensure they have the necessary expertise to settle economic and fiscal matters affecting the rights of people or groups.
- Strengthen the oversight of national human rights institutions over the interests of social groups in cases involving the use of budget or tax funds that come before the constitutional courts.



CAPTURE MECHANISM 9: BRIBES, INFLUENCE PEDDLING AND CONFLICTS OF INTEREST

As illegal activities, bribes, influence peddling and conflicts of interests are usually concealed. Even so, the payment of bribes appears to have been a common practice in the Odebrecht scandal, and a specially designated office for these operations was even

included in the company's organigram⁴³. Odebrecht officials have stated that bribery allowed the company to achieve profits of almost US\$3bn across 10 countries in LAC.⁴⁴



BRIBES, INFLUENCE PEDDLING AND CONFLICTS OF INTEREST

WHAT IS IT?

ILLEGAL PAYMENTS FOR EXERTING INFLUENCE FOR THE BENEFIT OF THE ELITES, IN FISCAL POLICY AND TO AFFECT DECISION-MAKING AND BUDGET ALLOCATIONS, AND GRANTING OF PROJECTS OR PUBLIC WORKS.

CASE STUDY:

The Odebrecht case (2001-2016).

The United States Department of Justice revealed that governments in 12 countries received US\$788m in bribes from Odebrecht in return for contracts between 2001 and 2016. Ten of these countries were in LAC (receiving \$780m in total). The countries with the most bribes were Brazil, Venezuela and the Dominican Republic.⁴⁵

WHAT CAN BE DONE TO COMBAT BRIBES AND INFLUENCE PEDDLING?

Governments across the region should:

- Impose penalties and make an example of those who pay or receive bribes or partake in influence peddling in public administration.
- Ensure the independence of the judicial system.

CAPTURE MECHANISM 10: MARCHES AND PROTESTS

Social organizations and movements are usually regarded as the groups that use social mobilization, such as marches and protests, for influencing

governments. However, business and other elites can also use them to influence public decision-making.



MARCHES AND PROTESTS

WHAT IS IT?

ENCOURAGING SOCIAL MOBILIZATION IN FAVOUR OF MEASURES THAT FAVOUR ELITES.

CASE STUDY:

Inheritance tax in Ecuador (2015–16).

Opposition politicians and businesspeople (most of the latter as part of the National Federation of Chambers of Commerce and the National Federation of Chambers of Industry) led a fierce campaign against a proposed inheritance tax bill, using a series of strategies to mobilise sectors of the population that would never be lucky enough to be affected by the tax as they were not likely to receive inheritances, let alone on the scale that the authorities were proposing to tax.

WHAT CAN BE DONE TO PREVENT THE RIGHT TO PROTEST BEING CO-OPTED BY ELITES?

It is important to **protect the right of all social groups to protest**. Therefore, recommendations related to this type of elite capture relate to control of the media and their use by elites to shape public opinion. Elites should be **prevented from imposing their own opinions on the population** whose rights would be reduced by the very thing for which they might be protesting.

CAPTURE MECHANISM 11: OPACITY IN TAX

The existence of banking secrecy and tax havens not only affects tax collection by states by allowing the

wealthiest individuals and transnational companies to evade tax payments – it also conceals illegal activities.



TAX HAVENS

WHAT IS IT?

A WIDE RANGE OF MECHANISMS USED BY THE ELITES IN ORDER TO EVADE PAYING TAXES OR CONCEAL ILLICIT ACTIVITIES BY HIDING INCOME AND WEALTH.

CASE STUDY:

The Odebrecht case (2001-2016).

Documents from the 'Paradise Papers', an international journalistic investigation, link Odebrecht with at least 17 companies established in tax havens. According to company executives, Odebrecht used fictitious companies in tax havens to launder money and camouflage the transparency of loans to politicians and public agents.⁴⁶

WHAT CAN BE DONE TO TACKLE TAX HAVEN OPACITY AND COMBAT TAX AVOIDANCE?

Governments across the region should:

- Eliminate banking secrecy.
- Implement laws on fiscal transparency.
- Eliminate tax havens that conceal illegal practices and enable tax avoidance.

6. COMBAT STATE CAPTURE TO RESTORE DEMOCRACY AND BUILD EQUALITY

Based on the identification of fiscal policy capture mechanisms by the elites, this report recommends institutional reforms that would help reduce and limit state capture by elites. In order to implement these measures, they have to be promoted by governments, parliaments and judicial systems. However, based on our analysis, the introduction of these measures risks being held back by the kind of elite capture that it seeks to prevent.

