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Reforming Peru's Political Institutions

The Role of Good Governance Aid
as a Driver of Change

Jennifer Gauck

Thesis Submitted to the University of Kent
Department of Politics and International Relations
in Fulfilment of the Requirements for the Award of the Degree of
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Abstract

Decades-long debates over the quality, quantity and purpose of development aid have led to a renewed emphasis on whether, and under what circumstances, aid is effective in achieving development outcomes. There is significant policy consensus that aid is most effective in environments with “good” governance, which the United Nations defines as processes of decision making and implementation that are effective and efficient, equitable and inclusive, and accountable and transparent. Aid donors fund numerous projects aimed at strengthening good governance in recipient countries, often through reforms of political institutions. Yet many aid donors fail to theorize about the process or mechanism through which good governance aid drives institutional change, and in doing so often ignore the impact that other drivers of change may have on the implicitly assumed direct causal relationship between aid and improved governance in political institutions.

This thesis explores the role of aid in shifting institutions toward the ideal of good governance through an analysis that embeds this aid within a larger context that takes into account the role of other drivers of change. It compares good governance-related changes within Peru’s judicial institutions and Comptroller (Auditor) General over a 30-year period, from 1980-2010, examining the main actors and factors that drove or influenced changes in institutional accountability, transparency, effectiveness and efficiency, asking how they drove these changes and overcame resistance to reforms. Building upon this within-case analysis, this thesis then compares across cases to develop conclusions about the necessary and sufficient conditions that resulted in positive good governance-related changes. It concludes with a discussion of the opportunities for, and limitations of, good governance aid as a driver of change in political institutions.

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“We shall not cease from exploration
And the end of all our exploring
Will be to arrive where we started
And know the place for the first time.”
- T. S. Eliot, “Little Gidding”

Completing a Ph.D. is a long and often painful journey, the rewards of which are not always clear until some time after one has already submitted her thesis. The journey from "not knowing what you don't know" to "knowing what you don't know" to "being comfortable with what you don't know" is largely an inward one, but many of the other aspects of completing a Ph.D. — from exploring ideas to correcting one's writing to navigating the financial and emotional insecurities of student life — would be unmanageable without a strong support network.

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Table of Contents

Chapter 1: Good Governance Aid and Institutional Change in Peru	1
<i>Research Questions</i>	4
<i>Definition of Terms</i>	5
<i>Theoretical Framework</i>	9
Hypothesis	12
<i>Methodology</i>	15
Case Selection and Chosen Cases	16
Methods of Data Collection	18
Methods of Data Analysis	18
<i>Originality and Significance</i>	20
<i>Limitations</i>	22
<i>Thesis Outline</i>	23
Chapter 2: Drivers of Institutional Change	25
<i>Introduction</i>	25
<i>Aid as a Driver of Change</i>	26
Development Policy and Aid as a Driver of Institutional Change	26
Factors Affecting the Influence of Aid on Institutional Change	29
<i>Peruvian Actors as Drivers of Change</i>	34
Executive Power	34
Horizontal Accountability	38
Vertical Accountability	39
<i>Conclusions</i>	41
Chapter 3: Theories of Institutional Change	43
<i>Introduction</i>	43
<i>Rational Incentives for Change</i>	45
Institutions as Constraints on Agents' Choices	46
Rational-Choice Explanations of Institutional Change	49
Acceptance or Resistance to Good Governance Changes	52
<i>Normative Rationales for Change</i>	53
Institutions as Cognitive Scripts	54
Sociological Explanations of Institutional Change	57
<i>Power Dynamics, Embedded Structures, and Change</i>	61
Institutions as Embodiments of Power Distributions	62
Historical Explanations of Institutional Change	65
<i>Endogenous Institutional Change</i>	68
Explanations of Endogenous Institutional Change	69
Applying the Endogenous Change Framework to Good Governance Aid	74
<i>Conclusions</i>	77
Chapter 4: Analyzing Institutional Change	79
<i>Introduction</i>	79
<i>Evaluating the Role of Aid in Institutional Change</i>	80
Case Study Designs and Sub-national Comparisons	82
Case Selection	85
<i>Conceptualization and Operationalization of Variables</i>	89
Measuring Components of Good Governance	91
Understanding Institutional Processes	96
<i>Data Collection Methods</i>	99
Semi-Structured Elite Interviews	101

<i>Methods of Data Analysis</i>	107
Within-Case Analysis.....	108
Cross-Case Comparison.....	111
<i>Conclusions</i>	112
Chapter 5: Good Governance in the Fujimori Era	114
<i>Introduction</i>	114
<i>Peru's Economic and Political Environment in the 1980s</i>	115
<i>Good Governance in the Comptroller General in the 1980s</i>	118
<i>Good Governance in the Judiciary in the 1980s</i>	125
<i>Peru's Economic and Political Environment in the 1990s</i>	131
The Self-Coup and State Capture	132
<i>Good Governance in the Comptroller General in the 1990s</i>	138
<i>Good Governance in the Judiciary in the 1990s</i>	147
<i>Explaining Good Governance Shifts in Political Institutions</i>	154
Political Survival and Endogenous Veto Power.....	155
Executive Interference and Exogenous Veto Power	161
Systematic Intimidation and Civil Society Actors.....	166
<i>The Impact of Aid Donor Interventions</i>	170
The Nature of Donor Interventions.....	171
Modest or Cancelled Projects	172
<i>Conclusions</i>	176
Chapter 6: Good Governance in the Post-Fujimori Era	179
<i>Introduction</i>	179
<i>The Economic and Political Context in Peru, 2000-2010</i>	180
Decentralization and the National Accord for Governance	180
Economic Stability and Gradual Reforms.....	183
<i>Good Governance in the Comptroller General in the 2000s</i>	185
Changes in Measures of Good Governance in the Comptroller General.....	190
<i>Good Governance in the Judiciary in the 2000s</i>	195
Changes in Measures of Good Governance in the Judiciary.....	198
<i>Explaining Good Governance Shifts in Political Institutions</i>	202
Leadership Changes and Endogenous Institutional Reform	203
Vertical Accountability.....	207
Horizontal Accountability and the Role of the Executive.....	211
<i>The Impact of Aid Donor Interventions</i>	218
Aid as a Driver of Change.....	219
Aid as a Facilitator of Change.....	222
Aid as a Norm Diffusion Mechanism.....	228
<i>Conclusions</i>	229
Chapter 7: Conclusions	231
<i>Introduction</i>	231
<i>Summary of Argument</i>	232
<i>Summary of Cross-Case Findings</i>	233
Changes in Good Governance	236
Shift in Internal Dynamics and the Role of Institutional Leaders.....	239
The Influence of the Executive Branch	240
The Role of Horizontal Accountability Mechanisms	241
The Role of Vertical Accountability Mechanisms.....	241
The Role of Good Governance Aid.....	242
Necessary and Sufficient Conditions.....	243

<i>Further Research Agenda</i>	246
Bibliography	249
Annex I. Control of Corruption	267
Annex II. Disaggregated List of Donor-Funded Projects in Select Political Institutions	270
Annex III. Good Governance-Related Projects Implemented in the Judiciary and Comptroller General, 2002-2010	283
Annex IV. Interview Questionnaires	285
Annex V. Quantitative Indicators of Good Governance in Peru, 1995-2012	289

List of Tables and Figures

Title	Page
Figure 1. Sample Logical Framework of Good Governance Aid Interventions	4
Figure 2. Expanded Logical Framework of Good Governance Aid Interventions	13
Figure 3. Drivers of Change within the Political System	44
Table 1. Contextual and Institutional Sources of Change Agents	7272
Table 2. Example of Cross-Case Comparison Results	73
Table 3. Donor Assistance to Government-Related Projects in Select Countries, 2000-2010	87
Table 4. Governance-Related Aid Flows to Peruvian Public-Sector Organizations	89
Table 5. List of Interviews by Institution and Date	101
Table 6. Results from Coding of Qualitative Interview Data	108
Table 7. Summary of Observations on Role of Drivers of Change in Comptroller General in the 1980s	124
Table 8. Summary of Observations on Role of Drivers of Change in the Judiciary in the 1980s	130
Table 9. Summary of Observations on Role of Drivers of Change in the Comptroller General in the 1990s	146
Table 10. Effects of 1996 Judicial Reforms	150
Table 11. Summary of Observations on Role of Drivers of Change in the Judiciary in the 1990s	153
Table 12. Endogenous Institutional Change in the Peru's Political Institutions in the 1990s	161
Figure 4. Assessment of Institutions' Performance on Controlling Corruption	192
Figure 5. Assessment of which Institutions are Most Equipped to Control Corruption	193
Figure 6. Assessment of Most Corrupt Institutions	200
Figure 7. Assessment of Institutional Corruption	201
Table 13. Endogenous Institutional Change in the Peru's Political Institutions in the 2000s	208
Table 14. Summary of Observations on Role of Drivers of Change in the Comptroller General and Judiciary in the 2000s	218
Table 15. Cross-Case Comparison	236
Table 16. Parsimonious Cross-Case Comparison	244

List of Acronyms

APCI	Agencia Peruana de Cooperación Internacional
APRA	American Popular Revolutionary Alliance
CNDH	Coordinadora Nacional de Derechos Humanos
CNM	Consejo Nacional de la Magistratura
Dfid	UK Department for International Development
DRG	Democracy, Rights and Governance
EC	European Commission
FDI	Foreign direct investment
GIZ	German Development Cooperation
GRFA	Revolutionary Government of Armed Forces
IADB	Inter-American Development Bank
IFI	International financial institution
IMF	International Monetary Fund
INTOSAI	International Organization of Supreme Audit Institutions
JNE	Jurado Nacional de Elecciones
MCC	Millennium Challenge Corporation
MINJUS	Ministerio de Justicia y Derechos Humanos
MRTA	Tupac Amaru Revolutionary Movement
NGOs	Non-governmental organizations
OAI	Oficinas de Auditoría Internal
OAS	Organization of American States
OCMA	Oficina de Control de la Magistratura
ODA	Official development assistance
OECD	Organization for Economic Cooperation and Development
SAP	Structural adjustment program
SOEs	State-owned enterprises
UNDP	United Nations Development Program
USAID	U.S. Agency for International Development

Chapter 1: Good Governance Aid and Institutional Change in Peru

In 1997, the World Bank was poised to provide a \$22.5 million loan to Peru to support reforms aimed at reducing corruption in, and improving the transparency and independence of, the Judiciary. The proposed reforms built upon sweeping changes made in the judicial sector since 1992, when democratically elected Peruvian President Alberto Fujimori initiated a self-coup,¹ justified in part by asserting that exceptional powers were needed to reform a Judiciary that Peruvians saw as inept, corrupt, and untrustworthy. Fujimori, with the initial support of a variety of political stakeholders and the approval of the majority of Peru's citizens, purged most of the Judiciary and embarked on a series of reforms aimed at rebuilding the judicial sector. The World Bank loan fit into this reform framework, and included a series of projects to be implemented by two judicial branch entities and three other government agencies. By all accounts, the loan had the hallmarks of success: It aligned with the reforms proposed by the loan recipient, it had the support of powerful stakeholders in the government, and several government agencies were prepared to implement the projects.

Yet less than three months after approving it, the Bank postponed the start of loan disbursements for six months, citing concerns over project effectiveness. By the end of that six-month period, the Peruvian government requested to withdraw from the loan, at which point the Bank terminated the projects.² Had the loan been disbursed and the projects implemented, they almost certainly would have failed in their aim of making Peru's judicial system less corrupt and more transparent and independent. Case in point: Within three years of the loan cancellation, Fujimori was implicated in a government corruption scandal so pervasive that he fled to Japan and

¹ A self-coup (*autogolpe* in Spanish) is a coup in which "a government that came to power through democratic means gradually erodes a country's democratic institutions to keep itself in power permanently." See Joshua Keating, "Coups Ain't What They Used to Be," *Foreign Policy*, June 27, 2012, http://www.foreignpolicy.com/articles/2012/06/27/coups_ain_t_what_they_used_to_be.

² Jeffrey Clark, *Building on Quicksand: The Collapse of the World Bank's Judicial Reform Project in Peru* (New York: Human Rights First, 2000), <https://secure.humanrightsfirst.org/pubs/descriptions/perubuilding.htm>.

resigned the presidency via fax. One of the many institutions caught up in the scandal was the Judiciary, as evidence emerged that judges had little space to act independently of the Executive, and that endemic corruption extended from judges to lawyers to police investigators.

Eight years after the cancellation of the 1997 loan, the World Bank made the first disbursement of a \$12 million loan aimed at improving justice services in Peru. An assessment of the performance of that loan, conducted in 2010, rated both the Bank's and Peru's performance in the implementation of the loan as "Highly Satisfactory," showing tangible improvements in transparency, professional human resources management, and judicial training.³ A second, five-year loan for \$30 million loan was approved in 2010. Among its objectives were improving service delivery to users by providing technical assistance for more efficient case processing; improving institutional capacity of judicial personnel by implementing of a performance-based management system of personnel selection, evaluation, promotion, and sanctioning; and improving transparency through training of judges and personnel within the Judiciary's anti-corruption office (OCMA).⁴

That there could be such disparate outcomes of two similar good governance projects — aimed at the same institution in the same country by the same international aid donor — underscores why there has been such a fierce debate during the last two decades over the role of foreign aid as a driver of change.⁵ In terms of good governance aid specifically, which is largely aimed at changing political institutions, it is unclear whether projects like those covered by the World Bank judicial reform loans help drive change, whether they are the key driver of change, and what impact other key drivers of change have on the ability of good governance aid itself to act as a driver of change. The dilemma for good governance aid, within the larger debate on whether external actors can affect change in developing countries, is that institutions are perceived as

³ The World Bank, *Peru – Justice Services Improvement Project* (Washington: The World Bank, 2010), <http://documents.worldbank.org/curated/en/2010/12/13781294/peru-justice-services-improvement-project>.

⁴ The World Bank, "Project: Justice Services Improvement Project II," <http://www.worldbank.org/projects/P110752/justice-services-improvement-project-ii?lang=en>.

⁵ The oft-cited debate between economists Jeffrey Sachs and William Easterly on foreign aid is not quite as polarized as it is often made out to be, but it is nonetheless illustrative. See Jeffrey D. Sachs, *The End of Poverty* (New York: The Penguin Press, 2005) and William Easterly, *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (New York: The Penguin Press, 2006).

“sticky” – that is, resistant to change – while change usually occurs within a specific window of opportunity precipitated by a critical juncture. Aid donors are not well positioned to recognize these critical junctures and windows of opportunity due to aid agencies’ dominant *modus operandi*, which privileges a logic of implementation and disbursement over a logic of strategic intervention. In addition, there is a significant tension between the donor approaches utilized to incentivize institutions toward change and ensuring that aid is contextually embedded in its recognition of institutional stickiness and path dependency, which can present a barrier to these approaches taking root.

This tension is exacerbated by a lack of evaluations of good governance aid in general, and specifically of evaluations that seriously take into account the role of other drivers of change besides aid donor interventions.⁶ As a result, there is little cumulative evidence on whether technical assistance projects focused on building, strengthening, and changing institutions to make them better equipped to provide services to citizens, as most good governance aid projects do, play a significant role in achieving these aims. This leads to a widely held perception among both critics and some aid practitioners that technical assistance aid, and by association good governance aid, does not act as a driver of institutional change.⁷ This stands in contrast to the implicit assumption that good governance aid implementers make about the direct causal relationship between good governance aid and institutional change (Figure 1). Many donors link good governance aid inputs to institutional outcomes without sufficiently theorizing about the assumptions they are making about the ability of aid to drive change, how change occurs in such a direct, causal relationship, and what other factors or actors might drive change. Taken in conjunction, this absence of theorizing, lack of research on good governance aid specifically as a driver of change, and a deficit of good governance aid impact evaluations suggest that there is a need for research exploring the underlying theories of

⁶ Certain sectors of aid, such as health and agriculture, have been able to build up a significant base of evidence indicating the effectiveness of particular interventions. Such evidence has been more difficult to obtain for good governance aid projects, and only recently has there been a shift toward applying the same standards and rigorous evaluation used in other aid sectors to good governance projects.

⁷ Roger Riddell, *Does Foreign Aid Really Work?* (Oxford: Oxford University Press, 2007), 202-07.

change that link good governance aid interventions to institutional changes within a larger socioeconomic and political environment, including other drivers of changes besides aid donors.

Figure 1. Sample Logical Framework of Good Governance Aid Interventions

Inputs	Outputs	Outcomes	Impact
<u>Good Governance Aid Interventions:</u> Technical Assistance in Form of Training, Mentoring, Equipment	<u>What These Interventions Do:</u> Expose Recipients to Knowledge, Skills, Practices, Technology	<u>What this May Accomplish in the Short-Term:</u> Changes in Knowledge, Attitudes and Behavior; Application/ Adoption of New Skills and Practices; Use of New Technology	<u>What this May Accomplish in the Medium/Long-Term:</u> Changes in Efficiency, Effectiveness, Accountability, Transparency

Research Questions

This thesis aims to unpack the relationship between good governance aid, other drivers of institutional change and good governance-related institutional changes by analyzing the mechanisms through which different drivers of change affect institutional outcomes. It challenges both the implicit assumption of good governance aid implementers that aid is the main driver of institutional change, and the critique of aid detractors who suggest that aid plays no role in driving positive institutional changes. It will show that aid is one of many drivers of change, and analyze the interaction effects between and among these drivers of change that muddies the direct causal relationship between good governance aid and institutional outcomes. This thesis therefore proceeds from an interest in aid as a determinant or driver of institutional change, at the same time acknowledging that aid is not the only driver of institutional change. As such, the main question guiding this research focuses on good governance aid, but there are two equally relevant, related questions this thesis aims to answer as part of this inquiry:

- 1) What has influenced or driven good governance-related shifts in Peru’s political institutions?
- 2) What role has good governance aid specifically played in driving or influencing good governance reforms in Peru’s political institutions?

3) Assuming good governance aid alone is not sufficient to drive institutional change, how do other drivers of change affect aid's role as a driver of change?

Answering these questions will help further the understanding of the role of good governance aid as a driver of institutional change embedded within the larger political context that includes multiple drivers of change. As mentioned previously, foreign aid advocates and detractors alike have been able to agree that aid can work in certain circumstances, such as when the demand for aid is driven by the recipient, resulting in strong ownership of the reform agenda, and when aid donor projects align with the reform strategies of recipient organizations. Clearly aid is not the only driver of institutional change; different actors and organizations within the recipient country also drive change.

An analysis of Peruvian history with an eye toward the actors who have been able to exert influence on Peru's political institutions is consistent with this literature, as Chapter 2 will show. In Peru there are four key drivers of change (in addition to aid donors) observed that a direct impact on political institutions at which governance aid is aimed: the Executive branch, namely the president and his cabinet; mechanisms of horizontal accountability, such as Congress; mechanisms of vertical accountability, such as civil society actors; and the institution at which aid is targeted (namely, the Judiciary and the Comptroller General).

Definition of Terms

This research focuses on two phenomena for which there are differing and often contested definitions that need to be clarified prior to presenting the hypothesis. The first is political institutions. This thesis will use definitions consistent with the literature on "new institutionalism," in which political institutions are the rules and norms governing public life, and consist of either *formal institutions* of rules, policies, and procedures,⁸ or *informal institutions* of cultures,

⁸ Douglass North, *Institutions, Institutional Change, and Economic Performance* (New York: Cambridge University Press, 1990).

norms, and practices.⁹ Governmental bodies such as the Peruvian Judiciary and Comptroller General are organizational instantiations (or concrete examples representing an abstract concept) of political institutions, and can therefore be considered a sub-class of institutions. From the neo-institutionalist viewpoint, institutions are more than just the aggregation of individual actors' interests; they operate based on a logic of political survival, whether by attempt to secure resources or by cultivating legitimacy.¹⁰ For this reason, political institutions can act as drivers of institutional change, taking actions that shift rules, policies, procedures, cultures, norms, or practices. This aspect of institutions is the focus of Chapter 2. Institutions can also shape individual behavior in different ways, and this aspect of institutions is the focus of Chapter 3.

The second phenomenon is good governance. There is a rich literature that focuses on the appropriateness of the way in which aid donors conceptualize good governance, and the implications that contested concepts of good governance might have for the donor-recipient relationship.¹¹ This is a point taken up in Chapter 2 in reference to factors that might affect the ability of good governance aid to drive change. However, as the focus of this thesis is not to question the appropriateness of these definitions, but rather to understand the role of good governance aid, it is important to understand how donors define good governance, and what the scope of good governance aid encompasses. This is important for understanding the kinds of measures donors look to in determining whether governance aid has led to positive institutional changes. Therefore, this thesis outlines the definitions of good governance used by aid donors to guide their programming, and provides relevant examples to illustrate the types of projects that fall within the rubric of good governance aid.

⁹ Edwin Amenta and Kelly M. Ramsey, "Institutional Theory," in *Handbook of Politics: State and Society in Global Perspective*, ed. Kevin T. Leicht and J. Craig Jenkins (New York: Springer Science and Business Media, 2010), 15-39.

¹⁰ See, for example, Bruce Bueno de Mesquita et al., *The Logic of Political Survival* (Cambridge, MA: MIT Press, 2003); Paul J. DiMaggio and Walter W. Powell, "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields," *American Sociological Review* 48 (1983): 147-160.

¹¹ See, for example, David Craig and Douglas Porter, *Development Beyond Neoliberalism? Governance, Poverty Reduction and Political Economy* (New York: Routledge, 2006); Sue Unsworth, "Focusing on Aid and Good Governance: Can Foreign Aid Instruments be Used to Enhance 'Good Governance' in Recipient Countries?," *GEG Working Papers, no. 2005/18* (Oxford: Global Economic Governance Programme, 2005); Vasudha Chhotray and Gerry Stoker, *Governance Theory and Practice: A Cross-Disciplinary Approach* (London: Palgrave MacMillan, 2009).

Donors approach and define governance and good governance differently.¹² A 1994 World Bank report on governance stated that “good governance is epitomized by predictable, open, and enlightened policy-making (that is, transparent processes); a bureaucracy imbued with a professional ethos [effectiveness]; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; and all behaving under the rule of law.”¹³ The UN Development Program (UNDP) characterizes good governance as democratic governance, which is “participatory, transparent, and accountable..., effective and equitable, [and] promotes the rule of law.”¹⁴ The United States Agency for International Development (USAID) also frames good governance as democratic governance, noting that it includes a focus on transparency, accountability, and anti-corruption.¹⁵ A fourth dimension that is highlighted by some, but not all, donors is efficiency. The efficiency dimension is captured in the indicators of sound public management that the World Bank uses in its Country Policy Institutional Assessment (CPIA), which include the efficiency of revenue mobilization and public expenditures, as well as transparency, accountability, and corruption.¹⁶

When applied to government institutions, such as the Judiciary and the Comptroller General’s office, these four dimensions of good governance are valued as the means through which these institutions can provide better services to citizens. As is evident by the way in which the UNDP and USAID frame good governance as democratic governance, democracy is often linked with governance as if the two are inseparable. But they are not: It is possible to have an authoritarian government that provides services in a manner consistent with some of the dimensions of good

¹² For a comparison of the different donor approaches to good governance, see Paul Hoebink, “European Donors and ‘Good Governance’: Condition or Goal?,” *European Journal of Development Research* 18:1 (2006): 131-161. For a comparison of donor definitions of governance, see Merilee S. Grindle, “Good Enough Governance Revisited,” *Development Policy Review* 25:5 (2007): 556-557.

¹³ The World Bank, *Governance: The World Bank’s Experience* (Washington: The World Bank, 1994), vii, http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/1994/05/01/000009265_3970716142854/Rendered/PDF/multi0page.pdf.

¹⁴ United Nations Development Programme, *Governance for Sustainable Human Development* (New York: United Nations, 1997), 12, <http://mirror.undp.org/magnet/policy>.

¹⁵ U.S. Agency for International Development, *USAID Strategy on Democracy, Human Rights, and Governance: June 2013* (Washington: U.S. Agency for International Development, 2013).

¹⁶ The World Bank: International Development Association, “Country Policy and Institutional Assessment Criteria,” <http://go.worldbank.org/EEAIU81ZG0>.

governance, such as effectiveness and efficiency. This is particularly true when applying the principles of good governance to economic institutions, as the first case study in this thesis will highlight:

During its first term in office, the Fujimori administration made substantial gains in efficiency, privatizing state firms, reforming the tax administration, and establishing new and efficient administrative agencies. State capacity to enforce order was improved, as the military, police, and civil society organizations all contributed to the defeat of [terrorist organizations like the Shining Path]. Many of these gains were explicitly made at the expense of democratic process and the rule of law. From the outset, Fujimori offered a sort of trade-off between efficiency and competition, touting his “direct democracy” and strict majority rule as an antidote to the party infighting that was blamed for most of the country’s ills.¹⁷

That said, there is a close correlation between democracy and good governance in terms of the dimension of accountability,¹⁸ which can be seen in the types of projects and activities that donors like USAID implement within the programmatic sector of good governance aid.

On a functional level, aid donors also pair the term good governance (or just governance) with the terms rule of law or anti-corruption to define a sector of development aid distinct from other sectors such as agriculture, economic growth, environment, education, or health.¹⁹ The programs that are implemented under the rubric of good governance can therefore be diverse. For example, USAID’s Peru programs have targeted both civil society and government organizations²⁰ while UNDP’s democratic governance programs have supported judicial reforms, legal reforms, and

¹⁷ Management Systems International, *Democracy and Governance in Peru: An Assessment* (Washington: U.S. Agency for International Development, 2000), <http://www.gci275.com/archive/governance.pdf>.

¹⁸ The basic notion of accountability relates to ensuring that individuals or organizations are made to answer for their actions to an authority that is external to that individual or organization. Richard Mulgan (2000) notes that the constitutive features of a core sense of accountability, drawn from the public administration literature and shared among practitioners, is that accountability involves social interaction and exchange, wherein the side demanding accountability requires answers and rectification, while the side being held accountable responds and accepts sanctions; and it implies the rights of authority, in that those demanding accountability assert the right to demand these answers and impose sanctions. Mark Bovens (2005) notes that when applied to the public sector, accountability centers on whether those in political power are made to answer publicly for their actions, and sanctioned should they fail to fulfill their obligations, duties, or responsibilities. There is a link between public accountability and democracy in that accountability is a necessary feature of an electoral democracy: Public officials must be held accountable for their actions, and sanctioned accordingly, for democracy to be something beyond a “paper procedure.” See Richard Mulgan, “‘Accountability’: An Ever-Expanding Concept?,” *Public Administration* 78:3 (2000): 555-73; Mark Bovens, “Public Accountability,” in *The Oxford Handbook of Public Management*, ed. Ewan Ferle, Laurence E. Lynn, Jr., and Christopher Pollitt (Oxford: Oxford University Press, 2005), 182-208.

¹⁹ This sector is called different things by different donors; for example, USAID refers to this area of its works as Democracy, Human Rights, and Governance (DRG), while Dfid refers to it as Governance and Conflict.

²⁰ “Governance Fact Sheet: Peru,” *U.S. Agency for International Development*, February 2012, <http://peru.usaid.gov/sites/default/files/Democracy-English-FEBRUARY-2012.pdf>.

decentralization efforts, which included financial and technical assistance to the national-level Secretaría Nacional de Descentralización.²¹ The UK Department for International Development's (Dfid) "pro-poor" economic growth focus led to programs designed to improve the participation of poor people as informed voters, which "involved working with a coalition of state and civil society organisations"²² and the World Bank's support has focused on reforming state institutions, in particular the Judiciary, through loans supporting the Justice Services Improvement Project.²³ The Inter-American Development Bank's (IADB) projects focused on modernizing procurement systems in the government, establishing administrative and management systems of the regional governments as part of its support of decentralization, unifying "overlapping and multiple payroll, information, and policy regimes... into one civil service system," and developing state Internet and Intranet systems" to "increase transparency and citizens' access to information and services."²⁴

In its focus on the role of good governance aid in reforming political institutions, this thesis will primarily refer to illustrative examples of projects aimed at providing training and technical assistance to government institutions, rather than those aimed at strengthening non-governmental organizations.²⁵

Theoretical Framework

The literature on governance referenced above shapes how donors conceptualize good governance, and therefore helps define the types of changes donors wish to observe in the dependent variable — institutional changes consistent with the dimensions of efficiency, effectiveness, accountability, and transparency. However, this literature does not explain how good governance change within institutions occurs or the process of how donors think these dimensions

²¹ United Nations Development Program, *Assessment of Development Results: Evaluation of UNDP Contribution: Peru* (New York: United Nations, 2009), http://web.undp.org/evaluation/documents/ADR/ADR_Reports/Peru/ADR_Peru_English.pdf.

²² Corrina Csáky, ed., *Alliances against Poverty: Dfid's Experience in Peru, 2000-2005* (London: Department for International Development, 2005), <http://www.gsdrc.org/docs/open/ds53.pdf>.

²³ The World Bank, "Peru Overview," <http://www.worldbank.org/en/country/peru/overview>.

²⁴ "IDB approves \$28 million to support modernization and decentralization of the state in Peru," *Inter-American Development Bank*, November 27, 2002, <http://www.iadb.org/en/news/news-releases/2002-11-27/idb-approves-28-million-to-support-modernization-and-decentralization-of-the-state-in-peru,1310.html>.

²⁵ Depending on the donor naming conventions and the organization targeted, these projects may be labeled an anti-corruption project, rule-of-law project, (good) governance project, or something else, but they all fall within the same sector of aid.

shift from being “poor” to “good” within an organization, nor does it explain the role of aid in such a process. Rather, it focuses on what well-governed government institutions look like, and how those institutions affect growth and development.²⁶ Similarly, the literature on aid effectiveness does not address how institutional change occurs, although it does suggest who the drivers of change might be. While the literature on drivers of change thus helps identify the actors and factors that may be relevant, it does not offer a framework for explaining how and why institutional change occurs.

Institutionalism as a meta-theory helps explain how institutions change, which gets us closer to answering not just who or what drives change, but how that change occurs. In particular, sociological institutionalism focuses on institutions as arenas of norm contestation and peer emulation effects. Policy adoption and change therefore occur as a result of certain norms spreading to enough peers to be naturally incorporated into institutions, with domestic political mobilization given as a key example. Thus, adoption of new institutional policies and practices is due to the fact that this adoption “enhances the social legitimacy of the organization or its participants.... Organizations embrace specific institutional forms or practices because the latter are widely valued within a broader cultural environment.”²⁷ In other words, who spreads norms? Does good governance aid spread norms? Does this lead to policy adoption and institutional change?

Rational choice institutionalism focuses on the need of institutions to “capture gains from cooperation” and ensure that individual decision-making does not result in everyone being worse off, as in the prisoner’s dilemma.²⁸ Institutions help incentivize individuals to cooperate by enforcing

²⁶ An orthodoxy that has emerged, especially among aid donors, is that well-governed institutions are the key to all sorts of positive outcomes, from increased growth to democratic pluralism. In this way, the literature on governance conceives of well-governed institutions as a necessary independent variable for achieving increases in the macro-level dependent variables of growth and development. This explains why policy-makers are obsessed with good governance, and why they put significant amounts of money into aid programs aimed at improving it. Thus one of the key assumptions made by aid donors is that poor governance has a negative effect on development outcomes. This thesis adopts this assumption, and does not engage with the literature on whether better governance and less corruption are prerequisites for development or detrimental for developing countries. See Daniel Kaufmann, Judit Montoriol-Garriga, and Francesca Recanatini, “How Does Bribery Affect Public Service Delivery? Micro-Evidence from Service Users and Public Officials in Peru,” *Policy Research Working Papers, no. 4492* (Washington: The World Bank, 2008), <http://elibrary.worldbank.org/content/workingpaper/10.1596/1813-9450-4492>.

²⁷ Peter A. Hall and Rosemary C.R. Taylor, “Political Science and the Three New Institutionalisms,” *Political Studies* 44:5 (1996): 936-57.

²⁸ Barry Weingast, “Rational-Choice Institutionalism,” in *Political Science: The State of the Discipline*, ed. Ira Katznelson and Helen V. Milner (New York: W.W. Norton & Company, 2002), 660-92.

the long-term benefits of cooperation and regulating inherent non-cooperation that derives from individuals' short-term utility-maximization. Institutions therefore change either because the incentives for cooperation change or the institution no longer fulfills the needs for which it was created. Two key questions here are who has the influence or power to change good governance-related incentives and whether aid donors can influence this.

Traditionally, historical institutionalism has looked to structures, or path dependence, and events, or critical junctures, to explain institutional change or stasis. Path dependence, which Paul Pierson and Theda Skocpol define as "the dynamics of self-reinforcing or positive feedback processes in a political system," explains why the status quo may be entrenched, hard to change, or "sticky."²⁹ Path dependence can exacerbate or embed power inequalities in a relationship, making it difficult to reverse course once actors are on that path. Historical institutionalism also focuses on critical junctures, which are significant events and actions that shift key institutional dynamics, leading to institutional change that is often dramatic and sudden, such as the institutional shifts that took place after the fall of the Soviet Union. This prompts the question of who can change sticky institutions, such as corruption? Can these institutions be changed by changing incentives? If so, by whom?

These models of institutionalism primarily focus on exogenous factors as the main drivers of change, in which exogenous is defined as processes or actions taken by actors emanating from outside the organizations being studied, while endogenous refers to processes or actions taken by actors emanating from within the organization being studied.³⁰ More recent work has expanded historical institutionalism's explanatory power by developing models in which institutional change is slow, and comes from incremental changes within the institution.³¹ This focus is compatible with the sociological worldview, which emphasizes the slow diffusion and adoption of norms as key causal

²⁹ Paul Pierson and Theda Skocpol, "Historical Institutionalism in Contemporary Political Science," in *Political Science: The State of the Discipline*, ed. Ira Katznelson and Helen V. Milner (New York: W.W. Norton & Company, 2002), 693-721.

³⁰ Avner Greif and David D. Laitin, "A Theory of Endogenous Institutional Change," *American Political Science Review* 98:4 (2004): 633-52.

³¹ James Mahoney and Kathleen Thelen, eds., *Explaining Institutional Change: Ambiguity, Agency, and Power* (New York: Cambridge University Press, 2010).

mechanisms of institutional change. In addition, the idea of critical junctures links to rational-choice perspectives, as Barry Weingast (2002) illustrates using the example of the American Revolution.³² A key question here is how do external drivers of change interact with these dynamics?

Hypothesis

This thesis proposes three very general deductive hypotheses to explain the role of governance aid and how it might act as a driver of change, setting the stage for a deeper explanation taken up in Chapter 3. These hypotheses are derived from the literature on institutional change referenced above, and attempt to make explicit the implicit assumptions donors make about the relationship between good governance aid and institutional change. Figure 2 shows an expanded logical framework that builds upon Figure 1 to show these assumptions, as well as the fact that there are other drivers of change that may drive institutional changes.

³² Weingast, "Rational-Choice Institutionalism."

The first hypothesis focuses on self-interest and a change in actor preferences as the main driver of change. From the rational-choice perspective, most institutions, once they have achieved an equilibrium point, will stay in equilibrium. Drivers of change, including good governance aid interventions, act as an exogenous shock, prompting changes in actors' preferences. Institutional change depends upon how these aid programs affect the incentives or preferences of actors to implement governance rules and practices.

The second hypothesis focuses on norm diffusion and adoption as the main driver of change. Institutional change occurs because actors strive to do what makes sense according to their worldview. Drivers of change, including good governance aid interventions, introduce or reinforce norms that actors respond to based on their respective interpretations of the situation. Institutional change depends on whether the norms being diffused by the aid program are adopted and put into practice, based either on peer mimicry or principle-based rationales.

The third hypothesis focuses on power dynamics and other structures embedded in institutions that drive change. Institutional change is path-dependent, and thus prior configurations of norms, practices, and power balances become recurring patterns of behavior. Drivers of change, including good governance aid interventions, prompt junctures that can disrupt such reinforcing patterns and create new ones. Institutional change depends on how context-specific trajectories in an institution will shape the adoption of new rules and patterns of behavior.

These theories suggest the mechanisms by which drivers of change influence institutional change, but do not explain how these drivers of change may affect one another or work in conjunction. As noted earlier, the relationship between good governance aid and institutional change is affected by the actions of the four other drivers of change in Peru: the Executive branch; other government organizations, such as Congress; civil society actors; and the leaders of the organizations at which aid is targeted. Identifying that these variables are relevant in the relationship between good governance aid and institutional change is as far as this explanatory framework goes, for two reasons. First, there is a lack of an overarching theory that can explain and

join together all of the interactions of the drivers of changes at different steps in the process of institutional change, and second, there are simply too many potential causal combinations within these interactions to specify a cohesive deductive hypothesis. Instead, this thesis will inductively link these drivers of change in a cross-case comparison, presented in Chapter 7, that builds upon the within-cases analyses developed in Chapters 5 and 6. This inductive bent is consistent with the approach in historical institutionalism of taking contextual factors very seriously in researching institutional change, which helps avoid the fallacies that often occur when researchers and practitioners assume that a set of universal factors or features are at work — a particularly salient point in critiques of foreign aid. This does not indicate that such investigations are atheoretical; rather, it creates a space for conducting an investigation that consistently moves from deductive hypothesis testing to inductive theorizing based upon the case studies described in the next section.

Methodology

One of the challenges of analyzing the role of drivers of change, and particularly with a focus on good governance aid, is the fact that aid can be viewed from the macro level of analysis (as a country-to-country interaction, such as the relationship between the United States and Peru), the meso level of analysis (from donor aid agency to recipient institution, such as USAID to the Peruvian Judiciary), and the micro level of analysis (from specific project activity to individual recipients, such as provision of training to judges). Donor assumptions about the role of aid are typically framed in terms of the micro or meso levels, as in Figure 1. In a scenario in which drivers of change are considered potential intervening and concomitant variables, the number of variables at each level that can muddy the direct causal pathway between good governance interventions and positive institutional outcomes become exceedingly complex. In part, this is why it is difficult to specify a deductive theory on how these work in conjunction. For example, the manner in which aid is delivered and managed may vary at the institutional and project levels, as might the nature of the relationship between aid donors and aid recipients. However, global economic shifts at the meso level might have an impact as well. Thus, this thesis proceeds primarily from the institutional/meso

level, given that the good governance changes we want to observe within two different meso-level political institutions are best ascertained by data showing changes for the organization as a whole. However, country-level trajectories at the macro levels are part of the analysis of path dependencies affecting meso-level institutional change, and the analysis also touches upon aspects of project-level variance to provide illustrative examples of good governance interventions.

Case Selection and Chosen Cases

As noted in the introduction, the analysis of how good governance aid works in conjunction with other factors to foster institutional reform in political institutions is conducted through a cross-case comparison, which itself is based on a within-case analysis of the cases that comprise the cross-case comparison. The ideal research design would compare different good governance projects both within political institutions, to identify factors at that level of analysis that impact the ability of aid to drive change, and across institutions, to weave in the contextual factors relating to the institutions themselves. This analysis would then be embedded within the larger analysis presented here that takes into account other drivers of change. However, a project-level analysis that begins with comparing, for example, World Bank, USAID, Dfid, UNDP and GTZ projects within the Judiciary, as well as within the Comptroller General, was not possible due to a significant lack of access to the requisite project-level data. However, the interviews I conducted in Peru with major aid donors suggested that there may not be significant variation across donors in terms of the mechanisms by which their individual projects drive institutional change. Therefore, I am comfortable treating donors as an aggregate in terms of good governance aid as a driver of change. Further, since all donor interventions are aimed at outcomes within the same institutions, it is logical to select cases at this level of analysis. That said, the presence of a sufficient number of good governance projects in an institution was a key factor in the case selection, as noted below.

Given that the focus of this inquiry is the role of good governance aid in driving changes in political institutions, the world of possible cases is political institutions (in the formal, organizational sense) that receive good governance aid. Given the relevance of context-specificity to this research,

the necessity and desire to conduct analyses at the meso level, and the need to hold certain macro-level variables constant across institutions to limit the number of factors for consideration, the choice was made to conduct this research in a single country and compare different political institutions within that country.³³ Of key importance to this strategy is awareness that these organizations differ on the dependent variable, which Alexander George and Andrew Bennett note is appropriate in some cases because it can help identify which variables are not necessary or sufficient conditions for the selected outcomes.³⁴ The process by which Peru was chosen as the country thus entailed two steps: first, limiting the possible candidate countries through an analysis of scope conditions, and second, investigating differences in how institutional quality changed over time at the sub-national level. In terms of the macro-level conditions, the first scope condition to establish its inclusion in the population of cases was that the country needed to receive a significant amount of funding for good governance projects. The second condition was that the country fell within a middle-range on control of corruption, to avoid countries where endemic corruption would likely produce no variation across institutions in changes on good governance measures. Finally, the list was narrowed to countries in which I could conduct research in the local language, which was limited to English and Spanish-speaking countries. These criteria resulted in a short list of countries in Latin America, which was further narrowed down to cover non-aid dependent countries that received significant amounts of good governance aid. (Table 3 in Chapter 4 provides the data related to this process.) The top two recipient countries were Colombia and Peru – I chose Peru primarily due to safety concerns associated with fieldwork.

The amount of governance aid invested and the variance in governance outcomes over time in different public-sector institutions was then compared (see Table 4 in Chapter 4) and initial field research was conducted to ensure “case fit.” The resulting cases include Peru’s judicial institutions, which have experienced minimal progress toward good governance ideals since 1990, and the Office

³³ In terms of context-specificity, for example, comparing countries with a long history of ongoing civil strife versus those that have been relatively peaceful, or countries that emerged from different colonial regimes, introduces a significant question about the role this factor plays.

³⁴ George and Bennett, *Case Studies and Theory Development*.

of the Comptroller General, which has experienced significantly more progress. As this thesis will show, the different critical junctures in Peru's political history allow these two cases to be broken down into further sub-cases, and the resulting observations in each case make up the cross-case comparison. These cases are analyzed in Chapters 5 and 6, while the cross-case comparison is outlined in Chapter 7.

Methods of Data Collection

The main data sources include secondary source qualitative and quantitative data, and 32 semi-structured key informant interviews with international aid donors, those working within the institution (i.e. Peruvian policymakers and civil servants), and independent observers of good governance process in Peru, such as NGO representatives, conducted in Peru between May 2011 and October 2012 (see Table 5 in Chapter 4 for a list of interviewees). The secondary source quantitative data is mostly useful for observing perceived changes to the dependent variables associated with institutional change in the public sector, such as changes in the perception of corruption and transparency in the Judiciary. The qualitative data and key informant interviews clarify the role of the drivers of change and identify causal process mechanisms that link the actions of these drivers of change (as well as other sociopolitical factors, such as economic changes) to the observed institutional changes. Specific sources of qualitative data include reports produced by NGOs and international bodies, newspaper stories, evaluations and reports of specific good governance projects collected from aid donor agencies, and institutional documents, such as codes of conduct, policies, and operational manuals collected from the institutions. Quantitative data was collected from the Web sites of the Judiciary and the Comptroller General, as well as from databases, surveys, and other datasets maintained and produced by NGOs like *Proética* (the Peruvian chapter of Transparency International) and Global Integrity. This data is laid out in various tables in Chapter 4.

Methods of Data Analysis

In order to unpack assumptions about the role of aid in institutional change, we need to

refer back to the narrow framing of institutional changes laid out in Figure 2. When the fully specified logical framework is mapped out, it becomes clear that good governance aid is not the single causal factor that leads to changes in institutions over time. Other exogenous and endogenous factors combine as multiple interaction effects and multiple causal pathways to the same outcome (equifinality). Process tracing can help map out the causal process observations in individual cases, as it is an analytical method that “attempts to identify the intervening causal process — the causal chain and causal mechanism — between an independent variable (or variables) and the outcome of the dependent variable.”³⁵ In the case of Figure 2, then, process tracing helps identify the stages of institutional changes (in terms of a causal chain) and how other independent variables (in this case, the actions of drivers of changes and other factors) lead to changes in the dependent variable, thus illustrating the potential pathways or causal mechanism suggested in the hypotheses. Process tracing helps narrow down the list of potential causes leading to the outcome, and creates space for mapping out multiple causal paths consistent with the observed outcomes in a single case. Types of process tracing include the detailed narrative, which is atheoretical but suggests potential causal processes and the sequence in which they occurred; analytical explanation, which moves historical narratives into the realm of analytical causal explanations based on specified theories; and general explanations, which move up the ladder of abstraction from minute detail to a higher level of generality. In each type, the main components of process tracing are to observe/establish the independent variables or initial conditions; observe the causal process mechanisms; observe dependent variable outcomes; and link the independent and dependent variables together in a causal chain, based on the observed causal process mechanisms.³⁶ Multiple causal process mechanisms may be at work, and interacting causal variables, convergence, and path dependence must all be taken into account.³⁷

Process tracing by its nature provides the seeds with which a cross-case comparison can be

³⁵ Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Cambridge, MA: Harvard University Press, 2005), 206.

³⁶ Henry Brady and David Collier, eds., *Rethinking Social Inquiry* (Lanham, MD: Rowman and Littlefield, 2010).

³⁷ George and Bennett, *Case Studies and Theory Development*.

developed, because the results of the within-case analysis draws out the outcomes of different cases and the conditions (independent variables and causal mechanisms) that are present or absent in each case. A cross-case comparison or typology allows for “contingent generalizations on how and under what conditions they behave in specified conjunctions or configurations to produce effects on specified dependent variables.”³⁸ While process tracing allows researchers to produce causal statements about how certain sequences occur, it remains context-specific. A typology allows for multiple causal observations to be compared across cases, thus “chart[ing] the repertoire of causal paths that lead to given outcomes and the conditions under which they occur.”³⁹ While this thesis does not aim to inductively develop a typological theory, it will use tools of cross-case typological theory building to analyze the actions of the drivers of change and other factors in conjunction and determine if any observations about causal relationships and mechanisms can be made.

Originality and Significance

This thesis can be considered an original contribution to knowledge for several reasons. First, it applies theories of institutional change to the role of good governance aid, which to this author’s knowledge has not been analyzed through an institutionalist lens before. This is important because it helps show that there are several different pathways through which aid, and specifically technical assistance, can affect changes in good governance. This adds to the present understanding of the ability of aid donors to act as effective drivers of institutional change, particularly with respect to the role of technical assistance, which is largely considered to be ineffectual. Second, this study adds a new empirical case that employs a combination of process tracing and cross-case comparison at the sub-national level. This fills a knowledge gap, as many studies of historical institutionalism focus on macro-level phenomena and compare cases across, rather than within, countries.

Aiming for this level of analysis also opens up a new way of looking at Peru’s political development over time, and this thesis will therefore be of interest to Peru scholars and those in

³⁸ Ibid., 235.

³⁹ Ibid., 207.

Peru working on good governance projects. It will also provide a fresh understanding of how and under what conditions institutions change, adding to the literature on institutionalism. Further, it will contribute to an understanding of the role of good governance aid as relates to the power of external actors to foster internal change, which is an ongoing discussion in both international relations and development studies literature. This thesis seeks to contribute nuance to the debate on aid effectiveness, continuing to move beyond an “aid always works” versus “aid never works” dichotomy, by showing how and under what circumstances aid may work in driving or fostering institutional change. Hopefully, it will create more space in the governance literature for framing good governance as a dependent rather than an independent variable, thus expanding the scope of studies on aid, governance, and growth. Ultimately, this thesis aims to demonstrate the complexity of change and the implications of this complexity for the good governance aid agenda.

This thesis also makes a contribution to the methodology aid donors can use when evaluating the impact of good governance aid programs without the benefit of a large-*n* statistical sample, baseline study, or comparison group. Typically, evaluations of aid programs are only considered rigorous when they use experimental or quasi-experimental methods to establish impact. While the purpose here is not to conduct an evaluation of each discrete project or intervention, it does suggest how a program might be analyzed using process-tracing methods — first by developing a hypothesis that specifies a causal chain or theory of change linking program inputs, such as training, to impact at the institutional level, and then collecting a mix of quantitative and qualitative data to substantiate the links in the causal chain. By triangulating such data and linking it back to the alternative causal hypotheses, one can replicate the rigor associated with the use of a counterfactual in impact evaluations.

Such evaluation methods have been promoted by Dfid,⁴⁰ and in the process of finalizing this thesis, I have applied this methodology to two complex good governance interventions: The first

⁴⁰ Elliot Stern et al., “Broadening the Range of Designs and Methods for Impact Evaluation,” *DFID Working Papers, no. 38* (London: Department for International Development, 2012), <http://www.dfid.gov.uk/Documents/publications1/design-method-impact-eval.pdf>.

focused on the impact of U.S. State Department programs aimed at building institutional capacity within Colombian legal institutions in line with outcomes related to improved rule of law. The second focused on the impact of a U.S. State Department regional program aimed at building law enforcement capacity to fight narcotics trafficking in the Caribbean.

Limitations

There are several limitations to this study that the author has tried to mitigate. First, the context-specificity of this thesis limits its generalizability. This is a positive limitation in many ways, as the idea of developing universal laws, particularly in terms of good governance, and then applying those laws in diverse countries without regard to local context, is one of the major fallacies of aid donors. The difficulty in generalizability is a limitation that has been recognized in critiques of both historical institutionalism and the use of small-*n* case studies. There is a constant tension between the depth of the research and number of cases, and the ability to generalize from the findings. However, I believe that some of the lessons here can be subject to modest generalizations given the cross-case comparison, and because I have been able to apply the lessons from this research in my evaluations of complex good governance aid programs.

Another limitation was the difficulty of collecting data on particular events internal to the organizations being studied, as those working in these organizations are often not willing to share internal documents. Further, the sources of data from which to establish the role of drivers of change, observe causal processes, and measure the dependent variable vary depending on the time period involved. The 1990 to 2000 period in Peru, coinciding with the presidency of Alberto Fujimori, has been extensively analyzed, particularly with regard to his relationship to the Judiciary. There are fewer sources detailing the Executive's relationship with the Judiciary from 2000 to 2010, and not much grey literature exists on the Comptroller General. Doing primary research in Peru was an attempt to mitigate this issue. This entailed interviewing a number of bilingual research assistants, hiring an extremely competent young lawyer, and training her in gathering documents and conducting interviews. Interviewees were asked to share or relate relevant policies as

approximations for internal documents.

Finally, there are a number of potential limitations resulting from the biases presented in both the use of official donor documents and the use of semi-structured interviews to gather information. Optimism bias can be present in both cases, in that documents tend to be more positive about the outcomes and impacts of programs than the reality of what occurred, and that courtesy bias can be presented in interviews, as interviewees often attempt to tell an interviewer what they think he or she wants to hear. The documents were analyzed with this bias in mind, and the results reported in these documents were triangulated with responses from other sources such as external surveys. As for interviews, the questionnaires were designed with significant thought given to how to mitigate this bias in terms of question structure, order, and wording. In addition, I was able to present myself in different roles to different interviewees. To donors, I sent a CV emphasizing my experience working on good governance projects, so that donors knew I “understood the business.” This allowed a familiarity that helped establish rapport, and as a result most donors were forthcoming about the shortcomings of their programs. With Peruvian government officials, I presented myself as a university scholar and did not send a CV, in hopes that interviewees would consider the interview less “official” and be more open about opinions they might not typically share with outsiders.

Thesis Outline

The rest of this thesis is divided into two sections. Chapters 2, 3, and 4 will set out the argument and methods used to guide the empirical research. Chapter 2 provides a brief overview of the historical power dynamics among different actors in Peru for the purpose of developing the reader’s understanding of the main drivers of change and explaining the ways in which they may affect good governance-related changes in political institutions. Chapter 3 shows how theories of institutionalism can be joined together into a cohesive framework that explains the processes of exogenous and endogenous institutional change, and how this relates to the role of drivers of change in bringing about these results, with a specific focus on the mechanism by which good

governance aid may drive change. Chapter 4 outlines the methodology, explaining how case study methods are the best choice for investigating the questions posed in this thesis, and explaining how the empirical cases were chosen. It describes how the independent and dependent variables were conceptualized and operationalized, and presents the employed methods of data collection and analysis.

The second section of this thesis (Chapter 5-7) presents the empirical research. Chapter 5 begins with an overview of good governance in Peru, specifically in the Judiciary and the Comptroller General, beginning in the 1980s. This is laid out to help orient the reader to the Peruvian context in the era prior to good governance interventions. Chapter 5 then traces the events that occurred in Peru during the Fujimori era, from 1990 to 2000, showing that there was a significant shift in executive actions that undermined good governance. Drawing on responses from 32 key informant interviews conducted in Peru, it explains what actions occurred, the resulting shifts that occurred in the Judiciary and the Comptroller General, how these changes can be explained, and what the role of good governance aid was in relation to these changes. Chapter 6 provides the same within-case analysis for the post-Fujimori era, from 2000 to 2010, showing how the exposure of the depth and breadth of the Fujimori administration's corruption and attempts to weaken government institutions precipitated a critical juncture in 2000 that fundamentally altered power dynamics among the drivers of institutional change. Chapter 7 draws upon the observations derived from the process tracing in Chapters 5 and 6 to compare across cases and explain variations in outcomes in the Judiciary and Comptroller General over time. It then suggests how different actions of drivers of change and other factors affect the relationship between good governance aid and institutional change. The chapter closes with a summary of the research and findings, and an agenda for further research building upon this thesis.

Chapter 2: Drivers of Institutional Change

Introduction

As Chapter 1 emphasized, the motivation for this research stems from an interest in the role of good governance aid in reforming Peru's political institutions. Thus, this chapter begins by providing background for the reader on how shifts in donor policy led to an emphasis on aid as a key driver of good governance change in political institutions. In the last two decades, there has been a concomitant emphasis on the role of institutions for development and the primacy of good governance as a prerequisite for well-functioning institutions, which led to the development of good governance as a separate sector of aid. Poor institutions and poor governance were seen as culprits that hindered both development and the ability of aid to effectively spur development. More aid – in the form of good governance aid – was seen as a way to improve governance, particularly governance within political institutions.

Building upon this background, the chapter then identifies and describes four other potential drivers of change that affect good governance-related institutional changes in Peru. The first is the Executive branch, in which policy-making power is strongly centralized in the Peruvian political system. The influence of the Executive branch on institutional change is framed in terms of the Peruvian experience with delegative democracy, showing that the Executive can be a strong driver of positive changes that bolster good governance, or negative changes that undermine good governance. The second is Congress and to a lesser degree other government institutions with the potential to serve as mechanisms of horizontal accountability, either driving change themselves or providing a counterbalance to the actions of other drivers of change. Depending on their political alignment and level of engagement, institutions of horizontal accountability can drive positive or negative change, and act as weak or strong mechanisms of horizontal accountability. The third driver of change is mechanisms of vertical accountability, comprising citizens, civil society organizations and the mass media (broadly, non-governmental actors, but hereafter referred to as civil society),

which have the power to demand that institutions be reformed, thus driving change. Similar to the counterbalancing role served by Congress and other government institutions, civil society also has the potential to serve as either a weak or strong mechanism of accountability by monitoring and exposing the actions of the Executive, Congress, and the institutions at which reforms are aimed (or in which reforms are being implemented). However, unlike Congress and other government institutions, civil society typically drives positive change, as it seeks to make institutions more transparent, more accountable, more efficient, and more effective. Finally, the institution itself is a driver of change — specifically, the leaders of the institution, who have the power to initiate reforms internally. Leaders might initiate positive or negative reforms, or they might not initiate reforms at all. Their ability to drive reforms can be strong or weak, depending on the degree of internal support or opposition to reforms, and the support or opposition of actors exogenous to the institution.

Aid as a Driver of Change

This section begins by tracing several shifts in aid policy to show that donor emphasis on providing aid to strengthen the four dimensions of good governance (accountability, effectiveness, efficiency, transparency) in political institutions evolved concomitantly with the conclusion that aid could only be effective when recipient countries exercised ownership of the reform agenda, and when donors aligned their programs to recipients' reform objectives. Thus, there is an implicit understanding among most donors that good governance aid can only facilitate changes that are already being driven by at least one other actor in the recipient country. However, this understanding often competes with the logic – implicit or explicit – underlying how most good governance projects are designed, which assumes that aid is the main driver of institutional change.

Development Policy and Aid as a Driver of Institutional Change

As Erik Thorbecke (2000) notes, aid policy has often shifted back and forth on whether states or markets are the overarching driver of development. The state was still seen as the driver of development through the late 1970s, and aid was largely given to governments to assist with

redistribution, basic needs fulfillment, and other measures to alleviate poverty.⁴¹ In contrast, the 1980s were marked by the rise of strong, pro-market conservative governments in two of the largest aid-contributing donor countries, the United States and the United Kingdom. This in turn led to a shift in development policy in which the private sector was considered the key driver of growth, supported by the theory that market mechanisms would naturally lead to basic needs fulfillment and poverty reduction through increased incomes. Aid policy in the 1980s was dominated by the “Washington Consensus,” or the focus on ensuring that recipient countries were adopting policies consistent with disciplined fiscal policies, trade liberalization, privatization of state-owned enterprise, and deregulation.⁴² The International Monetary Fund’s (IMF) structural adjustment programs (SAP) were associated with the use of ex-ante conditionality to ensure the adoption and implementation of these policies, but by the early 1990s, mounting evidence showed that SAPs had failed to produce the significant growth that had been anticipated, especially in African countries. In countries where growth did occur, the link between growth and poverty alleviation was cast in doubt because large sections of the population failed to receive the expected trickle-down effects of increased growth.⁴³ Public opposition to IMF austerity conditionality led to anti-IMF/World Bank riots in many countries and precipitated a shift away from the use of SAPs.⁴⁴

Another shift in aid policy in the 1990s related to the end of the Cold War, given that Cold War bipolarity was a common driver of aid policy from the 1950s through the 1980s. Significant amounts of aid were directed at assisting former communist countries in transitioning to capitalism,

⁴¹ Erik Thorbecke, “The Evolution of the Development Doctrine and the Role of Foreign Aid, 1950-2000,” in *Foreign Aid and Development: Lessons Learnt and Directions for the Future*, ed. Finn Tarp (London: Routledge, 2000), 17-47. See also Peter Hjertholm and Howard White, “Foreign Aid in Historical Perspective: Background and Trends,” in *Foreign Aid and Development: Lessons Learnt And Directions For The Future*, ed. Finn Tarp (London: Routledge, 2000), 80-102; and Roger Riddell, *Does Foreign Aid Really Work?* (Oxford: Oxford University Press, 2007).

⁴² The term “Washington Consensus” was coined in 1989 by John Williamson, whose original paper was a summary of 10 key policies that were developed by Latin American economists to stave off economic collapse. However, the phrase is often used to refer to staunch pro-market policies, and linked to critiques of the types of policies the IMF and World Bank insisted that aid recipients implement as a condition of receiving loans. See Nancy Birdsall, Augusto de la Torre, and Felipe Valencia Caicedo, “The Washington Consensus: Assessing a Damaged Brand,” *CGD Working Papers, no. 211* (Washington: Center for Global Development, 2010).

⁴³ Sandra J. Maclean, Fahimul Quadir, and Timothy M. Shaw, “Structural Adjustment and the Response of Civil Society in Bangladesh and Zimbabwe: A Comparative Analysis,” *New Political Economy* 2:1 (1997): 149-64.

⁴⁴ John Rapley, *Understanding Development: Theory and Practice in the Third World* (Boulder: Lynne Rienner Publishers, 1996).

and the experience of providing technical assistance to the countries that illustrated to aid donors, particularly the World Bank, that market-friendly policies could not successfully be implemented in the absence of effective legal institutions. In the Bank's 2004 Initiatives of Judicial and Legal Reform, its legal vice president noted that "economic growth without the firm foundation of effective laws and legal institutions was vulnerable and unsustainable... [and that] development experience showed that the rule of law promotes effective and sustainable economic development and good governance. Lack of the rule of law significantly hinders economic growth, and corruption regressively taxes the poor."⁴⁵

In 1998, an influential report reflected upon donors' experience with both SAP conditionality and the transition in Eastern Europe by asking what donors knew about whether aid works, and why. *Assessing Aid: What Works, What Doesn't and Why*⁴⁶ emphasized that conditionality rarely works, and when it does, it is because those conditions align with the reforms that a recipient country's government planned to implement anyway. It also asserted that aid is most effective in countries that have sound economic management — not just policies conducive to promoting growth, but strong institutions that enforce property rights and limit corruption. The first set of recommendations suggested that recipient "ownership" of reforms and alignment between aid donor and recipient priorities were necessary conditions for aid to be a positive driver of development, while the latter emphasized that development was difficult to achieve or unsustainable if recipient-country institutions were poorly functioning or rife with corruption.

The second set of recommendations led to the rapid entrenchment of projects aimed at promoting good governance and strengthening institutions as a separate sector of aid, although it remains a small percentage of donors' aid budgets. For example, USAID's fiscal year 2012 budget allocation shows that although \$1.86 billion was allocated to the program areas of good governance, civil society, political competition and consensus-building, and rule of law and human rights, this

⁴⁵ The World Bank: Legal Vice Presidency, *Initiatives in Judicial and Legal Reform* (Washington: The World Bank, 2004), 9.

⁴⁶ David Dollar and Lant Pritchett, *Assessing Aid: What Works, What Doesn't, and Why* (Washington: The World Bank, 1998), <http://documents.worldbank.org/curated/en/1998/11/438890/assessing-aid-works-doesnt>.

represented less than 12 percent of the total budget.⁴⁷ However, funding to this sector consistently rose, even as funding to other aid sectors fluctuated, between 1990 and 2001.⁴⁸ As a result, the number of projects in this sector rose as well. Projects that fall within this sector are diverse, united by a common goal of strengthening processes and institutions that are considered important elements of strong, functional capitalist economies and/or electoral democracies. In some cases, this includes working with recipient governments directly, while in other cases it entails support to civil society organizations. As an illustrative example, USAID's Democracy, Rights and Governance (DRG) sector focuses on a) elections and political processes, with project activities focused on supporting the political party development and free and fair elections, b) civil society, with projects focused on promoting independent mass media, labor organizations, and other civic groups, c) rule of law, with projects aimed at strengthening legal and judicial development, and d) governance, with projects aimed at strengthening transparency, anti-corruption, and decentralization/local government. This example shows that while governance can either refer to processes or to the entities that governance aid aims to change, there is a belief among donors that aid can act as a driver of institutional change.

Factors Affecting the Influence of Aid on Institutional Change

The first set of recommendations for improving aid effectiveness suggested that ownership and alignment affect the ability of aid to drive or foster good governance-related changes.⁴⁹ In the 1980s, conditionality was used as a way to mitigate some of the problems in the principal-agent

⁴⁷ U.S. Agency for International Development, "Where Does the Money Go? Excel Spreadsheet," <http://www.usaid.gov/documents/1870/where-does-money-go-excel-spreadsheet>.

⁴⁸ William Easterly and Tobias Pfutze, "Where Does the Money Go? Best and Worst Practices in Foreign Aid," *Journal of Economic Perspectives* 22:2 (2008): 29-52.

⁴⁹ It should be noted that there are factors related to project implementation that may impact the ability of aid to drive institutional change, such as whether sufficient funding, resources, oversight, and management are in place, as well as the fact that the "long and complex chain of principal-agent relationships" in the aid distribution process creates asymmetries of information and distorts aid from being used for its intended purpose (Steve Radalet, "A Primer on Foreign Aid," Center for Global Development, 2006). These aspects are important, as projects that are not implemented or managed well are unlikely to have a positive impact on institutional change; however, this thesis does not focus on comparing across or tracing the asymmetries of information within individual projects. For a fuller exploration of these arguments, see Nicolas Van de Walle, *Overcoming Stagnation in Aid-Dependent Countries*, Washington: Center for Global Development, 2005, and Clark C. Gibson et al., *The Samaritan's Dilemma: The Political Economy of Development Aid*, Oxford: Oxford University Press, 2005.

relationship chain to ensure that recipients spent aid money on its intended purpose. However, evidence showed that conditionality was usually ineffective in inducing political change, in part because of pressures on donors to disburse funds even when faced with a lack of compliance with conditions.⁵⁰ The policy response to this finding was to focus on the imbalances of power in the donor-recipient relationship, and to create a set of guiding principles for both donors and aid recipients aimed at making the recipient the driver of change. In this way, aid would facilitate, rather than dictate, policy and institutional change. In essence, the rationale was that conditionality does not work, and that ownership, or strong domestic support for reforms, is essential for aid to work and for programs to be sustainable. This principle was the basis of several international initiatives, including the 2002 Monterrey conference on development financing, the 2003 High-Level Forum on Harmonization in Rome, and ultimately the 2005 Paris Declaration on Aid Effectiveness — the current framework that commits aid donors and recipients to changing the aid relationship.⁵¹ Among the five areas of the donor-recipient relationship that the Declaration commits signatories to improve, two are particularly relevant for this thesis: Ownership, defined in terms of recipient countries' willingness and ability to exercise "effective leadership over their development policies and strategies," and Alignment, which is defined in terms of donor countries' willingness and ability to base "their overall support on receiving countries' national development strategies, institutions, and procedures."⁵²

Building upon embracing a set of principles related to ownership and alignment, some donors changed their approach to developing country strategies by conducting analyses of recipient-country political contexts. Donors like Dfid developed a Drivers of Change approach in an effort to

⁵⁰ See, for example, Tony Killick, Ramani Gunatilaka, and Ana Marr, *Aid and the Political Economy of Policy Change* (London: Routledge, 1998); Verena Fritz and Ivar Kolstad, "Corruption and Aid Modalities," *U4 Anti-Corruption Resource Centre, Issue 4:2008* (Bergen: Chr. Michelsen Institute, 2008).

⁵¹ Subsequent meetings have included the Third High Level Forum on Aid Effectiveness in Accra in 2008 and the Fourth High Level Forum on Aid Effectiveness in Busan in 2011.

⁵² Organization for Economic Cooperation and Development, *Paris Declaration on Aid Effectiveness* (Paris: OECD, 2005), <http://www.oecd.org/dataoecd/11/41/34428351.pdf>. Harmonization, which refers to donors coordinating their efforts to avoid overlap, is also a key principle, but is not emphasized here due to the fact that all the interviewees I spoke with — both donors and government officials who have knowledge of good governance aid projects — said that donors coordinated their projects via an ad-hoc working group, and there was no overlap. In addition, there is a coordination mechanism in the Peruvian International Cooperation Agency, which is discussed in more detail in Chapter 6.

link donor interventions to an understanding of “deeper structural and institutional factors which frame the political context within which individuals and organizations act.”⁵³ The Drivers of Change approach aims to unpack the concept of recipient political will, which has often been cited as a reason why aid interventions fail to produce change. In such explanations, political will is a “black box” whose constitutive aspects, such as the structures, agents, incentives and institutions that affect observed desire for changes, remain unexplored (Nash, et. al., 2006). Employing a drivers of change approach allows donors to “disaggregate the rather large... concept of the state by highlighting the political and institutional relationships which constitute it, and the rules which underpin it... [and contribute to an] understanding of the idea of ‘*political will*’ by suggesting that... concept is best thought of in institutional and not individual terms”⁵⁴ [emphasis in original]. In crude terms, the Drivers of Change approach is a tool with the potential to familiarize donors with the processes of change, the formal and informal institutions governing these processes, and the complex motivations for actors’ behavior in relation to these processes – in sum, the types of explanations that Chapter 3 covers. Ideally, if donors have a better understanding of this context, they will in turn be able to better design and aim their interventions, and do so with an awareness that aid alone cannot drive institutional change, and that complex causal processes already taking place within a recipient country are likely to have an impact on any aid projects implemented in that country.

Yet despite growing donor awareness that aid alone is unlikely to drive change, good governance projects are still sometimes designed and implemented without proper attention to the agents, institutions, processes, and complex incentives for, and responses to, potential reforms (Unsworth, 2007). In part, this shortcoming is due to the incentives within donor agencies to “move money and show results,”⁵⁵ which can override efforts to conduct a thorough political economy analysis as a fundamental part of good governance project design. Political economy approaches are

⁵³ Adrian Leftwich (2006) “From Drivers of Change to the Politics of Development”, p. 2. Other donors have utilized a similar approach, such as SIDA’s Power Analysis and USAID’s Democracy and Governance Assessments.

⁵⁴ Leftwich, 2006, p. 2.

⁵⁵ Gibson, 2005, p. 81.

not systematically adopted by, or do not “trickle down” to, those who plan and implement discrete good governance projects. The latter may have implicit assumptions about the relationships between different recipient actors and the ability of aid to drive change. For example, my experience evaluating U.S. State Department projects aimed at changing how legal and law enforcement institutions in recipient countries operate has demonstrated that good governance-related assistance in general is negotiated bilaterally at a high level, i.e. between the Foreign Minister and the U.S. Ambassador or their representatives, through Letters of Agreement. Yet the resulting assistance is aimed and implemented at the institutional level, such as within specific units of the Office of the Prosecutor General or the Police. Any disconnect or competing priorities between and amongst these different actors is not usually analyzed through political economy analyses, and the donor assumption is that the assistance is desired and there is “political will” for it across the broad spectrum of actors and institutions involved. Another consequence of this type of political economy analysis not being conducted systematically is that actors developing and implementing good governance projects, particularly anti-corruption projects, often have a dim view of the political will of recipients for change and the incentives that individuals have for adopting changes. This is the underlying assumption of projects designed to curtail corruption that rely on a rational-choice worldview and assume that changing the monetary incentives for corruption will reduced instances of corruption.⁵⁶ In such cases, there is an implicit – and at times explicit – assumption that aid is the main driver of change because without aid no actors would develop and adopt new standards or codes of conduct, for example, or providing training. Such actions theoretically lead to individual changes in behavior that in the aggregate lead to institutional change, as per Figure 1.

Thus, we see there are two competing notions that aid donors sometimes employ implicitly and simultaneously: The first is the assumption that aid, as one of many drivers of change, facilitates good governance-related institutional change, but is not the sole driver, while the second suggests that aid is the main driver of good governance-related changes within institutions. Sometimes this

⁵⁶ See, for example, Klitgaard, et. al. (2000), *Corrupt Cities*.

can be attributed to the fact that there is a disconnect between high-level policy makers and projects implementers within the same donor agency, but at the level of project design and implementation, the difference between the two is often between the assumption of a direct causal link between good governance aid interventions, as illustrated in Figure 1, and a causal chain that is complex, conjunctive and takes into account multiple drivers of change, some of whom may have competing aims, as illustrated in Figure 2. While recognizing why there is a donor assumption about aid as a main driver of change, this thesis takes the position that recipient-country ownership of reforms and alignment of aid to recipient strategies is a critical element in the capacity of aid to facilitate long-term institutional change, and that in the absence of ownership and alignment, aid alone cannot drive change. In terms of the types of technical assistance that this thesis focuses on, it simply is not possible for aid donors to impose institutional changes without the buy-in of the recipient government. An example drawn from the empirical research conducted in this thesis serves as an illustrative example: Part of the World Bank's judicial reform program included a project that replaced a paper-based sign-in system for parolees with a biometrical fingerprint scan.⁵⁷ The aim was to curtail opportunities for corruption, as judicial clerks overseeing the sign-in could heretofore demand bribes in exchange for signing in for parolees, once or over multiple months. In cases where the government is not interested in prioritizing the fight against corruption, aid donors are highly unlikely to be allowed to implement such a system. Even if the aid donor might have some leverage to insist upon such a system being implemented (such as through the use of conditionality), recipients have numerous opportunities throughout the project cycle to delay implementation or sabotage the equipment.⁵⁸ In cases where the government is driving the reforms, and these reforms align with the types of programs aid donors want to implement, there is more likelihood that aid will be effective in facilitating change. What this suggests is that aid cannot drive reforms, so much as

⁵⁷ Interview with an official from the World Bank, May 23, 2012.

⁵⁸ A fascinating example of this comes from an evaluation of an intervention aimed at reducing nurse absenteeism in the Indian health care system. When faced with the obligation to report for work by punching in via a time clock, many nurses in rural areas simply physically tampered with the machines and then reported them to be malfunctioning. See Abhijit V. Banerjee, Esther Duflo, and Rachel Glennerster, "Putting a Band-Aid on a Corpse: Incentives for Nurses in the Indian Public Health Care System," *Journal of the European Economic Association* 6:2-3 (2008): 487-500.

facilitate reforms that have already been prioritized.

Thinking about this more complex relationship between aid and institutional change and the circumstances under which aid can facilitate institutional change raises a core question that this thesis aims to address — who sets the reform agenda in aid-recipient countries? What happens when one of these actors is in favor of reforms, but another is not? Chapters 5 and 6 present the case studies that provide some context-specific answers to these questions; the rest of this chapter identifies and describes the role of other potential drivers of change in Peru.

Peruvian Actors as Drivers of Change

This section traces the historical patterns in Peruvian history to identify with which actors the balance of decision-making powers in Peru has rested, and which of these actors were likely to be drivers of institutional reforms related to good governance. Two facts emerge from this historical analysis: (1) Since the beginning of the post-colonial era in 1836, the balance of decision-making power rested with the president and the Executive branch, and (2) authoritarian tendencies within this branch of government were not just tolerated, but often welcomed by Peruvian citizens when they resulted in economic prosperity and stability. The latter can be explained by the fact that economic instability had been a constant pattern since the beginning of the post-colonial era, and was the driving force behind citizen protests, which became stronger and more centralized over time. Historically, however, the power of citizens to effect institutional change has been weak, as has the power of Congress and other government institutions. The next section will provide a brief overview of Executive influence on institutional reforms through the 1980s, which is the point of departure for the case studies presented in Chapters 5 and 6.

Executive Power

The aim of this section is to show that power has historically been centralized in the Executive branch, which has represented the interests of a small number of elite Peruvians. Direct challenges to executive power have therefore come from military coups rather than from other government institutions or citizen actions. Further, it illustrates that corruption has been a constant

feature of executive power in Peru, and that institutional reforms driven by the Executive have focused on economic and social development rather than good governance-related institutional reforms. This section also provides the relevant historical context necessary to understand the development of the other two independent variables identified in this chapter — mechanisms of horizontal and vertical accountability.

Since Peru's independence from Spain in 1836, the state has been seen as a vehicle for consolidating individual wealth and power, rather than as an engine of development or social change. Peru has long been characterized by struggles among individual elites for political power, leading to fractured political parties that often failed to cohesively unify behind particular policies or platforms, as political parties were largely vehicles for individuals from elite families to stake their political claims. A significant consequence of this political fragmentation was a craving for political stability and an admiration for *caudillos* — strong leaders who could rule with authority, particularly when that authority generated wealth for elites.⁵⁹ A side effect of this toleration and, at times, outright support for such leaders was that democratically elected presidents were typically free to engage in widespread nepotism and cronyism, appointing their relatives to institutions like the Supreme Court.⁶⁰

The concentration of power in the Executive branch did not change significantly in the early 20th century, but the concept of the state as a driver of change did. In the early 20th century a new generation of leaders who began to shift Peru toward a more economically developed state came to

⁵⁹ These arguments are captured in Thomas E. Skidmore and Peter H. Smith, *Modern Latin America* (Oxford: Oxford University Press, 2001); Peter F. Klarén, *Peru: Society and Nationhood in the Andes* (Oxford: Oxford University Press, 2000), 214-15; and John R. Fisher, *Government and Society in Colonial Peru, 1784-1814* (London: The Athlone Press, 1970), 156.

⁶⁰ There is an argument to be made about the colonial legacy here, as corruption seemed to be an endemic feature of the Spanish institutions transplanted to Peru. Interestingly, some events indicate that such corruption prompted the first instance of citizens successfully agitating for change in the form of “uprisings” during the colonial era, to which the government responded by making administrative changes in the precursor institutions of the Comptroller General and the Judiciary. As John R. Fisher notes, the abuses of office that occurred under the colonial government were considered the main rationale behind Indian uprisings during the colonial era, and some viceroys made attempts to reform administrative structures to “increase crown revenues [and] to eliminate fraud and corruption in government, [because] improved judicial administration and the eradication of social abuses, it was hoped, would reduce Indian discontent” (p. 156). In one instance, “the complex exchequer machine... cut down fraud and corruption in the collection of revenue” (p. 236), but in other cases the reforms actually led to more corruption, such as the buying and selling of offices (*corregimientos*): “The sale of *corregimientos* seems to have been a regular occurrence” and “individual inspectors who tried to root out corruption found themselves frustrated by the strength of the vested interested ranged against them” (p. 10).

power. At the same time, these leaders consolidated their executive power, which they justified as necessary to achieve such development effectively and efficiently.⁶¹ This pattern was repeated in later decades, and expanded beyond the economic conception of development and the president as the main driver of change. In the 1960s, for example, the military began to expand its mission from purely national defense to nation-building, a move driven by the belief that underdevelopment in Peru posed a threat to national defense. In 1968, a military coup staged by the Revolutionary Government of Armed Forces (GRFA) led to a style of government that surprised most international observers: a developmental military regime that was neither communist nor capitalist, and which instituted a number of institutional reforms aimed at increasing citizen participation in economic institutions such as agricultural collectives. This is the first major example in Peru of the Executive driving reforms that related to dimensions of good governance — in this case, accountability in terms of citizen participation.

The 1968 military coup was motivated in part by the chaos that reigned in previous decades due to new challenges to the Executive's monopoly on power that emerged from the 1930s to the 1960s. Increased migration to the newly modernized Lima led to the creation of a diverse urban working class, which in turn led to the organization of labor unions and other non-government forces and the development of new political parties, like the American Popular Revolutionary Alliance (APRA). These parties represented the interests of a broader swath of Peruvians, many of whom had been politically sidelined since the colonial era, and were thus founded around policy platforms rather than the political ambitions of individuals coming from elite families. A consequence of this increased space for political expression was political chaos, characterized by

⁶¹ An illustrative example of this style of leadership is Augusto Leguía, who was elected president in 1919, but staged a military-supported coup when the government tried to nullify the results of the election. While the Leguía regime was a formal democracy — he was re-elected in 1924 and 1929, and although he had dissolved Congress, he later reinstated it — he ruled in a dictatorial manner by harshly suppressing opposition. Further, Leguía consolidated his power by rewriting the constitution to allow unlimited re-election and simultaneous presidential and Congressional elections. At the same time, Leguía used a windfall from increased foreign investment and a boom cycle of the economy to finance public works projects and infrastructure improvements, developing Lima into a modern metropolis. Rather than improving governance, this modernization of the state actually facilitated public corruption, as Leguía's infrastructural development of Lima and his other public works programs served as a vehicle for granting government contracts to his friends. See Skidmore and Smith, *Modern Latin America*, 192; and Klarén, *Peru: Society and Nationhood in the Andes*.

continued back-and-forth between elections, bloodless coups, military leadership, and semi-authoritarian regimes. These decades represent the low point of Executive power, and no long period of authoritarianism took hold during this era of “dictatorial rule and electoral confusion.”⁶² During this era, the military was more than willing to intervene (usually in bloodless coups) in cases where the president proved an ineffectual leader, and then step back when a new president was elected.

By 1977, however, the military experiment with top-down social engineering had lost steam, due to the combination of a weakening economy, increased protests at the government’s failure to fulfill its promises, and a change in leadership that modified the developmental ambitions of the regime. The general feeling was that it was high time the military got out of the business of governing,⁶³ and the regime reached out to political parties to negotiate a return to democracy by 1980. A key step in the transition was the election of a Constituent Assembly in 1978, which was tasked with re-drafting the Constitution. Both the military and the political parties felt that the Executive’s inability to make economic and social policy decisions led to crisis situations, culminating in political upheavals such as the 1968 military coup.

The 1979 Constitution was designed to strengthen the Executive branch and to create a strong presidential regime to avoid such situations. Yet the drafters also wanted to ensure that there was a stronger series of checks and balances to this executive power, and thus included provisions for a legislature with two chambers, giving Congress the ability to override presidential vetoes, to block legislation initiated by the Executive, and, if necessary, impeach the president.⁶⁴ Thus by the 1980s the Executive branch had the legal status to be a strong driver of reforms, but it was constrained by other institutions to some degree. In the 1980s and 1990s, Executive power to drive reforms rested on the degree to which Congress supported or opposed the Executive.

⁶² Skidmore and Smith, *Modern Latin America*, 202.

⁶³ According to Klarén, the leader who replaced Velasco, Benito Morales, was a “pragmatic realist... concerned with preserving the institutional unity of the armed forces in the face of increasing division and factionalization.” Klarén, *Peru: Society and Nationhood in the Andes*, 361.

⁶⁴ Eduardo Morón and Cynthia Sanborn, *The Pitfalls of Policymaking in Peru: Actors, Institutions and Rules of the Game* (Washington: Inter-American Development Bank, 2006).

Horizontal Accountability

As Chapters 5 and 6 will discuss, despite the changes brought about by the 1979 Constitution, Congress did not act as a strong driver of institutional change, in part because political parties were not typically unified behind different policies or issues related to good governance. However, the Constitution did provide a basis for Congress and other government institutions outside the Executive branch, such as the Judiciary and the Ombudsman's office, to act as mechanisms of horizontal accountability. This section outlines this concept, identifying mechanisms of horizontal accountability as an independent variable.

Horizontal accountability refers to the "network of relatively autonomous powers (i.e., other institutions) that can call into question, and eventually punish, improper ways of discharging the responsibilities of a given official."⁶⁵ Horizontal accountability, as defined by Guillermo O'Donnell, refers to the "existence of state agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful."⁶⁶ Congresses and parliaments are key institutions of horizontal accountability, often because they provide oversight of other government agencies.

O'Donnell outlines the interplay between autonomous institutions and government agencies in the executive, legislative and judicial branches, noting that horizontal accountability works in two directions: In the first, one government agency can illegally interfere in the authority of another government agency. In the second, public officials illegally obtain advantages due to their positions, which O'Donnell labels corruption. Horizontal accountability refers to the subset of interactions between government agencies that "share a common characteristic: They are undertaken by a state agency with the explicit purpose of preventing, cancelling, redressing, and/or punishing actions (or eventually non-actions) by another state agency that are deemed unlawful, whether on grounds of

⁶⁵ Guillermo O'Donnell, "Delegative Democracy," *Journal of Democracy* 5:1 (1994): 55-69.

⁶⁶ Guillermo O'Donnell, "Horizontal Accountability in New Democracies," in *The Self-Restraining State: Power and Accountability in New Democracies*, ed. Andreas Schedler, Larry Diamond, and Marc F. Plattner (Boulder: Lynne Rienner Publishers, 1999), 38.

encroachment or of corruption.... In all cases of [horizontal accountability], a given state agency, directly or by means of mobilizing another agency (often a court), addresses another state agency (or agencies), on the basis of legally grounded arguments about presumably unlawful actions or inactions of the latter.”⁶⁷

Horizontal accountability encompasses three elements: a) political accountability, in which public officials are accountable to elected officials (and are thereby indirectly accountable to the public through the electoral aspect of vertical accountability) or to political parties; b) legal accountability, in which public officials must individually, or on behalf of their agency, account for their actions in court to determine compliance with or violations of civil, criminal, or administrative laws; and c) administrative accountability, in which public officials are held accountable by auditors or inspectors, who typically have the independent authority of financial oversight and control of other government agencies for the purpose of detecting fraud, corruption, and compliance with authorized public expenditures.⁶⁸

Vertical Accountability

Vertical accountability relates to both the mechanisms of elections to hold public officials accountable for their actions, as well as to the influence of the mass media and civil society organizations. Structures of vertical accountability include civil society organizations, such as NGOs and the media. For the purpose of this investigation, the blanket term of vertical accountability is used to denote actions taken by groups of loosely organized citizens (such as protests). Vertical accountability refers to “the means through which citizens, mass media, and civil society seek to enforce standards of good performance on officials. While parliament [or Congress] is typically considered a key institution in constructs of horizontal accountability, it is also important in vertical accountability. Citizens and civil society groups can seek the support of elected representatives to redress grievances and intervene in cases of inappropriate or inadequate action by government. In

⁶⁷ Guillermo O’Donnell, “Horizontal Accountability: The Legal Institutionalization of Mistrust,” in *Democratic Accountability in Latin America*, ed. Scott Mainwaring and Christopher Welna (New York: Oxford University Press, 2003), 34-35.

⁶⁸ Mark Bovens, “Public Accountability,” in *The Oxford Handbook of Public Management*, ed. Ewan Ferle, Laurence E. Lynn, Jr., and Christopher Pollitt (Oxford: Oxford University Press, 2005), 187-88.

addition, through the use of public hearings, committee investigations, and public petitioning, parliament can provide a vehicle for public voice and a means through which citizens and civic groups can question government and seek parliamentary sanctioning where appropriate.”⁶⁹

Some authors make a distinction between electoral accountability and societal accountability, the former consisting of a competitive and transparent election process,⁷⁰ and the latter consisting of non-electoral mechanisms like the press and NGOs, whose actions are aimed at “exposing governmental wrongdoing, bringing new issues to the public agenda, or activating the operation of horizontal agencies.”⁷¹ This thesis groups all of these mechanisms under the label of vertical accountability and, following Catalina Smulovitz and Enrique Peruzzotti, extends this to include non-institutional forms of accountability, such as social mobilizations and protests, which can deliver symbolic sanctions.⁷² A related form of accountability, diagonal accountability, links the social mobilization aspect of vertical accountability to horizontal accountability (see below), as it seeks to “engage citizens directly in the workings of horizontal accountability institutions. This is an effort to augment the limited effectiveness of civil society’s watchdog function by breaking the state’s monopoly over responsibility for official executive oversight.”⁷³ While this thesis does not explicitly incorporate diagonal accountability as an independent variable, it does recognize the potential relevance of this type of participation for good governance.

Vertical accountability mechanisms were strengthened in Peru as a result of the 1968 military coup as the military regime “left in its wake some fundamental changes in social and political structures,” including the “elimination of the old oligarchy as a political force, the consolidation of the armed forces as a powerful and autonomous actor, a larger and more modern state apparatus with greater presence in the economic and social spheres, and the emergence of

⁶⁹ Rick Stapenhurst and Mitchell O’Brien, “Accountability in Governance,” *The World Bank*, undated, <http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf>.

⁷⁰ Larry Diamond, “Institutions of Accountability,” *Hoover Digest* 3 (1999): 88, <http://www.hoover.org/publications/hoover-digest/article/7512>.

⁷¹ Catalina Smulovitz and Enrique Peruzzotti, “Societal Accountability in Latin America,” *Journal of Democracy* 11:4 (2000): 147-58.

⁷² *Ibid.*

⁷³ Stapenhurst and O’Brien, “Accountability in Governance.”

new political and social actors” that included an expanded middle class, professionals, businesspeople, and a broad range of workers and leftist groups that increasingly demanded more political inclusion and social justice.⁷⁴ The efforts of the military regime to increase citizen participation in institutions of economic decision-making had empowered Peruvians who had traditionally been marginalized from politics, and these groups were becoming increasingly willing to voice their discontent with how the government was run and to demand reforms. Still, the focus of these demands centered around economic issues rather than aspects of good governance in political institutions. Given the state of Peru’s wealth distribution, it is not surprising that greater economic equality and social welfare reforms, rather than government nepotism and cronyism, were the top priority for working-class Peruvians. By the 1960s, Peru had the worst social inequality in Latin America, with the top 1 percent and 5 percent of the population amassing 20 percent and 48 percent of GNI, respectively, while the bottom 20 percent of the population only received 2.5 percent of GNI.⁷⁵ Geography, of course, continued to play a role: In 1961, the average annual per capita income in the southern highlands was \$280, versus \$870 in Lima. As income grew in Lima and fell in the highlands, more peasants in the sierra were agitating for reforms or migrating to Lima, adding to the ranks of both the working class and a small but growing middle class, strengthening vertical forms of accountability.

Conclusions

This chapter explained why good governance aid is identified as a potential driver of change by tracing the shifts in development policy that led to an emphasis on well-governed institutions as necessary for growth. It then showed that this emphasis on institutions was in part borne out of concerns about the failure of conditionality to induce change in recipient countries, which underscored to donors that ownership and alignment were necessary for aid to be effective in driving or facilitating change. In the case of technical assistance, which is the modality through which

⁷⁴ Morón and Sanborn, *The Pitfalls of Policymaking in Peru*, 8.

⁷⁵ Klarén, *Peru: Society and Nationhood in the Andes*, 323.

most good governance aid is delivered, this is particularly true.

Recognizing the necessity of ownership and alignment to aid effectiveness raised the question of which recipient actors have the potential to exercise ownership of good governance reforms. In other words, who in addition to aid donors drives the reform agenda, especially the good governance agenda, and who sets the priorities? In the case of Peru, three other actors have played key roles in driving institutional change: the Executive branch, other government actors that act as horizontal accountability mechanisms to drive, block or facilitate change, and non-governmental actors that act as vertical accountability mechanisms in the same manner. Throughout Peruvian history, power has been centralized in the Executive, which has the potential to act as a strong driver of either positive or negative institutional change. The ability of other government institutions, such as Congress, to drive change has varied over time, but these institutions also have the ability to block change and in particular keep excessive Executive power in check. Civil society organizations and the mass media can serve as mechanisms of vertical accountability, but throughout Peruvian history these have been weak in driving good governance-related institutional reforms, in part due to their focus on economic and social reforms.

In addition to these four drivers of change — good governance aid, the Executive, horizontal accountability, and vertical accountability — are the institutions at which good governance reforms are aimed. Specifically in this thesis these are the Judiciary and the Comptroller General. The next chapter will address the theory of how this endogenous institutional change occurs, and further explore the conjunctive interplay of these drivers of change in terms of good governance-related reforms.

Chapter 3: Theories of Institutional Change

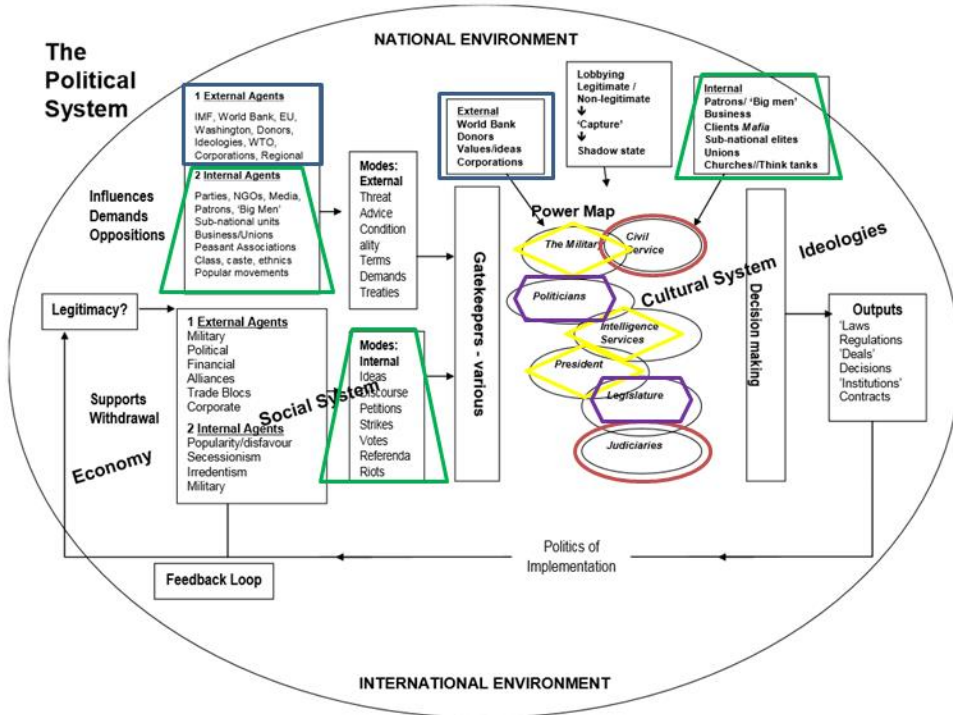
Introduction

The aim of this chapter is twofold. First, it builds upon the identification of the institutions themselves (the Judiciary and Comptroller General) as drivers of change by analyzing how endogenous institutional change occurs. This analysis is part of the larger purpose of this chapter, which is to explain how and why institutions change in general. In this way, this chapter aims to better understand from a theoretical perspective actors' motivations for driving or resisting change, how these motivations impact processes of institutional change, and what this means in terms of *aggregated* institutional behavior. It is important to note that change processes happen at multiple levels simultaneously and connect to one another. Within the institution, theories of change can be used to explain the behavior of individuals (in this case, those working for the Judiciary or Comptroller General), but the focus here is on the (formal) institution or organization as a whole, not the individuals that comprise the aggregated actions of the institution.

Figure 3 provides an illustration, based on a figure adapted from the drivers of change literature, of how this thesis conceives of these dynamics within the overall environment. In this chapter, the section on endogenous institutional change provides a framework for analyzing the overlapping and competing interests, and responses to change, of many individuals within the Judiciary and the Comptroller General (the red circles), and shows how the aggregate institutional response to change depends upon the power dynamics within these institutions. Moving beyond the intra-institution dynamics to the inter-institution dynamics requires an analysis of the actions among different drivers of change within a multi-institution context. The intra-institutional dynamics of the other drivers of change besides the Judiciary and Comptroller General – aid donors (the blue squares), the Executive (the yellow diamonds) and mechanisms of vertical accountability (the green trapezoids) and horizontal accountability (the purple hexagons) – are not analyzed in depth, but

rather viewed through their aggregated, institutional-level actions.

Figure 3. Drivers of Change within the Political System



Source: Adapted from Leftwich (2006), p. 21.

In order to try and unpack these complexities, this chapter reviews theories related to institutional continuity, change, and resistance, and also weaves in relevant theories from the literature on organizational change. Expanding upon the three hypotheses outlined in Chapter 1, it begins with an overview of rational-choice institutionalism, which explains institutional continuity in terms of actors' fixed preferences and self-enforcing patterns of behavior, and responses to institutional change in terms of a logic of consequences approach. The second section of this chapter focuses on the perspective of sociological institutionalism, which explains institutional continuity in terms of actors' self-image and identity. Actors will drive or oppose change due to peer mimicry and/or according to a logic of appropriateness.⁷⁶ The historical intuitionist perspective on change,

⁷⁶ Discursive or constructivist institutionalism, which is considered by some to be a fourth main body of institutionalism, is not significantly addressed in this chapter. Discursive institutionalism focuses on the role of ideas and discourse, and

which does not privilege either the rational-choice or sociological worldview on what motivates actor behavior, considers actors to be driven by self-interest while simultaneously being embedded in multiple identities that influence choices and actions. Institutional continuity can be explained in terms of prior configurations of embedded structures of preferences, norms, and power dynamics, which create patterns over time that become “sticky.” Actions become path dependent, and institutional change occurs in repose to a critical juncture that forces a reconfiguration of these patterns. This is the most relevant framing from which to address and unpack the multi-level complexities this thesis addresses, and it merges into a discussion of gradual, endogenous institutional change, embedding the actions of leaders and other actors within the Judiciary and Comptroller General within the larger analysis of the actions of the Executive, mechanisms of vertical and horizontal accountability, and good governance aid.

Rational Incentives for Change

Rational-choice institutionalism focuses on predicting individual behavior, with scholars formally modeling the effects of how institutions constrain “the sequences of interaction among actors, the choice available to particular actors, the structure of information and hence beliefs of the actors, and the payoffs to individuals and groups.”⁷⁷ Rational-choice institutionalism is rooted in microeconomics, in particular the theory of the firm. It follows the rational-choice approach of assuming that individuals have well-defined preferences and are able to make decisions rationally; that is, they make decisions based on an objective calculation of which actions will lead to the utility-maximizing outcome. Rational-choice scholars conceive of institutions as constraints that shape

“defines institutions dynamically... as structures and constructs of meaning internal to agents.” Vivien A. Schmidt, “Taking Ideas and Discourse Seriously: Explaining Change through Discursive Institutionalism as the Fourth ‘New Institutionalism,’” *European Political Science Review* 2:1 (2010): 1. As Schmidt notes, the difference between discursive and sociological institutionalism can often be fuzzy, depending on how the scholar views ideas. This thesis exploits this fuzziness, enfolded the concept of ideas into the concepts of norms and legitimacy in sociological institutionalism for the purposes of this research. As a precursor to the subject of inquiry in this thesis, discursive institutionalism explains how the power of good governance as an idea made it so readily adopted in aid agencies. However, this thesis looks at what happened once this idea became embedded as a norm in donor agencies, and materialized into actual programs to be implemented in different countries. The discursive institutionalist focus on how ideas become codified is similar enough to the sociological institutionalist concept of how norms go from being diffused to being adopted as a set of practices that the two can be incorporated under the same umbrella of good governance as a norm-diffusion mechanism.

⁷⁷ Barry Weingast, “Rational-Choice Institutionalism,” in *Political Science: The State of the Discipline*, ed. Ira Katznelson and Helen V. Milner (New York: W.W. Norton & Company, 2002), 661.

individual behavior, thereby affecting this calculation and the choice of available actions.

Using game theory models to analyze agent preferences and predict behavior, rational-choice institutionalists consider the constraints on agents during repeated interactions, and how these constraints shape the role of “strategic interaction in the determination of policy outcomes.”⁷⁸ These outcomes are framed in terms of achieving equilibrium, and the agent interactions in terms of transaction costs. With its heavy emphasis on agency, rational-choice institutionalism considers patterns of behavior to be based upon self-enforcing expectations that constrain agents and coordinate their beliefs, resulting in actions that will continuously maintain a social equilibrium. Thus, rational-choice institutionalists tend to focus primarily on explaining institutional continuity, and deductively predicting actor behavior within this framework.

Rational-choice institutionalism has significant power to explain the micro-level foundations of how institutions operate at a macro level, and why different institutional arrangements lead to different equilibrium outcomes. In addition, recent work has expanded the scope of rational-choice institutionalism, allowing it to offer robust explanations of institutional change alongside its explanations of institutional continuity. Rational-choice models and game theory can help explain cross-country and inter-temporal differences in political institutions. Barry Weingast (2002) illustrates with the examples of different legislative arrangements and policy choices in the Chilean legislature during and after Augusto Pinochet’s presidency, and in the U.S. Congress before and after the passage of the Civil Rights Act.⁷⁹

Institutions as Constraints on Agents’ Choices

Rational-choice theorists consider actors to have well-defined, fixed preferences. Actors are motivated to maximize their gains and minimize their losses, and they make choices based on trying to achieve the best possible outcome for themselves. In this way, they are said to make choices

⁷⁸ Peter A. Hall and Rosemary C.R. Taylor, “Political Science and the Three New Institutionalisms,” *Political Studies* 44:5 (1996): 938.

⁷⁹ Weingast, “Rational-Choice Institutionalism,” 660-92.

based on a logic of consequences that will lead to utility-maximizing outcomes.⁸⁰ The institutionalist application of rational-choice theory considers what happens when multiple actors are pursuing utility-maximizing actions focused around the same issue, such as a public policy, but with different outcomes in mind. In such a situation, institutions are the rules that constrain actor behavior. Institutions are the “rules of the game in a society, or, more formally, the humanely devised constraints”⁸¹ that shape “individual choices, how the individuals act, their information, beliefs, and pay-offs.”⁸² By structuring social interactions, institutions shape both how actors behave, and how they expect others to behave.⁸³ Institutions can be both formal (rules or laws) and informal (customs and conventions), but they are not the same thing as actors or organizations. Organizations are the actors or players in the “game,” while institutions are the rules or constraints affecting the calculus of the game players’ decision-making.⁸⁴ For example, different types of legislative arrangements (the institutions) affect policymakers’ (the players) decisions when proposing or advocating for reforms. Legislators may propose or accept policies that are less than ideal to ensure that they are not blocked, or that a worse policy outcome does not occur. In this way, institutional arrangements — such the presence of institutional senators in Chile, the ability to filibuster in the U.S. Congress, and the alignment of ruling coalitions with the prime minister in parliamentary systems — all constrain actors and affect their choices of which policies to pursue.⁸⁵

Rational-choice theory’s focus on agency strongly influences rational-choice institutionalism’s understanding of the need for institutions. North suggests that institutions are the result of a deliberate effort by individuals who intentionally devise and enforce constraints upon themselves.⁸⁶ This occurs because such constraints help reduce transaction costs — that is, actors need not make every decision from scratch, gathering all necessary information anew with each

⁸⁰ James G. March and Johan P. Olson, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: The Free Press, 1989).

⁸¹ Douglass North, *Institutions, Institutional Change, and Economic Performance* (New York: Cambridge University Press, 1990), 3.

⁸² Weingast, “Rational-Choice Institutionalism,” 662.

⁸³ Jack Knight, *Institutions and Social Conflict* (New York: Cambridge University Press, 1992).

⁸⁴ North, *Institutions, Institutional Change, and Economic Performance*.

⁸⁵ Weingast, “Rational-Choice Institutionalism,” 660-92.

⁸⁶ North, *Institutions, Institutional Change, and Economic Performance*.

decision-making process. Instead, they can rely on established institutions for signals that indicate what the consequences of different courses of action might bring, and how other actors will behave according to these signals, thereby reducing uncertainty. Knight argues that institutions are the result of individuals or groups with incomplete information attempting to gain a strategic advantage over other groups or actors who have more information.⁸⁷ This is a view echoed by Elinor Ostrom, who suggests that individuals devise constraints that allow them to gain the knowledge required to better predict how other actors will play the game.⁸⁸

Most rational-choice institutionalists thus deviate from a strict interpretation of rational-choice theory and introduce the concept of bounded rationality into their analyses. Individuals' rational decision-making processes are bound by different factors, such as limited information, which can affect their calculus of how to achieve a utility-maximizing output. By providing rules that guide how players bargain, institutions reduce the uncertainty that comes with limited information, allowing players bounded by this incomplete information to rely on past experience and knowledge of the current situation to predict how other players will act, and accordingly determine their own course of action.