This imbalance can only be addressed by ensuring greater citizen participation and representation. This report calls on the people of Latin America and the Caribbean to participate in the social and political spheres and get involved in decisions about the common good based on respect for equality and the rights of all people.



INCREASING DEMOCRACY IS THE ONLY WAY TO LIMIT STATE CAPTURE BY ELITES, WHICH WILL LEAD TO INCREASED EQUALITY. HOWEVER, INCREASING EQUALITY IS ALSO THE ONLY WAY TO INCREASE DEMOCRACY.

ENDNOTES

All links last accessed November 2018, unless otherwise specified.

¹ According to studies by CEQ 2017, around 2011 the net effect of fiscal policy increased poverty in Guatemala, Honduras, Nicaragua, Bolivia, the Dominican Republic and El Salvador.

² Domínguez 1996 op cit in J. Crabtree & F. Durand. (2017). *Peru: Power Elites and Political Capture*. Lima, Network for Social Sciences Development in Peru.

³ Latinobarómetro Corporation 2017

⁴ Ibid.

⁵ Ibid

⁶ Latinobarómetro asks respondents to select the main conflict from a list ('rich and poor', 'business owners and workers', 'employed and unemployed', 'men and women', 'youth and society', 'different races', 'nationals and foreigners' or 'elderly people and society').

⁷ Credit Suisse Database

⁸ Forbes Database

⁹ ECLAC. (2018). *Panorama Social 2017*. Santiago, Chile.

¹⁰ ECLAC <https://www.cepal.org/en/pressreleases/despite-advances-womens-educational-level-gender-wage-gap-persists-region>

¹¹ ECLACSTAT. Surveys on time use in nine countries in different years.

¹² ECLACSTAT.

¹³ M. Hanni, R. Martner & A. Podestá. (2015). *The Redistributive Potential of Taxation in Latin America*. In *CEPAL Magazine*, N° 116 (LC/G.2643-P). Santiago, Economic Commission for Latin America and the Caribbean (ECLAC). p13 [Spanish only]

¹⁴ ECLAC "Latin American countries have a Gini coefficient for market income (i.e. before contributions

and direct taxes) which is slightly higher than the OECD average (0.50 and 0.47, respectively). However, fiscal policy in OECD countries plays a significant role in reducing inequality, as the Gini coefficient goes down 36% (39% on average in 15 European Union countries) and stands at 0.30 (in absolute terms the Gini coefficient goes down 17 percentage points in the OECD and 19 in the EU-15). In contrast, in the LAC region the average reduction in inequality barely reaches 6% (or in absolute terms, 3 points in the Gini coefficient for the average across 17 countries), so the Gini for available income reaches an average value of 0.47 (the same value as the OECD market income Gini coefficient)."

¹⁵ S. Duryea & M. Robles. (2016). *Social Pulse of Latin America and the Caribbean, 2016: realities and perspectives*. Inter-American Development Bank (IDB). [Spanish]

¹⁶ The US\$4 PPP daily threshold is a poverty indicator adjusted to the overall economic conditions of the countries in the region.

¹⁷ If a US\$2.5 PPP daily threshold is used, poverty in the region is reduced by an average of 22%. Lustig 2017

¹⁸ M/ Sepúlveda. 2014 *Special Rapporteur's Report on Extreme Poverty and Human Rights*, Magdalena Sepúlveda Carmona. A/HRC/26/28. 22 May 2014 UN, 2014 para. 47. [Spanish]

¹⁹ R. Cañete. (2015). *Privileges that deny rights: Extreme inequalities and the hijacking of democracy in Latin America and the Caribbean*. Oxfam, Lima. p50

²⁰ H. Cortés & D. Itriago. (2018). *The Phenomenon of Capture: Unmasking Power. Analytical Guide to the Capture of Public Policies and their Effect on Inequality*. Oxfam Intermon, Madrid. p14 [Spanish]

²¹ R. Cuevas & A. Mora. (2016). *The Feudalistic Media and Social Resistance in Latin America*. Editorial Universidad Estatal a Distancia (EUNED). [Spanish]

²² M. Becerra & G. Mastrini G. (2017). *Concentration and Convergence of Media in Latin America 2000-2015:*

New Media and Technology, Fewer Actors. Bernal: Universidad Nacional de Quilmes. Observacom, 2017. [Spanish]

²³ UNESCO 2017

²⁴ See: W.T. Whitney. (2012, June 28). *Paraguay President Lugo ousted by the rich and powerful*. *People's World*. <http://www.peoplesworld.org/article/paraguay-president-lugo-ousted-by-the-rich-and-powerful/>

<https://lahoradedespertar.wordpress.com/tag/grupo-zuccolillo/>.