Institutions also help resolve collective action dilemmas and distributional asymmetries. Rational-choice theory suggests that when all actors are seeking what is in their best interests, conflict can arise over common goods, such as communal or public property. One way to mitigate this conflict is to create institutions that set the rules by which actors will abide with respect to the good in question, thus resulting (ideally) in mutually beneficial arrangements. Such institutions can also be the "by-product of conflicts over distributional gains,"⁸⁹ resulting from actors establishing rules to resolve power asymmetries and reduce competitive negotiation over goods. In either case, actors have sufficient incentives to abide by the institutional arrangements once they are created because deviating from them would result in sub-optimal outcomes. (The assumption is that, even

⁸⁷ Knight, *Institutions and Social Conflict*.

⁸⁸ Elinor Ostrom, *Understanding Institutional Diversity* (Princeton: Princeton University Press, 2005).

⁸⁹ Knight, *Institutions and Social Conflict*, 19.

when this rational calculus is bounded by limited or asymmetric information, actors have sufficient information to understand that deviation would lead to sub-optimal outcomes.) Because policies can be considered communal goods to be shared among (or applied to) individuals, politics can be considered a series of collective action dilemmas.⁹⁰ Institutions therefore help shape the process of achieving the policy outcome that best reflects the shared interests of utility-maximizing players, resulting in an equilibrium in which the outcome, if not preferable, is acceptable to all the players.

The ways in which rational-choice institutionalism defines these features explains why institutions persist or remain stable. Players have set preferences, and want to achieve optimal outcomes. However, because other players in the game are also trying to achieve an optimal outcome based on their needs or goals, all players must aim for the best mutually acceptable outcome. When such an equilibrium in outcomes are achieved, players will have no incentive to deviate from the rules that helped produce said equilibrium, because of the risk that doing so could result in sub-optimal outcomes. Institutions therefore become self-enforcing, or a “*self-sustaining system of shared beliefs* about a salient way in which the game is repeatedly played.”⁹¹

Institutional stability is thus a constitutive part of how rational-choice institutionalism explains institutions, which exposes a key weakness in the explanatory power of rational-choice institutionalism. While institutional continuity can be understood in this context, institutional change is difficult to explain with this theory. Why do some institutional arrangements arise and persist in one setting, but not another? And if actor preferences are fixed and equilibrium has been achieved, why and how do institutions change?

Rational-Choice Explanations of Institutional Change

Rational-choice institutionalism describes how the need for institutions to reduce transaction costs and distributional asymmetries, and to resolve collective action dilemmas, leads to the creation and persistence of institutions. It explains institutional continuity in terms of fixed

⁹⁰ Hall and Taylor, “Political Science and the Three New Institutionalisms,” 943.

⁹¹ Aoki, Masahiko, *Toward a Comparative Institutional Analysis* (Cambridge, MA: MIT Press, 2001), 10 (emphasis in original).

preferences and self-enforcing patterns of behavior. While these tenets of rational-choice institutionalism provide a cohesive framework for explaining institutional stability, they do not explain institutional variation.

In explaining how different equilibria or arrangements of institutions occur in different contexts, rational-choice institutionalists borrow the concept of path dependence from historical institutionalism — in particular ideas about the ways in which long-held cultural beliefs have shaped modern institutions.⁹² Under this body of theory, modern institutions evolved differently in different places based on endogenous factors, and institutions continue to be influenced by prior arrangements, and by structures directly linked to societal beliefs.⁹³ Once these institutions have arisen or taken root, the self-enforcing nature of institutions means that they continue to exist and follow a similar trajectory. Following this argument, property rights in the West can be traced back to the individualistic nature of Western culture (which also reinforces this institution), whereas China's more communal arrangement can be traced back to its family-oriented culture.⁹⁴

This focus on path dependence represents a shift in focus away from describing how institutions in one body, such as the U.S. Congress, predict player behavior in that arena, and toward an understanding of how different institutions shaping economic development and growth in an entire society take root and persist. Peter Boettke, Christopher Coyne, and Peter Leeson, for example, explain that institutions that are most likely to “stick” in a society are those that endogenously arose in that society.⁹⁵ Path dependence helps explain both why certain institutions may be entrenched, hard to change, and “sticky,” and why institutions imposed externally will therefore be less sticky.

Path dependence helps explain the existence of different institutional arrangements in different settings. In contrast, critical junctures — which are significant events and actions that shift

⁹² Avner Greif, *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade* (New York: Cambridge University Press, 2006).

⁹³ Douglass North, *Understanding the Process of Economic Change* (Princeton: Princeton University Press, 2005).

⁹⁴ Avner Greif and Guido Tabellini, “Cultural and Institutional Bifurcation: China and Europe Compared,” *American Economic Review* 100:2 (2010): 135-40.

⁹⁵ Peter Boettke, Christopher J. Coyne, and Peter T. Leeson, “Institutional Stickiness and the New Development Economics,” *American Journal of Economics and Sociology* 67:2 (2008): 331-58.

key institutional dynamics — help explain why institutions change, often dramatically and suddenly (such as the institutional shifts that took place after the fall of the Soviet Union). While critical junctures also originated with scholars of historical institutionalism, Weingast illustrates how they can be linked to rational-choice institutional analyses to explain change.⁹⁶ Using the example of the American Revolution, he first analyzes the actions of moderate Americans in deciding to go to war against the British. Although their support was critical to a war effort, moderates did not initially provide that support. Weingast models this support in terms of a threat probability threshold: Moderates' belief in the probability of radicals' claims that British policies threatened American liberty was too weak to risk American lives. However, a probability threshold existed, beyond which moderates would be willing to take this risk. The critical juncture came in the form of British actions to undermine the self-governed colonial assemblies. This strengthened the moderates' belief about the probability that radical claims were correct, thereby shifting moderate belief beyond the probability threat threshold and leading to their support of a revolution. Such models help explain discontinuous change within the framework of set preference and self-enforcing institutions: The status quo will continue until a critical juncture shifts the threat probability, forcing actors to recalculate the best course of action to regain equilibrium.

Rational-choice institutionalism has thus been able to incorporate path dependence and critical junctures as explanations for cross-country and inter-temporal institutional variation and change. Yet these explanations expose serious gaps in the ability of rational-choice institutionalism to explain change. First, rational-choice institutionalism privileges agency as the key driver of institutional change, which glosses over the significant role that structural constraints can play in allowing for or limiting change. Second, again because of its focus on agency, application of rational-choice analysis tends to consider a narrow set of variables to explain change, focusing for example primarily on key players involved in shaping policies. Third, the concept of set actor preferences is problematic even with the introduction of critical junctures, as critical junctures do not adequately

⁹⁶ Weingast, "Rational-Choice Institutionalism," 660-92.

explain the origin of these preferences and confine agents' motivations rather narrowly. A key issue here, which also plagues historical institutionalism, is how gradual, endogenous change can be explained. Fourth, and related to the second and third point, these theories do not adequately explain how power dynamics can affect institutional change, as some key players will be able to influence change more than others due to their relative power. Finally, and rather ironically given rational-choice institutionalism's *raison d'être* of predicting actor behavior, critical junctures and other exogenous shocks are not predictable. Taken together, these weaknesses make rational-choice institutionalism alone a poor tool for explaining institutional change.

Acceptance or Resistance to Good Governance Changes

Rational-choice institutionalism considers the role of individual agents to be fundamental to institutional change, and it assumes these individuals are motivated by utility maximization and will calculate their behavior accordingly. In a scenario in which governance reforms are being introduced to an organization, the reactions of actors to these reforms might be partly explained by such a calculus. For example, some actors may be resistant to such changes because they entail extra work, or because they expose illegal practices. Other actors may be in favor of the reforms because they reduce their workload, or because they expose the illegal practices of others players who have negatively affected their own outcomes (see Beer, et. al, 1990). This agent-centered approach can also help explain the actions of individual leaders in supporting or opposing governance reforms, based on how such reforms would affect their utility.

Taking the example of corruption as the illegal action in question illustrates the linkage between rational-choice theory, institutional change, and good governance aid. Economists whose work has influenced early thinking on anti-corruption programs within USAID, for example, include Robert Klitgaard and Susan Rose-Ackerman.⁹⁷ In *Corrupt Cities* (2000), Klitgaard posit the formula that $\text{Corruption} = \text{Monopoly} + \text{Discretion} - \text{Accountability}$, and draws upon principal-agent theory to suggest that the right mix of penalties and incentives will prevent corruption. Rose-Ackerman also

⁹⁷ See, for example, USAID (2005), "An Anti-Corruption Reader," available at http://pdf.usaid.gov/pdf_docs/PNADF530.pdf

focuses on the role of incentives, agreeing with Klitgaard that any reform program must raise the costs of corruption for civil servants while simultaneously reducing opportunities and incentives for engaging in corruption.⁹⁸ Both proceed from an assumption that individuals are inherently driven by a logic of consequences, which explains the tendency toward engaging in corruption, if given the opportunity, and the incentive-based “cures” that can effectively be applied to prevent corruption. That this perspective has influenced good governance aid is clearly evidenced by the reference to the role of incentives in the 2004 USAID Anticorruption Strategy, and by the types of judicial anti-corruption programs implemented by USAID that, for example, automate case management systems that select judges at random to reduce opportunities for bribes.⁹⁹

Normative Rationales for Change

Sociological institutionalism grew out of organization theory, in part as an effort to explain why organizations adopted practices that seemed inconsistent with the most rational or efficient choices. It argues that actors’ preferences are influenced by culturally constructed norms, and that behavior is shaped by cognitive scripts and models. Sociological institutionalism conceives of institutions as “codified cultural constructs” that socialize individuals into actions fitting within a framework of what is acceptable, sometimes regardless of whether these actions lead to utility-maximizing outcomes.¹⁰⁰ Institutions “do not simply affect the strategic calculations of individuals... but also their most basic preferences and very identity. The self-images and identities of social actors are said to be constituted from the institutional forms, images, and signs provided by social life.”¹⁰¹

Sociological institutionalism moves beyond the realm of the individual and considers how organizations adopt forms and procedures. It suggests that organizations adopt such institutions

⁹⁸ Rose-Ackerman, Susan. *Corruption and Government: Causes, Consequences, and Reform*. Cambridge University Press, 1999.

⁹⁹ See USAID (2004), “USAID Anticorruption Strategy,” available at http://pdf.usaid.gov/pdf_docs/PDACA557.pdf and USAID (2009), “Reducing Corruption in the Judiciary,” available at http://pdf.usaid.gov/pdf_docs/PNADQ106.pdf.

¹⁰⁰ Edwin Amenta and Kelly M. Ramsey, “Institutional Theory,” in *Handbook of Politics: State and Society in Global Perspective*, ed. Kevin T. Leicht and J. Craig Jenkins (New York: Springer Science and Business Media, 2010), 18.

¹⁰¹ Hall and Taylor, “Political Science and the Three New Institutionalisms,” 948.

based not on a rationally based calculus but on contextually embedded, culturally specific signals and norms. While sociological institutionalism focuses on cultural constructs as the basis of institutions, it remains fairly agent-oriented, explaining how actors are shaped by different norms, conventions, and cognitive frameworks. Sociological institutionalism places a heavy focus on how institutions as norms are diffused across different contexts, and explains the genesis of institutions in terms of diffusion of existing norms. Institutional stability is due to the institutionalization of such norms.¹⁰²

Sociological institutionalism provides a compelling explanation of how institutions change over time, and why actors behave in ways that are seemingly in opposition to what a rational calculus of the situation might dictate. Its conceptualization of norm diffusion is significant, particularly for the topic of this thesis, as good governance can be considered an international norm that has been widely adopted. It has the power to explain why different organizations in different contexts adopt similar norms, as Martha Finnemore illustrates, drawing on a study of the status of guest workers in several states of the European Union, and an analysis of women's suffrage and economic rights across various countries.¹⁰³

Institutions as Cognitive Scripts

Sociological institutionalism conceives of institutions as cognitive constructs that define the realm of acceptable behavior for actors. Rather than being rules that constrain behavior, institutions are norms, scripts, or templates for framing behavior. Institutions such as cultures, communities, and personal networks embody the normative contexts that shape actor behavior because individual identities are embedded in these institutions.¹⁰⁴ Social interaction is structured by institutions, which not only shape how actors behave, but also provide cognitive scripts for how they

¹⁰² Colin Hay, "Constructivist institutionalism," in *Oxford Handbook of Political Institutions*, ed. R.A.W. Rhodes, Sarah A. Binder, and Bert A. Rockman (Oxford: Oxford University Press, 2006), 56-74.

¹⁰³ Martha Finnemore, "Norms, Culture, and World Politics: Insights from Sociology's Institutionalism," *International Organization* 50:2 (1996): 325-47.

¹⁰⁴ M.H. Fairbrother, "Development: Institutional Perspectives," in *International Studies Encyclopedia*, ed. R.A. Denemark (Hoboken, NJ: Wiley-Blackwell, 2010); Simon Reich, "The Four Faces of Institutionalism: Public Policy and a Pluralistic Perspective," *Governance* 13:4 (2000): 501-22.

can expect other actors to behave. Sociological institutionalism posits that actors conform to routines or familiar patterns of behavior that they believe are correct in certain circumstances. Action depends on the interpretation of a situation rather than an instrumental calculation, and actors make choices based on a logic of appropriateness rather than focusing on utility-maximizing outcomes.¹⁰⁵ Actors may analyze situations from a consequentialist perspective, but their choice of actions will already be limited based on what falls within their scope of right actions. In this way, both rational-choice institutionalism and sociological institutionalism emphasize the bounded rationality of actors. However, for rational-choice theorists, actors are bound largely by asymmetric information, whereas for sociological institutionalists, actors are bound by cognitive or normative scripts that relate to what is appropriate, conceivable, or feasible for those actors in terms of their socially constituted self-identity.¹⁰⁶ Action is thus tied to the interpretation of a given situation or context, and institutions “influence behavior not simply by specifying what one should do, but also by specifying what one can imagine oneself doing in a given context.... None of this suggests that individuals are not purposive, goal-oriented, or rational [but] sociological institutionalists emphasize that what an individual will see as ‘rational action’ is itself socially constituted, and they conceptualize the goals toward which an actor is striving in much broader terms than others do.”¹⁰⁷

From the perspective of sociological institutionalism, institutions do not arise out of a calculus-based need for constraints, but rather are the result of broader cultural forms or practices, which influence the adoption of specific behaviors. Edwin Amenta and Kelly M. Ramsey, in explaining different modes of policy adoption, suggest that there are three pathways through which actor behavior is affected by institutions. In the first, “norms, rituals, models, and conventions establish what is appropriate,” and actors, motivated by concerns about status and legitimacy, will adopt those norms that they consider to be the most legitimate. In the second pathway, “cognitive

¹⁰⁵ March and Olson, *Rediscovering Institutions*.

¹⁰⁶ Amenta and Ramsey, “Institutional Theory,” 15-39; Bo Rothstein, “Political Institutions: An Overview,” in *A New Handbook of Political Science*, ed. Robert E. Goodin and Hans-Dieter Klingemann (Oxford: Oxford University Press, 1996), 133-66.

¹⁰⁷ Hall and Taylor, “Political Science and the Three New Institutionalisms,” 948-49.

schemas, scripts, and paradigms establish what is conceivable,” and actors, motivated by serious policy concerns but bounded by the inherent ambiguities of whether particular choices will lead to desired policies, resort to peer emulation based on their perceptions of which peers are most successful, or based on accessible professional expertise. In the third, “political actors are epistemologically dependent upon other actors... to develop and demonstrate the cognitive or normative feasibility of policy rationales and prescriptions,” and rely on experts, other authoritatively knowledgeable figures, or “early adopting peers” to recommend courses of policy action, which these actors then enact.¹⁰⁸ These three modes — legitimacy-minded, bounded rationality, and epistemologically dependent — can help explain why actors take different actions, or behave differently in different contexts. Other authors have suggested that there are essentially two main modes at work: Mimetic isomorphism, which covers peer emulation and encompasses both the bounded rationality and epistemologically dependent concepts; and normative isomorphism, which covers appropriate behavior and encompasses the legitimacy-minded concept.¹⁰⁹

Institutions persist over time because actors stick to these cognitive scripts, thereby reinforcing norms and practices that influence context-specific behaviors. The “highly interactive and mutually constitutive character of the relationship between institutions and individual action [results in] individuals simultaneously constitut[ing] themselves as social actors, in the sense of engaging in socially meaningful acts, and reinforc[ing] the convention to which they are adhering.”¹¹⁰ Institutions as practices and behaviors stemming from culture, norms, and cognitive cues can become *institutionalized* over time as such patterns are socially or formally reproduced, as Ronald Jepperson illustrates using the example of democracy.¹¹¹ Yet unlike rational-choice institutionalism, sociological institutionalism does not have trouble squaring its conception of actor behavior with

¹⁰⁸ Amenta and Ramsey, “Institutional Theory,” 18-19.

¹⁰⁹ Paul J. DiMaggio and Walter W. Powell, “The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields,” *American Sociological Review* 48 (1983): 147–160.

¹¹⁰ Hall and Taylor, “Political Science and the Three New Institutionalisms,” 948.

¹¹¹ Ronald L. Jepperson, “Institutions, Institutional Effects, and Institutionalism,” in *The New Institutionalism in Organizational Analysis*, ed. Walter W. Powell and Paul J. DiMaggio (Chicago: University of Chicago Press, 1991), 143-63.

institutional change. Institutions are understood as constantly “subject to interpretation and frequently to reinterpretation” as actors shift between different institutional arrangements and therefore borrow, carry, and diffuse ideas, norms, and beliefs from one situation to another.¹¹² Thus, sociological institutionalism has significant potential to explain institutional change as occurring through norm or policy diffusion and peer emulation. However, like rational-choice institutionalism, sociological institutionalism has trouble determining the conditions under which institutions change, and clarifying why and how certain norms are adopted, instead taking as a given “the prior establishment of a newly dominant institution. Policy innovation is not divergent change in these explanations so much as a unidirectional wave of adaptation to a new paradigm.”¹¹³

Sociological institutionalism therefore has trouble grounding explanations of institutional change into a framework that takes into account the possibility that change occurs due to more than a singular causal mechanism, and it fails to explicitly link how norm diffusion leads to norm adoption. This is a key issue that needs to be resolved when considering good governance aid as a mechanism of norm diffusion.

Sociological Explanations of Institutional Change

Sociological institutionalism conceives that actor behavior is shaped by conformity with different norms, cognitive scripts, and cultural or other templates. Institutional stability can therefore be explained by the fact that such norms and templates are reinforced and, similar to the concept in rational-choice institutionalism, institutions become “sticky.” Likewise, institutional change can be explained by a shift in actor preferences — in this case, a change in ideas or norms that constitutes a cultural shift. Unlike rational-choice institutionalism, such change does not undermine the fundamental assumptions of sociological institutionalism because actors’ beliefs (a.k.a. preferences) are not assumed to be fixed. Thus, there is a cohesive theoretical consistency in sociological institutionalism’s explanations, which focus on institutional change as actors embrace

¹¹² Peter A. Hall, “Historical Institutionalism in Rationalist and Sociological Perspective,” in *Explaining Institutional Change: Ambiguity, Agency and Power*, ed. James Mahoney and Kathleen Thelen (New York: Cambridge University Press, 2010), 216.

¹¹³ Amenta and Ramsey, “Institutional Theory,” 20.

new norms and adjust or put aside old norms. New institutional practices in organizations are adopted not because they advance the utility maximization of actors, but because “organizations embrace specific institutional forms or practices because the latter are widely valued within a broader cultural environment.” This can result in either positive or negative organizational shift in practice, as “in some cases, these practices may actually be dysfunctional with regard to achieving the organization’s formal goals.”¹¹⁴

Such changes can occur due to either peer emulation effects or legitimacy effects. Recall that in the former, actors are motivated by substantive organizational or policy concerns, but are bounded by ambiguities — information-based or otherwise — about how different choices and actions might result in different outcomes. They will therefore copy those peers whom they deem to be successful, expert, or professional, resulting in mimetic isomorphism. In terms of legitimacy effects, the logic of appropriateness guides actors to adopt those norms that they consider to be the most legitimate, resulting in normative isomorphism. From an organization theory perspective, a key factor that determines openness to organizational change is trust in management. Shaul Oreg (2003) found that trust in management had a significant effect on resistance to change, and other empirical studies have found that when employees are involved or empowered vis-à-vis the impending change (i.e. feeling like they are choosing to adopt the change), they are less resistant to the change (see Denhardt and Denhardt 1999, and Poister and Streib, 1999).

Peter Hall and Rosemary Taylor cite two examples that illustrate such change stemming from norm diffusion. In the first, American managers in the 1960s embraced product diversification not because of a response to economic or technological shocks, but because the professional forums in which they participated promoted the value of diversification.¹¹⁵ This is an example of mimetic isomorphism, or policy diffusion. The second example discusses how different nation-states adopted similarly open immigration policies, not for any functionalist reason, but because international actors’ activism promoted embracing human rights norms, which made some immigration policies

¹¹⁴ Hall and Taylor, “Political Science and the Three New Institutionalisms,” 949.

¹¹⁵ Ibid.

seem appropriate while others gradually came to be considered illegitimate. This is an example of normative isomorphism, or norm diffusion. Such examples underscore the point made more than a decade later by Hall, who suggested that “the fate of an institution can be closely tied to the significance attached to its rituals, whether formal or informal, and conditioned by cultural shifts in which new sets of symbols acquire authority as others fall into desuetude.”¹¹⁶

While sociological institutionalism does a good job of explaining the effects of policy and norm diffusion, it does not adequately explain the link between norm diffusion and norm adoption. How and why do some policies or norms become displaced by others? And what are the necessary and sufficient conditions under which such displacement occurs? Like rational-choice institutionalism, sociological institutionalism seems to rely on the “black-box expectations of ‘exogenous shocks’ that may disrupt or render less salient norms, schemas, and their embedded resources.”¹¹⁷ Several contrasting theories have been posited to explain such change. Institutional change may result from a confluence of smaller, separate developments; from a process of defection “in which actors gradually stop adhering to the practices formerly constitutive of an institution... without any formal agreement to do so” (as was the case with wage bargaining in Germany); or from unintended consequences that arose out of ad-hoc adjustments to organizations’ practices and procedures.¹¹⁸ All of this suggests that there is no one general theory of how norm diffusion leads to norm adoption, and that “alternative norms and schemas are abundant, and identifying the conditions under which particular alternatives become the foundation of replacement institutions and waves of conformity remains a subject of exploratory inquiry” for sociological institutionalists.¹¹⁹ In addition, this broad, often macro-level focus on diffusion minimizes the fact that change can occur based on incremental steps “issuing from a series of negotiations in which the participants rarely agreed even on how to interpret the results of each

¹¹⁶ Hall, “Historical Institutionalism in Rationalist and Sociological Perspective,” 217.

¹¹⁷ Amenta and Ramsey, “Institutional Theory,” 20-21.

¹¹⁸ Hall, “Historical Institutionalism in Rationalist and Sociological Perspective,” 218.

¹¹⁹ Amenta and Ramsey, “Institutional Theory,” 20.

stage, [which] can usher in profound institutional transformation.”¹²⁰ As with rational-choice institutionalism, the interplay between exogenous and endogenous change is not well-theorized.

A second shortcoming of sociological institutionalism is that it does not explicitly theorize the role of path dependence in explaining institutional change. Norm and policy diffusion may affect different actors differently; each actor or group of actors may have (socially constituted) reasons for desiring the adoption of these norms or policies. Seeking an understanding of past instances of policy adoption, and the processes through which they occurred, can explain why similar institutional changes are or are not occurring. While historical institutionalism pays attention to such issues, this type of process tracing of “policy convergence to the influence of pervasive norms and schemas... [is] typically absent” in studies that employ purely sociological institutional perspectives.¹²¹ In addition, sociological institutionalism has been less explicit in its theorizing of the role of power asymmetries in understanding policy and norm adoption, although it does not ignore this dynamic. Both sociological and historical institutionalists view institutions “as objects of continuous contention rather than as settled arrangements that can be taken for granted; and, behind the operation of institutions, both see the exercise of power” as fundamental.¹²²

Despite these weaknesses, sociological institutionalism has significant power for explaining the role of good governance aid in fostering institutional change. From this perspective, governance aid influences institutional change through knowledge transfer of “best practices.” Donor governments provide experts to conduct training or mentoring, thereby facilitating norm diffusion of good governance principles and practices, and aid donors implicitly assume that norm adoption automatically follows norm diffusion. However, this is not necessarily the case; for governance aid to be effective, principles and practices must be adopted and behavior changed so that the norm-diffusing mechanism of knowledge transfer leads to institutional change. Institutional change ultimately relies upon the willingness and ability of actors within the institution receiving the aid to

¹²⁰ Hall, “Historical Institutionalism in Rationalist and Sociological Perspective,” 218.

¹²¹ Amenta and Ramsey, “Institutional Theory,” 20.

¹²² Hall, “Historical Institutionalism in Rationalist and Sociological Perspective,” 218.

adopt the governance norms being diffused.

Power Dynamics, Embedded Structures, and Change

Historical institutionalism differs from rational-choice and sociological institutionalism in the scope of its inquiry, which is grounded in historical analysis. Historical institutionalism proceeds from an inductive, comparative vein of inquiry, asking questions about differences in real-world outcomes. It places significant emphasis on the temporal dimension of institutionalism by tracing transformations over long periods of time and mapping out sequences along a timeframe that helps explain actor behavior and institutional transformation. Historical institutionalism tends to focus on inquiry at the macro or meso level, and grounds its analysis in specific contexts to help explain how different configurations of institutions and processes lead to different outcomes. Examining historical sequences in this context-specific manner allows historical institutionalists to make causal assertions based on historical evidence, with scholars specifying not just a correlation between two variables, but also why causal linkages exist between multiple variables.

Using the tools of comparative case-study analysis to explain similarities and differences in more than one case, historical institutionalists consider how prior configurations or patterns of norms, routines, and practices affect current behavior and divergent outcomes. These configurations are the institutions “embedded in the organizational structure of the polity or political economy,”¹²³ which shape subsequent behavior and outcomes due to path dependence. While historical institutionalists do not dismiss the idea that individuals have agency, they consider this agency to be firmly bounded by the structures within which these individuals operate. Thus, the trajectories set in place at different points in time become path-dependent, in that they “trigger feedback mechanisms that reinforce the recurrence of a particular pattern in the future.”¹²⁴

For historical institutionalists, institutions are “object[s] of active reinterpretation, and often of contention, as actors seeking power and resources take advantage of their contradictory

¹²³ Hall and Taylor, “Political Science and the Three New Institutionalisms,” 938.

¹²⁴ Paul Pierson and Theda Skocpol, “Historical Institutionalism in Contemporary Political Science,” in *Political Science: The State of the Discipline*, ed. Ira Katznelson and Helen V. Milner (New York: W.W. Norton & Company, 2002), 699.

potential.”¹²⁵ Institutions can be embodiments of unequal power dynamics, which their differences often reflect. Combined with its bounded-rationality view of actor behavior, focus on multiple causal linkages, and attention to contextually embedded processes and long-term temporal dynamics, historical institutionalism’s explicit acknowledgment of uneven power sharing makes it an extremely powerful tool for explaining institutional change in different entities at different times.

Institutions as Embodiments of Power Distributions

Historical institutionalism has been classified as “agnostic”¹²⁶ in its ontology in that it does not strictly adhere to either the rational-choice or sociological worldview on what motivates actor behavior. While historical institutionalism tends to reject the rational-choice idea that actors are seeking a game-theoretic equilibrium outcome, it does not reject the notion that individuals are able to act in accordance with a “logic of consequences” approach. Rather, it incorporates the notion that actors may be driven by classic rational-choice notions of self-interest while simultaneously being embedded in multiple identities that influence choices and actions. In part, this flexibility is the result of historical institutionalism privileging structural and contextual elements over agency: Historical institutionalism defines institutions as “formal or informal procedures, routines, norms, and conventions embedded in the organizational structure of the polity or political economy.”¹²⁷ While bounded by these institutions, actors may shift between a logic of consequence and a logic of appropriateness during a single decision-making process, depending on what the issue is, and these shifts may precipitate either action or inaction. For example, “proposals to alter the institutional practices associated with environmental issues... can bear differently on the role of the voter as a consumer, worker, parent, or citizen, and each voter must decide which of the corresponding concerns to weigh more heavily when taking a position on the issue.... [T]he weight a voter attaches to each variable in his preference function engaged by the issue may be influenced by which of his

¹²⁵ Hall, “Historical Institutionalism in Rationalist and Sociological Perspective,” 217.

¹²⁶ Fairbrother, “Development: Institutional Perspectives.”

¹²⁷ Hall and Taylor, “Political Science and the Three New Institutionalisms,” 938.

identities are engaged most intensely in debates about the issue.”¹²⁸ This ontological flexibility allows historical institutionalists the freedom to explain patterns of behavior in a less narrow way than either rational-choice or sociological institutionalism alone does.

Historical institutionalists’ take on the need for institutions, or more accurately why they arose and took certain forms, is influenced more by structuralist than agent-centered explanations. Institutions play a role in allocating resources and structuring the incentives, options, and constraints of different actors. Explicit in these configurations are power dynamics, which are largely ignored in rational-choice institutionalism. Different groups of actors are imbued with different access to decision-making processes, which ultimately affects these groups’ abilities to negotiate preferable outcomes. Institutions are therefore by-products of the struggle among unequal actors for access to decision-making power, rather than a functional realization of actors’ goals. Understanding past power distributions and inequalities, and the struggle for a balance of power and resources, is therefore key to understanding how institutions shape current outcomes.

Thus, researchers must consider historical antecedents when analyzing why some groups emerge as winners and losers in the political process — outcomes that can be reinforced over time due to path dependence.¹²⁹ Path dependence “refers to the dynamics of self-reinforcing or positive feedback processes in a political system,”¹³⁰ and helps explain why some power dynamics can become entrenched, leading to status quo arrangements. In this way, institutions are the embodiment of past politics. Such institutional “stickiness” can exacerbate embedded power inequalities, making it difficult to reverse course once the path is set. Analyzing the presence of such reinforcing patterns is one hallmark of historical institutionalism. By focusing on path dependence and patterns, historical institutionalism takes a longer-term view of institutions than rational-choice institutionalism, which tends to focus on a single event or process. In particular, historical institutionalism looks at comparative institutional arrangements and the causal processes that lead

¹²⁸ Hall, “Historical Institutionalism in Rationalist and Sociological Perspective,” 212.

¹²⁹ Hall and Taylor, “Political Science and the Three New Institutionalisms,” 936-57.

¹³⁰ Pierson and Skocpol, “Historical Institutionalism in Contemporary Political Science,” 699.

to different outcomes. For historical institutionalists, the timing and sequencing of multiple, often non-dramatic or small-scale events are key explanatory factors in a causal relationship, and the order of events can make a difference in explaining divergent institutional outcomes. Indeed, the timing and order of events can lead to irreversible changes, as the example of labor incorporation in Latin America shows. Although organized labor was eventually incorporated into political participation in most Latin American countries, it happened at different times in different countries. The timing of incorporation, and whether it came before or after certain stages of political development, influenced organized labor's power and its political options later.¹³¹

Rather than focusing on the effect of institutions-as-rules shaping individual behavior in a very specific setting, historical institutionalists are interested in analyzing meso-level or macro-level contexts and understanding "how *configurations* of policies, formal institutions, and organizational structures generate distinctive [phenomena]."¹³² Because of this focus, historical institutionalism is able to handle the possibility of conjectural causality, or the interaction effects between causal sequences that join up in certain time points; and of equifinality, or the fact that multiple causal mechanisms may lead to the same outcomes. Historical institutionalism captures slow-moving causal processes that may take a long time, encompass several links in a causal chain, and be a multi-stage causal process. In contrast, rational-choice institutionalism typically uses tools that offer a snapshot of a single period in time, and game-theoretic frameworks can be limiting in explaining conjectural causality, slow developments, or unintended consequences.¹³³ Sociological institutionalism is also limited in that "evidence of [norm] diffusion is usually taken to be evidence that a single theorized institutional cause is at work."¹³⁴ Historical institutionalism's flexible approach to ontologies of actor behavior and its pluralistic methodology for tackling questions of causality make it the most useful framework for analyzing complex institutional arrangements. However, while historical institutionalism, like the other institutionalisms, does a good job of

¹³¹ Ibid, p. 693-721.

¹³² Ibid., p. 707 (emphasis in original).

¹³³ Hall and Taylor, "Political Science and the Three New Institutionalisms," 936-57.

¹³⁴ Amenta and Ramsey, "Institutional Theory," 20.

explaining institutional development and stability, but it does a less compelling job of explaining institutional change.

Historical Explanations of Institutional Change

Historical institutionalism suggests that the existence and persistence of institutions is an embodiment of the struggle over power for resources and access to influence over policies and political outcomes. It suggests that institutional continuity and stability is the result of embedded power relationships and feedback loops, which create path dependencies. Once a particular path is set in motion, it may be difficult for these structural elements to change. Institutional variation is the result of contextual differences. Thus, researchers must understand the settings from which institutional arrangements arise to explain why certain arrangements take form or persist in one setting but not another.

This focus on context specificity and the relevance of past political arrangements and power dynamics indicates that a strong inductive bent is necessary to hypothesize about the configurations of causal linkages leading to different outcomes. Explanations of how different institutional arrangements occur in different contexts require knowledge of that context. At the same time, identifying the general factors necessary to conduct this initial empirical review of the context — so as to somewhat narrow how wide a net is cast — requires only minimal deduction. Historical institutionalism's grounding in political science provides such a focus through its emphasis on state institutions and the process of politics and policymaking, because "state institutions provide outside interest groups with veto points — where proposed policy changes can be defeated — or deny access to them. Conversely, they also provide points of access for outsiders to insert themselves into, or otherwise influence, the policy process. Proposed policy changes are therefore more easily defeated — and the status quo ante harder to change — in more 'fragmented' states, such as those that are federal, presidential, bicameral, use referenda, and use single-member districts rather than

proportional representation.”¹³⁵ In a historical institutionalist comparative case study, then, researchers should seek to classify the enduring characteristics of different countries’ state institutions as one of the variables that explain why different institutional arrangements exist and persist in different settings. This need to understand state institutions motivated the review of the literature in Chapter 2, in which different state and non-governmental actors were identified as drivers of change.

In explaining institutional change, historical institutionalism looks to critical junctures as the main drivers of change. Critical junctures are significant events that act as exogenous shocks prompting change in institutional arrangements. During critical junctures, there is a period of time during which the typical constraints on behavior are lifted, which opens up the possibility of altering political arrangements that have heretofore been stable.¹³⁶ This can change the development of patterns and thus the path of an institution. In this way, the concept of critical junctures links to notions of path dependence processes, as “outcomes at critical junctures trigger feedback mechanisms that reinforce the recurrence of a particular pattern into the future.”¹³⁷ Historical institutionalism thus often focuses on context-specific trajectories of institutions to explain how patterns are established, and then looks to critical junctures to explain how such patterns are disrupted, resulting in new institutional arrangements. This aligns with research in the literature on organizational change, and the sustainability of change. In research addressing what factors are likely to lead to sustained change, Buchanan et. al. (2005) outline factors that impact sustainability, including political factors like stakeholder and coalitional power and influence, and contextual factors such as external conditions and threats.

Historical institutionalism has been attacked for being “ahistorical” because of its emphasis on the relevance of single critical junctures to explain change, and criticized for the potential of path

¹³⁵ Fairbrother, “Development: Institutional Perspectives,” 5-6.

¹³⁶ Giovanni Capoccia and R. Daniel Kelemen, “The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism,” *World Politics* 59:3 (2007): 341-369.

¹³⁷ Pierson and Skocpol, “Historical Institutionalism in Contemporary Political Science,” 699.

dependencies to act as a theoretical straitjacket in analyzing potential institutional outcomes.¹³⁸ Yet this mischaracterizes historical institutionalism, which considers institutional change in terms of multiple critical junctures over a long period of time, rather than at just one moment in time. In addition, historical institutionalism's attention to the continuous struggle over power incorporates the idea of slow-moving, incremental change as the by-product of such struggle. The challenge for historical institutionalists is to link these two types of change into one cohesive causal argument.

That said, as with rational-choice institutionalism, a key weakness of historical institutionalism has until recently been its failure to explain how change occurs endogenously. James Mahoney and Kathleen Thelen note that one of the shortfalls of historical institutionalism is that its emphasis on critical junctures conceives of only one type of change, which involves "the 'breakdown' of one set of institutions and its replacement with another."¹³⁹ In addition, they point to the fact that too many scholars assume that large-scale, sudden shifts are more significant for institutional change than slow, incremental changes. A second weakness of historical institutionalism is that its emphasis on the inductive origin of institutions makes generalization more problematic, and confines historical institutionalism to a set of mid-range theories, as "historical institutionalists have been slower than others to aggregate their findings into systematic theories about the general processes involved in institutional creation and change."¹⁴⁰

Yet the inductive nature of historical institutionalism, combined with its long-term view of change, agnostic view of actor motivation, emphasis on configurations of causal linkages, and focus on the contextually embedded nature of institutions, make it well-suited as a framework for explaining the role of good governance aid in changing institutions. It is presumptive to assume that all actors will receive good governance aid in the same way. Some may view it from a functionalist perspective, and refuse to adopt new behaviors because good governance practices increase their

¹³⁸ Vivien A. Schmidt, "Discursive Institutionalism: The Explanatory Power of Ideas and Discourse," *Annual Review of Political Science* 11 (2008): 303-26.

¹³⁹ James Mahoney and Kathleen Thelen, eds., *Explaining Institutional Change: Ambiguity, Agency, and Power* (New York: Cambridge University Press, 2010), 7.

¹⁴⁰ Hall and Taylor, "Political Science and the Three New Institutionalisms," 954-55.

administrative burden, while others may accept the administrative burden because they believe the new practices are the right behavior, and in the best interest of their organization. An inductive approach to understanding how different groups of actors may view the same phenomenon differently is the most flexible path for understanding actor behavior. Historical institutionalism's focus on path dependence and critical junctures can help explain how good governance aid might interact with existing intra-institutional dynamics.

Endogenous Institutional Change

The previous sections outlined the main features of rational-choice, sociological, and historical institutionalism, showing how they define formal and informal institutions, and how those rules and norms shape actor behavior. The main underpinnings in each tradition flowed naturally into explanations of stability, or why institutions persist. The ability of each tradition to explain institutional change, however, was hampered for the same reasons that they were able to explain stability. For rational-choice institutionalism, fixed-actor preferences leading to equilibrium outcomes explains stability. However, the equilibrium concept makes it difficult to explain change, as it can only be attributed to a shift in actors' preferences, which are taken to be fixed. Thus, only an exogenous shock that changes actors' preferences can account for institutional change. For sociological institutionalists, change sits more easily with its philosophical underpinnings, given that actor preferences are mutable, and behavior is constitutive, being both shaped by and responsible for shaping norms and practices. Change occurs when actors are influenced by peer emulation or legitimacy effects that lead to behavioral adjustments. Yet sociological institutionalism also relies on the concept of exogenous shocks to understand how one set of norms can be displaced by another. This is also true of historical institutionalism, which turns to the explanatory power of critical junctures to explain institutional change.

What is missing is an explanation of gradual endogenous institutional change, and an understanding of how endogenous and exogenous change explanations can be linked to explain the role of good governance aid in changing institutions. The remainder of this chapter will review how

the different institutionalisms address gradual endogenous change, first touching briefly on the concept of quasi-parameters drawn from rational-choice explanations. It will then show that the ideas taken from discursive institutionalism helps sociological institutionalism move forward into better explanations of the origins of norms, which in turns helps formulate theories of gradual endogenous change. It will then describe the gradual endogenous change framework theorized by James Mahoney and Kathleen Thelen, which fits within the purview of historical institutionalism.¹⁴¹ Finally, it will link this framework back to the three hypotheses outlined in this thesis, explaining how theories of exogenous and endogenous change can be cohesively joined together to answer the main research questions.

Explanations of Endogenous Institutional Change

Rational-choice theorists explain endogenous institutional change by building upon the notion of path dependence borrowed from historical institutionalism. A prime example comes from Avner Greif and David Laitin, who model institutional dynamics using repeated game theory and path dependence to explore the links between self-reinforcing behavior and parameters, or exogenous factors that determine the rules of the game.¹⁴² They suggest that behavior in equilibrium dictates that parameters are fixed in the short run but variable in the long run, at which point such parameters then become quasi-parameters. Behavior in equilibrium gradually alters the quasi-parameters, which leads to institutions being self-reinforcing; the self-reinforcement characteristic of institutions renders them more or less resilient to external shock. However, unless the institution continuously supports its self-enforcing behavior to build its resiliency against external shocks, it will change in the long run and become more self-undermining. Institutions are therefore path-dependent, in that those that self-enforce over repeated play are more likely to be stable, while those that self-undermine over repeated play are more likely to change.

There are three main limitations with this theory. First, despite its efforts to explain

¹⁴¹ Mahoney and Thelen, *Explaining Institutional Change*.

¹⁴² Avner Greif and David D. Laitin, "A Theory of Endogenous Institutional Change," *American Political Science Review* 98:4 (2004): 633-52.

endogenous change, it still seems highly dependent upon exogenous factors for setting in motion such change. Second, the authors do not clarify what factors are considered parameters or quasi-parameters, and how each one might be given a different value in explanations of change. Third, they fail to consider contextual factors, such as social and political elements, which might affect institutions' gradual evolution. Due to these limitations, this thesis does not adopt this theory of gradual institutional change, but instead favors the perspective consistent with historical institutionalism.

Sociological institutionalism explains gradual institutional change more naturally, in terms of mimetic or normative isomorphism: Institutions change gradually over time as norms, cultures, and ideas shift due to a change in what actors view as appropriate or professional forms or behavior.¹⁴³ This is rather intuitive; one can think of several empirical examples in which this is the case. A sociological explanation of gradual, endogenous change might chart the way in which an idea shared by a few eventually becomes a norm shared by many. Such an explanation draws upon a distinction between discursive and sociological institutionalism. As Schmidt notes, discursive institutionalism can contribute to theories of institutional change by demonstrating "how and when ideas in discursive interactions enable actors to overcome constraints[,] which explanations of interests, path dependence, and/or culture present as overwhelming impediments to action."¹⁴⁴ The trouble, as Schmidt notes, lies in explaining varying strengths of norms, ideas, and the like, and why and how some become dominant and displace others.

Neither sociological nor discursive institutionalisms have a unified theory that explains "how old ideas fail and new ideas come to the fore, the reasons for... why certain ideas are taken up rather than others, and the timing... of change."¹⁴⁵ A particularly important dynamic to consider that is glossed over in explaining such change is the idea of power asymmetries and distribution. Do ideas and norms diffuse because of the power of the idea or norms themselves, regardless of who is

¹⁴³ Bo Rothstein, *Social Traps and the Problem of Trust* (New York: Cambridge University Press, 2005).

¹⁴⁴ Vivien A. Schmidt, "Taking Ideas and Discourse Seriously," 4.

¹⁴⁵ *Ibid.*, 14.

actively supporting or opposing them?

Theories of institutional change grounded in historical frameworks explicitly focus on the implications of such power distributions. The theory of gradual, endogenous change laid out by Mahoney and Thelen¹⁴⁶ encompasses prior theorizing on the subject¹⁴⁷ and thus illustrates the main elements explaining such change. Their framework emphasizes the role of vested interests and path dependencies as shaping ongoing, incremental battles for institutional arrangements. “Institutional rules are subject to varying interpretations and levels of enforcement and therefore exhibit ambiguities that provide space for interested agents to exploit in their effort to alter them.... [Thus] features of the overarching context and the properties of the institutions themselves hold the key to understanding the process through which such change can be accomplished.”¹⁴⁸ Power dynamics are considered in conjunction with compliance with institutional rules and the ways in which they are enforced. Gradual, endogenous change can be explained by “the ‘gaps’ or ‘soft spots’ between the rule and its interpretation or the rule and its enforcement. This is an analytic space that other conceptions of institutions (as behaviors in equilibrium, or as scripts) essentially rule out by definition. But as a practical matter, this is exactly the space in which contests over — and at the same time within — institutions take place.”¹⁴⁹

The Mahoney and Thelen framework outlines four types of change that can take place: displacement, layering, drift, and conversion. Displacement refers to the introduction of new rules that replace old rules, either gradually or quickly. Layering occurs when new rules are introduced alongside old rules. Drift occurs when contextual shifts change the impact of existing rules without actually changing the rules themselves. Conversion occurs when formal rules remain the same, but the way they are interpreted or implemented changes. The type of change that occurs is based on two key contextual factors: the veto possibilities of the defenders of the institutional status quo, and

¹⁴⁶ Mahoney and Thelen, *Explaining Institutional Change*.

¹⁴⁷ Kathleen Thelen, *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States, and Japan* (New York: Cambridge University Press, 2004).

¹⁴⁸ Mahoney and Thelen, *Explaining Institutional Change*, xi.

¹⁴⁹ *Ibid.*, 14.

the opportunities actors have in exercising discretion in rule interpretation and enforcement. What links this context to the type of change that occurs are the motivations of the dominant change agents, who are divided into four types: insurrectionaries, subversives, opportunists, and symbionts.

Insurrectionaries, who seek to actively eliminate rules, emerge as change agents when defenders of the status quo have weak veto power and there is a low level of discretion. Insurrectionary success typically occurs based on critical junctures, and results in displacement. Subversive change agents aim for displacement, but are hampered by strong status quo veto possibilities and a low level of discretion. They cannot break the rules, and must work within the institution for change, which results mostly in layering. Opportunists don't actively seek to preserve rules, but consider the opportunity costs of opposing changes to the rules to be too high to advocate for such change. However, the weak status quo veto possibilities and high level of discretion means that when opportunists are the change agents, the most likely outcome is conversion. Finally, symbionts seek to preserve rules, but as they did not make the rules, a dynamic can result in two distinct types: Parasitic symbionts need the institutional arrangements to be preserved so that they can exploit the rules for their own private gain — they exploit the letter of the rule but violate its spirit, ultimately undermining the rule, they thrive in contexts with strong status quo veto possibilities and a high level of discretion, and they are associated with outcomes of drift. Mutualistic symbionts emerge from the same context as the parasitic variety, but they violate the letter of the rule while supporting its spirit, which strengthens the institutional arrangements. They are most likely to be associated with conversion outcomes, as “actors who were not involved in an institution's design become invested in the institution and develop an interest in its survival.”¹⁵⁰ This framework of change types and change agents is laid out in Table 1.

¹⁵⁰ Ibid., 25.

Table 1. Contextual and Institutional Sources of Change Agents

		Characteristics of the Targeted Institution	
		Low Level of Discretion in Interpretation/ Enforcement	High Level of Discretion in Interpretation/ Enforcement
Characteristics of the Political Context	Strong Veto Possibilities	Change Agent: Subversives Type of Change: Layering	Change Agent: Parasitic or Mutualistic Symbionists Type of Change: Drift
	Weak Veto Possibilities	Change Agent: Insurrectionaries Type of Change: Displacement	Change Agent: Opportunists Type of Change: Conversion

Source: Mahoney and Thelen (2010), p. 28.

Recall Figure 3, which illustrated the different drivers of change within the overall political system. Mapping Figure 3 to Table 1 suggests there are two levels at which institutional change can be analyzed. One can analyze the intra-institutional dynamics of the Judiciary and Comptroller General (the red circles in Figure 3), ignoring the external drivers of change, and develop an understanding of change that considers leadership, work incentives, and other aspects highlighted within the organizational change literature. A broader analysis would analyze these intra-institutional dynamics and then embed them within a larger analysis of the overall political system, including the influence of external drivers of change (the other actors highlighted in Figure 3.) This type of embedded analysis is the aim of this thesis: First, to analyze internal dynamics within the Judiciary and Comptroller General, with particular attention paid to the role of institutional leaders in relation to others within the institution, and then to embed this analysis within the overarching political system, in part to understand the role of institutional leaders – as symbols of the aggregate interests of the institution – in relation to other institutional leaders. In this way, the resulting cross-case analysis will map the influence of different drivers of change in a way that includes the institution itself as a potential driver of its own change. Table 2 provides an illustration of the results of the cross-case comparison found in Chapter 7:

Table 2. Example of Cross-Case Comparison Results

Case	Influence of Executive	Horizontal Accountability	Vertical Accountability	Influence of Institutional Leaders	Role of Aid Donors	Outcome
Comptroller General's Office 1990s	Description of the type of influence the President (or other institutions under the President) exerted on the Comptroller General, or exerted vis-a-vis the actions of other actors, such as Congress, in terms of good governance-related changes	Description of the type of influence Congress exerted on the Comptroller General, or exerted vis-a-vis the actions of other actors, such as the President, in terms of good governance-related changes	Description of the type of influence NGOs, the media and citizens exerted on the Comptroller General, or exerted vis-a-vis the actions of other actors, such as the Congress, in terms of good governance-related changes	Description of the type of influence leaders within the Comptroller General exerted vis-a-vis their own institutions, in terms of good governance-related changes	Description of the type of influence aid donors exerted on the Comptroller General, or exerted vis-a-vis the actions of other actors, such as the President, in terms of good governance-related changes	Observed changes in good governance in the Comptroller General from the beginning to the end of the decade (which aligns with the beginning and end of the Fujimori presidency)

Applying the Endogenous Change Framework to Good Governance Aid

The Mahoney and Thelen framework is a useful tool that offers a more nuanced understanding of gradual and endogenous institutional change. It can predict not only whether and what type of institutional change will occur, but also can link the change to varying types of political context and change agents. It also allows space for linking exogenous shocks to ongoing processes of endogenous change, and encompasses the possibility of linking sudden institutional change to gradual changes over time. Its focus on power distributions and asymmetries as relevant factors in the outcomes of institutional change takes into account the realities of politics, and the possibility that differences in these dynamics account for both path dependence and different institutional change outcomes.

Taking this framework as a departure point to explain the role of good governance aid in changing political institutions allows this thesis to employ those theoretical tools and concepts that are most useful for investigating different hypotheses and inductively developing a theory of change. These tools and concepts include first and foremost the idea that context matters, and that any understanding of change must be rooted in the particular institutional context; and secondly,

that change over the long term is rarely due only to exogenous or endogenous factors, but to the confluence of different exogenous factors interacting with endogenous processes of change. Third, they demonstrate that institutions embody power dynamics and asymmetries that both inform institutional context and can lead to self-reinforcing path dependencies or institutional change. Finally, that these tools are grounded in the tradition of historical institutionalism naturally relates to the idea that a single causal mechanism does not explain institutional change; rather, there is an assumption that change is based on a conjunctive combination of causal factors, and that equifinality may be present.