²⁵ R. Fogel, S. Costa & S. Valdez. (2018). *Shaping Privileges: Discourses, Strategies and Practices used by the Agribusiness sector for influencing Paraguayan Tax Policy*. p24 [Spanish]

²⁶ OcdeStat

²⁷ Inter-American Commission for Human Rights. (2014). *Freedom of Expression Standards for the Transition to a Diverse, Plural and Inclusive Free-to-Air Digital Television*. Washington: Organisation of American States. Numeral 18

²⁸ P. Canelo & A. Castellani. (2016). "Revolving Door" in *Argentina – Analysis of the Current National Cabinet and Comparison with the International Experience*. IDAES-UNSAM/CONICET. [Spanish]

²⁹ Ibid.

³⁰ R. Merino. (2018). *The Power of the Law or the Law of Power? Governance and Technocratic Legality in Neoliberal Peru: The Case of the PPPs*. p40 [Spanish]

³¹ CICIG. (2017). p45 **Op cit** in W. Romero & E. Ramírez. (2018). *Economic Elites and Capture of the Fiscal Policy Institutions in Guatemala*. p45 [Spanish]

³² Based on the average exchange rate during the period when the bribes were paid in the Dominican Republic in 2001–14 (US\$1 = RD\$33.4). The most expensive project known to have involved bribes is Punta Catalina, which was negotiated in the past few years, when the exchange rate was at its highest;

therefore, the overall RD\$ estimate is conservative.

³³ R. Cañete. (2017). *Odebrecht and the Political and Economic Elites*. In *Gaceta Judicial*, number 361. Santo Domingo. [Spanish]

³⁴ F. Skoknic. (2014, July 17). "The elusion holes after the tax agreement between Arenas and the right" *Ciper Chile*. [Spanish] <https://ciperchile.cl/2014/07/17/los-forados-a-favor-de-la-elusion-que-dejo-el-acuerdo-tributario-de-arenas-con-la-derecha/>

³⁵ According to L. Chavez, F. Cuamatzin & E. Morales (2018), the last 13 Treasury Secretaries obtained their last degree at a US university, such as Harvard (15%) or Yale (38%). Likewise, six of the last 11 Secretaries for Communications and Transport were educated at US/ Canadian universities. Additionally, 10 of the last 13 Treasury Secretaries began their professional training and/or were teachers at the *Instituto Tecnológico Autónomo de México*

³⁶ F. Durand. (2017). *Power Games: Tax Policy and Lobbying in Peru, 2011-2017*. Lima: Oxfam. [Spanish]

³⁷ C. Daude, H. Gutiérrez & Á. Melguizo. (2014). *The Political Economy of Tax Incentives for Investment in the Dominican Republic: "Doctoring the Ball"*. OECD Development Centre Working Papers, No. 322. Paris: OECD Publishing. p23

³⁸ R. Cañete. (2015). *Privileges that deny rights: Extreme inequalities and the hijacking of democracy in Latin America and the Caribbean*. Lima: Oxfam. p65.

³⁹ H. Cortés & D. Itriago. (2018). *The Phenomenon of Capture: Unmasking Power. Analytical Guide to the Capture of Public Policies and their Effect on Inequality*. Madrid: Oxfam Intermon. p44. [Spanish]

⁴⁰ On many occasions, the Constitutional Court has interpreted constitutional rules by following criteria that benefit the interests of the business sector. See Cabrera & Schneider 2015, p132 **Op cit**. In Itriago, D. (2017). *Wielding Influence, Building Inequality: Capture of Tax Policies in Latin America and the Caribbean*.

⁴¹ D. Itriago. (2017). *Wielding Influence, Building Inequality: Capture of Tax Policies in Latin America and the Caribbean*. Society for International Development.

⁴² G. Oré Aguilar. (2018, forthcoming). *Center for Economic and Social Rights, interview based on the study: "Litigating Austerity: Courts' response to budget cuts in times of crisis"*

⁴³ Convoca <http://convoca.pe/investigaciones/archivos-filtrados-vinculan-odebrecht-con-17-offshore-en-tres-paraisos-fiscales>

⁴⁴ Report from the US District Court of the Eastern District of New York, available at <https://www.justice.gov/opa/press-release/file/919911/download>

⁴⁵ Ibid.

⁴⁶ Ibid

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