Therefore, this framework allows for the appropriate balance between deductive and inductive inquiry. Five drivers of change were deductively identified in Chapter 2, but the way they work together in conjunction to influence good governance-related institutional change is best understood as an inductive inquiry, particularly when embedded in an analysis of internal change dynamics within the overall analysis. As Figure 3 shows, there can be multiple actions in play stemming from different drivers of change, and attempting to map out all the different possible causal combinations is not particularly fruitful. Rather, this thesis chooses to employ the tools of historical institutionalism to guide this understanding inductively.

How can this framework be applied to the research questions and previously stated hypotheses? Recall that the research questions ask the following:

- 1) What has influenced or driven good governance-related shifts in Peru's political institutions?
- 2) What role has good governance aid specifically played in driving or influencing good governance reforms in Peru's political institutions?
- 3) Assuming good governance aid alone is not sufficient to drive institutional change, how do other drivers of change affect aid's role as a driver of change?

Three very general hypotheses were theorized:

- Institutional change occurs because actors drive the process of change through their

utility-maximizing preferences, but most institutions have achieved an equilibrium point. The introduction of good governance aid programs acts as an exogenous shock, potentially prompting changes to quasi-parameters that change actors' preferences. Institutional change depends on how these aid programs affect the incentives or preferences of actors to implement governance rules and practices.

- Institutional change occurs because actors strive to do what is correct, and what makes sense according to their worldview. Good governance aid programs act as a norm-diffusion mechanism that introduces or reinforces concepts that are proper or appropriate in terms of peer legitimacy, prompting institutional change as these norms are adopted over time. Institutional change depends on whether the norms being diffused by the aid program are adopted by enough actors to be naturally incorporated by their peers.
- Institutional change is path-dependent, and thus prior configurations of norms, practices, and power balances become recurring patterns of behavior. Good governance aid acts as a critical juncture that can disrupt such reinforcing patterns and create new ones. Institutional change depends on how context-specific trajectories in the institution will shape the adoption of new rules and patterns of behavior.

The Mahoney and Thelen framework inherently encompasses the third hypothesis, and can embrace the possibilities laid out in the first and second hypotheses as well. One begins inductively, by developing an understanding of the political context of the political institutions being studied, and the dimensions of good governance present within those institutions. By reviewing the historical record over a long period, one can map out the critical junctures that could be considered exogenous shocks, and the periods of gradual change that happen within those events. As part of this process, the prior configurations of norms, practices, and power balances that are recurring patterns of behavior can be understood. Now imagine that one can establish that agents act in accordance with the rational-choice view of behavior, as in the first hypothesis. The introduction of

good governance aid will be interpreted by different actors depending on their incentives to act as change agents or defenders of the status quo. The intersection of the change agents' incentives with the veto possibilities of the status quo defenders and the level of discretion will dictate whether good governance aid (and its promotion of new rules and practices) results in displacement, layering, drift, or conversion. In the second hypothesis, actors are driving change processes because they are copying their peers or adopting "correct" practices from other templates. Moving from diffusion of such templates to adoption of practices will depend on the value assigned to good governance by different actors, which may vary due to exposure to good governance principles and practices. In this scenario, the intersection of change agents with the veto possibilities of the defenders of the status quo and the level of discretion also dictates whether good governance aid (and its promotion of new norms and templates) results in displacement, layering, drift, or conversion.

The Mahoney and Thelen framework thus helps explain how, why, and what type of change occurs, whether one considers actors to be motivated by a logic of consequences or by a logic of appropriateness. Reformulating the previous hypotheses within this framework suggests that different types of institutional change occur depending on the intersection of configurations of preferences, norms and power dynamics endogenous to the political institution, and how those dynamics interact with the actions of drivers of change exogenous to the institution. Good governance aid is one of the drivers of change exogenous to the institution that interacts with endogenous power dynamics, and the nature of this interaction dictates whether new (good) governance rules and norms will result in the displacement, layering, drift, or conversion of old (non-ideal) governance rules and norms.

Conclusions

This chapter explained three different perspectives that help explain how and why institutional change occurs. It showed how rational-choice, sociological, and historical institutionalism explain institutional continuity in terms of actor behavior, and how these theories

link to the role of good governance aid in changing institutions. It argues that narratives of institutional change grounded solely in the perspectives of rational-choice institutionalism (and its attendant logic of consequences), or in sociological institutionalism (and its attendant logic of appropriateness) do not adequately explain how governance aid might foster institutional change. Theories grounded in the tradition of historical institutionalism, which draws freely from both rational-choice and sociological institutional perspectives, provide more compelling explanations.

The framework of gradual endogenous institutional change developed by Mahoney and Thelen was used to develop the deductive hypothesis, which states that institutional change is the result of the interactions of dynamics endogenous to the political institution and the actions of drivers of change exogenous to the institution. This helps answer the research questions set out in Chapter 1, in that context-specific factors related to the actions of the drivers of change identified in Chapter 2 have influenced the shift in some of Peru's political institutions toward good governance. An inductive analysis of these factors, and the typological cross-case analysis developed from it, will lead to a theory explaining which, if any, of the factors influencing this shift could be considered necessary or sufficient conditions for moving political institutions toward the ideal of good governance. Good governance aid has precipitated this shift by acting as an exogenous driver of change that interacts with drivers of change endogenous to the institution, and the nature of this interaction dictates whether new (good) governance rules and norms will result in the displacement, layering, drift, or conversion of old (non-ideal) governance rules and norms. This interaction also holds the key to explaining cases in which governance aid has not influenced institutional change.

Chapter 4: Analyzing Institutional Change

Introduction

The previous chapter situated aid as a driver of institutional change within a larger context, showing that the role of aid in driving change was impacted by the actions of the Executive branch, mechanisms of horizontal accountability, mechanisms of vertical accountability, and the dynamics of change occurring within the institutions themselves. These other actors have different motivations for driving or blocking good governance reforms, and good governance-related institutional changes are the result of the different interactions of dynamics endogenous to the political institution and the actions of drivers of change exogenous to the institution.

As the previous chapter illustrated, theories of institutional change are inadequate for generating a deductive hypothesis that addresses the relationships and interactions among different drivers of change and linking these interactions to positive or negative good governance-related changes in political institutions. This chapter shows how the actions, and interactions, of these drivers of change will be operationalized within this theoretical framework, and how the dependent variable of good governance-related institutional change will be measured. Methods of process tracing help develop an understanding of the actions of the external drivers of change, as well as those endogenous to the institution, in three different time periods in Peruvian history. The use of process tracing allows the actions of the different drivers of change to be understood in conjunction with one another, and thus helps develop an inductive understanding of the conditions under which aid drives or facilitates change. A within-case analysis will be conducted for the Judiciary and Controller General in three time periods, per Table 1, and these cases will then be analyzed in a cross-case comparative framework to draw out conclusions.

The first section of this chapter provides a brief overview that links the theoretical traditions of historical institutionalism to the methodological tools of case studies, showing how comparative

and within-case methods can be integrated. This background helps set the stage for an explanation of the process and justification of the case selection, and the summary of the cases used in this thesis. It is imperative to identify the selected cases before explaining how this thesis moves from conceptualization to operationalization of the independent and dependent variables, as the definitions and indicators discussed are case-specific rather than illustrative. The second section of this chapter covers the conceptualization and operationalization of the independent and dependent variables. In terms of the cases laid out here, this thesis conceptualizes the actions and processes of drivers of change as independent variables, which do vary over the three time periods and in relation to institutional changes in the Judiciary and the Comptroller General. These good governance-related institutional changes are the dependent variables. The third section will discuss how the data related to each variable has been collected, and the final section describes the methods of data analysis.

Evaluating the Role of Aid in Institutional Change

The theory of endogenous institutional change that guides the empirical inquiry of this thesis is situated within the tradition of historical institutionalism. Historical institutionalist scholars are not joined together in an epistemic community in the way that rational-choice scholars are, as there is diversity among historical scholars on fundamental issues of ontology, such as what motivates actor behavior. Rather, such authors share a common desire to understand specific phenomena, such as revolutions, by identifying the underlying causes of these outcomes in one or more specific cases. The methodology of case studies is particularly well-suited to such an endeavor, as the tools of case studies allow researchers to uncover potential causal relationships by studying a specific, bounded phenomenon, or single case. A case study is a “detailed examination of an aspect of a historical episode to develop or test historical explanations that may be generalizable to other events”¹⁵¹ or an “*intensive study of a single unit for the purpose of understanding a larger class of*

¹⁵¹ Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Cambridge, MA: Harvard University Press, 2005), 5.

(similar) units."¹⁵²

Such single-unit analysis provides a framework for understanding the causal mechanisms that connect single or multiple independent variables (A, B, C) to the dependent variable (Y), and for developing exploratory research that aims for theory-building. By focusing on a single case, researchers can make multiple observations about the causal mechanisms at work, allowing for a depth of analysis that cannot be derived from a large-*n* analysis. A case study also allows researchers to uncover explanations of conjunctive causation, in which several variables together lead to the outcome, and equifinality, in which different causal pathways made lead to the same outcome. Case study methods provide the most useful tools for achieving the goals of this – to understand the factors that influence institutional change within complex public-sector organizations, and how those factors may join together in a causal chain, this. Analysis of this kind, using a single case or unit, is done using within-case techniques of data analysis.

One downside of within-case analysis is that it focuses on drawing conclusions about a larger set of cases based upon the study of a single unit. This limits the scope of the causal argument and the generalizability of any theory developed from the case study. In addition, it is difficult to ascertain a valid counterfactual from a single case serving as the factual. Expanding the number of cases for the purpose of conducting a cross-case comparison has the potential to resolve both of these issues. Although some of the depth related to a single-unit study is lost when the number of cases is expanded, a degree of breadth is obtained. Establishing the presence or absence of variables and causal mechanisms across a range of similar cases allows the researcher to support a causal argument about the outcome in a single case, and establish a counterfactual argument about cases in which the outcome did not occur. Not only do cross-case comparative methods and within-case analysis complement one another, but “there is a growing consensus that the strongest means of drawing inferences from cases studies is the use of a combination of within-case analysis and cross-

¹⁵² John Gerring, “What is a Case Study and What is it Good For?,” *American Political Science Review* 98:2 (2004): 342 (emphasis in original).

case comparisons within a single study or research program.”¹⁵³ Indeed, many researchers consider the comparison of a small number of cases part of the case study toolbox, because both within-case analysis and cross-case methods “aim to produce causal explanations based on a logically coherent theoretical argument that generates testable implications.”¹⁵⁴

At the outset of this project, my aim was to develop a cross-case comparison of project effectiveness using Qualitative Comparative Analysis (QCA), which uses “Boolean methods of logical comparison to represent each case as a combination of causal and outcome conditions.”¹⁵⁵ Because one needs more than six cases to conduct a QCA, I spent a significant amount of time investigating the possibility of using specific good governance projects as cases, rather than viewing aid as an aggregate in two institutions in three time periods. However, it became clear during my desk review of these projects that the data available to a research unaffiliated with a sanctioned project evaluation was very limited. In addition, I faced significant time and financial constraints related to conducting fieldwork, which limited further my ability to conduct a “shadow” evaluation of even one project, much less several. Therefore, I had to rethink my research design in terms of how I could understand the “effectiveness” of good governance aid given these constraints. Happily, as the case selection was an iterative process, I was able to develop an alternative research methodology based on this initial investigation.

Case Study Designs and Sub-national Comparisons

This thesis has identified the dependent variable as good governance-related institutional change. It has suggested some, but not all, of the conditions that affect such changes; and for those processes that have been suggested, the question of whether they are necessary or sufficient conditions for change remains undetermined. The most relevant case study design for the purpose of this research is therefore a hypothesis-generating study, which aims to “generalize beyond the data... [by examining] one or more cases for the purpose of developing more general theoretical

¹⁵³ George and Bennett, *Case Studies and Theory Development in the Social Sciences*, 18.

¹⁵⁴ Jack S. Levy, “Case Studies: Types, Designs, and Logics of Inference,” *Conflict Management and Peace Science* 25:1 (2008): 1.

¹⁵⁵ For an overview of QCA, see <http://www.u.arizona.edu/~cragin/fsQCA/>.

propositions, which can then be tested through other methods... [C]ase study analysts are well-positioned to suggest additional explanatory and contextual variables, causal mechanisms, interaction effects, and scope conditions.”¹⁵⁶ Among other uses, hypothesis-generating case studies help explain why deviant cases do not fit existing theories, which helps refine such theories or specify their scope conditions.

Hypothesis-generating case studies are in contrast to hypothesis-testing cases, in that they follow the logic of scientific discovery rather than that of scientific confirmation.¹⁵⁷ Therefore, some of the “rules” that apply to case selection for hypothesis-testing cases are not as ironclad for hypothesis-generating case studies, such as those relating to selection bias. Researchers strive to mitigate selection bias when choosing cases by avoiding using the case that helped generate the hypothesis, or avoiding using one that fits the hypothesis. The most well-known rule about case-selection bias, in which the researcher strives to avoid overrepresentation of a key variable, is to avoid choosing based on the dependent variable.¹⁵⁸ However, hypothesis-generating case studies follow a different inferential logic than hypothesis-testing cases. As Jack S. Levy notes, “if the hypothesis in question posits necessary conditions, the only observations that can falsify the hypothesis in question are those in which a particular outcome of the dependent variable occurs despite the absence of [the] hypothesized necessary condition. A no-variance design of selecting on the dependent variable would be appropriate.”¹⁵⁹

The guiding hypothesis of this thesis does not begin by positing necessary conditions, and it would be possible to simply choose a case that represents a sample of the overall population of cases and conduct a single case study using within-case techniques to generate a hypothesis. Indeed, this thesis does aim to analyze two cases that represent two samples of the overall population of cases. However, it also aims to generalize beyond a single case, and to have an

¹⁵⁶ Levy, “Case Studies,” 5.

¹⁵⁷ Karl R. Popper, *Conjectures and Refutations: The Growth of Scientific Knowledge* (New York: Basic Books, 1965).

¹⁵⁸ Garry King, Robert O. Keohane, and Sidney Verba, *Designing Social Inquiry: Scientific Inference in Qualitative Research* (Princeton: Princeton University Press, 1994).

¹⁵⁹ Levy, “Case Studies,” 9.

empirical example that can serve as a counterfactual — an ambition that requires a comparison of cases. Therefore, this thesis proceeds from the assumption that at least two cases are required to conduct the empirical inquiry, and that these cases should vary based on the dependent variable. The cases also need to follow the basic definition of a case study in that the main unit of inquiry is a spatially-bounded phenomenon. It is important to note, however, that a unit is not the same as a case. The set of cases studied is a sample of the entire population of cases; the sample comprises units that are both studied and unstudied.¹⁶⁰ Studying only certain units within the sample allows one to develop a hypothesis that can be tested on the unstudied units in a subsequent research project. In this thesis, the population comprises public-sector organizations that received good governance aid. The sample comprises units that are the different public-sector organizations, including the courts, Prosecutor General offices, Comptroller General offices, electoral bodies, and others. Each unit is observed at different points in time, and these periods of time are the cases. Each case consists of different dimensions, or variables, which are built upon observations. Observations can be either singular observations that correspond to a piece of evidence or data point, or a causal process observation.¹⁶¹

To drill down to this level of detail, one must begin by defining the population and choosing a sample. While a common research strategy is to compare across countries, this thesis focuses on a comparison of different units at the sub-national level. The main reason for this is to be able to hold certain macro-level variables constant across units, such as economic shocks that affect the entire country. Comparing different public-sector organizations from two different countries would necessarily require a focus on both organization-level variables and macro-level variables, which would result in more variables than cases, leading to a degrees-of-freedom issue. Further, comparison across two countries leads to the argument that all differences can be attributed to historical or cultural differences between each country, rather than historical or cultural differences

¹⁶⁰ John Gerring, "What is a Case Study and What is it Good For?," *American Political Science Review* 98:2 (2004): 341-346.

¹⁶¹ David Collier, Henry E. Brady, and Jason Seawright, "Sources of Leverage in Causal Inference: Toward an Alternative View of Methodology," in *Rethinking Social Inquiry: Diverse Tools, Shared Standards*, ed. Henry E. Brady and David Collier (Lanham, MD: Rowman & Littlefield, 2004), 229-66.

across organizations. The latter is the key area of interest for this thesis, and as such, the sub-national comparison makes the most sense. Therefore, the first step in selecting cases was to determine the country from which to select units. Because this thesis seeks variation in the dependent variable of governance-related indicators, the ideal strategy would be to compare changes in outcomes across all public-sector organizations that receive good governance aid to determine which countries had such variations within their organizations. However, while not every country receives good governance aid, a significant number do, and no dataset exists that allows comparison of changes in governance over time in sub-national entities like public-sector organizations. Thus, to be able to choose the particular units for this study, it was necessary to first choose a country, and then to investigate whether there was variation in outcomes for that country's sub-national organizations which receive good governance aid.

Case Selection

The departure point for choosing a country began with a regional focus on Latin America, as it has the longest history of donor engagement (since the 1980s) on the types of political and institutional reforms that comprise good governance programming. The criteria for choosing the specific Latin American country were based on a consideration of how macro-level features might influence the dependent variable in sub-national institutions. The first criterion was that the country should not have either too high or too low a level of corruption. Corruption was chosen as a proxy for all aspects of governance, as it is one of the key proxy measures that can be used to capture several dimensions of the dependent variable. The rationale for using corruption as a scope condition relates to finding variation in governance outcomes among sub-national organizations that receive good governance aid. Good governance aid generally does not flow to countries where corruption is very low, and in countries in which corruption is very high, where arguably good governance aid is most needed, there is unlikely to be variation in sub-national outcomes. While this argument may not hold up empirically for all countries where corruption is high, as arguments about

“islands of integrity” suggest,¹⁶² it provides a solid rationale for this first step of case selection.

The next aim was to narrow down the potential list of countries to a set that represented a middle level of corruption. In this case, it was those countries that fell between the bottom third and the top third of the country rankings of the World Bank’s Worldwide Governance Indicator dataset, and specifically its Control of Corruption indicator. The case selection was conducted in 2010, using the last complete year of data available at that time, which was 2008. Of the 213 countries that were included in the 2008 Worldwide Governance Indicators survey, 68 scored above the 33rd and below the 67th percentile on the Control of Corruption indicator. Of these, 11 were countries in Central or South America (see Annex I). For 10 of these 11 countries,¹⁶³ two indicators were used to gauge the level of potential good governance aid flowing to each country: the number of government-related projects implemented in the countries between 2000 and 2010, and the total official development assistance (ODA) flows to each country. The higher the number of projects and amount of ODA, the more likely the country would have more than one institution receiving non-trivial amounts of good governance aid, thus making the existence of diverse cases more likely. Each of these indicators were calculated using data drawn from the AidData database,¹⁶⁴ which records all aid flows from donors reporting to the Organization for Economic Cooperation and Development (OECD) Credit Reporting System (CRS) and supplements this financial information with project-specific information drawn directly from donors.

Table 3 shows the results of this analysis: Peru and Colombia had the highest number of potential good governance-related projects, with 1,936 and 2,126, respectively, and significant amounts of average aid over time (\$336.3 million and \$400 million in 2011 USD, respectively).¹⁶⁵

¹⁶² Caryn Peiffer, “From Islands of Integrity to Understanding the Politics of Corruption Reduction. Phase One: Statistical Identification of ‘Positive Outliers,’” *DLP Research Papers, no. 21* (Birmingham: Development Leadership Program, 2012), <http://www.dlprog.org/news-events/islands-of-integrity-identifying-positive-outliers.php>.

¹⁶³ Brazil was excluded because the author does not speak Portuguese.

¹⁶⁴ AidData, <http://aiddata.org>.

¹⁶⁵ Bolivia was the only other country in the list that received an equally large amount of projects and aid. However, it the possibility of conducting field research in Bolivia presented significant problems for an American researcher (see Franz Chávez, “Bolivia-US: Drugs, USAID Complicate Relations,” *Inter Press Service*, June 16, 2010, <http://www.ipsnews.net/2010/06/bolivia-us-drugs-usaid-complicate-relations>). Therefore, Bolivia was eliminated from consideration.

Table 3. Donor Assistance to Government-Related Projects in Select Countries, 2000-2010

Country	Number of Projects Listed under Sector Code 151: Government and Civil Society - General	Average Donor Funding for Sector Code 151, in millions of 2011 USD
COLOMBIA	2126	\$400.0
PERU	1936	\$336.3
BOLIVIA	1678	\$127.2
EL SALVADOR	1136	\$90.9
MEXICO	980	\$372.7
ARGENTINA	730	\$245.4
PANAMA	365	\$266.3
GUYANA	248	\$15.2
BELIZE	110	\$5.9
SURINAME	83	\$9.2

Source: Based on search of AidData database: <http://aiddata.org/dashboard#/advanced/project-thumbnail>

Both Colombia and Peru offer interesting examples of how good governance aid affects institutional change in a middle-income Latin American country that experienced the escalation and end of significant domestic terrorism in the 1990s, followed by steady economic growth in the 2000s.¹⁶⁶ Peru was chosen because it had a higher number of projects represented; Colombia represents an ideal starting point from which to broaden the number of cases in future applications of this research.

The next step involved investigating all public-sector organizations that received good governance aid in Peru to narrow down the list of units. This was a multi-step process in which data was triangulated from several different sources. The first step involved using the AidData database to make a list of all donors that provided more than \$250,000 of governance-related aid annually to Peru between 1990 and 2010. This list was used to identify the major donors of good governance aid in Peru and the public-sector organizations that received such aid. The list was triangulated with data drawn from the Transparency Portal Web site of the Peruvian International Cooperation

¹⁶⁶ In addition, neither Colombia or Peru are aid-dependent, based on a comparison of their total aid flows versus GDP. A lack of aid-dependence signals that ownership has the potential to be stronger than in an aid-dependent country. For example, a study of the European Commission's Governance Incentive Tranche mechanism showed that recipients often do not oppose Commission-driven assessments of their level of governance, but tend to be more opposed to Commission-driven requests for governance reform. This suggests that there is pressure for low-income and aid-dependent countries to adopt governance reforms they might not have prioritized in the absence of potential Commission funding. See Nadia Molenaers and Leen Nijs, "From the Theory of Aid Effectiveness to the Practice: The European Commission's Governance Incentive Tranche," *Development Policy Review* 27:5 (2009): 561-580.

Agency (Agencia Peruana de Cooperación Internacional, or APCI), the Peruvian government organization that manages all international aid projects implemented in Peru. The APCI Web site has a database of all the projects implemented in Peru, listed by title, donor, recipient organization, year, and amount of aid.¹⁶⁷ This search was narrowed to those organizations that fit within the purview of the democracy and governance sector outlined in Chapter 1, which includes judicial and legal institutions, legislative and electoral bodies, and certain executive and oversight bodies.¹⁶⁸ This data was aggregated and combined to make a master list of all the good governance-related projects implemented in Peru from 1990 to 2010 (see Annex II).

An aggregation of this project-level data by institution is presented in Table 4, which shows that judicial institutions (the Ministry of Justice and Judiciary) received the highest amount of governance aid, followed by the Ombudsman and the Comptroller General. There are two caveats to this financial data: First, part of the amount included in the total for the Comptroller General included an IADB loan that extends to 2025, and therefore has not been fully disbursed. This will affect the figure downward, but by more than \$17 million, which does not affect the Comptroller General's position in this funding hierarchy. Second, the Ministry of Justice figures include aggregate amounts from FINNIDA and MCC for multi-institution projects, and I was unable to obtain information on the precise amounts disbursed to each institution. However, eliminating these two funding sources entirely from the MOJ aggregate would still keep it in the top three of the hierarchy. Because aid channeled to the Ministry of Justice is aimed at improving other judicial institutions, such as courts, this thesis will hereafter refer to all judicial bodies as the Judiciary.

¹⁶⁷ Agencia Peruana de Cooperación Internacional, "Banco de Proyectos," <http://www.apci.gob.pe/bancoproyecto.php>.

¹⁶⁸ Therefore, although there may be programs aimed at improving governance ongoing within these institutions, certain ministries such as Agriculture, Education, Economy and Finance, and Health and Defense were not included in this search.

Table 4. Governance-Related Aid Flows to Peruvian Public-Sector Organizations

Institution	Amount of Aid	# of Donors	Years
Ministry of Justice (MINJUS)	\$88,915,620	8	2002-2011
Ombudsman (Defensoría del Pueblo)	\$46,217,461	22	2002-2011
Comptroller General (La Contraloría)	\$31,270,769	6	2002-2011
National Office of Electoral Processes (JNE)	\$2,019,193	5	2004-2010
Judiciary (Poder Judicial)	\$1,231,087	4	2003-2010
Prosecutor General's Office (Ministerio Público)	\$912,026	6	2002-2011
National Election Commission (ONPE)	\$383,302	2	2007-2010

Source: APCI Database, <http://www.apci.gob.pe/bancoproyecto.php>

Each of these organizations represents a unit that received a significant amount of good governance aid from 2002 to 2011. (Information on good governance aid flows prior to 2002 was unavailable on the APCI database, and will be explored in the individual cases studies). However, unlike the other two institutions, the Ombudsman was not created by law until 1993, and came into existence in 1996 as an independent institution tasked with defending human rights in Peru. The aid channeled to the Ombudsman through a “basket fund” of 22 different donors is aimed at helping the Ombudsman promote accountability among other institutions within Peru, rather than at helping it become more accountable itself. This differs from the aid given to the Judiciary and the Comptroller General, which follows the model of good governance aid in which this thesis is interested, that of donors implementing discrete projects aimed at promoting good governance within the institution to which it provides the aid. The Ombudsman was therefore eliminated as a unit of inquiry in this research. Therefore, the Judiciary and the Comptroller General are the two main units within which the empirical case analysis were conducted, and by which endogenous and exogenous features are defined. The next section provides a brief overview of the six cases that are explained within these two units, before moving on to a description of how this thesis conceptualizes and operationalizes the independent and dependent variables.

Conceptualization and Operationalization of Variables

The two units of analysis that contain the empirical cases in this thesis are Peru's Judiciary and Comptroller General. These units were observed at different points in time, and these time

periods make up the specific cases. Although there were some aid projects aimed at institutional reforms in the 1980s in Latin America, governance aid did not exist as a stand-alone sector prior to the 1990s because it was not yet a priority area of reform for international aid donors. There is therefore more information about good governance projects, and indicators of good governance in general, starting in the late 1990s. In the process of conducting this research, it became clear that there was limited secondary-source data on good governance in the 1980s in Peru, both in general and specific to the Judiciary and the Comptroller General. Although I was able to fill in some of the information gaps with the interviews I conducted, I lacked quantitative information about levels of good governance in these institutions in the 1980s. In addition, some of my interviewees were not working in these institutions at that time, or could not recollect key anecdotes that helped illustrate aspects of good governance. Therefore, the base of evidence for the two 1980s cases are the thinnest. However, I believe it is relevant to include these as cases to provide a baseline for understanding the good governance changes that occurred in the 1990s and 2000s. Exploring these cases helped further the understanding of the power dynamics within these institutions and aids in identifying potential path-dependent features of Peruvian politics that influence the 1990s and 2000s cases under investigation.

There are three distinct time periods that will be explored in each institution, for a total of six cases. The first era spans the 1980s (1980-1992), during which electoral democracy had been resorted following a 12-year period of military rule. The second era can be considered a period of “electoral authoritarianism” (1992 to 2000) during which democratically elected President Alberto Fujimori declared a self-coup, suspended the Constitution, sacked the Congress and most judges, and embarked on a series of reforms aimed at the Judiciary. The third era can be considered a “democratic transition and consolidation” period (2001 to 2010) following a massive corruption scandal that resulted in Fujimori’s ouster, during which time political will for good governance-type reforms was very high and varying progress toward consolidation of good governance was made within the Judiciary and Comptroller General. As stated previously, the dependent variable is good-

governance related institutional change. This thesis first aims to establish the nature of good governance in the Judiciary and Comptroller General in these three time periods, and the forces that shaped those outcomes. It then compares across time periods to understand the changes that happened over time. Thus, measuring good governance-related institutional change require both measuring levels of good governance; and understanding processes of change leading to these outcomes.

Measuring Components of Good Governance

As noted in Chapter 1, good governance relates to the ability of governments to conduct these processes in a way that is simultaneously effective, efficient, accountable, and transparent, particularly as relates to the provision of public goods. A valid criticism of good governance is that aid donors in particular employ conceptual stretching of the good governance idea to suit a broad range of objectives.¹⁶⁹ Indeed, different donors place emphasis on different aspects of governance in their conceptualization of what are necessary and sufficient aspects of good governance. Technocratic approaches advocated by the World Bank emphasize accountability, transparency, a low level of corruption, and efficient provision of services; rights-based approaches advocated by USAID emphasize enforcement of human rights through a well-functioning judicial system and democratic structures; and poverty alleviation approaches advocated by Dfid emphasize building functional and transparent state entities that promote pro-poor strategies, making services widely accessible to the poorest people.¹⁷⁰

Despite criticism of conceptual stretching, there is a common denominator behind the diverse trajectories of the good governance agenda: Government organizations should fulfill their specific purposes (such as service delivery) in a manner that is efficient, effective, transparent, and accountable. These four dimensions constitute the minimal definition of good governance used in this thesis. A change in the dependent variable will therefore relate to a change in the efficiency,

¹⁶⁹ See Roger Riddell, *Does Foreign Aid Really Work?* (Oxford: Oxford University Press, 2007); Vasudha Chhotray and Gerry Stoker, *Governance Theory and Practice: A Cross-Disciplinary Approach* (London: Palgrave MacMillan, 2009).

¹⁷⁰ Paul Hoebink, "European Donors and 'Good Governance': Condition or Goal?," *European Journal of Development Research* 18:1 (2006): 131-161.

effectiveness, transparency, and accountability of the Judiciary and the Comptroller General. The next section will define the necessary attributes of these dimensions of good governance. These definitions follow the logic of conceptualization proposed by Gary Goertz,¹⁷¹ which outlines both the positive and negative poles of each concept, theorizes about the whether there is an underlying continuum between these poles, and determines whether the concept should be considered dichotomous or continuous.

It should be noted that, while some of these macro-level indicators have been included in Annex V, on the whole I found them irrelevant for showing changes in political institutions over time. These indicators tend to aggregate at the country level, rather than disaggregate by specific political institutions. As such, the macro-level indicators noted here are merely illustrative, and not utilized as key pieces of data in this study. Indeed, one of the most frustrating and difficult aspects of conducting this research was the lack of institutional-level quantitative data available that could show changes in good governance over time. I had to spend more time than I imagined tracking down single studies and extracting data from them, or constructing observations about good governance from qualitative data sources.

Effectiveness relates to the ability of government entities to implement policies and provide public goods or services.¹⁷² An effective Comptroller General would be able to competently investigate cases of public fraud and bring them to conclusion (resulting in an arrest, for example), while an ineffective Comptroller General would be unable to do so. Effectiveness is therefore related to actual implementation (number of cases investigated and concluded), as well capacity for implementation (the competence of those investigating the cases). Each of these dimensions lies along a continuum; so too, therefore, does effectiveness. The key indicator of effectiveness related to capacity is the level of education, professionalization, or technical expertise of civil servants,

¹⁷¹ Gary Goertz, *Social Science Concepts: A User's Guide* (Princeton: Princeton University Press, 2005).

¹⁷² James E. Rauch, "Leadership Selection, Internal Promotion, and Bureaucratic Corruption in Less Developed Polities," *Canadian Journal of Economics* 34:1 (2001): 240-258.

which relates to the Weberian ideal of merit-based recruitment and promotion.¹⁷³ In an effective Comptroller General, each employee would be qualified or trained to do his or her job, while in an ineffective Comptroller General, employees would be unqualified or unable to do their jobs. Capacity as a necessary indicator of effectiveness has been measured at the macro level using data from the International Country Risk Guide's Political Risk Rating, specifically the Bureaucracy Quality component.

The key indicators of effectiveness related to actual implementation vary according to each institution, but in general these measure the government's ability to deliver necessary public goods and services. This has been measured on the macro level using data from AfroBarometer's Government Effectiveness Indicator, which tracks government handling of public services. Indicators of corruption can serve as proxy measures of effectiveness as well. Corruption relates to effectiveness because it creates a multi-tiered system in which those who can afford to pay bribes receive service, at the expense of those who cannot. Corruption may increase service delivery effectiveness at an individual level, but this does not aggregate to the system level; rather, corruption undermines the effectiveness of the system. Corruption has been measured on the macro level using data from the Worldwide Governance Indicators Control of Corruption Index (see Annex I). In this thesis, the types of sub-national indicators that can measure different dimensions of effectiveness include citizen perceptions of corruption, access to justice, and professionalism. Several civil society measures, such as Proética's national corruption survey, are the main sources of such data (see Figures 4-7 in Chapter 6).

Efficiency relates to the ability of government entities to provide services without unnecessary delays or red tape.¹⁷⁴ An efficient judicial system would, for example, set and maintain a specific time that citizens spend in pre-trial detention, ensuring that no more than 24 to 48 hours elapses between an arrest and an appearance before a judge. An inefficient judicial system would be one in which delays were unreasonable — in this example, more than one week. Efficiency therefore

¹⁷³ Francis Fukuyama, "What Is Governance?," *Governance* 26:3 (2013): 347-368.

¹⁷⁴ Rafael La Porta et al., "The Quality of Government," *Journal of Law, Economics, and Organization* 15:1 (1999): 222-279.

has a continuum, in that different courts can be more or less efficient than others. A key indicator of efficiency is bureaucratic delay.¹⁷⁵ Bureaucratic delay as a necessary aspect of efficiency is self-explanatory, and on the macro level have been measured using data from the Business Environmental Risk Intelligence's Operation Risk Index. In this thesis, efficiency is measured using specific institutional indicators, such as case-processing times and case backlog in the Judiciary (see Table 10 in Chapter 5). The institutions themselves, as well as donor reports that track such indicators, are the main sources of such data.

Transparency relates to the openness and availability of information related to government policies, decisions, and information. A transparent judicial system would publish its judicial decisions, and its annual rates of pre-trial detention, for example, or make this information available upon request from journalists or to the public at large. A non-transparent Judiciary would fail to provide such information, or provide no way for such information to be obtained. Transparency is also a continuum, in that some entities are more or less transparent than others. Key questions related to transparency are how the number, types of, and citizen access to documents have changed over time, and whether policies and decisions have become more accessible to citizen review in practice. Key indicators of transparency can therefore be the amount of information published, and whether the organization regularly responds to such requests by providing information. Transparency has been measured at the macro level using data from surveys such as the OECD's Open Government Survey, which tracks "the cost of requesting information, the extent to which information is published proactively, the frequency with which information requests are appealed and denied, the exemptions frequently used, and how long the information law has been in place."¹⁷⁶ When available, similar indicators are used in this thesis, as are indicators that track the number of documents made publicly available. The two main sources for such indicators are institutional data and the Global Integrity Project's Peru Scorecard (see references to this data on

¹⁷⁵ Ibid.

¹⁷⁶ Sheila S. Coronel, "Measuring Openness: A Survey of Transparency Ratings and the Prospects for a Global Index," *Freedom Info*, October 30, 2012, <http://www.freedominfo.org/2012/10/measuring-openness-a-survey-of-transparency-ratings-and-the-prospects-for-a-global-index>.

pages 191 and 194 in Chapter 6).

Accountability relates to the mechanisms ensuring that the activities and functions of the government entity are subject to oversight by another entity or individual. Accountability includes both a dimension of answerability, which “refers to the obligation of the government, its agencies, and public officials to provide information about their decisions and actions, and to justify them to the public and those institutions of accountability tasked with providing oversight;” and enforcement, in which “the public or the institution responsible for accountability can sanction the offending party or remedy the contravening behavior.”¹⁷⁷ An accountable Judiciary is overseen by the judicial ombudsman, who has the power to inquire about abuses of power and sanction those responsible. A Judiciary that lacks accountability would not have any oversight mechanism to detect abuses of power, or any recourse for sanctioning the abusers. Unlike the other dimensions of good governance, accountability lends itself to dichotomization, in that accountability mechanisms tend to exist or not exist; this would be one key indicator of accountability. However, the functioning of those mechanisms can run along a continuum, in that in the early stages of existence, the mechanism may not be particularly effective in providing the requisite oversight, but may gain in strength over time. A key indicator of this continuum would be the perception of citizens, experts, and other individuals of the accountability of the institution. The Worldwide Governance Indicators Voice and Accountability Index has measured accountability on the macro level. In this thesis, sub-national measures of accountability include surveys of citizen perceptions of accountability, as well as indicators that track both the existence of accountability mechanisms and their enforcement. The two main data sources for these measures are surveys of government accountability and the Global Integrity Project’s Peru Scorecard (see Annex V and references to the Global Integrity data on page 191 and 194 in Chapter 6).

¹⁷⁷ Rick Stapenhurst and Mitchell O’Brien, “Accountability in Governance,” *The World Bank*, undated, <http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf>.

Understanding Institutional Processes

As illustrated in the previous section, the outcomes of institutional change related to good governance can be measured using indicators that capture, however bluntly or imperfectly, the four dimensions of good governance. Thus, the relative strength or weakness of the dependent variable in this study can be established through traditional methods of variance that answer the question of “whether” and “when.” Explaining how or why these outcomes occurred, particularly within the framework of endogenous institutional change within public-sector organizations, does not lend itself to the same methods of variance.

From a historical perspective, institutional change is a process that is rarely linear; rather, it is the result of interactions of different actors, events, interests, and choices. These choices are often path-dependent, in that they are shaped and limited by past events and actions. Therefore, the effort to create a systemized concept of a process or complex set of choices, and then operationalize it using an indicator, is not something that can be done meaningfully as a deductive exercise. Rather, developing an analytical understanding of the processes of change, by comparing different cases in different time periods, allows the researcher to characterize these processes and inductively identify single variables or configurations of variables that may causally relate to the dependent variable.

Conceptualizing how this thesis frames events, actors, and actions as either exogenous or endogenous to the organization is a meaningful exercise in further clarifying the boundaries involved. Exogenous process of change are those actions driven by actors outside of the Judiciary and Comptroller General that potentially affect their internal dynamics, such as a new law passed by the Congress that restructures the Judiciary. Endogenous processes of change occur *within* the institution, such as new policies issued by the head of the organization related to how specific rules are implemented. Changes to governance rules and norms *within* the institution, such as what information is made publicly available (transparency), or what behaviors are sanctioned (corruption), represent the dependent variable of institutional change. These changes, however,

may be attributed to exogenous factors, endogenous factors, or a combination of both. From an agent-centered perspective, the endogenous boundaries include all those employed in and by the Comptroller General and the Judiciary. This thesis suggests that the shift toward good governance in public-sector organizations relates to the intersection of both exogenous and endogenous factors, with endogenous factors related to the intersection of veto possibilities of the defenders of the status quo, the level of discretion in the interpretation and enforcement of the rules, and the nature of change agents. This intersection is an ongoing, shifting organizational process of actors, actions, and decisions that are determined by and affect those agents. In the Comptroller General, for example, the realm of the endogenous would include investigators, project managers, and the Comptroller General himself, and endogenous change would be an ongoing process involving those actors. For the researcher “to uncover those processes, the historical dynamics and events that generate one set of institutional and organizational arrangements are compared and contrasted to those of a different time and place.”¹⁷⁸

In contrast, an exogenous source of change would involve action aimed at the organization, such as an executive order that restructures judicial bodies, a good governance aid project aimed at promoting judicial ethics, or a civil society/citizen-mobilized campaign demanding an end to judicial corruption. With good governance aid, donors and donor projects are exogenous to the institutions at which those projects are aimed. However, the goals of those projects may align with endogenous changes already initiated by and taking place within the institution. For example, the Comptroller General may have already decided that it wants to increase its transparency; this would be part of the process of gradual, endogenous change. The World Bank may offer to provide technical experts to assist the Comptroller General with updating its Web site to facilitate this shift toward transparency; this technical assistance would be exogenous, but would align with endogenous change. These are not factors that can be measured by existing indicators, but rather established

¹⁷⁸ Roy Suddaby and Royston Greenwood, “Methodological Issues in Researching Institutional Change,” in *The SAGE Handbook of Organizational Research Methods*, ed. David A. Buchanan and Alan Bryman (London: Sage Publications, 2009), 183.

through an examination of the historical record.

Therefore, rather than conceptualize these processes by defining them as dimensions and operationalizing them with indicators, this thesis uses a set of guiding questions in its review of the historical record to understand these processes, arrangements, and complex phenomena. In understanding the veto possibilities of the defenders of the status quo in an institution, it asks (1) Who are the institutional actors? (2) What are their interests, in terms of governance-related reforms, and how have these changed over time? and (3) What organizational features may have helped shaped or constrain these interests over time? In understanding the discretion in interpretation and enforcement of formal rules, this thesis also asks (4) What are the "rules on the books," in terms of different dimensions of good governance? (5) How narrowly are these rules interpreted? (6) How strictly are these rules enforced? and (7) What organizational features may have helped shape or constrain these differing interpretations and applications of the rules over time? In analyzing the exogenous forces that helped shaped institutional change, this thesis asks (1) What is the nature of the relationship between the Executive and the Comptroller General and Judiciary, and how has it changed over time? (2) What is the relationship between Congress and other government institutions, and the Comptroller General and Judiciary, and how has it changed over time? (3) What is the nature of the relationship between the Comptroller General and Judiciary with civil society, citizens, and other non-governmental actors, and how has this changed over time? (4) What is the nature of the relationship of the Comptroller General and Judiciary with international aid donors, and how has this changed over time? (5) What macro-level cultural or historical legacies may have influenced or constrained good governance-related policy choices within the Comptroller General and the Judiciary? and finally (6) What macro-level historical events may have acted as exogenous shocks or critical junctures that influenced or constrained good governance-related policy choices within the Comptroller General and the Judiciary?

It was not possible to answer all of these questions for each case, due to the lack of data available to an external researcher. For example, those interviewees to whom I was able to gain

access did not always have knowledge of the relevant institutional rules, and whether they were or were not enforced across the entire institutions. Rather, reviewing across all the interviews allowed me to gain a perspective about the level of discretion in rules interpretation in general, for example, and what institutional constraints on discretion exist. These questions did serve an excellent purpose in that they guided my process tracing in a theoretically-driven way, ensuring that the narrative did not become atheoretical or purely historical.

Data Collection Methods

While this thesis attempted to collect data from a broad array of sources, the overarching framework from which the data collection proceeded were the major good governance aid projects that were implemented in the Comptroller General and the Judiciary. These projects were used as the starting point for finding the names of project principals in the donor organizations and government institutions. Quarterly reports and other project documentation typically contained project statistics and data related to good governance indicators, and pointed toward explanations for project success or failure. There are 10 major projects that served as guides for the data collection; these were chosen based on the amount of funding committed, via the project, to promoting good governance in the Judiciary and Comptroller General (see Annex III). As previously mentioned, in analyzing the dynamics of aid aimed at institutional change, there is an iterative shift between levels of analysis, from the project level to the institutional level. For example, a project might be effective in achieving a narrow set of outcomes, such as implementing new budgeting systems, but that may not have a longer-term impact on institutional-level efficiency. As such, not all of these projects will be drawn upon in equal depth, as some projects help illustrate the key points made in this thesis better than others. The projects implemented in the Judiciary include:

- Support for Justice Reform in Peru — financed by the European Commission (EC) and implemented by the German Development Cooperation (GIZ)
- Strengthening Democratic Institutions and Processes in Critical Areas — financed by the U.S. Millennium Challenge Corporation (MCC), and implemented for USAID by a

subcontractor, Management Systems International (MSI)

- Strengthening the Legal System and Support for the Administration of Justice — financed and implemented by the United Nations Development Program (UNDP)
- Modernization of the Justice Administration System — financed and implemented by the Inter-American Development Bank (IADB)
- Justice Services Improvement Project — financed and implemented by the World Bank
- Access to Justice in Rural Communities – financed and implemented by the Swiss State Secretariat for International Affairs (SECO)

The projects implemented in the Comptroller General are:

- Strengthening of the National System of Fiscal Control — financed and implemented by GIZ
- Strengthening and Modernization of the Comptroller General of the Republic of Peru — financed and implemented by UNDP
- Tools for Controlling and Reducing Corruption — financed by the MCC, and implemented for USAID by MSI
- Comptroller General Modernization Program — financed and implemented by the IADB

The two main secondary sources of data are quantitative studies, indicators and statistics, and documents, including donor reports, institutional policies and memos, and media reports. I began by finding documents that were freely available online, including documents on donor Websites, the websites of the Comptroller General and judicial institutions, and via database searches. I then telephoned different donor agencies and Peruvian government bodies to request further documentation that I was unable to find online. Finally, I asked each of my interviewees to provide me with documents or suggest relevant literature. In terms of the quantitative data, I began with a review of widely available indicators related to the dependent variable. As noted above, these macro-level indicators do not adequately capture changes that occur at the organization level. Therefore, this thesis sought out sources of data that measured the dependent variable at the level

of the Comptroller General and Judiciary. This data was collected through web-based searches, by reviewing the sources used in policy papers, journal articles, and donor documents, and by asking interviewees if they knew of relevant statistics that captured meso-level data.

The limitations of this secondary source data are twofold: First, comparable coverage across cases is not possible, both in terms of statistics and in terms of documentation. I attempted to mitigate this by using different pieces of evidence to compare similar processes and outcomes, and to create a convincing base of evidence for each unit. Second, analyzing the content of both statistics and documents relies on the inferential reasoning, or interpretation, of the researcher. Triangulating these sources with evidence drawn from the interviews is one attempt to strengthen the logic of inference.

Semi-Structured Elite Interviews

The primary data collection consisted of 32 semi-structured interviews, identified in Table 5, conducted in person in Peru.¹⁷⁹

Table 5. List of Interviews by Institution and Date

Description of Interviewees	Interview Date
<i>Donor Agencies</i>	
Mid-level program manager, AECID: Spanish Agency for International Development Cooperation (donor agency)	May 2011
High-level program manager, ARD: Associates for Rural Development, Inc. (USAID subcontractor/implementing agency)	May 2011
Mid-level program managers (2), CIDA: Canadian International Development Agency (donor agency)	May 2011
High-level program manager, European Commission (donor agency)	May 2011
High-level program manager, GIZ: German Federal Enterprise for International Cooperation (donor agency)	May 2011
Mid-level program manager, IDB: Inter-American Development Bank (donor agency)	May 2011
High-level program manager, MSI: Management Systems, Inc. (USAID/Millennium Challenge Corporation subcontractor/implementing agency)	May 2011
Mid-level program manager, SECO: Swiss State Secretariat for International Affairs (donor agency)	May 2011
High-level program manager, SDC: Swiss Agency for Development and Cooperation (donor agency)	May 2011
Mid-level program manager, UNDP: United Nations Development Programme	May 2011

¹⁷⁹ One interview was conducted via Skype.

(donor agency)	
High-level program manager, USAID: United States Agency for International Development (donor agency)	May 2011
Mid-level program manager, The World Bank (donor agency)	May 2011
<i>Comptroller General</i>	
Mid-level professional, Comptroller General (current)	July 2012
Mid-level international donor program managers (2), Comptroller General (current)	July 2012
Mid-level professional, Comptroller General (current)	July 2012
Mid-level corruption prevention professional, Comptroller General (current)	October 2012
<i>Judiciary</i>	
Attorney who resigned during the Fujimori regime (former)	July 2012
Mid-level judge, Labor Court (current)	July 2012
Attorney with 15 years' experience in municipal courts (current)	August 2012
President of the Consejo Nacional de la Magistratura (former)	September 2012
High-level manager, Commission of the PMSJ judicial reform project (former)	October 2012
President of the Constitutional Tribunal (former)	October 2012
Superior Court President (current)	October 2012
<i>NGOs</i>	
High-level program manager, International IDEA (international democracy-promotion NGO)	May 2011
High-level program manager, IRI: International Republican Institute (international democracy-promotion NGO)	May 2011
High-level program manager (1) and mid-level program managers (2), NDI: National Democratic Institute (international democracy-promotion NGO)	May 2011
High-level program manager, Proética (local chapter of Transparency International)	May 2011
Journalist who writes on corruption issues (current)	July 2012
Mid-level program manager, Ciudadanos al Día (current)	July 2012
<i>Other Peruvian Government</i>	
High-level professional, La Comisión de Alto Nivel Anticorrupción (current)	July 2012
Mid-level professional, La Comisión de Alto Nivel Anticorrupción (current)	Sept. 2012
Secretary of Decentralization (former)	Sept. 2012

The rationale for conducting these interviews was to gather observations about processes that were not captured in secondary sources, and to provide evidence for the dependent variable that can be triangulated with other sources. Semi-structured interviews bridge the gap between unstructured and structured interviews: Unstructured interviews utilize wide, open-ended questions designed to get a broad, “insider” perspective, rather than test an explicit hypothesis, whereas structured interviews utilize closed-ended, survey-type questions designed to test a specific hypothesis.¹⁸⁰

¹⁸⁰ Beth Leech, “Asking Questions: Techniques for Semistructured Interviews,” *Political Science & Politics* 35:4 (2002): 665-68.

Semi-structured interviews combine both open- and closed-ended questions in a way that allows researchers to gather specific observations while also creating space for the interviewee to provide a narrative account. In this way, semi-structured interviews allow for an interplay between deductive data gathering and inductive knowledge discovery. This interplay makes semi-structured techniques ideal for interviewing elite actors in the government and international aid donor community. The assumption is that elites are busy professionals whose time is limited, and therefore a researcher must have a certain level of knowledge about the topic going into the interview in order to ask focused questions related to different aspects of the topic. However, elites often have personal or professional reasons for not revealing information, particularly negative information. Interspersing open-ended questions with closed-ended questions allows the researcher to try and delve into a deeper explanation of events or processes that may draw out this hidden information. Such explanations often come once the researcher has been able to establish a rapport with the interviewee. It is for this reason, and the fact that research has shown that the alternative mode of telephone interviewing can result in a low response rate, that these interviews were conducted in person in Peru.¹⁸¹

The interviews were conducted in two stages, the first in April and May of 2011 and the second in June through October of 2012. The first stage followed the logic of a plausibility probe, in which I conducted a pilot study to refine the theory and hypotheses, get a sense of what the key variables are and how they could be operationalized, and determine if the chosen case would fit prior to engaging in more intensive fieldwork. During this phase, the focus was on interviewing international aid donor and NGO representatives rather than Peruvian government officials. Due to prior experience working on good governance aid projects for an international NGO, I was able to present myself as a credentialed insider, which facilitated access to interviewees. These interviewees were selected by reviewing project documents, calling donor agencies or NGOs to

¹⁸¹ Martin Bulmer and Donald P. Warwick, *Social Research in Developing Countries: Surveys and Censuses in the Third World* (London: Routledge, 1993); Regina Scheyvens and Donovan Storey, *Development Fieldwork: A Practical Guide* (London: Sage Publications, 2003); Vandana Desai and Robert B. Potter, eds., *Doing Development Research* (London: Sage Publications, 2006).

identify the appropriate people to interview, and asking interviewees to recommend other relevant individuals that might be available for an interview (a snowball technique). A total of 19 individuals were interviewed in 16 organizations in April and May of 2011. The interview questions focused on the public-sector organizations that received good governance aid, the specific projects that were implemented in those organizations, the outcomes related to good governance over time in those organizations, and the contribution that good governance aid made to those outcomes. Overall, the responses to these questions helped establish that there was sufficient variation in good governance outcomes between the Comptroller General and the Judiciary over time, and that these outcomes were different in each institution, confirming the relevance of using these two institutions as units for the empirical case studies.

The responses from this first stage of interviews pointed the way toward possible reasons for change or stagnation in outcomes, which helped inform the development of questions for the second stage of interviews. During this phase, I interviewed current and former government officials who work or worked in the Judiciary and the Comptroller General, identifying these interviewees in a similar manner to those identified in the first stage: document review, cold calls, and the aforementioned snowball technique. The research was aided by the personal connections of my research assistant, whose father worked in the Comptroller General, and who was therefore able to provide both relevant information as an interviewee and access to other interviewees in the Comptroller General.¹⁸²

The second stage of interviews consisted of 13 individuals, four of whom worked in or with judicial institutions, four of whom worked in the Comptroller General, and five of whom were government or NGO good governance experts who monitored these institutions. The interview questions (see Annex IV) focused on the processes that occurred prior to, during, and after the implementation of good governance aid projects in the Judiciary and Comptroller General. In

¹⁸² There is a potential bias that arises here from the possibility that my research assistant's father acted as a gatekeeper; however, this was the only way to gain access to those officials in the Comptroller General who had direct knowledge of the good governance aid projects that were being implemented.

particular, these questions aimed to understand the major policy changes that occurred in relation to different aspects of good governance, which actors influenced these changes, whether there was a gap between policies and implementation, and how and why good governance aid may have contributed to these changes. Overall, the responses provided additional data on whether changes in the dependent variable had occurred. More significantly, they provided insight into the processes of change that occurred in these institutions.

I did not find actually conducting the interviews themselves to be challenging, as I have strong interview skills and felt I was able to develop rapport with each of my interviewees. What was challenging was setting up a professional research effort in a country in which I had no contacts, and actually scheduling the interviews in the first place. Once I made the first contact with a donor agency, and proved myself by asking intelligent questions, this opened the door to a rapid succession of interview with other donor agencies. As a result, I conducted 18 interviews in the last three weeks of my first stay in Peru, whereas the first four weeks consisted of trying to make the first contact. This proved to be a similar situation with the Peruvians I interviewed, although the snowball technique worked much more slowly with those individuals, and it was mostly through my research assistant's dogged persistence in continuing to call the institutions to set up interviews that I was able to get appointments for the interviews we did eventually conduct. In comparison, as a professional evaluator, I am able to call upon the managers of the projects I am evaluating to set up appointments for me, and I generally conduct as many as four interviews per day for a two-to-three week period of fieldwork (60 interviews in three weeks)!

There are three potential limitations of this method of data collection that must be acknowledged. The first is the response biases that present themselves in the interviewing process. In particular, interviewees often do not want to, or cannot, share certain information with the interviewer, and they tend to gloss over conflict or other negative aspects of the topic being discussed. I attempted to mitigate this by careful development of the interview questionnaire, paying attention to both question wording and sequencing, as well as to verbal and non-verbal cues

during the interviews, in an effort to be responsive to appropriate timing of what follow-up questions to ask, when to stay silent, and when to intervene. I also reflected at the end of each interview on whether my research assistant had been able to develop a rapport, and whether she felt the interviewee was being expansive or holding back.

The second potential limitation relates to the issue of translation. More than half of the interviews were conducted in English, and I hired a research assistant to assist with conducting those interviews that Spanish. This raises the potential limitation that I missed key verbal cues, and follow-up questions went unasked, during the Spanish-language interviews. I attempted to mitigate this by thoroughly and carefully training my research assistant, and involving her in a substantive way in the entirety of the fieldwork. Therefore, my research assistant was prepared for, and aware of, the potential verbal and non-verbal cues that could lead to follow-up questions. My research assistant and I also discussed the general impressions, including whether a sense of rapport was established, after each interview.

The final limitation involves the sample size of the interviews. Qualitative interviews follow a different logic than quantitative surveys in terms of choosing an adequate number of respondents for a sample size, but the concept of sample size sufficiency is one that must be addressed. The usual advice is that a sample is adequate once one has reached theoretical saturation; that is, when themes or trends begin to be repeated by interviewees and no new information is being presented.¹⁸³ Several empirical studies have shown that between four and 20 interviews tends to achieve this saturation. Based on 60 in-depth interviews with women in West Africa, one study shows that 80 of the themes for which they were coding interview responses were documented from the first six interviews, and an additional 20 themes emerged from the subsequent 7 to 12 interviews.¹⁸⁴ After that, there was a diminishing return-to-scale, with only 14 new themes emerging from the final 13 to 60 interviews. Of those themes that the authors coded with the highest

¹⁸³ Barney G. Glaser and Anselm L. Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Piscataway, NJ: Transaction Publishers, 1967).

¹⁸⁴ Greg Guest, Arwen Bunce, and Laura Johnson, "How Many Interviews are Enough? An Experiment with Data Saturation and Variability," *Field Methods* 18:1 (2006): 59-82.

frequency, 94 percent were identified in the first six interviews, and 97 percent in the second set of six interviews. The authors concluded that “small samples can be sufficient in providing complete and accurate information within a particular cultural context, as long as the participants possess a certain degree of expertise about the domain of inquiry.”¹⁸⁵ This study found that so long as a certain degree of expertise existed among the interviewees, even four interviews could result in accurate information, with a high confidence level of 99 percent.¹⁸⁶ Therefore, the number of interviews that were conducted for the purpose of this research is more than adequate to generate the information needed.

Methods of Data Analysis

I analyzed the transcripts of interviews and primary documents using a coding schema developed in the Nvivo software platform. This involved developing codes related to the different indicators established for the dependent variable, and related to the questions used to guide observations related to the process discussed in the section on independent variables. The pieces of text in which relevant information appeared, such as a particular passage in an interview, were coded accordingly. When relevant, more than one code was applied to the same piece of information. The text was then categorized according to the codes to facilitate synthesis of the observations and interpretation of the data, as in Table 6.¹⁸⁷

¹⁸⁵ Ibid.

¹⁸⁶ A. Kimball Romney, Susan C. Weller, and William H. Batchelder, “Culture as Consensus: A Theory of Culture and Informant Accuracy,” *American Anthropologist* 88:2 (1986): 313-38. These studies are a departure from Creswell’s recommendation that one needs 20 to 30 interviews in any research based on grounded theory, and Kuzel’s recommendation that one needs 6 to 8 interviewees for a homogenous sample, and 12 to 20 interviewees to provide disconfirming evidence or maximum variation. John W. Creswell, *Qualitative Inquiry and Research Design: Choosing among Five Traditions* (London: Sage Publications, 1997); Anton J. Kuzel, “Sampling in Qualitative Inquiry,” in *Doing Qualitative Research*, ed. Benjamin F. Crabtree and William L. Miller (London: Sage Publications, 1999), 33-46. It should also be noted that Mason finds that in 1,401 case studies of qualitative PhD dissertations, the average number of interviews conducted was 36. Mark Mason, “Sample Size and Saturation in PhD Studies using Qualitative Interviews,” *Forum: Qualitative Social Research* 11:3 (2010), <http://www.qualitative-research.net/index.php/fqs/article/view/1428>.

¹⁸⁷ I found Bazeley’s *Qualitative Data Analysis with NVivo* particularly helpful in this endeavor. Pat Bazeley, *Qualitative Data Analysis with NVivo* (London: Sage Publications, 2007).

Table 6. Results from Coding of Qualitative Interview Data

Code	Number of References	Code	Number of References
Accountability	19	Effectiveness	28
Adoption of Good Governance Norms	10	Efficiency	13
Agenda Setting	19	Exogenous Factors	224
Bureaucratic Quality	9	Exposure to Good Governance Norms	12
Change Agents	82	Good Governance Changes	118
Change in Embedded Structures	188	Incentives Related to Good Governance	11
Change in Norms	51	Donors As Political Actors	8
Change in Preferences	59	Introduction of Good Governance Rules	10
Citizen Perceptions	11	Leadership	46
Continuity	16	Logic of Appropriateness	4
Critical Junctures	15	Logic of Consequences	19
Defenders of Status Quo	11	Mission, Duty, Sense Of Public Service	8
Demand-Driven, Ownership	14	Other Exogenous Shocks	4
Differences Among Donors	16	Path Dependency	12
Discretion in Rule Interpretation	16	Peer Mimicry, Peer Emulation	7
Effect of Executive Interference	22	Power Dynamics	43
Effect of International Aid Donors	159	Principle-Based Rationale	7
Effect of Non-Governmental Actor	34	Self-Interest Rationale	18
Effect of Other Governmental Actor	2	Transparency	9
Effect of Technology	3	Veto Possibilities of Status Quo Defenders	5

Source: Author's export of code list from Nvivo software

Within-Case Analysis

Process tracing helps map out causal chains and causal mechanisms within each case. This helps establish, for each case, what factors connect good governance aid to institutional changes, and how these factors form a plausible causal explanation of the relationship between the independent variable processes and the dependent variable of institutional change. Process-tracing, which “involves an intensive analysis of the development of a sequence of events over time, is particularly well-suited to the task of uncovering intervening causal mechanisms and exploring reciprocal causation and endogeneity effects. By focusing on what Henry Brady et al.¹⁸⁸ call ‘causal process observations,’ case study researchers get inside the ‘black box’ of decision making and explore the perceptions and expectations of actors, both to explain individual historical episodes

¹⁸⁸ Henry Brady and David Collier, eds., *Rethinking Social Inquiry* (Lanham, MD: Rowman and Littlefield, 2010), 12.

and to suggest more generalizable causal hypotheses.”¹⁸⁹ Process-tracing is not simply reviewing the historical record, but reviewing it within a particular set of hypotheses that are used to theoretically explain cases. In developing explanations for each case, “all the intervening steps in a case must be as predicted by a hypothesis... or else that hypothesis must be amended.”¹⁹⁰ In this thesis, the hypothesis deliberately remains underspecified so as to facilitate the development of a more predictive hypothesis. This goal of the process-tracing is to identify multiple causal processes that can help explain divergent outcomes in two cases with similar features.

Process tracing relies upon the researcher to make astute observations about what is relevant and not relevant in historical narratives. Such observations can be facilitated by asking a focused series of theoretically grounded questions about what happens between points A and B — that is, questions that help unpack the black box of causality that typically remains unobserved in correlative studies. Asking such questions, which were outlined in the section on conceptualization of the independent variables discussed earlier in this chapter, allows the researcher to “eliminate rival causal mechanisms” and “narrow the potential list of causes.”¹⁹¹ This type of questioning lends itself to the analytical narrative form of process-tracing, which “converts a historical narrative into an analytical causal explanation couched in explicit theoretical forms.... The explanation may be deliberately selective, focusing on what are thought to be particularly important parts of an adequate or parsimonious explanation; or... reflect the investigator’s inability to specify... all steps in a hypothesized process.”¹⁹² Process tracing also allows the researcher to observe causal processes that may not be linear, including convergence (of conditions, variables, or causal chains), non-independent interacting causal variables, and path-dependent processes. Process tracing helps draw out path dependencies because it allows the researcher to understanding sequences of events, key decision points, and how they may determine certain paths by eliminating or opening up different sets of choices. Path-dependent processes are particularly relevant when dynamics of policymaking

¹⁸⁹ Levy, “Case Studies,” 6.

¹⁹⁰ George and Bennett, *Case Studies and Theory Development in the Social Sciences*, 207.

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*, 211.

come into play, as policy-related decisions “taken at one point that reduce the likelihood of achieving a desired policy goal may be recouped by changes in the situation that give policymakers a second chance to accomplish a desired goal or to avoid a poor outcome.”¹⁹³

There are numerous benefits to using process tracing as a method of data analysis in this thesis. First, it helps determine unknown variables, unclear causal processes, and underspecified links between variables (i.e. the causal chains), which is a main goal of this thesis. Second, it can help establish or validate the linkages between these variables and processes, and the dependent variable, in a way that goes beyond a simple linear explanation of causality and accounts for complex, multivariate relationships. This includes the possibility of equifinality, or multiple causal paths to the same outcomes. In these ways, process-tracing provides space for understanding complexity in individual cases while still analyzing events in a theoretically driven way that allows for generalizing beyond individual cases.

That said, there are two main limits to the use of process-tracing as a tool for data analysis. The first is that it requires the researcher to be able to “establish an uninterrupted causal path linking the putative causes to the observed effects, at the appropriate level(s) of analysis as specified by the theory being tested.... When data is unavailable or theories are indeterminate, process-tracing can reach only provisional conclusions.”¹⁹⁴ I attempted to mitigate this limitation by casting my data-gathering net far and wide, and incorporating different types of data and multiple observations in an effort to have both sufficient data to substantiate all the links in a causal path, and to be able to triangulate that data to strengthen the analysis. The second potential limitation is that equifinality requires the researcher to assess “whether alternative explanations are complementary in the case, or whether one is causal and the other spurious.”¹⁹⁵ This is not as significant a limitation for this thesis, which goes beyond the process-tracing of individual cases by developing a cross-case comparison using observations drawn from the within-case analysis.

¹⁹³ Ibid., 213.

¹⁹⁴ Ibid., 222.

¹⁹⁵ Ibid.

Cross-Case Comparison

A cross-case comparison allows researchers to develop “contingent generalizations about combinations or configurations of variables that constitute theoretical types.”¹⁹⁶ Conducting process-tracing for more than one case allows different causal chains, factors, and variables to be mapped out in different instances of the same type of phenomenon. These cases can then be compared based on the presence or absence of each independent variable (or configuration of variables) and the outcomes of the dependent variable. This cross-case comparison helps build a typology of different types of cases, allowing the researcher to inductively generate a theory based on multiple observations of more than one case. Such a theory can then be tested deductively in future studies, leading to further evidence in support of the hypothesis, or contradictory evidence, in which case the theory must be modified. Therefore, a key advantage of a cross-case comparison is that it can retain the complexity of the phenomenon being studied, and the causal processes being analyzed, while synthesizing “similarities and differences among cases to facilitate comparisons, provide a comprehensive inventory of all possible kinds of cases, incorporate interaction effects, and draw attention to... the kinds of cases that have not occurred and perhaps cannot occur.”¹⁹⁷

In essence, a cross-case comparison categorizes independent variables, either individually or as conjunctions or configurations, and links them to outcomes that occur on the dependent variable. In this thesis, the assumption is that there will be six cases that can comprise the evidence base for this comparison: the Judiciary in three time periods and the Comptroller General in the same time periods. These organizations may have differing levels of good governance in each of these time periods, leading to variation on the dependent variable. Assuming this is true, one can then map out the key independent variables that were at play in each of these cases, not just individually but in specified conjunctions or configurations. These specified conjunctions or configurations are case types; typological theories map out multiple types of cases (often the most common types of cases, or those that are of the most interest theoretically or practically). Typological theories therefore

¹⁹⁶ Ibid., 233.

¹⁹⁷ Ibid.

“specify the pathways through which particular types [of cases] relate to specified outcomes.”¹⁹⁸

This is consistent with historical explanations in political science that aim to specify necessary and sufficient conditions using case study designs. The benefit of typological theory is that it allows conjunctions of variables to be analyzed, rather than just individual variables. Therefore, multidimensional variables, processes in which A can only follow B, or processes in which A can follow B or B can follow A, can all be accommodated as different types of cases. As I noted in the beginning of this chapter, doing exactly this type of analysis requires more cases and data than could be realized within the scope of this thesis.

What this thesis does do is draw upon the within-case analysis of the individual cases to help map out a cross-case comparison and theorize about necessity and sufficiency, as of the drivers of change, and good governance aid in particular, in terms of institutional change. The interplay between the within-case analysis and the development of the cross-case comparison allows for both contextualization of relevant causal mechanisms and parsimony of identifying necessary and sufficient conditions related to the phenomenon being investigated. The aim in doing so is to understand why good governance-related institutional change occurs or fails to occur, and how good governance aid and other drivers of change affect these processes.

Conclusions

This chapter outlined the overall methodology used to investigate the research questions posed in this thesis. It described the scope conditions used to select the two main units for which a within-case analysis would be conducted, and outlined how these units would be analyzed across three time periods, resulting in a total of six cases to be analyzed. It then described how the dependent variable of good governance is defined in terms of a systematized concept comprising four dimensions, and explained how these dimensions could be operationalized through different indicators. The independent variables were shown to be complex processes that could not be conceptualized and operationalized in the same way; instead, these processes were described in

¹⁹⁸ Ibid., 235.

terms of their boundedness as exogenous and endogenous processes, and a set of questions that would help guide the collection of observations related to these processes was laid out. Within-case observations will be made using process-tracing techniques, which will result in theoretically driven analytical narratives. These narratives will then be used to compare across cases to arrive at an inductive, parsimonious set of conclusions based on an analysis of necessary and sufficient conditions.

Chapter 5, which is the first empirical chapter, employs the technique of process tracing in an analysis of good governance changes during the 1980s and the 1990s. It shows how good governance was initially weak in both the Judiciary and Comptroller General in the 1980s, but was made even weaker as a result of the actions taken by the Fujimori administration. That this undermining of an already weak level of good governance could occur without significant opposition can be attributed to strong Executive influence, weak mechanisms of vertical and horizontal accountability, and muted protests from the institutions themselves. In this environment, aid donors had little space for playing a major role in driving good governance-related institutional changes.

Chapter 5: Good Governance in the Fujimori Era

Introduction

The first four chapters of this thesis described the framework, variables and methodology related to understanding the role of good governance aid and other drivers of change in reforming Peru's political institutions. The second half of this thesis presents the empirical cases: This chapter focuses on the Comptroller General and Judiciary in the 1980s and 1990s, while Chapter 6 focuses on the post-Fujimori era (2000s), and Chapter 7 presents the cross-case comparison.

This chapter begins with an overview of the political and economic environment in Peru in the 1980s, to situate the discussion of the four dimensions of good governance (accountability, transparency, effectiveness, and efficiency) in the Judiciary and the Comptroller General's office in a broader context. This section shows that the severe economic crises of the 1980s and the violence that resulted from the war with the Shining Path resulted in good governance ranking low on the list of priorities for the government and citizens of Peru. As a result, there were few major efforts aimed at good governance-related institutional change during this era that were driven by either the Executive, Congress, or NGOs and citizens. In addition, good governance did not become a sector of aid until the mid-1990s, and thus there were no donor-driven efforts to reform Peru's political institutions along the lines of good governance. In terms of endogenously driven changes, there were some good governance-related reforms driven by the leader of the Comptroller General, specifically in terms of accountability and effectiveness. However, the effectiveness of the Comptroller General was also undermined by the ability of the Executive to influence which cases auditors investigated, suggesting that the Executive resisted positive reforms and sometimes undermined them. In contrast to the Comptroller General, there is no clear record of endogenously driven reforms implemented in the Judiciary in the 1980s; corruption and inefficiency were rampant, in part due to the Executive practices of nepotism and political patronage. In this era, the moderate but negative influence of Executive interference combined with weak mechanisms of horizontal and

vertical accountability to allow this negative influence to prevail. In the Comptroller General, the moderate, positive influence of the reform-oriented leader was sufficient to result in some good governance-related reforms, but the absence of similar pro-reform leadership in the Judiciary resulted in a low level of good governance.

This chapter then traces the events that occurred in Peru during the Fujimori era, from 1990 to 2000, showing that there was a significant shift in Executive actions that severely undermined good governance. It explains how the events of Fujimori's 1992 self-coup further weakened mechanisms of horizontal and vertical accountability, and hindered the ability of actors within the Comptroller and Judiciary to endogenously drive good governance reforms (whether or not these internal actors chose to do so). In the case of the Comptroller General, this resulted in institutional shifts to a lower level of good governance. Whatever aspects of good governance were present in the Judiciary were weakened by the strong, negative influence of Executive actions. In this institutional context, aid donors were either unable to implement good governance programs, or only able to implement programs that achieved modest aims. During this era, the main role of aid donors was to act as a weak mechanism of good governance norm diffusion, rather than as a driver of good governance-related institutional changes.

Peru's Economic and Political Environment in the 1980s

Economic crises and violent struggle were the dominant concerns of the Peruvian government and citizens during the 1980s. In response to these crises, mechanisms of vertical accountability grew in strength – but were not focused on good governance as a priority. Mechanisms of horizontal accountability were also not focused on driving good governance-related institutional changes, and did little to keep the Executive from engaging in the corruption and cronyism that had long dominated Executive leadership styles (see Chapter 2). However, mechanisms of horizontal accountability, while they failed to do much about the quotidian practices contributing to systematic political patronage and nepotism, were able to block particularly egregious Executive efforts to weaken the state. Both the second presidency of Terry Belaúnde

(1980 to 1985) and the first presidency of Alan García (1985 to 1990) were characterized by the Executive's mostly unchecked ability to use the public administration to reward loyalists and facilitate patronage, installing cronies in public positions, "swelling public payrolls," and pushing forward with questionable public works projects.¹⁹⁹ While this type of corruption might have raised the ire of citizens in other circumstances, the economic shocks related to the world recession of 1981 to 1983 and the Mexico debt crisis in 1982 meant that citizens' priorities lay with the worsening economy.²⁰⁰ In 1982, GDP declined by 13 percent in 1983, the worst single-year decline in the post-WWII era. In the meantime, the government failed to find investors for the majority of the state-owned enterprises (SOEs), a situation exacerbated by Peru's suspension of debt payments, which led to a significant decline in foreign direct investment (FDI) and international financial institution (IFI) loans.²⁰¹ By the end of Belaúnde's term, fiscal austerity had forced him to reduce the number of state employees to the point that some government agencies let go up to 70 percent of their workforce, which led to a severe weakening of the state's capacity to carry out its functions.²⁰²

García pursued populist strategies designed to appease voters and fix the economy. He increased real wages, cut taxes, reduced interest rates, froze prices, and devalued currency in an effort to stimulate demand. This strategy proved unsustainable, and as foreign reserves were exhausted and the trade deficit grew, García was forced to default on all of Peru's debt.²⁰³ An attempt in 1987 to nationalize the private banking system was met with violent strikes, the resignation of several ministers, the ire of elites, and resistance in Congress. This is one sign that mechanisms of horizontal accountability did keep Executive power in check to some degree.

García quickly reversed course on this decision, imposing austerity measures in 1988. While this had some positive effects — inflation slowed, real wages increased, and foreign exchange

¹⁹⁹ Peter F. Klarén, *Peru: Society and Nationhood in the Andes* (Oxford: Oxford University Press, 2000), 375.

²⁰⁰ GDP growth was 3.1 percent in 1981, then fell to less than 1 percent in 1982, then GDP itself fell by 12 percent in 1983. Growth went up to 4.7 percent in 1984 but at same time inflation rose to 110 percent in 1983 and 1984, in part due to servicing debt. Thomas E. Skidmore and Peter H. Smith, *Modern Latin America* (Oxford: Oxford University Press, 2001), 219.

²⁰¹ Cynthia McClintock and Fabian Vallas, *The United States and Peru: Cooperation at a Cost* (London: Routledge, 2003), 33.

²⁰² Klarén, *Peru: Society and Nationhood in the Andes*, 374-75.

²⁰³ Skidmore and Smith, *Modern Latin America*.

reserves grew — it was not enough to compensate for the consequences of decades of poor economic governance.²⁰⁴ By 1990, GDP had dropped 28 percent, real wages fell 60 percent, public debt grew to more than \$23 billion,²⁰⁵ public health and education spending fell 30 percent, the government had defaulted on \$2 billion in IMF and foreign loans, and inflation topped almost 7,000 percent.²⁰⁶

Partly in response to this continued economic chaos, anti-government groups such as the Shining Path, which had started as protest movements, grew increasingly violent in their tactics, creating a culture of fear that extended from the countryside to Lima. The Shining Path's fervent version of Maoist revolutionary ideology — which could be summed up as “if you're not with us, you're against us” — meant that it justified the massacre and assassination of peasants and community organizers. Fueled by profits from the cocaine trade in the northern highlands of Peru, the Shining Path gained ground in Lima, setting off bombs in residential neighborhoods and threatening violence against citizens.

The government response to the Shining Path had been lax under Belaúnde, because in the early 1980s the threat did not seem significant and he was hesitant, after 12 years of military rule, to cede authority to the military to deal with the threat. As the violence increased, Belaúnde, and later García, increasingly put major parts of the country under emergency rule. By the end of García's presidency in 1990, one-third of the country — a full 50 percent of the population — was under emergency rule, with civil liberties suspended. By that point, the war with the Shining Path had claimed 20,000 lives, cost the government \$15 billion, and created 200,000 internal refugees.²⁰⁷ Between the war against the Shining Path and the severe economic situation, by the end of García's

²⁰⁴ Peru had one of the worst (narrow and lax) tax systems in South America, with only 800 of 10,000 companies accounting for more than 75 percent of tax receipts. Klarén, *Peru: Society and Nationhood in the Andes*, 389.

²⁰⁵ Ronald Bruce St. John, *The Foreign Policy of Peru* (Boulder: Lynne Rienner Publishers, 1992), 210.

²⁰⁶ Klarén, *Peru: Society and Nationhood in the Andes*, 394-95; St. John, *The Foreign Policy of Peru*, 208. St. John notes that the government had to borrow an additional \$4 billion just to service \$9 billion in debt and finance deficits in trade and budget accounts.

²⁰⁷ Eduardo Morón and Cynthia Sanborn, *The Pitfalls of Policymaking in Peru: Actors, Institutions and Rules of the Game* (Washington: Inter-American Development Bank, 2006), 17.

term, “Peru was on the verge of economic and social collapse.”²⁰⁸

Given this state of chaos, it is perhaps not surprising that the lack of good governance-related reforms persisted. García did nothing to shake up the order of institutions, and repeated previous leaders’ patterns of clientelism and corruption. If anything, political institutions were severely weakened under García because of these dual crises. The Judiciary, which was already rife with political interference and corruption, was further intimidated by the Shining Path and was therefore unable to exercise consistent authority.²⁰⁹ Low salaries that resulted from the economic crisis also made judges more susceptible to corruption; bribery was thus another tool that the Shining Path used to neutralize judges. These are indications of the weak state of good governance in the Judiciary in the 1980s.

Frustration with the government’s inability to defeat the violent Maoist rebel group Shining Path became a feature of citizen protests as well. Protests were the main means of voicing complaints, because institutions like the Congress failed to represent the majority of Peruvians. Congress was viewed as weak due to a long history of fractured political parties that served as vehicles for elite individuals to gain and hold power. These protests were largely focused on issues of economic justice and equality, rather than on issues of corruption or effectiveness in political institutions. In addition, the periodic corruption scandals that led to these protests, particularly in the 1980s, were often related to issues of economic injustice. However, the petty corruption, nepotism, and cronyism that had been features of Peru’s political institutions since the colonial era were either hidden or not seen as an immediate problem.²¹⁰

Good Governance in the Comptroller General in the 1980s

As noted in Chapter 2, the purpose and function of the Comptroller General (Auditor

²⁰⁸ Skidmore and Smith, *Modern Latin America*, 212. An example of this is malnutrition. “After structural adjustment, less than 50 percent of Peru earned enough (\$48) in a month to purchase minimum basket of goods necessary for adequate subsistence. Over 6.5 million persons did not earn enough (\$31 per month) to consume the minimum calory [sic] levels necessary to avoid malnutrition... infant mortality rate increased substantially.” Klarén, *Peru: Society and Nationhood in the Andes*, 395.

²⁰⁹ Morón and Sanborn, *The Pitfalls of Policymaking in Peru*, 17.

²¹⁰ Interview with a journalist, July 6, 2012.

General or Supreme Audit Institution in some countries) is to monitor and audit government expenditures, to investigate cases of fraud, and to ensure that public procurement procedures are followed. There are several models of audit systems: the Napoleonic/judicial model, the Westminster model, and the Board system. Peru's Comptroller follows the Westminster system, similar to that of the United Kingdom and United States, in which the Comptroller (Auditor) is in charge of and responsible for the operations of the entire Comptroller General, including ensuring that there is a professional audit staff in place. In Peru, the Comptroller is appointed to a seven-year term. The organization is horizontally accountable to Congress through periodic reporting on the financial operations and expenditures of government entities, and "generally, there is less emphasis on compliance, although compliance issues are not ignored if they are identified."²¹¹ Typically, both financial audits, which examine the accuracy of government agencies' accounts of how state budgets funds were spent, and compliance audits, which ensure that funds were spent in accordance with Congressional intent and per the relevant regulations and authorizations of the Ministry of Finance, are executed by the Comptroller.

The Comptroller General is therefore a key institution of horizontal accountability that keeps the Executive branch in check. Yet under the Westminster model, the Comptroller cannot force the Executive to act upon its recommendations (in contrast to the Napoleonic/judicial model, in which the audit institutions are an integrated part of the judicial system and operate independently of the Executive and legislature). Congressional oversight is therefore a key horizontal accountability mechanism related to the effectiveness of the Comptroller General's ability to execute its functions. In theory, the relationship between the Congress and the Comptroller General should be collegial, in that the Comptroller is reporting to Congress on how government expenditures — which Congress authorized — were actually spent by the government agencies to which they were allocated. The success of this model therefore assumes an actively involved Congress with a capacity for understanding and acting upon these reports, and "depends entirely on the legislature being willing

²¹¹ Albert Van Zyl, Vivek Ramkumar, and Paolo De Renzio, *Responding to Challenges of Supreme Audit Institutions: Can Legislatures and Civil Society Help?* (Bergen: Chr. Michelsen Institute, 2009).

and able to hold the [E]xecutive to account. Where legislatures are weak, the model is ineffective, regardless of the state of the [Comptroller General's Office, and] the system breaks down."²¹² Thus the willingness of the legislature to work with the Comptroller General is critical to successful implementation of the Comptroller's recommendations, as is the Comptroller's independence from the Executive.²¹³

The evidence suggests that such a collegial relationship did exist to some degree in Peru in the 1980s (see the Senate reaction to the Bank of the Nation scandal in the next paragraph), although again the base of evidence is admittedly thinner for this decade than for subsequent decades. In the 1980s, the dual crises of economic instability and the war with the Shining Path preoccupied Peruvians as the most significant challenges facing the country. While government inefficiency, bureaucratic ineffectiveness, and corruption were grumbled about, particularly in the wake of major scandals, none of these factors were considered the top three problems facing the country.²¹⁴ The concept of good governance had not become a widely diffused global norm, and considering all of these issues alongside transparency and accountability under the umbrella of improving governance, they were not preoccupations for Peruvian legislators, the public, NGOs, or researchers.²¹⁵ As a consequence, establishing quantitative baseline levels of transparency, accountability, effectiveness, and efficiency of the Comptroller General prior to 2000 poses a challenge, particularly in understanding how well the Comptroller General did its job prior to the Fujimori era. The analysis of these dimensions of good governance thus sometimes relies on

²¹² Ibid.

²¹³ There is mixed evidence on the relevance of other factors as keys to successful Comptroller Generals. For example, Dye and Stapenhurst state that in addition to independence from the executive, key requirements are having a clear mandate, having adequate funding for investigations and the hiring and retention of professional staff, and having sole discretion to direct investigations. Kenneth M. Dye and Rick Stapenhurst, *Pillars of Integrity: The Importance of Supreme Audit Institutions in Curbing Corruption* (Washington: The World Bank, 1997). However, in a study of supreme audit institutions in 40 countries, Blume and Voigt found that differences in the independence, mandate, implementation record and organizational model of supreme audit institutions did not have any effect on fiscal policy, government effectiveness and corruption, or productivity. The one exception was that perceptions of corruption levels were significantly higher when the SAI followed the judicial model. The authors note, however, that the variable of independence was measured as de jure independence, and not de facto independence, and did not take into account the independence of other organizations that are key to prosecuting fraud, such as the judiciary. Lorenz Blume and Stefan Voigt, "Does Organizational Design of Supreme Audit Institutions Matter? A Cross-Country Assessment," *European Journal of Political Economy* 27:2 (2011): 215-229.

²¹⁴ Peruvian Truth and Reconciliation Commission, "Final Report," 61, <http://www.cverdad.org.pe/ingles/ifinal/index.php>.

²¹⁵ Interview with official of *Proética*, May 18, 2011.

observations of public institutions as a whole at that time in Peru, which are drawn together to provide an overall impression of the Comptroller General.

For example, in terms of transparency, there are no indications that transparency was a priority of the Executive or the Comptroller General leadership in the 1980s, in terms of reports being made publicly available.²¹⁶ However, as noted below, there is at least one observation of a memo being published that is damaging to the state, suggesting some transparency and independence from the Executive. (As Chapter 6 shows, this move toward transparency was greatly facilitated by technology and the ability to publish information on Web portals.)

While the efficiency of the Comptroller General is another black hole of information for which a quantitative estimate is impossible to ascertain, there are some indicators that the Comptroller General was effective and accountable in terms of investigating claims of government waste and fraud, and that the Comptroller General had a fair amount of independence to so investigate such claims. For example, in November of 1984, the Comptroller General issued a report that the head of Peru's paramilitary civil guard misused more than \$600 million, transferring money meant for police equipment and stations from the state-owned Bank of the Nation to two private banks. Based on this report, which caused a scandal for President Belaúnde, the Senate removed Lt. Gen. Juan Balaguer from his position.²¹⁷ The Comptroller at this time, Miguel Cussianovich, was considered an extremely professional and technical Comptroller, and oversaw the hiring and training of more than 460 Comptroller General auditors.²¹⁸ Despite his affiliation with Belaúnde's *Accion Popular* party, Cussianovich initiated several investigations that were potentially damaging to the state, in addition to the one mentioned above.²¹⁹ In 1986, the Comptroller General published a memo on a contract between a subsidiary of Peru's state-owned oil company, PetroPeru, and a local drilling and service company, PetroPacífico, in which it called two clauses of the contract "harmful to

²¹⁶ Interview with a journalist, July 6, 2012.

²¹⁷ "Head Of Civil Guard Removed In Financial Investigation," *The Associated Press*, November 21, 1984.

²¹⁸ Rocío La Rosa Vásquez, "Crónica Política: La Difícil Tarea de Pedir Cuentas," *El Comercio*, November 30, 2008, <http://elcomercio.pe/ediciononline/HTML/2008-11-30/cronica-politica-difical-tarea-pedir-cuentas.html>.

²¹⁹ These cases include Guvarte, Banco Minero, and Mantaro-Pachitea. Rocío La Rosa Vásquez, "Crónica Política: La Difícil Tarea de Pedir Cuentas," *El Comercio*, November 30, 2008, <http://elcomercio.pe/ediciononline/HTML/2008-11-30/cronica-politica-difical-tarea-pedir-cuentas.html>.

state interests.”²²⁰ This PetroPeru scandal led to the resignation of two PetroPeru officials, causing a major scandal for President Alan García, who nonetheless vowed not to impede any further investigations.

However, when it came time to elect a new Comptroller midway through his second term, García chose Luz Aurea Saenz, who had demonstrated strong loyalty to García’s ruling APRA party.²²¹ García and the APRA ruling party were viewed as very corrupt, particularly in terms of developing bloated public works projects, but there was little concrete evidence to support this view.²²² In part, this corruption was facilitated by Comptroller Luz Aurea Saenz’s decision not to investigate certain financial irregularities, such as arms purchases made by the Ministry of the Interior when APRA was in power. While serving as Comptroller, Aurea Saenz headed an investigation of alleged theft by police of goods worth \$100 million over 13 years, and exposed the bribery that occurred between public officials and the Southern Peru Copper Corporation in negotiating water usage rights.²²³ However, these two investigations took place after the end of García’s presidency, which was considered by Peruvians to be the second most corrupt besides Fujimori’s.²²⁴

While Aurea Saenz may have lacked independence, there does not seem to be a question of her competence, as she subsequently served as Chairwoman of the Statutes Committee for International Organisation of Supreme Audit Institutions (INTOSAI).²²⁵ This perception of competence could not shield her from the political machinations of Fujimori, however, particularly given her initiation of investigations potentially embarrassing to Fujimori during the first two years of his term. During the 1992 *autogolpe*, Fujimori suspended the Comptroller General and dismissed

²²⁰ “Peru’s President Says He’ll Accept Resignations of Top Petroperu Officials,” *Platts Oilgram News*, August 26, 1986.

²²¹ Luz Aurea Saenz Chairwoman of the election board prior to her appointment in 1987. During the 1986 municipal elections in Peru, she protested against the dismissal of her and her staff for procedural violations over ballot counting in Lima. “Irregularities In Peruvian Elections Cited,” *United Press International*, November 24, 1986.

²²² Interview with journalist, July 6, 2012.

²²³ “Water: Peruvian Copper Mine Abuses Its Rights,” *Inter Press Service*, February 18, 1992; “Police Accused of Stealing \$100 Million of Impounded Goods,” *The Associated Press*, July 24, 1991.

²²⁴ Proética, *Séptima Encuesta Nacional sobre Percepciones de la Corrupción* (Lima: Proética, 2012), <http://www.proetica.org.pe/wp-content/uploads/2012/07/Proética-VII-Encuesta-Nacional-sobre-percepciones-de-la-corrupción-en-el-Perú-2012.pdf>.

²²⁵ “Inside INTOSAI: Governing Board Holds 35th Meeting in Washington,” *International Journal of Government Auditing* 19:1 (1992): 19-23, <http://archive.gao.gov/t2pbat4/150966.pdf>.

Aurea Saenz as Comptroller.

In sum, the picture that emerges of the Comptroller General prior to 1992 in terms of good governance is that it had a staff competent to perform audits, but that the decision of which cases to investigate were influenced by the relationship between the Comptroller General and the Executive branch, thus indicating a horizontal accountability deficiency. When the Comptroller's office was in alignment with the Executive, it was less likely to initiate investigations that might politically damage the president. When it was in opposition, this constraint was lifted. In some cases, like that of Cussianovich, the Comptroller General was willing to initiate potentially damaging investigations against the appointing Executive. What these observations, laid out in Table 7, suggest is that the Comptroller General was effective in its investigations, and accountable to the Congress and the Peruvian people in conducting these investigations, but only insofar as the leadership of the Comptroller dictated. There is not enough evidence to make an inference about the efficiency and transparency of the Comptroller General during this time.

Table 7. Summary of Observations on Role of Drivers of Change in Comptroller General in the 1980s

Influence of Executive	Horizontal Accountability	Vertical Accountability	Influence of Institutional Leaders	Level of Good Governance
<p>Economic pressure forced Belaúnde to reduce state employees, reducing capacity (effectiveness) in public institutions, and both he and García used power to reward loyalists and facilitate patronage. In addition, García attempted to interfere with independence of Comptroller General by appointing loyalists and influencing choice of investigations. He was not successful in this all of the time across both Comptrollers. Thus, the role of the Executive in driving good governance could be considered one of a Moderate, negative influence.</p>	<p>Per discussion of overarching context in Peru in 1980s, Congress was largely focused on terrorism and economic issues, rather than good governance, and therefore did not actively advocated for it in the Comptroller General. In addition, the ruling party in the latter half of the decade was aligned with the President, and thus did not appear to insist upon Aurea Saenez investigating irregularities. Given this, inference can be made that Congress exerted a Weak influence on good governance in the Comptroller General</p>	<p>Per discussion of overarching context in Peru in 1980s, citizens and NGOs were largely focused on terrorism and economic issues, rather than good governance; therefore, they exerted no focused, cohesive movement-type pressure on either the institutions directly, or on the Executive or Congress/other mechanisms of horizontal accountability to take action on good governance in these institutions. Therefore, the summary conclusion is that their influence in strengthening good governance in these institutions was Weak</p>	<p>Cussianovich initiated some reforms during 1980-1987, and appeared to have independence from the Executive. Aurea Saenz seemed to have less independence, choosing not to investigate some irregularities, but retained staff hired and trained by Cussianovich and did investigate some cases. Summarizing across these two leaders to provide a picture for the decade as a whole suggests that these leaders has a positive or neutral influence on strengthening good governance, with Cussianovich's influence being strong, while Aurea Saenz's was neutral or even weak, due to her compromised influence. The aggregation of these two leaders' influence on upholding or strengthening good governance could be characterized as a Moderate, positive influence.</p>	<p>Some reforms were consistent with dimensions of good governance initiated, but that this was dependent upon the relationship between the Comptroller and the President (publishing of memos and reports on government fraud signals accountability, effectiveness; hiring and training of new auditors signals effectiveness; but president's ability to appoint party-loyal Comptroller suggests reduction in independence later in decade, leading to decreased accountability; not enough observations to make inference about efficiency and transparency). Inference is that good governance over course of decade was not low or non-existent, but it was not high either, given constraints of executive influence. Therefore, summary is that there was a Medium level of good governance present.</p>

Good Governance in the Judiciary in the 1980s

The Peruvian judicial system is comprised of several different institutions, each of which has a different function. The judicial branch of government, made up of judges and court personnel, which decides all civil and criminal cases, is called the Poder Judicial. The Supreme Court is the highest authority, followed by 25 Superior Courts, which have jurisdiction over each of their 25 regions in Peru. Below each Superior Court are Courts of First Instance, which have jurisdiction over each of the provinces that comprise a region. Finally, at the lowest level of judicial power are Courts of Peace, which have jurisdiction over a single district in a region. In addition to these courts are the Tribunal Constitucional, which rules on questions of the constitutionality of laws and treaties and serves as the ultimate authority on violations of constitutional rights; and the electoral court (Jurado Nacional de Elecciones or JNE), which decides on issues related to issues such as political party or presidential candidate registrations.²²⁶ The Ministry of Justice and Human Rights (MINJUS) is in charge of disseminating and coordinating national law, including developing and implementing public policies that increase access to justice and ensure citizen protection from human rights abuses; giving legal advice to the Executive branch; providing funding for the administration and operation of courts; coordinating policies and procedures related to the management and administration of the legal system (including oversight of prosecutors and public defenders); and strengthening the rule of law.²²⁷ MINJUS was established as an autonomous body of the judicial branch in the 1979 Constitution, which also guaranteed the autonomy and independence of the Judiciary. The National Council of Magistrates (CNM) is in charge of the selection and appointment of judges.

Despite the changes brought about by the 1979 Constitution, aspects of good governance within the Judiciary did not change significantly in the 1980s. The historical patterns of corruption, inefficiency, and underfunding were pervasive, despite reform efforts undertaken by the military

²²⁶ Milagros Campos, *KAS Democracy Report 2009* (Berlin: Konrad Adenauer Foundation, 2009), <http://www.kas.de/wf/en/33.18261>.

²²⁷ Peruvian Ministry of Justice, <http://www.minjus.gob.pe>.

government of Juan Velasco Alvarado during the 1970s. Endogenous reforms efforts were stymied by the ability of the Executive branch to exert undue influence, and because “political control by the Executive, backed by a complicit Congress, also tended to be the norm, it remained difficult for the [J]udiciary to undertake necessary institutional reforms.”²²⁸ Despite the constitutional guarantees of autonomy and independence, selection of magistrates was conducted based on patronage and nepotism, resulting in the selection of poorly qualified judges who were deeply resistant to change once they were part of the system, and continued to utilize outdated procedures and engage in petty corruption.²²⁹

The result was that citizens held the Judiciary in extremely low regard in the 1980s, considering it extremely inefficient, with poorly-managed courts doing little to clear the significant backlog of cases or speed up incessant delays in processing time and administrative procedures.²³⁰ In cases where corruption might speed up processes, the cost of bribery created a system of unequal access to justice for the poor, who were further disadvantaged by the lack of an effective public defense system.²³¹ This in turn had consequences for the effectiveness of the Judiciary in providing its public service, which was further hampered by both physical limitations, such as crumbling infrastructures, as well as human capital limitations extending from ineffective police investigations and criminal prosecutions to poorly educated judges who “appeared to a skeptical public to dwell on irrelevant formalities and miss the point of the cases before them.”²³² Public surveys in the 1970s and 1980s showed that the majority of Peruvians believed judicial decisions were based on personal contacts and money, rather than the law,²³³ and that “the guardianship of rights [was] treated as a

²²⁸ Morón and Sanborn, *The Pitfalls of Policymaking in Peru*, 49-50.

²²⁹ Management Systems International (MSI), *Democracy and Governance in Peru: An Assessment* (Washington: U.S. Agency for International Development, 2000), <http://www.gci275.com/archive/governance.pdf>.

²³⁰ Jeffrey Clark, *Building on Quicksand: The Collapse of the World Bank's Judicial Reform Project in Peru* (New York: Human Rights First, 2000), <https://secure.humanrightsfirst.org/pubs/descriptions/perubuilding.htm>.

²³¹ Interview with a former lawyer, July 25, 2012.

²³² Clark, *Building on Quicksand*.

²³³ Cynthia McClintock, “Peru: Precarious Regimes, Authoritarian and Democratic,” in *Democracy in Developing Countries: Latin America*, ed. Larry Diamond et al. (Boulder: Lynne Rienner Publishers, 1999), 309-66.

marginal duty and not a priority of the [J]udiciary.”²³⁴ That the Judiciary was seen as unresponsive, incompetent, corrupt, and arbitrary by Peru’s citizens meant that citizens failed to identify with it as an institution that delivered the intended services, and thus often opted-out of pursuing formal mechanisms of arbitration and justice. This lack of accountability, inefficiency, and ineffectiveness created a chasm between the Judiciary and (particularly poor) Peruvians, which helps explain why 80 percent of those polled in 1992 agreed with Fujimori’s shutdown of the Judiciary in 1992.²³⁵

Starting with the Velasco military government in the 1970s, there were several attempts to reform the Judiciary along the lines of (mainly horizontal) accountability, efficiency, and effectiveness, many of which were efforts initiated by the Executive. That the Executive was the driver of change may help explain why these efforts tended to fail. Most of them focused on changing the system of judicial appointment, or purging the Judiciary of “corrupt” judges. Often, these were simply efforts by the Executive to rid the Judiciary of the appointments made by his predecessor. Both Belaúnde and García vowed to create an independent judiciary, with García going so far as to launch an ad campaign extolling the virtues of honesty and pledging to “change the moral life of Peru in every way.”²³⁶ In the end, García appointed APRA party loyalists to the courts, without making fundamental administrative changes to improve judicial capacity or efficiency. He in particular used his ability to purge the courts and make new appointments as a way of protecting himself from prosecutions related to human rights violations.²³⁷ As Shining Path and Tupac Amaru Revolutionary Movement (MRTA) guerrilla activity increased during the 1980s, the government’s response became increasingly hostile, and patterns of human rights abuses, carried out by the military but presumably with the consent of the Executive, increased. García wielded his influence to ensure that his cabinet and the military were protected from any potential involvement as

²³⁴ César Landa, “The Scales of Justice in Peru: Judicial Reform and Fundamental Rights,” *Institute of Latin American Studies Occasional Papers*, no. 24 (London: University of London Press, 2001).

²³⁵ Francisco Sagasti et al., *Democracy and Good Government: Towards Democratic Governance in Peru* (Lima: Peru Monitor S.A., 2001), 89.

²³⁶ “Ending Corruption in Peru Easier Said than Done,” *United Press International*, October 31, 1985.

²³⁷ Ocantos, Ezequiel González, “The Ideational Foundations of Judicial Power: Legal Cultures, Strategic Litigation and Judicial Behavior in Cases of Gross Human Rights Violations in Peru” (paper presented at a meeting of the Latin American, Caribbean and Iberian Studies Program, University of Wisconsin-Madison, April 9, 2012), 36-37.

defendants in cases of human-rights violations. In a study of judicial behavior related to cases of human-right violations in Peru, Ezequiel González Ocantos (2012) quotes a judge who witnessed the nepotism during the García years:

The judiciary is full of staunch APRA supporters, especially here in Lima. I was part of the anti-corruption subsystem and could have been promoted to a criminal chamber. Instead I was sent back to a regular criminal court. My problem was that in the 1980s I was a high-ranking clerk in a special Supreme Court panel that tried four of García's ministers. As a result, for APRA I am a persona non grata. These are the informal mechanisms that do not kick you out of the game, but make your life really difficult. They are the ones who decide on your professional future. When I was about to begin investigating the El Fronton case, they sent me to another court. They obviously kn[e]w about my position with regards to, for example, [being against] statutes of limitations [for gross human rights violations], so they got rid of me.²³⁸

Although García was able to manipulate the Judiciary within the context of Peru's war on terrorism, he had less success doing so when it came to the economy. Siding with the majority of Peruvians who opposed García's plan to nationalize the banks, the Judiciary issued injunctions against the García administration's takeover. Approximately 24 judicial challenges to the measure were filed in the courts, with the ultimate decision resting with the Supreme Court.²³⁹ García fought back against a court ruling that temporarily suspended the takeover, while it mulled over whether the move violated bankers' constitutional rights.²⁴⁰ In the end, García withdrew his plan in the face of the court challenge, hostility from Congress to the idea, and massive popular protests. This links back to the rule of law literature on the tensions between the Executive and judicial independence, as the Judiciary can act as a mechanism of horizontal accountability on Executive power, but itself resists reform efforts driven by the Executive.

Despite this notable exception, the picture that emerges of Peru's Judiciary in the 1980s, as outlined in Table 8, is that it was almost an irrelevant institution, at least to the majority of

²³⁸ Ezequiel González Ocantos, "The Ideational Foundations of Judicial Power." El Fronton was a prison that the government used to hold captured Shining Path members. In 1986, the government harshly crushed a prisoner uprising, sending the Navy to deal with the rebellion, which resulted in a charge by Human Rights Watch that 90 of those rebels killed were victims of extrajudicial executions. The Peruvian government was later censured by the Inter-American Court of Human Rights for the El Fronton incident. See "Las Ejecuciones Extrajudiciales del Penal de el Frontón y el Lurigancho (1986)," *Final Report of the Peruvian Truth and Reconciliation Commission*, August 28, 2003, <http://www.cverdad.org.pe/ifinal/pdf/TOMO%20VII/Casos%20Ilustrativos-UIE/2.67.FRONTON%20Y%20LURIGANCHO.pdf>.

²³⁹ Sam Zuckerman, "Nationalization of Peru's Banks Bogs Down in Judicial Challenges," *The Globe and Mail*, July 27, 1988.

²⁴⁰ "President Says Peru Court Won't Stop Bank Takeovers," *The Toronto Star*, August 4, 1987.

Peruvians. At its highest levels, it seemed to be easily subject to political manipulation, except in the face of legal actions that might exacerbate the economic crisis. This manipulation meant that it was not particularly effective in adjudicating terrorism cases when those cases were brought against the government for human rights violations, and increasing threats to individual judges by Shining Path leaders meant it was critically hampered in its capacity and willingness to prosecute cases against suspected terrorists.²⁴¹ At the lower levels, the inefficiency, ineffectiveness, and unresponsiveness of the courts to Peruvian citizens — particularly poor, indigenous Peruvians — meant that the majority of people essentially circumvented using the courts as an institution of justice. By the time of Fujimori's *autogolpe* in 1992, “[s]hort of resources, riddled with corruption, constrained by archaic procedures designed for an epoch long past, beset by conflicts between and within its major institutions, disdained by the public opinion and by the more talented professionals who formerly might have joined its ranks, the justice system was widely acknowledged to represent the worst of the public institutions in a country where the entire public sector was in crisis.”²⁴²

²⁴¹ Peruvian Truth and Reconciliation Commission, “Final Report,” 34-41, <http://www.cverdad.org.pe/ingles/ifinal/index.php>.

²⁴² Clark, *Building on Quicksand*.

Table 8. Summary of Observations on Role of Drivers of Change in the Judiciary in the 1980s

Influence of Executive	Horizontal Accountability	Vertical Accountability	Influence of Institutional Leaders	Level of Good Governance
<p>The Executive exerted undue influence on the Judiciary in terms of selection of magistrates resistant to good governance changes, using the guise of judicial reforms to appoint party loyalists to the courts. García also purged courts to protect himself from prosecutions related to human rights violations. However, the courts also fought García on the plan to nationalize the banks, suggests that Executive influence was not all encompassing. At one level (court appointments) Executive influence on the Judiciary was strong, but at other levels (trying to fight court ruling on constitutional issue), it was weak. Summarizing across the decade, the role of the Executive in driving good governance could be considered one of a Moderate, negative influence.</p>	<p>Per discussion of overarching context in Peru in 1980s, Congress was largely focused on terrorism and economic issues, rather than good governance, and therefore, although there was widespread disdain for the Judiciary and a majority perception that it was corrupt and inefficient, they exerted no focused, cohesive movement-type pressure on the Judiciary directly, or on the Executive or Congress/other mechanisms of horizontal accountability to take action on good governance. Therefore, the summary conclusion is that their influence in strengthening good governance in these institutions was Weak.</p>	<p>Per discussion of overarching context in Peru in 1980s, citizens and NGOs were largely focused on terrorism and economic issues, rather than good governance, and therefore, although there was widespread disdain for the Judiciary and a majority perception that it was corrupt and inefficient, they exerted no focused, cohesive movement-type pressure on the Judiciary directly, or on the Executive or Congress/other mechanisms of horizontal accountability to take action on good governance. Therefore, the summary conclusion is that their influence in strengthening good governance in these institutions was Weak.</p>	<p>The reports from individuals working in the Judiciary during the García years in particular suggest that the amount of party loyalists in the Judiciary thwarted any efforts at true reforms in line with good governance, and that those who did not socialize into the system of patronage and corruption were marginalized or pushed out of the Judiciary. Therefore, it can be inferred that the leaders of Judicial institutions exerted a Strong, negative influence on good governance.</p>	<p>The observations suggest that the Judiciary was perceived by citizens as corrupt, inefficient, ineffective, and unresponsive to the needs of the average citizen, as bribery created a system of unequal access to justice for the poor. One key indicator of this is the fact that 80% of Peruvians in 1992 agreed with Fujimori's shutdown of the Judiciary, which was billed as an anti-corruption measure. In addition, those working in the Judiciary report widespread nepotism, corruption, and inefficiency. Therefore, it is clear that in the Judiciary in the 1980s there was a Low level of good governance present.</p>

Peru's Economic and Political Environment in the 1990s

Despite the fact that by 1990 Peru could arguably be described as a failed state, García managed to serve out his term, and Alberto Fujimori was elected president via free and fair elections. Although he campaigned on a platform that rejected neoliberalism, once he took office Fujimori instituted an extreme form of shock therapy in an effort to restore Peru's international credit rating and begin receiving loans and foreign investment again. Although he did not have a Congressional majority, Fujimori was able to utilize the executive power granted by the 1979 Constitution to institute liberalization and stabilization measures (which both supporters and opponents dubbed "Fujishock"), including the lifting of import restrictions, a cut in tariff rates, a hiring freeze combined with a 50 percent reduction in the number of public-sector employees, price hikes, and an end to price controls and subsidies —resulting in the steepest one-day price increase in Peru in the 20th century.²⁴³

Fujishock had a dramatic effect on poor Peruvians, as between 1990 to 1992 real income dropped by one-third, one million workers lost their jobs, public sector wages dropped 60 percent, private sector wages dropped 40 percent, consumption dropped 24 percent, and levels of inequality and poverty rose. However, "Fujimori's cultivation of the army was widely seen as a kind of insurance policy, providing an ally in case his economic adjustment leads to widespread disorder. But despite the hardships the program has caused — the minimum wage [was] still only about \$60 a month — there [was] no social explosion. Meanwhile, [the] triple-digit monthly inflation [of 1989] dropped to 10 percent a month in 1990. 'People were tired of the instability that hyperinflation had caused. After what we went through, monthly inflation of just 10 percent seems like a miracle.'"²⁴⁴ This may explain why, despite this continued economic shock, Fujimori's approval ratings remained high, which Maxwell Cameron attributes to Peruvians' yearning for political stability and their

²⁴³ St. John, *The Foreign Policy of Peru*, 214.

²⁴⁴ Eugene Robinson, "Peru's Neophyte President Defies Political Norms but Retains Support," *Washington Post*, November 13, 1990, A12.

admiration of the *caudillo*²⁴⁵ spirit Fujimori invoked in taking strong, decisive action to fix the economy.²⁴⁶

Fujimori used his strongman appeal in his fight against the Shining Path, appointing officers loyal to him to top posts in the military. One of these measures included providing weapons to peasants so that they could directly take up arms against the Shining Path, a tactic that proved extremely effective. As his economic policies started to bring money from the IFIs back into the Peruvian economy, and the counterinsurgency strategies started to work to reduce violence, Fujimori became increasingly arrogant. In turn, Congress became increasingly frustrated with Fujimori's overuse of executive privilege, which started to exceed Congressional authority. The stage was thus set for a showdown between a Congress the president considered obstructionist, and a president that the Congress considered increasingly authoritarian.²⁴⁷

The Self-Coup and State Capture

On April 5, 1992, Fujimori seized even greater power in a self-coup that was exceedingly similar to the one staged by Augusto Leguía 73 years earlier (see Chapter 2). He suspended the Constitution, dismissed Congress, ordered the arrest of opposition leaders, and created the Government of Emergency and National Reconstruction. He justified this move by saying he needed to have the power to combat the Shining Path without interference from a weak Congress; he also cited his desire to reform the Judiciary, ridding it of corrupt judges. His military-supported bloodless takeover, Fujimori said, was to prevent a total economic collapse and a Shining Path victory, which seemed imminent thanks to a perpetually deadlocked Congress and a corrupt Judiciary. Having abolished Congress, rewritten the Constitution, and fired a significant number of judges, Fujimori was free to use what he considered to be the most efficient, technocratic means to get the country

²⁴⁵ A caudillo is as a strong, charismatic, usually populist leader – essentially, a strongman. Support for caudillos has been a feature in most Latin American countries since independence. See Skidmore and Smith, *Modern Latin America*.

²⁴⁶ Maxwell A. Cameron, "Political and Economic Origins of Regime Change in Peru: The Eighteenth *Brumaire* of Alberto Fujimori" in *The Peruvian Labyrinth: Polity, Society, Economy*, eds. Maxwell A. Cameron and Philip Mauceri, (University Park, PA: Pennsylvania State University, 2007), 37-69.

²⁴⁷ Catherine M. Conaghan, *Fujimori's Peru: Deception in the Public Sphere* (Pittsburgh: University of Pittsburgh Press, 2005).

back on track. Domestically, approval of this move polled at 82 percent,²⁴⁸ which can be understood in the context of the fact that by 1992, there was a sharp decline in inflation, so Fujishock was working. For Peruvians who had lived through the weak democracies and economic crises of the 1980s, military rule, and a longer history of democracy and dictatorship cycles, a *caudillo* who could get things done, and had actually shown results rather than just promises, was more concrete than the existence of democratic institutions whose members were at that point widely reviled.

Fujimori's authoritarian rule may have prevailed, if not for international outcry, as the United States, Japan, and Spain suspended aid and threatened sanctions. In the end, Fujimori's need for international funding to continue Peru along its solid economic path forced him to re-establish the basic mechanisms of democracy. Within a month, Fujimori announced that he was reinstating Congress, would hold municipal elections, and would work with Congress to rewrite the Constitution. He used the excuse of Peru being an anemic democracy as justification for his coup, saying that he wanted to create a more authentic democracy.²⁴⁹ Despite the fact that Fujimori then embarked on a series of moves that did the exact opposite of this, the restoration of elections and Congress satiated the international community, which at that time was more focused on democracy in terms of elections and the existence of institutions, rather than the quality of governance within those institutions.

Unfortunately, the international community's lack of scrutiny of the governance of these institutions, combined with Fujimori's popular appeal, allowed him to recreate political institutions in his own image. While Fujimori was forced by international pressure to reinstate Congress, he introduced measures to ensure that political parties remained weak. Tackling judicial threats to his rule, Fujimori introduced provisional status for judges, meaning that judges could be removed at any time by the Executive, thus severely limiting their independence. This move was enshrined in the 1993 Constitution, which reduced judicial powers by allowing judges to be elected and removed by

²⁴⁸ Kurt Weyland, "The Rise and Decline of Fujimori's Neopopulist Leadership" in *The Fujimori Legacy: The Rise of Electoral Authoritarianism in Peru*, ed. Julio F. Carrión (University Park, PA: Pennsylvania State University Press, 2006), 22.

²⁴⁹ Cameron, "Political and Economic Origins of Regime Change in Peru," 63.

Congress — a Congress that Fujimori ensured was packed with his supporters. Fujimori then proceeded to fire and replace 13 Supreme Court judges and 100 lower court judges and prosecutors, all of whom were appointed by García. Other judges were bribed to rule in favor of the government or to dismiss cases against the government. Fujimori also stacked the Supreme Court, the Council of Magistrates, and the Constitutional Tribunal with his cronies.

Due to changes in the 1993 Constitution, Fujimori was able to control other political institutions as well. Article 199 states that regions and municipalities had to report their budgets to the Comptroller General, the effect of which was to make all local governments responsible to the central government, specifically the Executive branch.²⁵⁰ The National Board of Elections, which was populated with officials loyal to Fujimori, had its rules modified so that a four-fifths majority was required for new resolutions to be adopted, making future electoral rulings against Fujimori unlikely.²⁵¹ Fujimori also had the military on his side, especially after he created secret military tribunals in which hooded judges tried suspected terrorists. Efforts by Congress to question the legality of these trials, or to investigate human rights violations perpetrated by the military, were blocked.²⁵² A series of amnesty laws were proposed in 1995 pardoning any military, police, or civilian authority member responsible for human rights violations between 1980 and 1995; Congress supported the passage of these laws. Any attempts by the Judiciary to bring charges against members of the military were assumed by the military courts, despite them having no jurisdiction over the cases. The ensuing military proceedings typically involved fraudulent legal tactics and resulted in dismissals or light sentences.²⁵³ Furthermore, such attempts were few and far between, given the ability of the Fujimori regime to dismiss judges at will based on political motivation.

Over the next eight years, the Fujimori regime, while technically democratic in that it held elections, for all intents and purposes functioned like an authoritarian regime. What Fujimori could

²⁵⁰ Philip Mauceri, "An Authoritarian Presidency: How and Why did Presidential Authority Run Amok in Fujimori's Peru?" in *The Fujimori Legacy: The Rise of Electoral Authoritarianism in Peru*, ed. Julio Carrion (University Park: Penn State University Press, 2006), 51.

²⁵¹ Steven Levitsky, "Fujimori and Post-Party Politics in Peru," *Journal of Democracy* 10:3 (1999): 78-92.

²⁵² Ronald Gamarra, "A Leader Takes Flight: The Indictment of Alberto Fujimori," in *Prosecuting Heads of State*, ed. Ellen L. Lutz and Caitlin Reiger (New York: Cambridge University Press, 2009), 95-110.

²⁵³ *Ibid.*

not achieve with the Constitution, he manipulated through a web of bribes executed by his chief of intelligence, Vladimir Montesinos. Montesinos habitually bribed members of Congress and the Judiciary to produce the political outcomes that the Executive branch desired, making monthly payments to judges and ensuring that any legal investigations never led to prosecutions.²⁵⁴ To ensure compliance, Montesinos taped all of the meetings in which he procured favors in exchange for bribes. While the press was not totally shut down, opposition newspaper editors were systematically harassed, and media outlets were bought and controlled by the government. Political opponents were not always jailed, but were ridiculed in the press and sometimes harassed by the government.²⁵⁵ Citizens were not jailed for speaking out against the government, but they had little recourse to change government policies. Fujimori thus wove a tight web of executive control over the media and over the political institutions that usually serve as checks on executive power. This illustrates the depth to which horizontal accountability was weakened in this era.

That much of Fujimori's political manipulation remained hidden for so long was the key to his survival. This was aided by two additional factors: his success in capturing and imprisoning the leader of the Shining Path in 1992, which led to a significant decrease in violence over the next eight years; and the fact that the economy began growing heartily once the effects of austerity measures began to take effect. GDP rose by 6.9 percent in 1993, and by 12.9 percent in 1994.²⁵⁶ Simultaneous economic and political stability was a rare accomplishment for a Peruvian president, and Fujimori handily won the 1995 election — which went uncontested by international observers for several reasons: First, victory was overwhelming, and declared fair after being observed by the Organization of American States (OAS) election mission and local NGO *Transparencia*. Only later was it revealed that 40 percent of the votes were declared invalid due to incorrect vote-counting, but Fujimori's

²⁵⁴ Catherine Conaghan argues that corruption was a primary constitutive feature of the Fujimori regime. It influenced his efforts to win a third term, which was banned by the Constitution. Ironically, Fujimori was at his most aggressive when accusations of corruption against him surfaced, in that he not only denied such accusations, but sought to discredit his accusers. This is a great example of how corruption is often used a political weapon against others by those who are corrupt. Conaghan, "The Immoral Economy of Fujimorismo" in *The Fujimori Legacy: The Rise of Electoral Authoritarianism in Peru*, ed. Julio Carrion (University Park: Penn State University Press, 2006), 102-125.

²⁵⁵ For more evidence, see Levitsky, "Fujimori and Post-Party Politics in Peru."

²⁵⁶ Klarén, *Peru: Society and Nationhood in the Andes*, 418.

support in the polls and the international community's renewed desire to ensure continued economic stability (and specifically U.S. interest in continued cooperation with Peru on the war on drugs) meant that there were no significant international calls for a fraud investigation.²⁵⁷

It was in this second term, however, that things began to break down for Fujimori. First, the economy worsened slightly, leading to a decline in his popularity, which he attempted to compensate for by launching new social welfare programs.²⁵⁸ Second, despite the pervasive corruption perpetrated by Fujimori and Montesinos, there were some islands of independence, such as media activists who refused to be intimidated. These activists were increasingly able to expose allegations of human rights abuses perpetrated by the military, which called Fujimori's actions as Executive into question. The most damning event was Fujimori's bid for re-election, beginning with his audacious argument that his first term in office did not count toward the two-term presidential limit, since that limit was enacted while he was in office.²⁵⁹ Fujimori's rubber-stamp Congress approved this measure, and Fujimori ostensibly began collecting voter signatures to get his name on the ballot. However, it emerged that these signatures had been falsified, which provoked outrage among citizens and in the media. Given his other abuses of democracy, it seems odd that this should cause a scandal. The difference is that the network of bribes was largely hidden, and violated the spirit of the law, whereas the signature falsification scandal was exposed, and was a violation of the actual letter of law — a distinction that raised domestic ire and was particularly worrisome for international observers.²⁶⁰ Although Fujimori won the 2000 re-election, the vote was considered seriously flawed, and was called into question by a strong opposition candidate, Alejandro Toledo.²⁶¹

²⁵⁷ McClintock and Vallas, *The United States and Peru*.

²⁵⁸ In explaining why popular sentiment should swing so drastically, Kurt Weyland offers this explanation: "People commonly assimilate gains quickly, seeing the improved situation as normal, while their earlier predicament fades into oblivion. This tendency seems to be particularly pronounced where people earlier faced problems that appear as departures from normality, such as hyperinflation or insurrectionary violence. Resolving these problems simply restores the status quo, that is, the situation that should always have prevailed and that people feel entitled to." Weyland, "The Rise and Decline of Fujimori's Neopopulist Leadership," 25.

²⁵⁹ Freedom House, "Freedom in the World 1999: Peru," <http://www.freedomhouse.org/report/freedom-world/1999/peru>.

²⁶⁰ McClintock and Vallas, *The United States and Peru*.

²⁶¹ McClintock and Vallas note that during the 2000 election, the United States was neutral, but did provide aid to monitoring groups like OAS and *Transparencia*. However, as domestic scandals came to light, the fact that Fujimori violated the letter of the law instead of just the spirit led to the United States becoming more critical, with U.S. officials meeting

Fujimori uneasily governed Peru for the next few months, and might have weathered the ongoing protests against the fraudulent election had it not been for the exposure of Montesinos' corruption ring. In September 2000, a television station broadcast a video of Montesinos bribing an opposition Congressman. Broadcasts of subsequent videos showed that Fujimori and Montesinos (dubbed the "Vladivideos") had diverted state funds to offshore bank accounts by selling arms and siphoning money from the armed forces budget; one estimate suggests that the amount the two stole from the state was as high as \$1.5 billion.²⁶²

To say that a furor ensued is an understatement. Even as they maintained a stoic cynicism about the system of nepotism and patronage in their country, the extent of Fujimori and Montesinos' web of bribery and theft of state assets deeply shocked the Peruvian population. Although Fujimori tried to distance himself from Montesinos and the scandal, it was clear that he was losing the support of the military, the Congress, and the Peruvian people. Sensing that the end was near for his regime, Fujimori departed for an APEC summit in Brunei and, instead of returning to Peru, fled to Japan. In November of 2000, he sent his letter of resignation via fax to the Peruvian Congress, which immediately removed him from office and declared him "morally incapacitated."²⁶³ In December, the Japanese government announced that Fujimori would not be extradited because he had Japanese citizenship, sparking fresh outrage among Peru's citizens. These protests, and the actions of the media in exposing the Vladivideos, show that mechanisms of vertical accountability were increasingly focused on issues of good governance, and that these issues had replaced the economy and political instability as the major concerns of Peruvian citizens.

with opposition candidate Alejandro Toledo at one point. This criticism died down when a runoff was declared, even though Toledo boycotted the runoff. McClintock and Vallas provided an analysis of why Unites States was so reticent, including some concerns about the ability of Toledo to govern a potentially volatile Peru. One of the main reasons cited, however, is that even if the United States wanted to play a more interventionist role, they had fewer carrots to use than in 1992 in terms of the economic pull of structural adjustment loans, since Peru's economy had rebounded and could likely survive the withdrawal of such assistance. In part this was because Fujimori has sold off state-owned enterprises, so it was not dependent upon international loans to bolster the economy.

²⁶² Gamarra, "A Leader Takes Flight," 98, citing Juan Carlos Ruiz Molleda, "Campaign: 'Corruption is Still Stealing from You: Break the Chain of Impunity,'" *Justicia Viva Mail*, no. 161, December 7, 2004, <http://www.justiciaviva.org.pe/justiciamail/jm161.htm>.

²⁶³ Gamarra, "A Leader Takes Flight," 95-110.

Good Governance in the Comptroller General in the 1990s

As part of the justification for his self-coup in April of 1992, Fujimori cited the corruption of the Judiciary and inefficiency of Congress and other government institutions as impeding Peru's economic growth and ability to fight the Shining Path. Specifically, Fujimori's Economy Minister suggested that the Comptroller General was responsible for sabotaging the government's plans for privatization.²⁶⁴ With the backing of the military, the Comptroller General was one of the institutions shut down by the Executive on April 5: Fujimori fired Comptroller Luz Aurea Saenz, who still had two years remaining in her seven-year appointment. This is perhaps not surprising, given that Aurea Saenz was appointed by García and thus linked to the APRA party.²⁶⁵ Critics of the *autogolpe* believed that Fujimori's real rationale was to remove all obstacles to his ability to rule by executive mandate. These obstacles included an opposition Congress, and a Judiciary and Comptroller General whose leaders and members were loyal to the APRA party, presenting a political threat to Fujimori's ability to get re-elected.

Fujimori appointed a new Comptroller, Maria Herminia Drago, who then oversaw a radical reorganization of the Comptroller General when it opened three weeks after the April 5 *autogolpe*. Of the 860 employees of the Comptroller General, 740 were fired, of which 460 were auditors. This left only 80 auditors to monitor and investigate government expenditures in all of Peru, and the result of this dramatic downsizing was a significant reduction in the Comptroller General's operational capacity.²⁶⁶ The majority of those fired were hired and trained during the 1980-1987 leadership of Comptroller Miguel Cussianovich, who focused on increasing the technical skill, capacity, and professionalization of the Comptroller General staff.²⁶⁷ Although a budget law passed in 1992 authorized the Comptroller General to hire new employees, Drago and the subsequent

²⁶⁴ Sally Bowen, "International Reprisals after Coup Strain Peru's Economic Reforms," *The Christian Science Monitor*, May 14, 1992.

²⁶⁵ "Fujimori Fires Top Banker in Peru," *Reuters*, April 28, 1992.

²⁶⁶ Inter-American Development Bank, *Peru: Program for Modernization of the Office of the Comptroller General of the Republic and Deconcentration of the National Control System (PE-L1002)* (Washington: Inter-American Development Bank, undated), <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=461875>.

²⁶⁷ "Comptroller General Resolution No. 147-83-CG-04.AGO.83," *Peruvian Ministry of Justice and Human Rights*, 1983; "Comptroller General Resolution No. 328-83-JUS-1983," *Peruvian Ministry of Justice and Human Rights*, 1983.

Comptroller during the Fujimori era, Victor Caso Lay, were slow to rebuild the professional core of the Comptroller General's Office.²⁶⁸ This indicates that one of the key dimensions of good governance, effectiveness, suffered in the Comptroller General during the Fujimori era due to declining institution capacity.

Another factor that decreased the effectiveness of the Comptroller General was the changes in the legal framework governing its mandate.²⁶⁹ Under Article 10 of the 1933 Constitution, the Comptroller General was granted administrative autonomy and functional independence. Subsequent decree laws outlined the powers and duties of auditors, and Decree Law 19039 established the National System of Control, stating that the Comptroller General was Peru's Supreme Audit Institution, and that the Comptroller was a Minister of State. Article 146 of the 1979 Constitution expanded the role of the Comptroller General as an autonomous, central National Control System that supervises the implementation of public-sector budgets and the management of public goods and services. This article further established that the Comptroller would be proposed by the President, and appointed by the Senate, for a seven-year term, with only the Senate able to remove the Comptroller for misconduct.²⁷⁰ The Comptroller General was organized along the lines of the Napoleonic/judicial model of audit institutions, and thus able to utilize the support of the police in its investigations and had sanctioning capacity within its jurisdictional function. As the sole, centralized autonomous body that constituted the National System of Control, the Comptroller General therefore had wide-ranging powers of supervision.

This legal framework was undermined in 1992 with Decree Law 26162, which repealed Decree Law 19039. Decree Law 26162 explicitly lays out the powers, principles, and criteria that can be used in the exercise of government control, and became enshrined in the 1993 Constitution's Article 82, which states that the Comptroller General is a decentralized entity of public law, and the

²⁶⁸ "Executive Decree Law No. 25986," President of the Republic of Peru, 1992.
<http://docs.peru.justia.com/federales/decretos-leyes/25986-dec-28-1992.pdf>

²⁶⁹ The history of the legal framework governing the Comptroller General is laid out on its Web site:
<http://www.contraloria.gob.pe/wps/portal/portalcgr/website/secciones/cgr/evolucion-normativa>

²⁷⁰ The 1979 Constitution refers to the Senate because Peru's legislature was bicameral prior to 1993, after which it became unicameral, and referred to as the Congress.

highest, but not the only, body in the National System of Control. The autonomy and mandate of the Comptroller General, and the appointment and dismissal procedures for the Comptroller, remained the same. However, the Comptroller General's powers were devolved and shared among other institutions in the National Control System, and its ability to control state expenditures was reduced. The Comptroller General could no longer audit expenditures in a number of companies in which the government was a majority shareholder, which allowed corruption to flourish due to a lack of oversight.²⁷¹ The same lack of oversight was present in Peru's handling of its internal and external indebtedness: Under the previous legal framework, the Comptroller General had a mandate to advise the government on its negotiations and renegotiations of debt, but this mandate was deleted in the new legal framework.²⁷² In terms of its jurisdictional purview, the Comptroller General now was considered only a first-instance control entity in administrative litigation proceedings, with the judiciary given power over the second- and last-instance proceedings.²⁷³ Thus, the 1992-1993 legal changes transformed the Comptroller General from an organization with a strong sanctioning capacity to one that was exclusively oriented to monitoring due process,²⁷⁴ thereby reducing both its effectiveness as an audit institution and its ability to hold the government accountable to the Peruvian people over state expenditures.

Fujimori's justification for the legal changes seemed valid on the surface: The excessive, centralized power in the Comptroller General allowed corruption to flourish among its auditors, and audits were often used as a political weapon. Therefore, only a radical reorganization and change to the legal framework of the Comptroller General could restore it as a proper institution of control. Yet less than a year after taking her post, Comptroller Drago resigned, saying that she had neither the authority nor autonomy needed to execute the functions of her office. Her March 1993 resignation took place in the context of her allegation that, following an inspection in October 1992,

²⁷¹ Comisión Investigadora sobre los Delitos Económicos y Financieros Cometidos entre 1990-2001, "Informe Final De Investigación," Congreso de la República, June 2002. <http://www.congreso.gob.pe/historico/ciccor/excomi/infojdc.pdf>.

²⁷² Ibid.

²⁷³ Ibid.

²⁷⁴ Inter-American Development Bank, *Peru: Program for Modernization of the Office of the Comptroller General*.

60,000 troy ounces of gold were missing from the Central Reserve Bank (BCR). This allegation prompted the Congressional Supervisory Committee to vote against her ratification as Comptroller,²⁷⁵ leading to her letter of resignation, in which she stated “I want to leave on record the mistreatment being suffered by the Comptroller General's Office as a consequence of the supervisory duties carried out at the BCR.”²⁷⁶ Drago also noted her concerns about signs of irregularities in the privatization processes surrounding the Peru Iron Company, Aero Peru airlines, and the Peruvian Sports Institute.

Victor Caso Lay was appointed the next Comptroller, and remained in charge over the next seven years as the Comptroller General weakened in its effectiveness and accountability. Caso Lay was aligned with the Executive branch, and nominated thanks to Fujimori's new party majority in the Congress, and thus proved to be submissive to executive wishes.²⁷⁷ In terms of its efficiency, there are several indicators that the Comptroller General's Office was inefficient in the execution of its work. First, according to the same law that established the National System of Control with devolved powers to the Comptroller General, Decree Law 26162, the office was compelled to prepare an annual operational plan, with each unit preparing an annual action plan. However, during Caso Lay's term, only two annual plans, in 1993 and 1997, were submitted and approved; during the other five years, work was conducted without any established plans.²⁷⁸ Yet Caso Lay managed four comprehensive reorganizations during his seven-year term, one of which was a plan to computerize the Comptroller General's Office (a plan which did not come to fruition, despite a significant amount of effort).²⁷⁹ During this time, the Comptroller General's Office also opened a number of offices in the provinces of Peru in an effort to decentralize auditing and decision-making. Yet in practice, the managers of the provincial offices were controlled by the central unit in Lima,

²⁷⁵ Rocío La Rosa Vásquez, “Crónica Política,” <http://elcomercio.pe/ediciononline/HTML/2008-11-30/cronica-politica-difical-tarea-pedir-cuentas.html>.

²⁷⁶ “Peru: Comptroller-General Resigns After Reporting Missing Gold,” BBC Summary Of World Broadcasts: The Monitoring Report, March 27, 1993.

²⁷⁷ Transparency International, Country Report on the National Integrity System in Peru (Berlin: Transparency International, 2001), http://archive.transparency.org/policy_research/nis/nis_reports_by_country.

²⁷⁸ Comisión Investigadora sobre los Delitos Económicos y Financieros Cometidos entre 1990-2001, “Informe Final De Investigación.”

²⁷⁹ Ibid.

which typically sent auditors from Lima to provinces, thus limiting their efficiency.²⁸⁰

In addition, the Comptroller General's Office did not utilize the full budget amount allocated to it each year: In 1993, it used only 55 percent of its budget, and in 1996, it used only 76 percent.²⁸¹ While this could have been interpreted as an indicator of increased efficiency, other evidence points to the fact that the office was not spending its full budget because it neglected to carry out certain major audits at the behest of the Executive. In the post-Fujimori era, the Comptroller General's Office was accused of not doing its job in its failure to investigate purchases made under seven different *Decretos de Urgencia* (urgent decrees) issued by Fujimori, which included a \$252 million procurement of 18 airplanes from Belarus in October 1998.²⁸² Caso Lay shied away from inspecting this purchase on the grounds that it was a military operation subject to secrecy and therefore could not be looked into. Yet the Decree Law 26162 specifically mentioned the Comptroller's obligation to investigate secret operations, and in fact authorized the office as the only agency that could do so. All other agencies, such as the Judiciary or the newly created *Defensoria del Pueblo* (Ombudsman), had to respect the primacy of secrecy.²⁸³ In addition, despite Drago's wish to the contrary, the Comptroller General's office did not scrutinize or control privatization transactions, a huge number of which occurred in Peru in the 1990s.²⁸⁴

Not investigating government financial dealings undermined the credibility, effectiveness, and accountability of the Comptroller General's office, as did its choice of which cases to investigate when it did flex its muscle. The most serious criticism of the office in the Fujimori era is that it was used as a political weapon, investigating and financially intimidating Fujimori's political opponents. For example, some of the thin human resources put toward decentralizing the Comptroller General's office and auditing the municipalities resulted in experts from Lima pursuing investigations of

²⁸⁰ Ibid.

²⁸¹ Ibid

²⁸² Comisión Investigadora sobre los Delitos Económicos y Financieros Cometidos entre 1990-2001, "Informe Preliminar De Investigación," Congreso de la República, August-December 2001, <http://www.congreso.gob.pe/comisiones/2002/CIDEF/preliminares/infopre1.pdf>

²⁸³ Comisión Investigadora sobre los Delitos Económicos y Financieros Cometidos entre 1990-2001, "Informe Final De Investigación."

²⁸⁴ Ibid.

municipalities that were controlled by mayors who belonged to opposition political parties.²⁸⁵ Financially, these cases represented a trivial amount in comparison to those cases the Comptroller failed to investigate related to arms procurement by the military.²⁸⁶ For example, in 1996, some 46 emergency decrees were passed that eliminated oversight of the financing and implementation of public works, such as competitive bidding. These measures paved the way for greater corruption of the social support program. “Irregularities” detected in the financing of protective public works to repair damage caused by El Niño, for example, were so flagrant that they prompted regional government officials to request that a special Congressional committee be formed to investigate these irregularities. This committee has yet to be formed, nor has the current Comptroller shown interest in exercising its investigative prerogatives. Therefore, the actual extent of corruption in these sectors is unknown.²⁸⁷

Early in his term, Caso Lay hired the head of a known drug trafficking organization as the Chief of Internal Auditing. The resulting perception was that the Comptroller General's office was an extension of the cozy relationship between the military and organized crime syndicates during the 1990s, which came together in the fight against the Shining Path. The Comptroller General's office was seen as a supporting mechanism for organized crime, aligned with the military and intelligence chief Montesinos, which is why it failed to investigate any fraud or procurement issues in the military and instead pursued the majority of its investigations of officials who were opposed to the Fujimori regime.²⁸⁸ Ultimately, no one was controlling the Comptroller General but Fujimori and Montesinos, and the office in turn failed in its ability to be an effective instrument of control of government expenditure.

This achievement was facilitated both by the lack of transparency in the Comptroller General's office and in the Peruvian government generally, as well as by the ability of Montesinos

²⁸⁵ Comisión Investigadora sobre los Delitos Económicos y Financieros Cometidos entre 1990-2001, *Análisis de la corrupción en la Contraloría General de la República, CGR, durante la década del noventa*, Congreso de la República, 2002. <http://www.congreso.gob.pe/comisiones/2002/CIDEF/oscuga/InformeContraloria.pdf>

²⁸⁶ Transparency International, *Country Report on the National Integrity System in Peru*.

²⁸⁷ MSI, *Democracy and Governance in Peru*, 46.

²⁸⁸ Interview with journalist, July 6, 2012.

and Fujimori to control most media outlets. The few exceptions included some credible accusations by the media about fiscal deals that the Comptroller failed to investigate. Examples included the deviation of public funds from their intended purpose to support Fujimori's re-election campaign; excessive purchases of medicines by Essalud (the entity in charge of the social security for health), and the mishandling of funds destined to the Intelligence Administration.²⁸⁹ It was not until 1999 that the Congress passed a Prudence and Transparency Law, requiring some fiscal transparency. However, its compliance mechanism did not have explicit sanctions attached to it, and thus the law had little power to make financial information more transparency while Fujimori was in office.²⁹⁰

That this law was passed at all signals a break between the political support Fujimori enjoyed throughout most of his two terms in office, and the late 1990s, when more and more Peruvians began protesting against him due to his audacious bid for re-election. Fujimori's opposition gained strength, and other legal mechanisms that attempted to inject a measure of accountability back into institutions were passed, such as the 1999 Governmental Auditor Ethics Code.²⁹¹ It was in this context that Fujimori selected and the Congress approved a new Comptroller, Carmen Higaonna, who was asked to investigate actions taken by Caso Lay during his term. The auditors chosen to investigate Caso Lay's administration were those who had worked with him during his term, leading to the perception that a transparent, accurate assessment of the expenditures and actions taken during the Caso Lay administration would not be forthcoming. Higaonna also undermined the effectiveness of the Comptroller General's office by changing the requirements for those hired as chiefs of internal control at public institutions. While before such a job had required one to be a collegiate public accountant, her modification to a resolution (Article

²⁸⁹ Transparency International, *Country Report on the National Integrity System in Peru*.

²⁹⁰ Inter-American Development Bank, Peru: Sector Program for Transparency in and Reform of Fiscal, Social And Judicial Policy (PE-0212) (Washington: Inter-American Development Bank, undated), <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=420564>.

²⁹¹ "Comptroller General Resolution No. 077-99-CG," Peruvian Ministry of Justice and Human Rights, July 7, 1999, [http://spij.minjus.gob.pe/CLP/contenidos.dll/temas/coleccion00000.htm/tomo00722.htm/libro00796.htm/sumilla00799.htm?f=templates\\$fn=document-frame.htm\\$3.0#JD_modifica5566](http://spij.minjus.gob.pe/CLP/contenidos.dll/temas/coleccion00000.htm/tomo00722.htm/libro00796.htm/sumilla00799.htm?f=templates$fn=document-frame.htm$3.0#JD_modifica5566).

10 of Resolution 261-2000-CG) only required one to be a collegiate professional.²⁹² Adding to these negative perceptions, Higaonna was also accused of nepotism for hiring a relative as sub-controller.²⁹³ As summarized in Table 9, this section has suggested that different dimensions of good governance in the Comptroller General were severely undermined due largely to the actions of the Executive and the willingness of leaders of the Comptroller General to align with the Executive.

²⁹² "Resolution 261-2000," Peruvian Ministry of Justice and Human Rights, March 7, 2003, http://www.mininter.gob.pe/admin/archivos/13122009231525_mof_oci.pdf.

²⁹³ Comisión Investigadora sobre los Delitos Económicos y Financieros Cometidos entre 1990-2001, "Informe Final De Investigación."

Table 9. Summary of Observations on Role of Drivers of Change in the Comptroller General in the 1990s

Influence of Executive	Horizontal Accountability	Vertical Accountability	Influence of Institutional Leaders	Level of Good Governance
<p>Fujimori appointed Comptroller to carry out his radical reforms, including firing majority of audit staff, and when first Comptroller resigned, noting lack of authority and autonomy, Fujimori appointed new Comptroller who failed to investigate Executive's financial dealings. Fujimori also passed Decree Law 26162 and emergency decrees limiting and devolving power of Comptroller. All of these action undermined good governance in the Comptroller General and thus the Executive exerted a Strong, negative influence.</p>	<p>Until the end of the decade, Congress was largely aligned with the Executive, due in part to fact that Fujimori abolished Congress, rewrote the Constitution, and ensured that his supporters were in the majority by manipulating subsequent Congressional elections, bribing members of Congress, and introducing measures to ensure that political parties were weakened. Congress facilitated and/or did not block any of the actions the Fujimori regime took that weakened or undermined good governance in the Comptroller General, and therefore was a Weak driver of good governance changes in the Comptroller General.</p>	<p>Citizens and NGOs, and to a large degree media outlets, were unaware of the level of bribery promulgated by the Fujimori regime, and the degree to which it extended to the Comptroller General. There was a general perception that the Comptroller General was corrupt, but only toward the end of the decade was the extent of the corruption made clear, and at that point, most citizens, NGOs and media outlets were focused on the bad governance plaguing the presidential election and the Judiciary. Therefore there was no strong push for good governance in the Comptroller General for the majority of the decade, and thus its influence as a driver of change could be considered Weak.</p>	<p>The Comptroller who reigned for the majority of the decade, Caso Lay, was in complete alignment with the Executive branch, and was able to quell any dissenting voices within the Comptroller General that were in favor of good governance reforms, or against the anti-good governance changes taking place in the Comptroller General. Thus the leader as a driver of good governance changes had Strong, negative influence.</p>	<p>I could find no quantitative indicators specific to the Comptroller General covering the 1990s, although there are a few measures of good governance that apply to the country's political institutions as a whole that may reflect the level of good governance in the Comptroller General (see Annex V). Based on the qualitative findings discussed above, prior positive actions taken in the Comptroller General in the 1980s were undone in the 1990s (such as the hiring and then firing of professional audit staff) and new reforms (such as Decree Law 26162 and the Executive-aligned actions of Comptroller Caso Lay) undermined dimensions of good governance, resulting in a strong, negative shift to a Low level of good governance.</p>

Good Governance in the Judiciary in the 1990s

By 1992, the Judiciary was one of the least trusted institutions in Peru. A handful of reform efforts had failed to improve the Judiciary's capacity to effectively and efficiently adjudicate cases at both high and low levels, and the Judiciary seemed to have little interest in being accountable to the Peruvian citizenry. As a result, when Fujimori announced the dissolution of the Judiciary as part of his April 1992 *autogolpe*, the majority of Peruvians supported him. Citing corruption and inefficiency of the system as his main rationale, Fujimori proceeded to purge the Judiciary, firing 70 percent of all judges, including Supreme Court and Superior Court judges as well as those on the *Tribunal Constitucional*, under Decree Laws 25423 and 25446.²⁹⁴ That same month, Fujimori enacted Decree Laws 25447 and 25454, which replaced the fired judges with appointees who had provisional status, meaning that they could be removed from their positions without cause by the Executive or the Congress. Further, their appointments, also made by the Executive with the support of Congress, needed not take into account their years of experience or legal qualifications. This aspect of the Judicial system remained in place throughout Fujimori's presidency: By 1997, only 26 percent of the 1,473 regular judges had tenure, as did only half of the 32 Supreme Court judges.²⁹⁵

These laws gave Fujimori nearly unlimited power to appoint and remove judges, prompting denunciations from both international actors and members of the Peruvian Judiciary concerned with the impact of these laws on judicial independence. He used this power extensively in the following months, which generated a strong backlash both within and outside of the country. In particular, the National Council of Magistrates (CNM) was not happy with having its power to appoint and sanction judges ceded to the Executive branch and to Congress. Partly in reaction to this backlash, the government proposed a new constitution in 1993, restoring the formal legal independence of the Judiciary. The provisions outlined in the 1993 Constitution included a number of measures that were

²⁹⁴ Freedom House, "Freedom in the World 1999: Peru," <http://www.freedomhouse.org/report/freedom-world/1999/peru>.

²⁹⁵ César Landa, "The Scales of Justice in Peru: Judicial Reform and Fundamental Rights," *Institute of Latin American Studies Occasional Papers*, no. 24 (London: University of London Press, 2001).

seemingly aimed at bolstering judicial independence, including the reinstatement of the Constitutional Court, the expansion of the CNM's power to select judges and handle promotions and firings, and the direct election of lower-court judges. The provisions also created the *Defensoria del Pueblo*, or Ombudsman in charge of human rights, as a separate autonomous entity outside of the judicial system. Yet the CNM could not undo the Decree Laws that removed judicial tenure, in part because Fujimori had the backing of a Congress he had packed with loyal supporters.

Two cases underscore the consequences of these legal changes, and the tension in the 1990s between judges appointed by and loyal to Fujimori and those who resisted the interference of the Executive. In 1994, the Supreme Court was set to decide whether a member of the Colina Group should be tried for the 1992 incident at La Cantuta University. The Colina Group was a secret paramilitary death squad authorized by Fujimori's administration to eliminate Shining Path and MRTA guerrillas by extrajudicial means, a mandate that resulted in several incidences of gross human rights violations such as La Cantuta, in which a teacher and nine students suspected of being terrorists were abducted and "disappeared."²⁹⁶ The day before the Supreme Court ruling, which was expected to be in favor of trying the case in civilian courts, Congress passed Law No. 26291, which transferred the jurisdiction of the La Cantuta case to military courts. While there were several votes against this law, ultimately the Supreme Court endorsed it.²⁹⁷ A second criminal case involving the Colina Group focused on the 1991 massacre of 15 people in the Barrios Altos neighborhood of Lima, who were mistakenly thought to be Shining Path guerrillas.²⁹⁸ In 1995, a lower court judge opened a criminal case against the Colina Group on behalf of several of the families of the Barrios Altos victims. Under pressure from the military, Congress passed Law No. 26479, which granted amnesty to members of the military who had committed human rights violations while engaged in the war against the Shining Path. The tenacious judge cited "Article 138 of the 1993 Constitution, which

²⁹⁶ Chrystelle Barbier, "Victims of Alberto Fujimori's Death Squads Unearthed in Peru," *The Guardian*, September 6, 2011, <http://www.theguardian.com/world/2011/sep/06/peru-human-rights-fujimori>.

²⁹⁷ César Landa, "The Scales of Justice in Peru: Judicial Reform and Fundamental Rights," p. 9.

²⁹⁸ Barrios Altos Case, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 147 (March 14, 2001), <http://www.worldlii.org/int/cases/IACHR/2001/5.html>.

establishes that a judge should give a constitutional norm precedence over a legal norm when these are incompatible, [and] continue processing the members of the armed forces involved in the killings. The decision was based on formal legal arguments, but before the Superior Court could rule, the congressional majority passed a second amnesty law, Law No. 26492, which established that amnesty laws were not subject to scrutiny by the Judiciary. This mandate was dutifully accepted by both the Superior Court judges and Supreme Court justices.”²⁹⁹

Concurrent with these interventions into judicial proceedings was a centralized effort aimed at administrative reform of the Judiciary. In 1995, Congress passed Law No. 26623, which modified the Organic Law of the Judiciary and created a Judicial Executive Commission and technical secretariats that had the power over, among other things, judicial budgets. In essence, the law created structures that allowed those in charge of the judicial reforms to evaluate, hire, and fire administrative staff, assess court capacities and implement new technologies, and institute new rules to streamline court procedures, discourage corruption, and increase judicial competencies.

Fujimori appointed as head of the reform process an ex-military commander, José Dellepiane, who had overseen a successful administrative reform of the Ministry of Energy and Mining. One of the justifications for Dellepiane’s appointment was the fact that the Judiciary was ruled by judges who, while very knowledgeable about the law, were not good managers of the bureaucratic aspects of the judicial system; hence the significant case backlog and other inefficiencies that made the Judiciary so disdained by the Peruvian people. Part of the reforms included increases in administrative staff salaries, improvement of working conditions, and training administrative staff with the goal of improving the quality of services provided to users of the court. In terms of efficiency, the reforms seemed to have an impact, as shown in Table 10.

²⁹⁹ César Landa, “The Scales of Justice in Peru: Judicial Reform and Fundamental Rights,” p. 9

Table 10. Effects of 1996 Judicial Reforms³⁰⁰

	1996	1997	1998
Cases Solved by Magistrates	392	1,171	1,382
Accumulated Case Backlog	106,000	75,000	2,000

That the reforms brought measurable improvements was likely surprising for the Judiciary, as the reforms were really more of a political patch than a concerted effort to provide better service delivery. The reforms were convened not in response to citizen grumbling, but in response to a wages strike on the part of court clerks. Facing this strike, OCMA reached out to the Ministry of Justice to address it.³⁰¹

There was significant resistance to the reforms from several different parts of the Judiciary. Judges in particular were resistant to the changes, in part because the reform process was delegated to non-jurist technocrats, whose authority over different parts of the Judiciary was gradually increased over time. The charge brought by the anti-reform factions within the judiciary is that the reforms were imposed by the Executive, specifically Montesinos. The judicial reforms in some ways appeared not to be concerned with actually involving judges as an integral part of the reform process, viewing them as obstacles to be reform themselves. On behalf of those protesting against the reforms, the bar association of the Arequipa region of Peru brought a complaint to the Tribunal Constitucional in 1996 that questioned the constitutionality of Law No. 26623. Although five of the seven judges ruled the law unconstitutional, it was not overturned because the Organic Law of the Tribunal Constitucional established that six votes of seven were needed to declare a law unconstitutional. The two judges who deemed the law constitutional were known to be loyal Fujimori supporters.³⁰² In response to the resistance from judges, the Executive branch increased the

³⁰⁰ Roberto Abusada, Fritz Du Bois, Eduardo Morón, and José Valderrama, eds., *La Reforma Incompleta, Rescatando los Noventa* (Lima: Universidad del Pacífico, 2000), <http://ipe.org.pe/wp-content/uploads/2009/05/la-reforma-incompleta-web.pdf>, p. 348.

³⁰¹ Victor Robles, "Entrevista a José Dellepiane," *Políticamente Incorrecto*, October 22, 2008, <http://victorrobles.wordpress.com/2008/10/22/entrevista-a-jose-dellepiane>

³⁰² César Landa, "The Scales of Justice in Peru: Judicial Reform and Fundamental Rights," p. 5

number of temporary judicial assignments and replaced judges.³⁰³

The judicial reform process piqued the interest of international aid donors, who initially pledge support to assist Peru in this process. The reforms were attractive for several reasons. First, they were an initiative that originated with the aid recipient, which demonstrated political will for reforms. Second, the reforms focused on changing administrative systems in order to reduce inefficiencies, which appealed to donors like the World Bank wanting to avoid overtly political reforms and focus on technical solutions. Third, the reforms were already showing measurable results. As a result, both the World Bank and the IADB began negotiating the terms of loans with Peru to assist with the reforms.

These loans were never disbursed, due to several incidents related to Fujimori's bid to run for a third term as president. In late 1996, the Tribunal Constitucional ruled on legislation passed by Congress that authorized Fujimori to run for a third term. The Constitution only allowed two terms, but Fujimori argued that, essentially, the first term didn't count toward this limit because the 1993 Constitution was enacted in the middle of that term — thanks to Fujimori's self-coup and suspension of the 1979 Constitution. The audacity of this appeared to be too much for three members of the Tribunal Constitucional, who ruled that this legislation was unconstitutional. In response, Congress dismissed these three members of the Tribunal. The president of the Tribunal Constitucional resigned in protest, saying that "the rule of law has broken down in Peru."³⁰⁴ Then in December 1997, Congress passed Law No. 26898 that gave provisional judges the same rights, powers and privileges as permanent judges.

The rationale behind this move relates to how the judicial representative of the JNE (the National Elections Board), who was key in ensuring Fujimori's right to run for re-election, was chosen. The Organic Law on the Judiciary mandates that the Plenary Chamber of the Supreme Court, made up of 16 members, elects the judicial representative to the JNE. All sixteen of the judges

³⁰³ Inter-American Development Bank, Peru: Sector Program for Transparency in and Reform of Fiscal, Social And Judicial Policy.

³⁰⁴ Freedom House, "Freedom in the World 1999: Peru," <http://www.freedomhouse.org/report/freedom-world/1999/peru>.

serving on the Plenary Chamber were provisional judges, and as such could not vote for the JNE judicial representative. Law No. 26898 changed this, allowing those provisional judges, who were beholden to Fujimori for their continued job security, to have a vote, thus guaranteeing that a pro-Fujimori representative would be elected to the JNE.

Anticipating the outcry that would arise from this move, in March 1998 Fujimori got Congress to pass another law, No. 26933, which deprived the CNM of its power to remove Supreme Court judges, and invested that power into the Oficina de Control de la Magistratura (OCMA). As a result, the entire CNM resigned in protest.³⁰⁵ At this point, both the IADB and the World Bank announced the suspension of planned disbursements of a \$22.5 million judicial reform loan that had been finalized in early December, ten days prior to the passage of Law No. 26898. The Bank said it would begin disbursements once the government had restored the “conditions necessary for the Project to meet its goals.”³⁰⁶ Sensing that the Bank would likely choose to cancel the loan, the Fujimori administration requested that it be cancelled, and the Bank obliged. The IADB loan was not canceled, as the IADB had already decided to opt for a modest project focused on access to justice for the poor, citing its concerns about the confrontational climate between the executive/legislative branch and the Judiciary as its reason for not supporting a more ambitious reform.³⁰⁷ Dellepiane publicly distanced himself as the architect of the judicial reforms at this point, and in May of 1998 he was removed by Montesinos. This effectively ended the judicial reforms that began in 1995, and a new program of reforms was not implemented until the post-Fujimori era. Table 11 summarizes the reforms and good governance changes that occurred in the Judiciary in the 1990s, and the roles of the different drivers of change.

³⁰⁵ Ibid.

³⁰⁶ Jeffrey Clark, *Building on Quicksand*.

³⁰⁷ Inter-American Development Bank, *Country Program Evaluation: Peru (1990-2000)*, May 2002. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=320593>

Table 11. Summary of Observations on Role of Drivers of Change in the Judiciary in the 1990s

Influence of Executive	Horizontal Accountability	Vertical Accountability	Influence of Institutional Leaders	Level of Good Governance
<p>The Fujimori regime fundamentally altered both the administrative and legal structures of the Judiciary, through measures such as firing 70% of judges and replacing them with provisional appointees, whose jobs therefore depended upon ruling per the Executive's preferences. In addition, the Executive instituted reforms which, while increasing efficiency, did not fundamentally address any other issues of good governance, which was unlikely the true intention of the reforms, given that widespread bribery and manipulation of judges was occurring. Given the number of observations, it is clear that during the 1990s, the Executive was a key driver of change that exerted a Strong, negative influence on good governance reforms.</p>	<p>As with the Comptroller General, until the end of the decade, Congress was largely aligned with the Executive, due in part to fact that Fujimori abolished Congress, rewrote the Constitution, and ensured that his supporters were in the majority by manipulating subsequent Congressional elections, bribing members of Congress, and introducing measures to ensure that political parties were weakened. Congress facilitated and/or did not block any of the actions the Fujimori regime took that weakened or undermined good governance in the Judiciary, and therefore was a Weak driver of good governance changes in the Comptroller General.</p>	<p>Unlike with the Comptroller General, citizens, NGOs, and media outlets, were more aware of matters related to the Judiciary, given the Executive attempts at reform. In addition, as the economy grew strong and the threat of the Shining Path was diminished, citizens increasing turned their attention toward issues of good governance. This tended to be mostly focused on Executive actions, and targeted at the Judiciary vis-à-vis its rulings related to Executive power and privilege. However, the power of citizens, NGOs and the media had been systematically repressed for the majority of the decade, and demands for good governance were largely ignored. Thus, vertical accountability, while increasingly vocal, was for the most part a Weak driver of good governance change in the Judiciary during the 1990s.</p>	<p>Given the different entities that comprised the relevant judicial institutions affected by Fujimori, there was no single institutional leader that controlled influence over good governance reforms, or drove or blocked changes. However, the majority of judges were aligned with the Executive, given their provision status, and those who opposed Executive actions were forced to resign. Given this loyalty-voice-exit dynamic, and the fact that the majority of judges and others colluded with the Executive either actively or passively, the inference is that as drivers of change, they exerted a Moderate, negative influence on good governance in the Judiciary in the 1990s.</p>	<p>There are few quantitative indicators for the 1990s that capture good governance changes (see Annex V). One is Confidence in the Judiciary, which dipped from 24% in 1996 to and average of 17% in 1997-8, and then rose to 24% in 1999. This correlates to some of the events outlined above, such as the late 1996 authorization from the TC that allowed Fujimori to run for a third term, and the 1997 passage of Law 26898 and 26933. The increased confidence in 1999 may have been due to the perception that the Judiciary was reclaiming some independence from the Executive, following the protest resignation of the CNIM in 1998. Despite instances of the Judiciary fighting Executive interference, however, in general the judicial reforms that were attempted failed to improve any dimensions of good governance expect efficiency, and thus throughout the 1990s, on the whole, the Judiciary continued to exhibit a Low level of good governance.</p>

While significant domestic and international criticism followed these actions, nothing changed until the 2000 election, when Fujimori lost his Congressional majority. The opposition embarked on an effort to sweep away Fujimori's changes and guarantee the independence of the Judiciary, starting with the nullification of Law No. 26898. The autonomy of the CNM was reinstated, the provisional status of the 70 percent of judges was changed to regular tenure status, and the Judicial Executive Commission was abolished. Given that these efforts coincided with fierce public opposition to the 2000 president election results, which many considered fraudulent, and the exposure of the Vladivideos, Fujimori had little recourse to block these Congressional actions. Within three months, Fujimori had fled to Japan and resigned the presidency.

Explaining Good Governance Shifts in Political Institutions

By the time Fujimori fled Peru in late 2000, the extent of the damage his regime had done to Peru's political institutions was becoming apparent. Congress, the Judiciary and supposedly autonomous agencies like the Comptroller General were no longer functioning as independent checks on executive power. While these institutions of horizontal accountability varied in terms of their strength in the past, all three were left severely weakened by the end of the Fujimori regime. Vertical structures of accountability, namely the media and civil society organizations, had been effectively silenced for many years, although toward the end of the regime these groups were able to carve out some space for voicing their complaints. Indeed, media exposure of the Vladivideos was a catalyst in the regime's downfall, and citizen protests against Fujimori's bid for a third term and re-election in 2000 energized his political opponents. Yet from 1992 until the events surrounding the 2000 election, Fujimori was able to manipulate state institutions in a manner that often undermined principles of good governance. In terms of accountability, both the Comptroller General and the Judiciary became accountable primarily to the Executive branch rather than to the Peruvian people. The Comptroller General, which was fairly effective in investigating and reporting on state expenditures prior to the Fujimori regime, became largely ineffective during the Fujimori era, and the investigations it did undertake lacked transparency. The Judiciary entered the Fujimori era with a

reputation for corruption, inefficiency, lack of accountability to its users, and a poor record of effective and transparent administration of justice. As Table 10 showed, there is some evidence that the reforms undertaken during the Fujimori era resulted in increased efficiency. However, these reforms were implemented at the same time that measures were taken that decreased the independence of the Judiciary, opened up new modes of corruption and, at a higher levels of justice administrative, undermined the effectiveness and transparency of the judicial system.

This section attempts to explain why good governance within these two institutions was undermined or made worse during the Fujimori era, drawing on the explanatory framework outlined in Chapter 3. Based on evidence from interviews conducted in Peru, it suggests that although they were different for the Comptroller General and the Judiciary, the endogenous power dynamics meant that those within the institution were unable and/or unwilling to formulate a unified and cohesive response to the executive interference. Situating this endogenous dynamic within the larger context of the Fujimori regime shows that while institutional leaders may have had strong veto power over other actors within the institutions, they had weak veto power over the Executive and Congress, and little discretion in interpreting new rules instituted by the Fujimori regime. Thus, Fujimori was able to change the dynamics of power across institutions, and in some cases this shifted the power dynamics within institutions as well. In addition, Fujimori's hidden network of bribery and weakening of vertical accountability structures meant that civil society and citizens had little to no impact on preventing Fujimori's efforts to reduce the independence, transparency, accountability and effectiveness of the Judiciary and Comptroller General.

Political Survival and Endogenous Veto Power

For both the Comptroller General and the Judiciary, any endogenously-driven reform efforts are definitively linked to institutional leadership and continuity. The leader is a political appointee, and has the power to appoint top-level staff, while mid- and lower-level civil servants typically

remain in the institution through different periods of leadership.³⁰⁸ Almost all of the people I interviewed mentioned that the leader is the most important driver of change, and that very little happens without the buy-in of the top leadership because mid- and lower-level civil servants tend to follow the will of the leader. Reforms are driven in a top-down style, rather than from the bottom up.³⁰⁹ Short-term leadership at the top, and the lack of consistency that this brings, disrupts political will for reforms generated by outgoing leaders, and thus has a potentially damaging effect on the reform process.³¹⁰ This helps explain the variations in good governance both between the Comptroller General and the Judiciary and within the different time periods being observed. In the 1980s, Comptroller Miguel Cussianovich oversaw reforms aimed at increasing the capacity of the auditing staff and, despite his affiliation with President Belaúnde's party, initiated several investigations damaging to the state. In contrast, his successor, Luz Aurea Saenz, shied away from such investigations until after García had left office. These examples indicate different styles of leadership and a lack of continuity in carrying over reforms from one Comptroller to another. In the Judiciary, the lack of serious reform efforts in the 1980s could be tied to the fact that the President of the Judiciary typically served a one- or two-year term at most, disrupting any continuity of reforms. The concentration of power in a single individual, or a small handful of individuals at the top, thus makes reforms very personality driven.

The concentration of power in a hierarchal leadership meant that those who did not agree with the leader had to keep a low profile, or else face the possibility of losing their jobs. This indicates that there was a priority of political survival ingrained in those at the mid or lower levels of the institution. One veteran of the Comptroller General suggested that this instinct was like a "chip inserted into your brain. Surviving is a practice into which we have been socialized."³¹¹ Keeping a low profile and not openly disagreeing with the Comptroller was a way to ensure oneself against reprisals, such as being reassigned to a remote location or becoming the subject of administrative

³⁰⁸ Interview with official of the European Commission, May 23, 2012.

³⁰⁹ Interview with official of the CNM, September 5, 2012.

³¹⁰ Interview with official from International IDEA, May 16, 2011.

³¹¹ Interview with official from Comptroller General, July 21, 2012.

proceedings. In cases where one might disagree so strongly with the decisions of the leadership to consider resignation, there was a barrier in the fact that the work of auditors is very specialized, with a low demand for these skill sets in other public-sector organizations or the private sector in Peru.³¹²

In the Judiciary, survival was manifested in terms of the ability to win cases, and helps explain to some degree the motivation for corruption. Whatever one felt about bribery, it was pervasive in the legal system, and it was the way things were done, and if you failed to socialize fully into this system, you would not be a successful lawyer. As one former lawyer who practiced law in the late 1980s and early 1990s said, “When you get out of university you are full of dreams, you want to save the world, you want to save Peru. We were all like that. But once you get into this system it’s different. It’s a matter of survival. As young lawyers, we wanted to be successful, to make a name for ourselves. All the older lawyers told us that if you are not a friend of the judge, or at least of his assistant, you will not win any cases. You need to bribe in order to make the case advance, and you need to make the case advance to make a name for yourself. If you didn’t, you were marked as someone who’s trying to destroy the system that works for everybody.”³¹³

The concentration of power within the top leadership, combined with the need for professional survival meant that there was little willingness or ability on the part individuals at the mid and lower levels to challenge the status quo. During the 1980s and 1990s in both the Comptroller General and the Judiciary, the status quo could be characterized as an institutional culture that did not recognize or embrace the good governance agenda. Certain leaders embraced the idea of reforming some structures in line with dimensions of good governance, such as Comptroller Cussianovich’s efforts to increase effectiveness and efficiency by strengthening the technical skills and capacity of the auditing staff. However, while corruption was recognized as pervasive and somewhat problematic, the term good governance wasn’t used at all in connection with institutional reforms.³¹⁴ As subsequent sections will show, this is consistent with both global

³¹² Ibid.

³¹³ Interview with former lawyer, July 25, 2012.

³¹⁴ Ibid.

norm diffusion of the good governance agenda, and the domestic focus on more pressing issues, namely the economy and human rights, especially in the 1980s. It was not until the exposure of the extent of the Fujimori regime's state capture that thinking began to shift en masse in these institutions. One interviewee noted that those employees who had lived through the Fujimori era and subsequently remained in the Comptroller General's office are much more responsive to issues of good governance now: "We saw a lot of things in the Fujimori era that we never thought were bad, because it was the day-to-day life, but now we can tell the difference and we know what happened before was very bad. And those of us who have been here a long time, we want to change, because the country is changing. Sometimes people in Peru don't understand, don't know how to distinguish between corruption and inefficiency, and don't realize that the person [working in the institution] is not necessarily corrupt, he is just the product of a very inefficient and old process."³¹⁵

In the Judiciary, the need for good governance reforms was recognized more than in the Comptroller General, because of courts' direct relationship with end users; in particular the enormous case backlog and punitive effect of bribery on the poor caused ongoing complaints. However, those working within the Judiciary remained unwilling to engage in reforms, as many just accepted the system as it was. When the status quo seemed as if it might shift toward a more effective and efficient way of doing things, there was support and excitement for such measures. One example was a proposed new civil procedure law, which would have streamlined processes and reduced the amount of time between the resolution of a case and the sentencing, sanctioning judges who failed to issue the sentence within the given time frame. However, this rarely worked in practice, and there was no significant push to ensure its implementation.³¹⁶

While the concentration of power in the top leadership, self-interest of job security, and lack of diffusion of good governance as a strong norm were all features of both the Comptroller General and the Judiciary in the 1980s and early 1990s, there was a divergence in terms of how much

³¹⁵ Interview with official from Comptroller General, July 17, 2012.

³¹⁶ Interview with former lawyer, July 25, 2012.

discretion employees had in interpreting rules, as the example of the failure to consistently implement the civil procedure code illustrates. In the Judiciary, the decentralized nature of the courts meant that there was a high level of discretion that judges had in interpreting institutional rules and legal codes. This high level of discretion in turn facilitated the system of bribery, and for lawyers, part of the survival process was knowing which individuals to be friends with so that a lawyer could try cases in front of a judge who would rule in his favor: “As the plaintiff, you don’t know which judge you will be assigned to, so beforehand you have to oil the machinery. Usually the plaintiff wins the case because of this. The defendant needed to use a different set of tools, like trying to change the case to another judge, using your connections to a friend or another assistant.”³¹⁷ One of the consequences of this discretion, and of the related system of bribery, was that those who could not afford to pay the required bribe did not have the same access to justice, and decisions were thus made on a monetary basis rather than on legal principles.

Citing an example, a former lawyer spoke of a case in 1993 during which the defendants failed to show up in court, which under the law meant that the plaintiff automatically won the case. In asking the judge to deliver the final sentence, the judge asked the lawyer for \$500 (about \$800 in 2013, a rather significant sum given the state of the Peruvian economy in 1993) to expedite the sentence delivery. The lawyer responded that his client was unable to pay that sum, to which the judge responded, “Well, you take the price to them. It’s not my problem anymore.”³¹⁸ The high level of discretion and system of bribery also meant that administrative reforms, such as case management software that randomized the selection of judges for different trials, did not have any impact other than to delay the process and make it more expensive. This was because “there was not a single thing you could do without bribing somebody. It was very normal, and not a single person was arrested, even though none of the services were supposed to cost any money because you had already paid the official fees. Everywhere it was the most normal thing, and they had the

³¹⁷ Ibid.

³¹⁸ Ibid.

power of denying you something without any problem.³¹⁹”

In contrast, the Comptroller General was more centralized, and there was almost no discretion in interpretation of the rules. As one employee noted, the Comptroller General “has always characterized itself for having a kind of military behavior, and everybody has to align or otherwise you are going to have a bad time. For example, if in a report on an investigation we make observations about the purchase made by a certain institution and your boss doesn’t agree with [those observations], he tries to convince you to change it. They encourage you to change any observations that might turn into an accusation of [violations of] criminal law to [accusations of] administrative violations. There is no discretion.”³²⁰ Another employee supported this, saying that “there is not much discretionality for us who have to execute [orders]. The order arrives, it is like that and that’s it. We don’t believe much in democracy or asking everybody for consensus. [You’ve just] got to do it and that’s it.”³²¹

Table 12 shows these observations interpreted through the Mahoney and Thelen framework introduced earlier in this thesis. The first two columns describe the political context of each institution in the 1990s, and the second two columns suggest what the eventual institutional change outcome will be as a result of this political context, in this case the changes that occurred after the end of the Fujimori regime. (These changes are described in detail in Chapter 6.)

³¹⁹ Ibid.

³²⁰ Interview with official from the Comptroller General, July 21, 2012.

³²¹ Interview with official from the Comptroller General, October 11, 2012.

Table 12. Endogenous Institutional Change in the Peru’s Political Institutions in the 1990s

	Discretion in Interpreting Rules	Veto Power of Defenders of Status Quo	Type of Change that Occurs	Type of Change Agent that Emerges
Comptroller General	Low. Example: Fujimori-appointed leaders enforced Executive Decree Law 26162, which curtailed Comptroller General’s power to audit state entities; employees had little discretion to interpret this rule that banned them from reviewing the finances of these state entities	Weak. Example: Those against changes could not effectively oppose leaders enforcing those changes due to hierarchical nature of Comptroller structures and concerns about job security	Displacement: Introduction of new rules to replace old rules.	Insurrectionaries: Actively seek to eliminate rules. Success of insurrectionaries linked to critical junctures.
Judiciary	Low & High. Examples: Low: The 70% of provisional judges did not have discretion to rule against the interests of the Executive, if they wanted to keep their jobs, and entities like the CNM did not have space to interpret Law 26933, which deprived it of its power to remove Supreme Court judges. High: Courts are decentralized, so in terms of the administrative reforms introduced in 1996, or enforcement of civil procedure code as cited above, could vary from judge to judge.	Weak. Examples: CNM could not effectively counter Executive interference and resigned; majority of untenured judges worried about job security and did not speak out; those opposing administrative reforms diffused across courts, judicial institutions and not consulted on the reforms.		

Executive Interference and Exogenous Veto Power

In explaining the role of different drivers of institutional change, Tables 9 and 11 on p. 146 and 153 embed the endogenous political dynamics described in Table 12 above within the larger framework that takes into account exogenous drivers of change. In terms of this relationship

between endogenous dynamics and the Executive, both the institutional response to the interference of the Executive, and the strategy of the Fujimori administration itself, can be traced back to dynamics of leadership, self-interest, and varying levels of discretion. The regime utilized its understanding of these dynamics to temporarily change the incentives of judges in terms of employment security, which in turn affected these judges' interpretation of rulings in cases that would not favor the regime. In this way, the Fujimori administration shifted the internal power dynamics of the Judiciary more in line with those of the Comptroller General's office, and then proceeded to weaken the veto power of key leaders in both institutions. While this strategy was temporarily successful, it was ultimately undone by the continued actions of the regime to undermine the independence of these institutions. The actions of the Executive branch ultimately served as a critical juncture that helped shift these institutions toward good governance in the post-Fujimori era.

Institutional leaders enjoyed a strong veto power over other actors within their institutions, and were thus able to maintain the status quo or choose to change it related to reforms, as in the case of the Comptroller General: Comptroller Miguel Cussianovich (1980-1987) oversaw a shift toward good governance by increasing the technical skills of auditors and bolstering the CGR's operational capacity, while Comptroller Maria Herminia Drago (1992-1993) significantly decreased this capacity by reducing the number of auditors from 540 to 80. While it is not clear from the available evidence whether there were significant internal protests over either of these actions, what is clear is that the Comptroller General functioned like a military organization, and thus any protests were likely muted. The situation in the Judiciary was slightly different, as the President had strong veto power in terms of instituting rules related to administrative reforms, but this power was modified by the presence of other power centers within the Judiciary and the fact that there was a high level of discretion in rule interpretation as the rules were devolved to lower levels. However, in both cases in the 1980s, these leaders enjoyed a balance of power across other institutions of horizontal accountability, at least formally. Cussianovich and his successor were able to initiate

investigations as necessary, with the support of Congress, although the evidence suggests that political party affiliation sometimes influenced decisions. However, there is no evidence to suggest that Comptrollers were legally barred from investigating specific government entities, should they wish do to so. The Judiciary was also often influenced by politics, with nepotism in judicial appointment being the norm rather than the exception. However, in cases like the 1987 attempt to nationalize Peru's banks, the Judiciary was able to push back against executive will. Thus in the 1980s there was the potential for a balance of power between the Executive branch, the Congress, the Judiciary, and autonomous entities like the Comptroller, even if this was not always exercised in practice.

The strategic legal maneuverings of the Fujimori administration shifted this balance of power, and those leaders who enjoyed strong endogenous veto power had weak veto power outside of the institution. The 1993 Constitution decentralized the powers of the CGR, and it was no longer legally able to audit companies in which the state owned a majority of the shares, nor could it advise the state on debt negotiations with international lenders. In addition, the Judiciary was given the final say in administrative litigation proceedings resulting from violations found in audit reports, which effectively took away the CGR's sanctioning power. The Fujimori administration also manipulated the existing legal structure of the CGR, such as the Offices of Internal Control (Oficinas de Auditoria Internal, or OAIs), which are the internal audit offices in each government entity. These offices were set up prior to the Fujimori era, and embedded staff members of the Comptroller General in the government entities. However, by dismissing 460 auditors as part of the administrative restructuring in 1992, these positions were then filled by individuals loyal to Fujimori. The result, according to an employee of the CGR, was that "the [OAI] scheme went from one of 'I trust you,' where we were certain that [the OAI staff] belonged to the [Comptroller General's office] in every sense, including payroll, and that they were independent from the one who is being controlled, to one in which [the OAI staff] were colluding with the ministers [of the entities they

were embedded in].”³²²

This manipulation was possible due to the weak veto power of the leader outside of the institution, combined with the weak veto power of those working inside of the institution. Fujimori’s first Comptroller clearly did not have much room to maneuver as Comptroller, as when she resigned less than a year after taking up her position, she noted that she had neither the authority nor autonomy needed to execute the functions of her office. This is supported by those working in the CGR at the time, one of whom noted that:

[The Fujimori regime] knew how the [Comptroller General’s office] worked, and they modified the laws so that we were forbidden to do certain things. For example, we could not interfere with the Armed Forces — where everything was cooked. Even if we wanted to, we couldn’t get in. We couldn’t get in to [the tax ministry] SUNAT or the Ministry of the Economy. [It wasn’t] until 2001 that the law let us back in the Armed Forces and SUNAT, and let us control everybody.³²³

Drago’s resignation seems to indicate that leaders either had to adhere to the new rules and practices instituted by the Fujimori regime, or resign their positions — the Fujimori regime did not tolerate subversion. And once the Fujimori regime could ensure that the Comptroller leadership was in line with the administration, the rest of the institution would follow the leader. Comptroller Caso Lay proved to be the loyal leader that fit the bill, as during his tenure he failed to initiate investigations of the state’s many questionable military purchases and privatization transactions.

This situation was slightly different for the Judiciary, particularly the CNM and the Supreme Court. The decentralized nature of the Judiciary meant that cases against the regime could be initiated at any number of levels from different jurisdictions. In addition, cases could make their way to the Supreme Court, which was also responsible for choosing a representative to head the JNE, the highest electoral authority in the country. The Fujimori government could not use the same tactic with the Judiciary as it did with the Comptroller, as it needed to ensure that loyalists were spread across the leadership of several judicial institutions as well as guarantee that those judges in lower courts could be controlled. This was the impetus for the replacement of 70 percent of the tenured

³²² Ibid.

³²³ Ibid.

judges with provisional judges, a move which was couched in terms of purging the judiciary of corrupt judges. This shifted the power of selecting and appointing judges from the CNM to the Congress, in which Fujimori held a majority of supporters, effectively making these provisional judges beholden to the Executive. Job security and tenure was now tied to the leader of the country, rather than to leaders of the judicial selection entities.³²⁴ This effectively lowered the discretion that judges had in interpreting rules or choosing to proceed with cases that would negatively impact the Executive branch. Yet as the La Cantuta and Barrios Altos cases show, not all judges were pacified by this intimidation, and Fujimori had to resort to his rubber-stamp Congress to pass laws that nullified human rights cases potentially damaging to the regime. “The reality was that Montesinos was able to develop a system by which he controlled the judges, and you knew which judges were corrupt. It wasn't all of them, but it was some of them — the most important ones. Montesinos and Fujimori could fix problems using those judges.”³²⁵

In addition, Fujimori had to rely on Congress to legally ensure that he could run for a third term, in violation of the 1993 Constitution that he promulgated. By imbuing Congress with the power to dismiss Constitution Court judges and giving provisional judges on the Supreme Court the same privileges as tenured judges, Fujimori shifted power to loyalists he appointed to these courts. This ensured he could run for a third term, and that his election victory was guaranteed. He also used his Congressional majority to shift the power of removal of Supreme Court judges from the CNM to OCMA, the latter of which was headed by a Fujimori supporter.

Clearly, keeping control of the Judiciary was more complicated than managing the Comptroller General, due to the differences in the two institutions' structures. The Comptroller General's office was small and fairly centralized, and the Comptroller, appointed for seven years, was able to maintain control over the institution. The Judiciary was made up of hundreds of judges spread across decentralized courts with differing levels of power and mandates, as well as centralized administrative bodies. The Judiciary proved much harder to control, and different

³²⁴ Interview with former lawyer, July 25, 2012.

³²⁵ Interview with journalist, July 6, 2012.

factions within the Judiciary served as a key pressure point on the regime throughout its tenure.

Systematic Intimidation and Civil Society Actors

The Fujimori government was able to exploit the internal power dynamics of the Comptroller and, to a lesser degree, the Judiciary, weakening their respective capacities to serve as institutions of horizontal accountability on both the Executive and on one another. With the exception of increases in Judiciary efficiency, good governance in these institutions was weakened, as they were no longer effective in fulfilling their mandates, nor were their actions transparent or accountable to anyone but the Executive branch. Ideally, the Comptroller General is indirectly accountable to citizens through its reporting to Congress, and the Judiciary is directly accountable to citizens through its delivery of judicial services. Citizens and civil society in turn act as structures of vertical accountability by demanding that these institutions act in a manner consistent with the principles of good governance, and ensure that the other branches of government do so as well.

Yet in the 1990s, this role of civil society was significant curtailed for two reasons. First, good governance was not an advocacy priority for citizens, NGOs, or the media in the first half of the 1990s, and it wasn't until Fujimori's bid for re-election that this focus shifted to demands for accountability. Second, the Fujimori government spearheaded a campaign of systematic intimidation against the media, the effect of which was to limit the ability of opponents of his regime to publicly denounce it. Again, this shifted in the late 1990s, but given the multiple offenses committed by the Fujimori administration, the main focus of civil society by that point was on an overall regime change, rather than a narrow agenda of fighting corruption or promoting good governance in the Comptroller General or Judiciary.

Although civil society had been relatively weak throughout Peru's history, in the 1970s and 1980s, there was a "growing level of organization and sophistication among a variety of social interests, especially those who had been excluded from social and political power.... [T]hese entities became increasingly influential in the 1980s... playing an active role in protesting governmental

policies during that decade.”³²⁶ The actions of the Shining Path to harass and violently intimidate some of these groups during the 1980s had weakened them somewhat, but many neighborhood associations continued to provide services to the poor. The main focus of civil society at this time was on economic welfare and labor rights, however, and not good governance, given the twin crises of the economy and terrorism. People were aware of government corruption, and cited the Judiciary as one of the most corrupt institutions, but for the most part corruption remained hidden and tolerated:

Everybody knew that there was corruption but it was accepted, we were used to living with it. Not until the end of [the] Fujimori [regime] did we [think we] need to have a plan, a strategy against it, to make sure the public administration was aligned with ethics, prevention, transparency, and the fight against corruption. This is something that didn't happen in the '90's, and even less so before, [because] people did not even talk about it.³²⁷

While corruption and good governance were a low priority, human rights had increasingly become an issue due to the war with the Shining Path and the human rights violations perpetrated by both the government and the guerrillas in this struggle. In 1985, a coalition of regional and national NGOs came together under the umbrella organization Coordinadora Nacional de Derechos Humanos (CNDH), which denounced and documented human rights violations. In the 1990s, the CNDH connected with international organizations like Human Rights Watch, which in turn facilitated contacts with the Inter-American Commission of Human Rights. This put a spotlight on the situation in Peru throughout the 1990s, and by the end of the post-Fujimori era, the CNDH was “considered a model worldwide for its breadth and unity, ability evolve its strategy over time, and effectiveness in curbing human rights abuses and raising public consciousness.”³²⁸ Ocantos (2012) shows how the pedagogical interventions of these human rights NGOs helped shift judicial norms from a formal, positivist legal culture that favored the military and the Executive to one that embraced judicial doctrines that favored the defense of human rights. Given that the concepts of human rights and

³²⁶ Mauceri, “An Authoritarian Presidency,” 56.

³²⁷ Interview with official from the National Anti-Corruption Commission, July 16, 2012.

³²⁸ MSI, *Democracy and Governance in Peru*, 58.

good governance overlap in some ways, such as the idea that the Judiciary is responsible to citizens for defending their human rights and civil liberties, this indicates that a slow diffusion of good governance norms had started to take hold in the 1990s.

Indeed, while the focus on good governance in terms of administratively reforming state institutions did not become an explicit agenda until after the end of the Fujimori regime, the demand for a democratic government accountable to the people gained traction in the wake of Fujimori's bid for re-election. The small pockets of muted protests from different individuals and the non-majority opposition members in Congress in the first half of the 1990s became a groundswell in the latter half in response to the "Law of Authentic Interpretation of the Constitution," which allowed Fujimori to run for a third term. Student protests followed the 1996 dismissal of the three judges on the Tribunal Constitucional; the CHDH joined with press watchdog organizations and the Instituto de Defensa Legal (or IDL, a think tank headed by economist Hernando de Soto) to document abuses committed by the government during the re-election campaign; election observation NGOs like Transparencia were founded; and bar associations joined with civil society organizations to mount legal challenges against the regime.³²⁹ In 1998, these opposition groups banded together to deliver a petition with more than 1.4 million signatures, calling for a national referendum on the re-election law.³³⁰ The referendum was killed by the Fujimori government, thanks to a law (upheld by the JNE) requiring a majority Congressional vote for a referendum to go forward. The defeat of the referendum seemed to mark a turning point for Peruvians, as up until that point, "everybody knew [the regime was authoritarian] but we never saw it publicly. We started seeing that at the moment. So, after that [the acknowledgment of this reality became] something very normal."³³¹

Fujimori attempted to stem the tide of public perception that his regime was anti-democratic using the same techniques he had employed since the 1992 coup. In terms of civil

³²⁹ Conaghan, *Fujimori's Peru*, 175-177.

³³⁰ *Ibid.*

³³¹ Interview with former lawyer, July 25, 2012.

society, in the early 1990s this included folding NGOs that provided social services into government agencies, making changes to the Labor Code that reduced unions' power to strike or engage in collective bargaining, and reducing the ability of peasants to organize by eliminating coops.³³² The most important strategy, however, was the manipulation of the press. While NGOs had been weak prior to the 1970s, Peru's press "had a long tradition of vigorous investigative reporting, representing the full range of ideological positions in the country."³³³ Given the protest of the international community to the anti-democratic nature of the 1992 self-coup, the importance assigned to press freedom as a hallmark of democracy, and the need for international financing, Fujimori could not overtly shut down the press. Instead, the regime used tactics of bribery, wiretapping, and prosecuting of journalists for tax code violations to harass and manipulate the media into submission. In addition, the regime created an "alternative press" to serve as "a vehicle for pro-Fujimori propaganda and scandal mongering carried out against opposition forces."³³⁴ There were several incidents where the press uncovered suspicious or illegal activities of the regime, suggesting that there were links between Montesinos and drug traffickers, and that massive bribes were used to silence critics of the regime. The incident that shifted Peruvian public opinion toward the idea that the regime was manipulating the media was the 1998 case of a television station owner who exposed the illegal actions of Montesinos and the intelligence services.³³⁵ Coinciding with Fujimori's obvious manipulation of the Judiciary, it triggered an onslaught of domestic disapproval and international condemnation, as evidenced by the 1999 resolution passed in Congress that criticized Fujimori for interfering with the Judiciary, harassing the press, and manipulating Peruvian institutions in order to stay in power.³³⁶ What this shows is that mechanisms of vertical accountability, which had long focused on economic issues, were turning to issues of good governance. In addition, although they had been systematically weakened during the first part of the

³³² Mauceri, "An Authoritarian Presidency," 58.

³³³ *Ibid.*

³³⁴ *Ibid.*

³³⁵ A detailed account of this case is provided in Chapter 7 of Conaghan, *Fujimori's Peru*.

³³⁶ Freedom House, "Freedom in the World 1999."

Fujimori era, they grew in strength towards the end of this era.

The Impact of Aid Donor Interventions

The Fujimori regime was able to utilize its knowledge of the internal dynamics of the Comptroller General and the Judiciary to effectively undermine their ability to function as institutions of horizontal accountability to keep the Executive branch, or each other, in check. The internal dynamics meant that these institutions were unable or unwilling to formulate a cohesive response to the regime's manipulations. In addition, in the absence of this horizontal accountability, civil society organizations and the media were unable to act as effective mechanisms of vertical accountability. This helps explain why these institutions' ability to deliver services in line with principles of good governance was weakened during the Fujimori era.

Against this backdrop, international aid donors did not play a significant role in acting as either a catalyst or a mechanism for institutional shifts toward good governance. The relationship between donors and the Peruvian government was a tempestuous one due to the government's refusal to service its debt. This colored the relationship that donors had with the Fujimori government, as donors were willing to take a soft line with some actions of the regime because of Fujimori's successful handling of the economy. Further, Peru had reinstated the institutions of democracy after the 1992 coup, and the good governance agenda was not firmly embedded as a priority for donors until the second half of the 1990s, and thus institutional reform was not the driving concern until 1996. At that point, several donors attempted to assist the regime with administrative and judicial reforms, but as the political manipulations of the regime became clear, donors withdrew from deeper engagement. Ultimately, this led to those few good governance projects implemented in Peru in the 1990s having little or no impact, while other projects, like the World Bank judicial reform loan, were cancelled altogether. The main impact of donor engagement in Peru in the 1990s was to diffuse norms of good governance among opposition figures and civil society groups, as in the case of supporting coalitions of human rights NGOs.

The Nature of Donor Interventions

International aid donor engagement aimed at institutional reform is not a new phenomenon in Peru. From 1956 to 1962, Peru received more than \$70 million in military aid, including funds for road-building and development projects as well as technical assistance aimed at modernizing military structures and training military officers.³³⁷ More than 800 Peruvian military officers trained with the U.S. military at bases in Panama and the United States between 1949 and 1964.³³⁸ The politics of the Cold War meant that this aid was inconsistent, however, and this relationship did not continue once the Velasco military government came to power in the 1970s. The Velasco government alienated itself from international financial institutions, but his successor Belaúnde undid these policies and pursued IMF prescriptions for stabilization and liberalization.

Belaúnde continued these policies, but the world recession of 1981 to 1983 and the Mexican debt crisis in 1982 meant that the Peruvian government was unable to find investors for the majority of the state-owned enterprises it hoped to sell off. As a result, it temporarily suspended its debt payments, which led to a significant decline in FDI and IFI loans.³³⁹ Although Belaúnde implemented fiscal austerity measures, his presidency ended with an economic crisis. In contrast to Belaúnde, García pursued populist strategies that included increases in real wages, a reduction in taxes and interest rates, price freezes, and currency devaluation. At first, Peru's foreign reserves financed consumption and imports, allowing García to increase spending on social programs for the poor, but this strategy proved unsustainable. As foreign reserves were exhausted and the trade deficit grew, García was forced to default on all of Peru's debt.³⁴⁰ As Peru entered a severe economic crisis, the international financial institutions had essentially given up on engaging with the García government. Fujimori resumed interest payments on some international debts, which paved the way for renewed talks with the World Bank and IMF, as well as foreign creditors. In return for a promise of continued implementation of austerity measures and uninterrupted debt servicing, the

³³⁷ St. John, *The Foreign Policy of Peru*, 189.

³³⁸ McClintock and Vallas, *The United States and Peru*, 19.

³³⁹ *Ibid.*, 33.

³⁴⁰ Skidmore and Smith, *Modern Latin America*.

United States, Spain, and Japan pledged \$2 billion to cover Peru's defaulted debts to the IMF and other foreign lenders.³⁴¹ Ultimately, this restoration of Peru's credit allowed Fujimori to appeal to foreign investors as well, and by the end of his rule in 2000, he had succeeded in privatizing all but 10 of Peru's 183 state-owned enterprises.³⁴² Following the inconsistency of the 1980s and the failure of Peru to service its debts, this reversal made Fujimori a darling of the international financial institutions. Reforming economic policies and institutions in line with the prescriptions of the Washington Consensus was sufficient to appease the IFIs, as they had not yet adopted a focus on strengthening judicial institutions as part of ensuring positive economic growth.

The 1992 *autogolpe* sparked international protests from bilateral donors, which suspended aid and threatened sanctions, prompting Fujimori to re-establish the basic institutions and mechanisms of democracy. This was sufficient to appease the United States and other bilateral donors concerned with democracy, as the United States continued to narrowly define democracy as free and fair elections, which the Belaúnde administration had met in terms of international standards. U.S.-based human rights groups did raise concerns about violations perpetrated by the military in its actions against the Shining Path, but this was not a major concern of the U.S. government at the time. So even as domestic actors were beginning to agitate for institutional changes related to good governance, international actors were more focused on economic performance and democratic elections, even at the expense of strong institutions. In addition, throughout the 1990s, the war on drugs was a major foreign policy priority for the United States, which was willing to ignore certain actions of the Fujimori regime in return for continued international cooperation in this arena.³⁴³

Modest or Cancelled Projects

Following Fujimori's 1995 re-election, which was deemed free and fair by both the OAS and

³⁴¹ St. John, *The Foreign Policy of Peru*, 215.

³⁴² Klarén, *Peru: Society and Nationhood in the Andes*, 424.

³⁴³ McClintock and Vallas, *The United States and Peru*.

Transparencia,³⁴⁴ he embarked on the “second wave” of judicial reforms that supposedly aimed at ridding the Judiciary of corruption and making it more efficient. The Peruvian government had initiated pilot projects in the Chiclayo and Lima regions, which utilized a top-down approach of reform that aimed to separate judicial functions from administrative functions, and use technology to make administrative processes more efficient. This included “introducing computerized systems into the administrative and jurisdictional procedures, creating specialized tribunals in different areas of the country..., establishing ‘corporate offices’ to accelerate case processing..., training for jurisdictional, administrative, and auxiliary personnel..., [increasing] the judicial branch budget and revenues, [and] improving judges’ salaries.”³⁴⁵ This was part of the \$100 million judicial reform plan of the government, which anticipated investing \$40 million and having international aid donors make up the rest.³⁴⁶ Preliminary results from the Lima courts showed early success, with case clearance rates rising from 66 percent in 1995 to 126 percent in 1997.³⁴⁷ Even before these results emerged, the World Bank, IADB, and USAID all expressed interest in assisting Peru with the judicial reforms.

As is consistent with their different perspectives on good governance reforms, for the Banks this meant narrow technical cooperation that avoided any political engagement. The World Bank’s cancelled loan was aimed at financing

consulting services, training, equipment, and physical infrastructure improvements. According to Bank documents, the Project was to focus on three areas that overlapped significantly with the Fujimori government’s existing reform initiative: administration of justice, access to justice, and judicial selection, training, and evaluation. The administration of justice component would concentrate first on strengthening the general management capacities of the Supreme Court and the Superior Courts, through management training and a new management information system. It also would contribute to improving the performance of lower courts through training, better information systems and physical improvements. The access to justice component would provide training to justices of the peace, reform the justice of the peace system, create a fund for NGO involvement, and would supply funding to the Office of the Public

³⁴⁴ Although there was several protests of fraud — see Chapter 5 in Conaghan, *Fujimori’s Peru*.

³⁴⁵ MSI, *Democracy and Governance in Peru*, 22.

³⁴⁶ Clark, *Building on Quicksand*.

³⁴⁷ Maria Dakolias and Javier Said, *Judicial Reform: A Process of Change through Pilot Courts* (Washington: The World Bank, 1999), <http://documents.worldbank.org/curated/en/1999/05/437839/judicial-reform-process-change-through-pilot-courts>.

Defender.... The judicial selection, training, and evaluation component would support key activities of the National Council of the Judiciary (NCJ) (responsible for the selection, periodic ratification, or removal of judges and prosecutors), the Judicial Academy (responsible for judicial and prosecutorial education and training), and the Office of Judicial Supervision (responsible for judicial discipline), respectively. The Project was to be carried out by two judicial branch entities as well as three external agencies. The internal entities were Dellepiane's Executive Commission and the Office of Judicial Supervision. The three external agencies were the Office of the Public Defender, the National Council of the Judiciary, and the Judicial Academy.³⁴⁸

Even before the approval of the loan, there was significant concern, both inside and outside of the World Bank, about the political nature of this project, given the authoritarian nature of the regime. Yet the Bank steadfastly moved forward, anticipating that it could steer the Peruvian government toward respecting the autonomy of the Judiciary and reestablishing some of the independence that had been lost. The resignation of the CNM proved the tipping point for making it clear that the loan would be more problematic — and more political — than the Bank had anticipated. The Fujimori administration was not interested in undoing its legal actions against the CNM, and the Bank refused to disburse the loan without this condition being met. Ultimately, the Peruvian government asked to withdraw from the loan, and the Bank acquiesced.

Partly in response to the experience of the World Bank, the IADB opted for a less “ambitious reform” and opted for a “modest project focusing on access to justice for the poor.”³⁴⁹ This project focused on building 43 basic justice modules (Módulo Básico de Justicia, or MBJs) in isolated areas without easy access to courts. The aims of the MBJs was to create “one-stop” service center that reduced inefficiencies and paperwork by centralizing services in remote areas so people did not have to travel long distances to central courts, thereby increasing access to justice for poorer Peruvians.³⁵⁰ Initially, the IADB planned to cover the construction, equipment, and training costs related to 83 of these MBJs at a cost of \$20 million, but conflicts within the Judiciary continued to block implementation, resulting in an “Unsatisfactory” rating for implementation progress. As a result, the

³⁴⁸ Clark, *Building on Quicksand*.

³⁴⁹ Inter-American Development Bank, *Country Program Evaluation: Peru*, 34.

³⁵⁰ Paul Constance, “One-Stop Justice,” *IDB América*, August 2003, <http://www.iadb.org/idbamerica/index.cfm?thisid=2305>

IADB reduced its planned support to \$11.5 million for 43 MBJs. An independent evaluation of the MBJs suggested that they had succeeded in increasing access to justice, particularly in those areas that have not historically had any access to the justice system.³⁵¹ Reflecting on the success of the project, the IADB noted that any future reforms that “involve[d] both administrative complexity and political intensity” would “require a political regime [that] is cognizant of the virtue of strong vertical and horizontal accountability.... [T]he experience of Peru in the 1990s with this type of reform has been much less successful than the experience with the enclave strategy in building the institutions of economic governance.”³⁵²

In contrast to the more technical focus taken by the Banks, USAID’s strategic objective was “Broader Citizen Participation in Democratic Processes” and focused on several intermediate results, including “creating greater access to justice, building the capacity of local governments to be more responsive to their constituents, and ensuring that citizens [were] better prepared to exercise their rights and responsibilities.”³⁵³ This gave USAID some leeway in terms of channeling its assistance to NGOs, which it did in response to the “resistance of the [g]overnment of Peru to improving the effectiveness of state institutions.”³⁵⁴ USAID shifted its strategy from one that mixed top-down and bottom-up reforms to one that focused solely on demand-driven reforms related to restoring democracy in Peru, thereby reducing the activities undertaken as part of the access to justice and local government capacity results. USAID activities were aimed at raising citizen awareness about human rights and increasing participation in the political process by providing institutional strengthening assistance to the Ombudsman’s Office, financial support to NGOs that trained human rights promoters, and providing grants to democracy-promotion NGOs for outreach and advocacy. This strategy proved fruitful:

USAID support was... targeted to assist in the establishment of 10 regional

³⁵¹ Ibid.

³⁵² Inter-American Development Bank, *Peru: Sector Program for Transparency in and Reform of Fiscal, Social And Judicial Policy*

³⁵³ Management Systems International, *Evaluation of USAID/Peru’s Democracy Education Activities* (Washington: U.S. Agency for International Development, 2000), http://www.gci275.com/archive/demo_edu.pdf.

³⁵⁴ Ibid.

[Ombudsman's] offices around the country by 2001 — starting from a baseline of five decentralized units in 1998. To date [2000], nine such offices are in operation, including Ayacucho and Trujillo.... It was reported that the majority of cases presented to the Ombudsman's Office involve economic and social rights (i.e., pensions, child support, etc.), as well as complaints against municipal governments. In Ayacucho, it was reported that 60 percent of those who approach the Office do so because they simply do not know where else to go to register a complaint or file a claim.... In 1999, promoters trained by [NGOs] had disseminated human rights information among nearly 175,000 citizens.³⁵⁵

What these projects suggest is that institutional strengthening projects in the late 1990s could not be isolated from the larger political context of the Fujimori regime. In this context, projects aimed at improving good governance in institutions in which the Executive branch had exerted control could not be implemented, failed to have the desired impact, or had only a modest impact. In institutions that were not controlled by the Executive branch, there were greater impacts, as in the case of the Ombudsman and decentralized MBJs. Projects that circumvented the state entirely by funding NGOs also had a positive impact, which ultimately contributed to pressure on the Fujimori regime. However, the impact of aid donors' interventions in this period could not halt or undo the effects of the Fujimori regime on good governance within the Judiciary and the Comptroller General's office. They could only contribute to the struggle against the regime, whose 1992 coup precipitated a critical juncture that shifted these institutions away from good governance. A second critical juncture was needed to shift them toward good governance — the catalyst for which was provided by the regime itself.

Conclusions

This chapter outlined the good governance changes in Peru, and specifically in the Comptroller General's Office and the Judiciary during the 1980s and the Fujimori era from 1990 to 2000. It suggested that the shifts in good governance in these institutions could be explained by the intersection of excessive Executive interference, which undermined structures of horizontal accountability; a lack of civil society actors agitating for reforms, suggesting a deficiency of vertical

³⁵⁵ Ibid.

accountability; and the inability or unwillingness of actors within the Judiciary and the Comptroller General's Office to formulate a cohesive response to this interference.

This lack of response can be traced back to the internal organizational dynamics of institutional leadership, the preference of actors working within these organizations for ensuring their job security, the lack of significant good governance norm diffusion amongst actors working within these institutions, and the low level of discretion for interpreting rules within the institutions. In terms of the key independent variables, the Executive was a strong driver of negative good governance-related institutional change. Institutions of horizontal and vertical accountability were weak, and could not effectively block these changes. In the Judiciary and the Comptroller General, leaders of the institutions either aligned with the Executive or were unable to block the changes that the Executive drove.

In this context, aid donors were unable to implement effective good governance projects because the level of state capture was too deep for donor programs to have a significant impact on good governance in political institutions. In sum, Fujimori's ability to weave a web of corruption that consolidated his executive power undermined the ability of other government actors, non-governmental actors, and the international community to influence institutional reforms.

The result of this state capture came to a crisis point during and after the 2000 election. The ongoing manipulation of state institutions to ensure Fujimori's re-election, combined with accusations of fraud during the election process, caused wide-scale protests against the regime, indicating the increasing power of a mobilized civil society and thus a nascent vertical dimension of accountability. The exposure of the web of bribery that the Fujimori administration had used to ensure compliance from Congress, government agencies, and the media added fuel to the fire, and eventually Fujimori fled the country and resigned the presidency. The net effect was that, whereas at the end of the 1980s, Peru was on the brink of social and economic collapse, by the end of the 1990s it was on the brink of institutional collapse, as the quality and integrity of the country's democratic and political institutions had been decimated. Peru's successive governments therefore

had an enormous task before them: to rebuild and strengthen democratic institutions under the watch of a concerned international community and vocal but cynical public.

Chapter 6: Good Governance in the Post-Fujimori Era

Introduction

As with Chapter 5, this chapter also begins with an overview of the political and economic environment in Peru, this time in the 2000s, to place the changes that occurred in the Comptroller General and the Judiciary in the broader context of the changes related to good governance. There was a significant critical juncture precipitated by the exposure of the level of state capture perpetrated by Fujimori, and this critical juncture led to actions and events that signaled the adoption of good governance as a norm, among both Peruvian citizens and government officials.

This first section outlines the major changes related to good governance that illustrate the strengthened mechanisms of horizontal and vertical accountability, and how they balanced the actions of the Executive branch in this era. The second section describes the nature of different dimensions of good governance in the Comptroller General and Judiciary in this time period, showing how effectiveness, efficiency, transparency, and accountability shifted in these institutions.

The third section illustrates the endogenous institutional dynamics that explain this difference in outcomes between the Judiciary and the Comptroller General. Building upon Chapter 5, it shows that the low level of discretion for rule interpretation in the Comptroller General helped strengthen good governance, while the high level of discretion in rule interpretation in the Judiciary meant that reforms were not implemented consistently and cohesively. The final section will explain the role that good governance aid played in driving good governance-related institutional changes in the 2000s. It shows that while aid was instrumental in facilitating good governance reforms, it did not drive them in the sense of setting the agenda. However, good governance aid was key in providing needed technical assistance and know-how about how to change institutional structures to promote good governance. In this way, aid donors have been able to assist the Judiciary and Comptroller General in embedding good governance-related practices and providing continuity for

reforms where there has been an absence of consistent leadership.

The Economic and Political Context in Peru, 2000-2010

The window of opportunity created in the wake of the Montesinos bribery scandal shifted the long-term pattern of tolerance for authoritarian tendencies within the Executive branch. Corruption was no longer tolerated, and both civil society and government leaders pledged to introduce changes that would increase good governance in Peru. As one of the leaders of Peru's National Anti-Corruption Commission noted, the early months of transition showed that "Fujimori was too much. The scandal really hit [Peru] and made [Peruvian society] rethink and reflect about [its] values and principles. [Peru] recognized corruption as a problem and saw that it was necessary to incorporate a strategy to fight against corruption. [The end of the Fujimori era] was a point of reflection in Peruvian society because it let everyone know we needed to take action."³⁵⁶

Yet although the first years of democratic transition saw a flurry of new laws and policies aimed at promoting good governance, the democratic transition period has shown that implementation and deep institutional change is proving more difficult than "stroke of the pen" changes, particularly in the Judiciary. This section traces the first years of transition in order to bring to focus the way the status quo of unchecked executive power was disrupted, and legal structures governing institutions of horizontal accountability were changed so that a balance of power emerged. Vertical accountability was strengthened with the lifting of press restrictions, and the ongoing focus on good governance catalyzed Peruvian citizens to demand more accountability from the state. Legal changes helped reintroduce independence in the Comptroller General's office and the Judiciary, and new laws and policies precipitated a shift toward good governance. This led to rapid changes toward good governance in the Comptroller General's office, but was a "mixed bag" in terms of progress toward good governance in the Judiciary.

Decentralization and the National Accord for Governance

Despite the cycles of transition between elected governments and military coups that

³⁵⁶ Interview with official from the National Anti-Corruption Commission, July 16, 2012.

characterized Peru's history, the post-Fujimori era transition had a different quality to it. In many ways, this was because Peru's transition came at a time when international financial institutions and aid donors had reached the conclusion that sound economic policies and democratic processes could not be maintained without the proper institutional foundations. Peru was a case in point, as it needed to both reform existing institutions and install new ones to create such a foundation. In late 2000, the Congress appointed an interim government to assist with this transition and manage the process of the 2001 presidential and Congressional elections. The winner of the presidential election was Alejandro Toledo, who had run against Fujimori in 2000 and subsequently boycotted the run-off election that year due to extensive allegations of electoral fraud. Toledo was faced with the significant challenge of creating new legal safeguards to keep the power of the Executive in check, while disentangling the Executive from its interference in these institutions.

The immediate aftermath of the Montesinos bribery scandal and Fujimori's resignation represented a window of opportunity for developing and strengthening institutions that Fujimori had systematically weakened during his 10 years in power. The period between 2002 and 2005 was marked by a flurry of new laws and policies aimed at promoting good governance in Peru, particularly by removing the opportunity for executive interference in government institutions, and formally giving other government actors more power to keep the Executive branch in check. An overarching priority was to devolve power away from the Executive branch and institutions in Lima, which was accomplished by the creation of new regional governments in 2002; these were given many functions that had been a monopoly of the central government during the Fujimori era, including budgetary functions. One of the immediate results of this decentralization process was that almost 25 percent of the national budget came under the control of the regional governments.³⁵⁷ This focus on decentralization was part of a set of 30 policies included in the 2002 National Accord for Governance, which was agreed upon with the consensus of all of Peru's political parties in conjunction with civil society organizations. This included Policy 26, which related to the

³⁵⁷ Freedom House, "Freedom in the World 2003: Peru," <http://www.freedomhouse.org/report/freedom-world/2003/peru>.

“promotion of ethics and transparency and eradication of corruption, money laundering, tax evasion, and contraband in all its forms.”³⁵⁸ In addition to these policies, several laws were passed that related to transparency and accountability in the public sector. These included the 2005 Law on Code of Ethics in Public Office and the 2002 Law of Transparency and Access to Public Information, which obligates the state to “encourage transparency, publish and grant [s]tate information to all citizens, and obligate all [s]tate entities to operate transparent Web sites on which are published documents on administration, budgets, procurement, and activities of public officers.”³⁵⁹

Despite these efforts, there is a perception among Peruvian citizens that corruption has in fact been increasing since the Fujimori era, a perception that has grown with the increase in press coverage on corruption. In many ways, it can be argued that Toledo is the victim of his own success in re-establishing democratic safeguards, particularly in terms of increased government transparency and liberalization of the press. During the Fujimori era, the press fought an uphill battle to report corruption, often at great risk of threats, intimidation, and harassment by the government.³⁶⁰ Once this reporting became easier under the Toledo administration, there was an increase in reporting on accusations of corruption, which some have labeled *denuncialogia* — an obsession with denunciation of individuals for alleged acts of corruption.³⁶¹ The increased public sensitivity to, and awareness of, corruption naturally led to increased identification of corruption as a major societal problem, with blame being placed on the incumbents for being corrupt or not doing enough to fight corruption. In 2004, for example, 70 percent of those polled in a survey conducted by the anti-corruption NGO Proética said they believed that Toledo was corrupt.³⁶² This cannot be dismissed, however, as being the sheer effect of *denuncialogia*, as Toledo was at the center of several corruption scandals during his five-year term. The biggest of these related to Congressional

³⁵⁸ CAMRIS International, *Peru Threshold Program: Data Quality Review and Midterm Assessment*, U.S. Agency for International Development, July 2010, p. 33

³⁵⁹ CAMRIS International, *Peru Threshold Program*, p. 33-34

³⁶⁰ A reporter had discovered and leaked the video of Montesinos bribing a congressman, which set off the chain of events that would lead to the downfall of the Fujimori government.

³⁶¹ Freedom House, “Freedom in the World 2005: Peru,” <http://www.freedomhouse.org/report/freedom-world/2005/peru>.

³⁶² *Ibid.*

accusations that Toledo's campaign had forged the signatures needed to register his Peru Possible party for the 2005 elections, a charge that was later validated by forensic analysis showing that 77 percent of the 1.2 million signatures were indeed forged.³⁶³ Although Toledo denied knowledge of this, he finished his term under a cloud of suspicion that his actions were no different than those taken by Fujimori during the 2000 election. Peruvians lost confidence in Toledo's leadership style and ability to govern, leading to calls for his early resignation. He narrowly avoided an impeachment vote in Congress and managed to serve out his full term, leaving office with a 40 percent approval rating. What this shows is that there was both increased public attention and sensitivity toward corruption, illustrating that mechanisms of vertical accountability were focused on issues of good governance, and their ability to affect change had grown stronger. At the same time, effort to strengthen horizontal accountability through decentralization had been initiated.

Economic Stability and Gradual Reforms

The García administration that came to office in 2005 continued to support institutional reforms, particularly in terms of anti-corruption. Assisting García in this endeavor were multiple international aid donor agencies that had pledged assistance for good governance reforms and began implementing discrete projects during the Toledo era. Peru had at least 22 different international donor agencies pledging or providing good governance-related funds between 2002 and 2011 (see Table 4 in Chapter 4). This aid was aimed specifically at improving the functions and integrity of government institutions, usually along the lines of the four dimensions of good governance outlined in Chapter 4: efficiency, effectiveness, transparency, and accountability. As noted in Chapter 1, aid donors increasingly embraced the notion that well-functioning institutions are a necessary pre-condition for development, and that corruption, inefficient or ineffective service delivery, and a lack of transparency and accountability are endemic in poorly functioning institutions. The genesis of the international good governance agenda has its roots in the late 1980s,

³⁶³ Freedom House, "Freedom in the World 2006: Peru," <http://www.freedomhouse.org/report/freedom-world/2006/peru>.

and by the late 1990s it had become an entrenched element of aid-giving in most donor agencies. International aid donors were therefore well-positioned to provide funds and technical assistance to Peru in its transition to better-governed democratic institutions. With this, international aid aiming at improved governance became a strong independent variable affecting the quality of governance.

However, high-profile efforts to fight corruption, such as the development of a National Plan to Combat Corruption and the establishment of a High-Level Anti-Corruption Commission, were undermined by corruption scandals implicating the García administration. The biggest of these was the Petroaudios scandal in 2008, in which a former García tax advisor was proved to have received bribes from a foreign firm for an oil contract with Peru's state-owned oil company.³⁶⁴ Although García removed the advisor from the company's board of directors and suspended the contract with the foreign company, additional investigations into the scandal implicated the Prime Minister, prompting the resignation of García's entire cabinet to avoid censure in Congress.³⁶⁵

The García administration could best be described as having made gradual, fractured progress in terms of institutional reforms, with increases in the quality of government agencies varying from organization to organization. For example, on the positive side, the Comptroller General's office uncovered many acts of corruption each year, which often resulted in employee dismissal or prosecution. However, those who suffered such consequences were often low-level bureaucrats, whereas high-level officials seemed to be able to immunize themselves.³⁶⁶ A 2008 Civil Service Law aimed to unify public-sector hiring and compensation and promote legitimacy and meritocracy in the civil service, but Peru's bureaucracy continued to be plagued by a lack of capacity and technical skills compounded by low public-sector salaries. This is partly a consequence of the process of decentralization started in 2002, in which unskilled rural administrations came to power, but remained beholden to populist impulses and nepotism.³⁶⁷ Efficiency and effectiveness of the

³⁶⁴ Freedom House, "Countries at the Crossroads 2011: Peru,"

http://www.freedomhouse.org/sites/default/files/inline_images/PERUFINAL.pdf

³⁶⁵ In addition, the disappearance of key evidence from Public Ministry computers caused a fresh wave of outrage.

³⁶⁶ Freedom House, "Countries at the Crossroads 2011."

³⁶⁷ "Bertelsmann Transformation Index 2012: Peru Country Report." Bertelsmann Stiftung, 2012. <http://www.bti->

Judiciary remained serious issues, with bureaucratic delays, unequal access to justice and government services for the poor, prison overcrowding, and excessive detention times cited as huge problems. Many judges and prosecutors are thought to lack competence, impartiality, and independence. In addition, there was a feeling that the culture of nepotism and cronyism was exacerbated under García, who filled administrative positions with APRA loyalists.

Since the end of García's presidency, there have been no significant crises, shocks, hyperinflation, or policy flip-flops of the kind that characterized Peru in the past,³⁶⁸ and the 2011 presidential election was free and fair. In general, however, Peru had largely avoided the anti-democratic reactions that have characterized government transitions in the past. For example, during the Toledo signature scandal, rather than being ousted by force, Toledo was subjected to the procedures of Congressional oversight and an impeachment proceeding. Yet progress on reforming and strengthening these institutions had been uneven. The general trend, starting in the Toledo administration, has been to change laws in line with standards of good governance, such as laws on transparency and civil service reform. Some structural changes were made to different institutions, such as changing the number of provisional judges. However, the pace of these changes has been slow, and has not always resulted in behavioral changes, or changes to institutional cultures of poor governance and corruption.

Good Governance in the Comptroller General in the 2000s

The scandal that brought down the Fujimori-Montesinos regime led to a transitional government that purged the Fujimoristas of institutional leadership. The Valentin Paniagua transitional government that ruled from November 2000 to July 2001 until the election of Alejandro Toledo saw a reversal of the Higoanna modification that chiefs of internal control at public institutions needed only be collegiate professionals. The ruling in 2000 established that the staff in charge of auditing and special tests ordered by the Comptroller General's office and Órganos from

project.de/fileadmin/Inhalte/reports/2012/pdf/BT1%202012%20Peru.pdf.

³⁶⁸ See McClintock, "An Unlikely Comeback in Peru."

the Sistema Nacional de Control must be professionals and university graduates.³⁶⁹ Following Toledo's election, the main priority for the Peruvian government was reforming political institutions in line with the concepts of good governance, and this affected all institutions in Peru. In September of 2001, the Congress Investigating Commission on Economic & Financial Crimes brought Constitutional accusations against the Comptroller General from the Fujimori era, Victor Caso Lay, for cover-ups, omissions of denunciations, collusion, embezzlement, and misappropriation. Caso Lay fled the country to avoid facing the consequences of these accusations. The new Comptroller, Genaro Matute, was confirmed in October of 2001.

In 2002, a wide cross-section of stakeholders from the public and private sectors, including all political parties and civil society organizations, came together to develop and adopt via consensus a National Agreement (Acuerdo Nacional), which provided a long-term framework for Peru's political and social development (through 2010). The Acuerdo Nacional was the catalyst for laws on modernizing state management and decentralization, and committing Peru to the ideals of "democracy and the state of law" and an "efficient, transparent, and decentralized" state.³⁷⁰ This was unprecedented for Peru, both in terms of developing such a framework in such a manner of broad public consultation, and in using the language of good governance to do so. A related significant legal change for the Comptroller General's office came in July 2002 with the adoption of Law 27785, the Organic Law of the National System of Control and the Comptroller General of the Republic. This law repealed the Decree Law 26162 of 1992, which had limited the Comptroller General's powers and mandate, and established rules governing the scope, organization, powers, and functioning of the National System of Control and the Comptroller General's office as its governing body. The law reiterated that the Comptroller General's office is protected from political interference, that the Comptroller can only be removed by the Legislative Commission of Audit and Control, and that the Comptroller General's office can initiate its own investigations. The intention

³⁶⁹ Comptroller General Resolution No. 143-2000-CG, 2000.

³⁷⁰ Roland Hackenberg, "Supporting Domestic Accountability in Developing Countries: Taking Stock of the Approaches and Experiences of German Development Cooperation in Peru," ECDPM Discussion Papers, no. 112 (Maastricht: European Centre for Development Policy Management, 2011).

of the National System of Control and the Comptroller General of the Republic under the law is to foster appropriate, timely, and effective governmental control in order to prevent and verify the correct and transparent use and management of state resources, as well as to develop the “honest and upright” functions and actions of government authorities, officials, and public servants.³⁷¹ As part of this law, the police investigative function was reinstated, as was the previous control in high-risk areas. However, the Comptroller General’s office auditing model did not revert back to the Napoleonic/judicial model, but rather stayed with the Westminster model, in which the Comptroller General’s office does not have the power to prosecute those it cites for violations; it can only impose sanctions. There were numerous other changes to the legal framework during this era, including the Comptroller General’s office’s adoption of the 2002 Public Function Ethics Code Law, several changes in 2004 related to rulings, infractions, and sanction procedures, and a modification to Law 27785 related to the designation and removal of auditing chiefs. The most striking feature of these laws is that the term “good governance” was explicitly mentioned several times — once in a paragraph favoring good governance in Article 43 of Law 28396, and twice in the modification of Article 19 of Law 27785.

Despite these changes to the legal framework, citizen perception of the Comptroller General’s office were largely negative during Toledo’s term. Although many of the legal structures of the Comptroller General’s office were now in line with international standards,³⁷² citizens considered the Comptroller General’s office one of the most corrupt institutions in 2004 (see Figure 4). In part, this is because the changes to the legal framework did not automatically lead to changes in how the institutions functioned. For the Comptroller General’s office in particular, its ability to audit state expenditures, to complete and submit these reports to Congress, and to monitor the follow-up of its recommendations suffered due to a lack of professional capacity in terms of

³⁷¹ Web site of the Comptroller General of Peru: [http://www.contraloria.gob.pe/wps/portal/portalComptroller General’s office/website/secciones/Comptroller General’s office/evolucion-normativa](http://www.contraloria.gob.pe/wps/portal/portalComptroller%20General%27s%20office/website/secciones/Comptroller%20General%27s%20office/evolucion-normativa)

³⁷² The Comptroller General’s Office’s audit practices are consistent with the international standards of the International Organization of Supreme Audit Institutions. International Monetary Fund, “Peru: Report on the Observance of Standards and Codes: Fiscal Transparency Module,” IMF Country Reports, no. 04/109 (Washington: International Monetary Fund, 2004).

expertise and resources, given that so many auditors were fired under Fujimori.³⁷³ In addition to a lack of human resources, the Comptroller General's office suffered from a deficiency of budget resources and technical tools early in the Toledo era.³⁷⁴ So the perception that the capacities of the Comptroller were lacking was in line with the reality at this time — the Comptroller General's office simply did not have the capacity to conduct the needed number of audits.³⁷⁵ In addition, it did not have functioning relationships with other accountability agencies that formed the pillars of the National Control System, the Budget and Public Accounts Committee, and the External Oversight and Audit Committee. The assessment was that these pillars acted in isolation from one another due to a lack of incentives for inter-institutional cooperation, had failed to develop "efficient linkages and effective synergies amongst themselves," and thus "lacked the coherence and consistency required for ensuring government accountability."³⁷⁶

One area in which the perception of citizens did not match the reality was in budget participation and transparency, given that the most direct way for citizens to participate in the budget process is by having access to information in the first place. The public perception of participation and transparency for both the Executive branch and the Comptroller General's office as the institution tasked with controlling spending was very low, despite a 2003 Law on Fiscal Prudence and Transparency, and transparency and access to public information laws, including the Law for Administrative Simplification, which acknowledged the right of citizen access to information regarding administrative procedures.³⁷⁷ One expert assessment expressed surprise at the "scant positive responses regarding citizen's participation [...because] citizens have diverse mechanisms for accessing information. First, citizens can access public information without any restriction through

³⁷³ IMF, "Peru: Report on the Observance of Standards and Codes: Fiscal Transparency Module."

³⁷⁴ José R. López-Cálix, Lorena Alcazar, and Erik Wachtenheim, "Peru: Public expenditure tracking study." *The World Bank* (2002), <http://siteresources.worldbank.org/INTPUBSERV/Resources/peru.pets.concept.sep9.2002.pdf>.

³⁷⁵ International Budget Partnership, Latin American Index of Budget Transparency: 2003 (Washington: International Budget Partnership, 2003), <http://www.internationalbudget.org/themes/BudTrans/English.pdf>.

³⁷⁶ Carlos Santiso and Arturo Garcia Belgrano, "Legislative Budget Oversight in Presidential Systems: Governance of the Budget in Peru" (paper presented at the 16th Regional Seminar on Fiscal Policy, Santiago de Chile, January 26-29, 2004).

³⁷⁷ See IMF, "Peru: Report on the Observance of Standards and Codes: Fiscal Transparency Module"; International Budget Partnership, Latin American Index of Budget Transparency: 2003; Transparency International, Country Report on the National Integrity System in Peru (Berlin: Transparency International, 2001), http://archive.transparency.org/policy_research/nis/nis_reports_by_country.

the [W]eb sites of the government or by issuing a request for certain information. It has to be mentioned that this information has been made more accessible due to the consultation mechanisms of the [W]eb sites themselves. If this proves insufficient, the [W]ebmasters of the different sites can be of help. In case of still not obtaining the information, citizens can initiate a judicial action of Habeas Data.³⁷⁸ In terms of these mechanisms, during the Toledo era, the government made a big push, as part of its efforts to encourage citizen participation and vertical accountability, and to establish a transparency portal, which is considered the most advanced in the region.³⁷⁹ That said, issues of government accountability and inadequate resources did present a continued problem: “In spite of this regulation, the access to information is still difficult and expensive. The public entities give preference to particular members of the media, and [make] difficult... access for others. At [the] regional level, the problem is even more serious. In many cases, the lack of resources in the public sector is the reason for the information not being available, as the institutions do not have the personnel [or] the necessary material to generate, file, and process information. Like this, the public entities are slow in giving the information (or deny having it), make unnecessary requirements, and demand exaggerated fees.”³⁸⁰ In addition, the behavior of the Executive branch, particularly some scandals related to President Toledo’s personal behavior, affected perceptions of transparency of all government institutions.³⁸¹ Finally, as of 2006, there was no legal regulation stipulating that citizens had to have access to reports produced by the Comptroller General’s office.³⁸²

³⁷⁸ International Budget Partnership, Latin American Index of Budget Transparency: 2003.

³⁷⁹ “Peru is arguably the most advanced country in Latin America with regards to financial transparency. Under a comprehensive transparency strategy, several initiatives have been undertaken, including the transparency portal, law on access to financial information, promotion of citizen involvement in transparency processes and the elaboration of an assessment of the liabilities of the [s]tate. The Ministry of Finance considers the transparency portal as an essential element of this strategy for two reasons: i) the amount of information that can be consulted; and ii) the unlimited access for any citizen. These two aspects serve as the main pillars of the country’s transparency strategy” Miguel Solana, “Transparency Portals: Delivering Public Financial Information to Citizens in Latin America,” Thinking out Loud 5 (2004): 71-80, http://www.worldbank.org/socialaccountability_sourcebook/Tools/Other/tp.html.

³⁸⁰ Transparency International, Country Report on the National Integrity System in Peru.

³⁸¹ Freedom House, “Freedom in the World 2007: Peru,” <http://www.freedomhouse.org/report/freedom-world/2007/peru>

³⁸² Global Integrity Report, 2007, <http://report.globalintegrity.org/Peru/2007/>.

Changes in Measures of Good Governance in the Comptroller General

Between the end of the Toledo era in 2006 and the end of the García era in 2011, citizen perceptions of the Comptroller General's office had significantly shifted toward the positive (Figures 4 and 5). In 2006, the Comptroller General's office was assessed as mixed or negative on several factors, including its independence, its consistency in making regular public reports, its consistency in auditing Executive branch asset disclosures, its provision of access to citizens on asset disclosure records of heads of state and government and on audit reports within a reasonable time period and at a reasonable cost, and the adequacy of its professional staff.³⁸³ In addition, there was little evidence that the agency received all the funding it needed to work effectively, or that the government implemented the recommendations and findings made by the Comptroller General's office.³⁸⁴ By 2012, along with the Defensoría del Pueblo, the Comptroller General's office was considered one of the least corrupt political institutions (Figure 4), and further considered to be one of the main institutions that was effective in controlling corruption in Peru (Figure 5).³⁸⁵

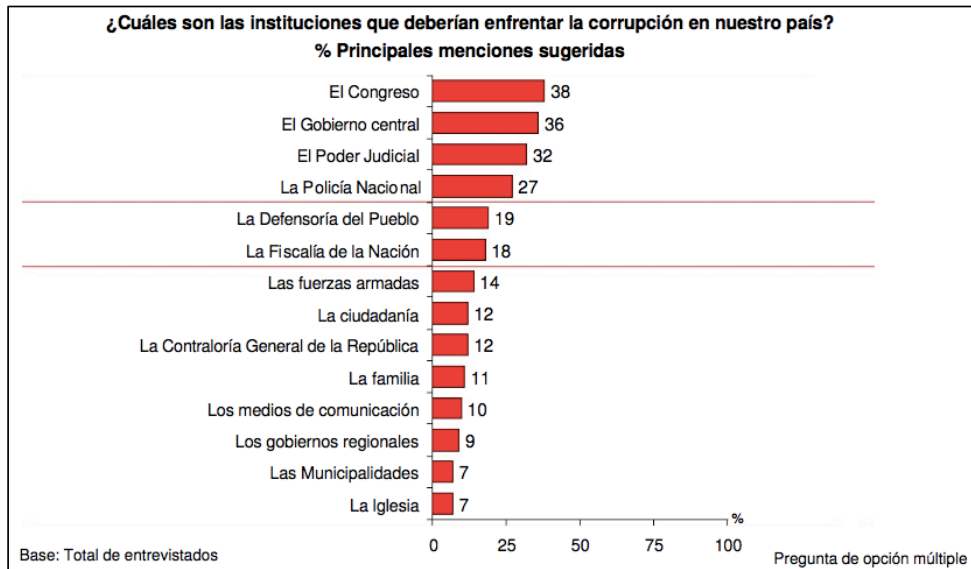
³⁸³ Ibid.

³⁸⁴ Ibid.

³⁸⁵ Proética, Sexta Encuesta Nacional sobre Corrupción.

Figure 5. Assessment of which Institutions are Most Equipped to Control Corruption

In 2004 (top box), 12% rated the Comptroller General as most prepared to confront corruption; this rose to 21% in 2012 (bottom box).



Source: Proética, Tercera Encuesta Nacional sobre Corrupción (2004) and Séptima Encuesta nacional sobre percepciones de la corrupción (2012). <http://www.proetica.org.pe/encuestas-corupcion/>

In terms of effectiveness, 75 percent of the government's total expenditure was subject to annual audits by the Comptroller General's office, and audited entities were legally obliged to follow the Comptroller General's office's recommendations.³⁸⁶ In terms of efficiency, there was a "reduction in the time needed to carry out the evaluation process for providing additional essential funding for public building projects by 46 percent, and 90 percent of the local governments that had received training on monitoring systems have now started to implement internal monitoring systems to ensure that resources are used appropriately. From 2011, 19 percent of the budget is therefore no longer planned and implemented on the basis of activities, but instead on the basis of concrete results. In addition, support has been given to the semi-autonomous tax agencies, which have increased their revenues by 49 percent since they were first established."³⁸⁷ In terms of accountability, there were illustrative cases of the Comptroller General's office being responsive in terms of media investigations into corruption in the use of public funds,³⁸⁸ and being responsive to citizens, such as through the establishment of a complaint mechanism on its Web site, where citizens could submit reports or allegations of corruption committed by public officials.³⁸⁹ (Additional indicators of good governance related to the Comptroller General are captured in Annex V.)

Yet although the Comptroller General's office is viewed as a strong institution, including by some international aid donors, challenges remain.³⁹⁰ In practice, no attempts have been made to remove the Comptroller from his post illegally, and in practice, the Comptroller General's office has been able to initiate its own investigations.³⁹¹ Yet there are concerns that the Comptroller General's office, while formally autonomous, is not autonomous in practice. In particular, there are concerns that the autonomy is dictated by the leader of the Comptroller General, who has the power to allow

³⁸⁶ Hackenberg, "Supporting Domestic Accountability in Developing Countries."

³⁸⁷ Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), "Modernisation of the State and Democratic Participation: Programme Description," <http://www.giz.de/Themen/en/17099.htm>

³⁸⁸ Gustavo Gorriti, "Peru: Reporter's Notebook," Global Integrity Report, 2007, <http://report.globalintegrity.org/Peru/2007/notebook>.

³⁸⁹ Global Advice Network: Business Anti-Corruption Portal. "Peru Country Profile." <http://www.business-anti-corruption.com/country-profiles/the-americas/peru/show-all.aspx>.

³⁹⁰ Interview with official from USAID, May 2, 2011.

³⁹¹ Global Integrity Report, 2007, <http://report.globalintegrity.org/Peru/2007/>.

the office to be used as a weapon of the government.³⁹² The Comptroller who was appointed after the end of Matute's term, Fuad Khoury, caused a scandal when he attempted to double his own salary to 33,100 soles after only 6 months in office, despite a decree that no public servant can earn more than the presidential salary of 15,600 soles.³⁹³ On the other hand, Khoury also reported 10,659 cases or financial irregularities that during the final years of the García administration, and reported to Congress that the Comptroller General's office opened 29,405 reports for 2,369 government agencies between January 2009 and July 2011, an indication that despite being appointed by García, Khoury was not shying away from investigating cases that might have caused further scandals for the president.³⁹⁴

Another concern is that the Comptroller General's office cannot enforce its own recommendations. "Legally, public entities are obliged to report on actions taken on the recommendations of the Comptroller General's office within 15 calendar days. Nevertheless, in practice, implementing the recommendations is still a challenging task. Comptroller General's office interview partners estimated that recommendations for administrative procedures are implemented in 45 percent of the cases, but recommendations to sanction public officials are implemented in less than 5 percent of the cases."³⁹⁵ Recently, the Comptroller General's office's sanctioning powers and horizontal accountability were expanded by a 2010 legal modification of Articles 11 and 22 of Law 27785, which states that public servants may incur sanctions even after they leave their posts, if violations of internal rulings or poor fiscal management are subsequently discovered. It also stipulates that the Comptroller General's office may forward cases to the relevant civil or penal authority, and if the Comptroller General's office fails to do so in a timely fashion, the Chief of Internal Auditing must inform the Public Attorney. Yet despite these concerns, the evidence points to the fact that the Comptroller General's office has made significant progress in increasing its

³⁹² Interview with official from the Spanish Development Agency (AECID), May 17, 2011.

³⁹³ "Fiscalía de la Nación Investiga a Contralor por Subirse el Sueldo." *Diario16*, November 19, 2011.

<http://diario16.pe/noticia/11789-fiscalia-de-la-nacion-investiga-a-contralor-por-subirse-el-sueldo>.

³⁹⁴ "Auditor finds more than 10,000 Cases of Irregularities Under Garcia," *Andean Air Mail & Peruvian Times*, September 1, 2011, <http://www.peruviantimes.com/01/peru-auditor-finds-more-than-10000-cases-of-govt-irregularities-in-garcias-final-years/13542>.

³⁹⁵ Hackenberg, "Supporting Domestic Accountability in Developing Countries."

transparency, effectiveness, efficiency, and accountability, in part because of the changes in laws undertaken by the Toledo administration.

Good Governance in the Judiciary in the 2000s

The exposure of the extent of the corruption perpetrated by Fujimori's head of the National Intelligence Service, Vladimiro Montesinos, and the effect it had on the Fujimori administration's hold on power, led to swift action that helped to undo, at least legally, some of the damage wrought from 1992 to 2000. The new opposition-controlled Congress began a process of renewal of the Constitutional Tribunal and reform of the 1993 Constitution, so as to eliminate consecutive presidential re-election and to forestall the rise of another Fujimori.³⁹⁶ The government of Alejandro Toledo, elected in 2001, oversaw a purge of Fujimori loyalists, many of whom were implicated in the Montesinos corruption scandal. This included the dismissal of the president of the Supreme Court, nine senior judges, and the attorney general, who had blocked investigations and prosecutions of corruption and abuse of power made against high-level government officials in the Fujimori administration. The Toledo administration also reduced the number of provisional judges to 30 percent and appointed qualified professionals to top positions within the Judiciary in an effort to banish the practice of unqualified individuals being given top government posts in return for their loyalty to the president. In addition, several resolutions were passed that designated special anti-corruption prosecutors to try cases against those accused of undermining the state's interests, offering protection and reduced sentences to witnesses who were willing to testify — presumably to aid in building a case against Montesinos and Fujimori. In conjunction with this, Congress established special commissions to carry out investigations and present anti-corruption charges, which were then reported to prosecutors and anti-corruption judges. The special anti-corruption courts that were established to investigate and prosecute allegations of high-level corruption commenced investigations of 1,500 individuals for acts of corruption during the Fujimori era, and in 2004 this

³⁹⁶ Freedom House, "Freedom in the World 2001: Peru," <http://www.freedomhouse.org/report/freedom-world/2001/peru>.

court sentenced Montesinos to 15 years in prison for bribery, embezzlement, and corruption.³⁹⁷ Fujimori, who took up residence in Chile in an effort to launch a bid for the 2005 presidency from abroad, was extradited to Peru in 2007, and eventually sentenced in 2009 to 25 years in jail for human rights violations and corruption.³⁹⁸

During the Toledo administration, there was a broad effort aimed at restarting judicial reforms, but this time with the consensus of all the major actors within the Judiciary. In 2001, Congress passed Law No. 27367, deactivating the Judicial Executive Commissions and technical secretariats that had been given power over judicial budgets and reforms. The law established Transitory Councils run by magistrates who oversaw new elections for Superior Court presidencies, in accordance with the Organic Law of the Poder Judicial del Perú. In early 2003, the president of the Poder Judicial announced the launch of a modernization plan for the Judiciary, aimed at improving service delivery and access to justice, reducing corruption and delays, and strengthening independence. This was overseen by a Special Commission of Administration of Justice Reform (Comisión Especial de Reforma Integral de la Administración de la Justicia, or CERIAJUS), which was created by Law No. 28083, passed in October 2003.³⁹⁹ The aim of CERIAJUS was to propose a legal framework for the planned reform of the Judiciary, starting with a law (No. 10676) that reformed the 1993 Constitution and mandated the reform of the Judiciary, Constitutional Tribunal, and other entities, and made provisions for the coordination of the relationships between them.⁴⁰⁰ International aid donors had pledged their support for funding parts of these reforms, and the implementation phase began in 2004.

Reforms did not have an instant impact, of course, and unfortunately for Toledo, continual scandals deepened the perception that the Judiciary was the most corrupt institution in Peru. Several scandals involved the way in which the Poder Judicial procured contracts without a

³⁹⁷ See McClintock, "An Unlikely Comeback in Peru."

³⁹⁸ Freedom House, *Countries at the Crossroads* 2011.

³⁹⁹ Comisión Especial de Estudio del Plan Nacional de Reforma Integral de la Administración de Justicia, "Presentación," <http://www.congreso.gob.pe/comisiones/2004/ceriajus/presentacion.htm>.

⁴⁰⁰ Comisión Especial de Estudio del Plan Nacional de Reforma Integral de la Administración de Justicia, "Plan de Trabajo," <http://www.congreso.gob.pe/comisiones/2004/ceriajus/plan.htm>.

competitive bidding process, including cleaning services and acquisition of minibuses.⁴⁰¹ In addition, scandals involving the Executive branch raised questions about whether the Judiciary had actually regained its independence. In 2004, Toledo was criticized for his association with a former advisor accused of a 2001 conspiracy to bribe judges investigating corruption charges,⁴⁰² and in 2005, a tax scandal erupted that involved Toledo's vice president, whose personal lawyer was arrested for attempting to influence the justice system.⁴⁰³ Thus, despite the structural changes undertaken at the start of Toledo's term aimed at promoting independence and good governance in the Judiciary, by 2005 there a widespread perception that the Judiciary was one of the most corrupt institutions in Peru⁴⁰⁴ and still prone to executive interference.

This did not change during the García presidency, as various events contributed to a perception that the culture of nepotism and cronyism that favored APRA loyalists during the first García government was repeating itself. In 2010, García issued Decree Law 1097, which would retroactively impose a statute of limitations on war crimes and crimes against humanity, thereby granting amnesty to individuals like García, accused of complicity in such crimes during the 1980s. The law was rescinded after significant domestic and international protests.⁴⁰⁵ That same year, the CNM was the subject of two scandals that suggested irregularities in the judicial selection process. In the first, a well-regarded prosecutor who developed and won the prosecution argument in the Montesinos bribery case was not given tenure in the Supreme Prosecutor's Office after failing an exam — an exam in which examinees were required to develop the prosecution argument for the Montesinos bribery case. The prosecutor, who resigned in protest, suggested that his failure of the exam was politically motivated, and that a pro-APRA member of the CNM wanted to ensure that he

⁴⁰¹ "Otra Compra Irregular a Gildemeister," *Diario La Primera*, November 22, 2007, http://www.diariolaprimeraperu.com/online/politica/otra-compra-irregular-a-gildemeister_7617.html.

⁴⁰² Juan Forero, "Peruvians Tire of Toledo, but Worry about Ousting Him," *New York Times*, August 5, 2004, <http://www.nytimes.com/2004/08/05/world/peruvians-tire-of-toledo-but-worry-about-ousting-him.html>.

⁴⁰³ Freedom House, "Freedom in the World 2007: Peru," <http://www.freedomhouse.org/report/freedom-world/2007/peru>.

⁴⁰⁴ Proética, *Cuarta Encuesta Nacional sobre Corrupción* (Lima: Proética, 2006), <http://www.scribd.com/doc/46756098/Cuarta-Encuesta-Nacional-Anticorrupcion>.

⁴⁰⁵ Freedom House, *Countries at the Crossroads 2011*.

did not receive tenure.⁴⁰⁶ A week later, the CNM suspended the interview portion of a competition for vacant slots in the Supreme Prosecutor's Office after allegations emerged that one of the selection committee members told a candidate that he would support his application if the candidate provided him with "economic incentives."⁴⁰⁷ These scandals suggested to Peruvians that, although legal changes were made to preserve the independence of the Judiciary and that executive interference was nowhere near the level achieved by Fujimori, the Executive branch still occasionally attempted to overtly manipulate a Judiciary easily prone to corruption.

Changes in Measures of Good Governance in the Judiciary

Concurrent with these concerns about executive interference and corruption in the Judiciary were concerns about the serious problems with bureaucratic delays, such as excessive detention times and case backlogs, and unequal access to justice for the poor. Cases tended to get processed extremely slowly: For example, of the 399 minor criminal cases initiated in 2001 that related to Fujimori's term in office, sentences had been passed on only 39 by the start of García's term⁴⁰⁸ in 2005. Several evaluations of the state of the justice system in Peru have shown that "serious structural, economic, and cultural problems hinder[ed] the independent and impartial administration of justice. The system is generally underfunded, and the caseload far outstrips judicial capacity."⁴⁰⁹ Also diminishing the judicial system's effectiveness and credibility was instability, such as wage strikes in 2004, 2007, 2009, and 2010 by judicial branch employees that exacerbated Peru's two-million case backlog. Both public perception (captured in Figures 6 and 7) and expert assessments give the impression that the legal and administrative changes introduced since the end of the Fujimori era had had little impact on the efficiency and effectiveness of the Judiciary. (Additional indicators of good governance in the Judiciary are captured in Annex V.)

⁴⁰⁶ "Prosecutor in Fujimori Trial Appointed as Next Attorney General," Andean Air Mail & Peruvian Times, April 15, 2011, <http://www.peruviantimes.com/15/prosecutor-in-fujimori-trial-appointed-as-next-attorney-general/11902>.

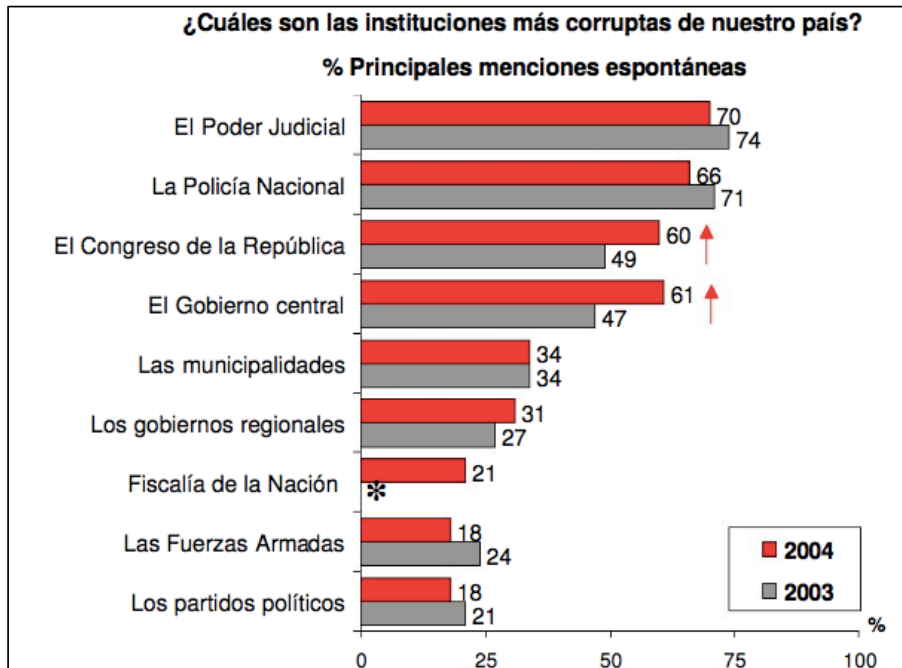
⁴⁰⁷ "Judicial Commission Suspends Competition Following Corruption Allegations," Andean Air Mail & Peruvian Times, February 23, 2010, <http://www.peruviantimes.com/23/judicial-commission-suspends-competition-following-corruption-allegations/5027>.

⁴⁰⁸ Freedom House, "Freedom in the World 2006: Peru," <http://www.freedomhouse.org/report/freedom-world/2006/peru>.

⁴⁰⁹ Freedom House, *Countries at the Crossroads*, 2011.

Figure 6. Assessment of Most Corrupt Institutions

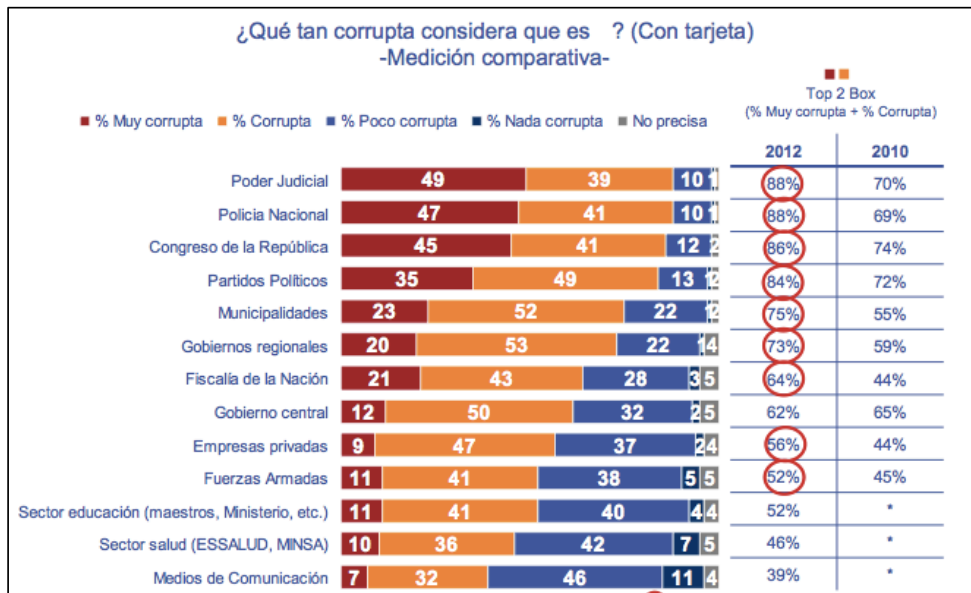
In 2003 and 2004 (top box), 74% and 70%, respectively, rated the Judiciary as the most corrupt institution. Although in 2012 (bottom box) this declined to 56%, perceptions of corruption across all institutions declined, and the Judiciary continued to be perceived as the most corrupt institution.



Source: Proética, Tercera Encuesta Nacional sobre Corrupción (2004) and Séptima Encuesta nacional sobre percepciones de la corrupción (2012). <http://www.proetica.org.pe/encuestas-corrupcion/>

Figure 7. Assessment of Institutional Corruption

In 2006 (top box), around 70% of respondents considered the Judiciary corrupt or very corrupt; this rose to 88% in 2012 (bottom box).



Source: Proética, Cuarta Encuesta Nacional sobre Corrupción (2004) and Séptima Encuesta nacional sobre percepciones de la corrupción (2012). <http://www.proetica.org.pe/encuestas-corrupcion/>

These perceptions are consistent with comment made by those working within the Judiciary, such as the Superior Court president who noted that:

I have not seen a fundamental change yet that really show us that justice administration is really improving. The biggest challenge is speed, and [poor] attention to users [of the judicial system]. Attention to users is very important, we have to recognize that. Eighty-five percent of our staff treats users, the public, very badly, and that is not right. Of course, that is because we have a lot of backlog. If we are going to have judges that say I am only going to see two files and that's it, the backlog is going to increase every day and delivery of services is going to take even longer. No reform process will improve justice services if judges and auxiliaries and all law operators do not share the same ideals. I think in that is the mistake.⁴¹⁰

Yet the statistics and observations that point to the negative aspects of judicial functioning often overlook the achievements that have been made. For example, a report published by the Judicial Ethics Commission showed that 60 percent of Peruvian judges had been sanctioned for ethics violations between 2000 and 2010, and that of those sanctioned, 54 percent were removed as a consequence.⁴¹¹ While this reflects an ongoing problem with corruption, it also shows the shift in the culture of oversight and accountability within the Judiciary. The investigations and removals were due to the effective oversight of OCMA. In the Fujimori era, OCMA was another vehicle for executive power, and at the center of the controversy over the 1998 resignation of the CNM, when Congress passed a law that deprived the CNM of its power to remove Supreme Court judges, and invested that power into OCMA. At that time, OCMA was neither independent nor effective in fulfilling its mission of controlling judicial corruption, as one interviewee noted: "As much as I know, there are several cases in which OCMA has supported the people in order to catch the judge or catch the assistants. [There have] been several cases on TV showing OCMA with the lawyer and the people. You didn't see that in Fujimori's time, forget it."⁴¹² By 2010, however, OCMA had become one of the most respected and efficient institutions within the judicial system, and considered by international aid donors in particular as dynamic and effective.⁴¹³

⁴¹⁰ Interview with a Superior Court judge, October 12, 2012.

⁴¹¹ Freedom House, *Countries at the Crossroads*, 2011.

⁴¹² Interview with former lawyer, July 25, 2012.

⁴¹³ Interview with an official from the Millennium Challenge Corporation, May 10, 2012.

The Tribunal Constitucional, which also was captured by the Executive during the Fujimori era, had regained some credibility during the last 10 years, and was considered to exercise its “constitutional adjudication powers in a more independent manner.”⁴¹⁴ Contributing to this credibility was an increase in transparency, facilitated by publishing a variety of information online. The Tribunal Constitucional Web page is lauded as a key resource, and certain newspapers publish rulings on a daily basis as well. That said, some information that is meant to be published online, such as the outcomes of Supreme Court rulings, are not being implemented consistently or quickly.⁴¹⁵

The picture that emerges from this decade of reforms is thus a complicated one, given the multiple institutions, levels of reform, and different aspects of good governance at which the reforms are aimed. In terms of transparency, there has been a positive shift toward making information more easily accessible and transparent, and this is a huge change from the Fujimori era. Yet, implementation is still not 100 percent consistent. In terms of accountability, courts recognize the need to provide better user services, but efforts to change this vary across judicial districts and levels of the court. The effectiveness of the Judiciary in investigating and prosecuting corruption had improved, both in terms of individual judges and of high-level political players. But these achievements seem insignificant when set against the context of the enormity of the problem. Finally, while some strides have been made, the massive case backlog continues to plague judicial efficiency. A decade after the end of the Fujimori regime, the conclusions from all quarters about the Judiciary seem to be that there had been a positive shift toward good governance, and that governance is better than it was during the Fujimori era but still corrupt, inefficient, and only somewhat effective and transparent.

Explaining Good Governance Shifts in Political Institutions

The shift toward good governance in Peru was a society-wide transformation, and

⁴¹⁴ Freedom House, *Countries at the Crossroads* 2011.

⁴¹⁵ Interview with a lower court judge, July 12, 2012.

understanding the shift in the Judiciary and Comptroller General's office must be understood in this context. The events surrounding the downfall of the Fujimori regime led to a critical juncture in Peruvian society that shifted attention to the relevance of good governance in Peru. This critical juncture impacted leaders in institutions of horizontal accountability and energized civil society and citizens to ensure that the type of excessive executive interference and state capture that occurred during the Fujimori era would never be able to happen again. During the first few years of the 2000s, both the transitional and Toledo governments oversaw changes to laws and structures that put in place a legal framework for promoting good governance. At the same time, good governance became a national issue in the media, and a number of NGOs were formed around promoting different aspects of good governance, particularly in terms of monitoring government performance in this area. These laws have not been reversed by the subsequent democratically elected governments, and civil society remains a driving force in keeping the public sector focused on fighting corruption in particular. Yet at the institutional level, many changes remain in the letter of the law only, due to sluggish implementation. Good governance has become an important agenda item for Peru overall, and the Comptroller General's office in particular had made significant, measurable improvements in this area. However, shifting cultures within the Judiciary in a way that turns this agenda into visible practices had proven more difficult. These variations in outcome can be attributed to the differences in endogenous power dynamics of these institutions — dynamics that have not undergone a significant transformation.

Leadership Changes and Endogenous Institutional Reform

The new leaders that came into power in the Judiciary and the Comptroller General's office during the transition period were advocates of good governance, and generated significant endogenous political will for good governance reforms in the first few years after the Fujimori's downfall. Such changes were possible because of the power dynamics that existed within the institutions. Chapter 5 showed that both the Judiciary and the Comptroller General were characterized by a concentration of power within the top leadership and a self-interest related to

job security, which resulted in little willingness or ability on the part individuals at the mid and lower levels to challenge the status quo. During the 1980s and 1990s, the status quo within the Comptroller General's office and the Judiciary was an institutional culture that did not recognize or embrace the good governance agenda. This status quo shifted in the transition years, when the good governance agenda was embraced as a reaction to the Fujimori regime. Several interviewees emphasized that this was not indicative of a moral shift of individual attitudes from one of pro-corruption or anti-good governance; individuals tended to simply accept the status quo without questioning the consequences of their actions on the institution or society. As one interviewee noted:

There has been a shift in the Comptroller General's office to a culture of good governance, but the problem is this — Peru is a country that still does not know how to distinguish between corruption and inefficiency. For example, if I go somewhere and I see that the line takes a long while, I say “Oh, that person is corrupt.” People don't realize that that person is a product of a very inefficient and old process, but not necessarily corrupt. Those of us who worked in the institution for a long time, we want to change, because the country is changing, and we know what happened [during the Fujimori era] was very bad.⁴¹⁶

For those in the institution who were not leaders, there was little room to act as change agents for good governance during the Fujimori era if they wanted to survive, and many of these people “didn't agree or disagree” and stayed “invisible” to survive.⁴¹⁷ In the transition era, these same people had the opportunity to actively contribute to a shift toward good governance, and in this they were aided by new leadership. One example of the effect of this change was seen in the JNE, which was a key state institution captured by Fujimori and used to ensure his ability to run for re-election. During the transition, the leadership of the JNE was replaced, and by the time of the 2005 presidential election, the reputation of the JNE had improved significantly. The former president of the CNM attributed this to “the change of staff at the JNE. I am convinced of the fact that institutions do not improve because of the change of its laws, but the change of people. And the proof is that if you check the laws [governing the JNE] from before and after 2000, it did not change a single

⁴¹⁶ Interview with official from Comptroller General, July 17, 2012.

⁴¹⁷ Interview with journalist, July 6, 2012.

article, [it] is still the same. So what has changed? People. There is no point in messing with the law; the law itself is not the problem.⁴¹⁸

Yet changes in leadership proved problematic in terms of a lack of continuity, particularly as the early years of legal changes gave way to long-term implementation of reforms. This was a particular problem in the Judiciary, where the president is chosen every two years. While this can be beneficial in rotating out anti-reform leaders, it also means that the reform efforts started by pro-good governance leaders can be stalled or swept away in the absence of a cadre of mid-level employees willing to rally against the status quo. For example, the president of the Judiciary from 2009 to 2011, Javier Villa Stein, explicitly declared upon taking office that he was not there to speak of or execute reforms. An evaluation of his presidency by an independent NGO showed that during his two years in office, there was no progress made on reforms in the areas of anti-corruption, judicial independence, or judicial administration.⁴¹⁹ Some suggested that Villa Stein's link to the Fujimori administration were the root of his hostility toward good governance reforms. In contrast, Villa Stein's successor, Cesar San Martin, was a recognized anti-corruption crusader, having served as the judge in the court case that convicted Fujimori to 25 years in prison for human rights abuses and corruption.⁴²⁰ Yet although San Martin moved forward with some administrative reforms, other actions were questioned, specifically his attempt to reform the corruption-fighting body OCMA⁴²¹, and this action damaged his ability to effectively push for implementation of reforms:

We are very pleased with [San Martin] but not with the last one [Villa Stein]. With Dr. San Martin there was a great expectation [of reform progress] in his first year, and lots of empathy. Things were going sort of well, but [after the OCMA issue] he lost all his leadership, and there is tension now. As long as the leader consolidates his leadership, reform projects go fine, but if there is tension, people are not going to be very convinced. In my experience the whole institution aligns with the leader, so I don't think that people are going to fight him, but they won't follow him very firmly [and] if he would like to implement a reform now, I don't think it will change anything in the [six months] left for him [in his presidency].⁴²²

⁴¹⁸ Interview with official of the CNM, September 5, 2012.

⁴¹⁹ Bertelsmann Transformation Index 2012: Peru Country Report

⁴²⁰ "Prosecutor in Fujimori Trial Appointed as Next Attorney General," Andean Air Mail & Peruvian Times, April 15, 2011, <http://www.peruviantimes.com/15/prosecutor-in-fujimori-trial-appointed-as-next-attorney-general/11902>.

⁴²¹ "César San Martín Anuncia que se Seguirá Fortaleciendo Labor de la OCMA," Andina, June 3, 2011, <http://www.andina.com.pe/ingles/Noticia.aspx?id=h4SQN9zvukw=>.

⁴²² Interview with a lower court judge, July 12, 2012.

This example underscores another dimension of endogenous power dynamics that affects the implementation of reforms — that of the differing levels of discretion in the interpretation of rules in the Judiciary versus the Comptroller General’s office. As Chapter 5 showed, in the Judiciary, the decentralized nature of the courts meant that judges had a high level of discretion in interpreting good governance-related institutional rules and policies. In contrast, the Comptroller General was more centralized, and there was almost no discretion in rule interpretation. The implication is that in the Comptroller General’s office, where there is a low level of discretion, reforms are likely to be implemented so long as the top leadership is pushing for that implementation. In contrast, the Judiciary has a higher level of discretion, and thus implementation of reforms can be delayed due to a lack of adherence to new rules or policies. This dynamic is illustrated in Table 13.

Table 13. Endogenous Institutional Change in the Peru’s Political Institutions in the 2000s

	Discretion in Interpreting Rules	Veto Power of Defenders of Status Quo	Type of Change that Occurs	Type of Change Agent that Emerges
Comptroller General	Low: The Comptroller General is required to adhere to Congressional reporting, coordinate with the Ministry of Finance, and post relevant information to the public on the Transparency Portal (oversight by civil society). These overlapping layers of oversight suggest that neither leaders nor non-leaders have significant discretion in interpretation of the rules.	Weak: While outside of the institution, the defenders of the status quo have more veto power with the Executive than they did in the Fujimori era, within the institution the structure remains hierarchical.	Displacement: Introduction of new rules to replace old rules. Old rules (1980s) were more in line with good governance; displaced by Fujimori-era rules (1990s), and then these were displaced in 2000s.	Insurrectionaries: Actively seek to eliminate rules. Success of insurrectionaries linked to critical junctures. In this example, those who want to defend old status quo (of poor governance) are unlikely to be successful unless there is a critical juncture (i.e. new Fujimori-type takes control).
Judiciary	High: Multiple, decentralized courts with differing levels of resources make good governance reforms subject to less oversight.	Weak: Given the changes in institutional rules related to provisional judges, and the focus on good governance in the Judiciary, defenders of the status quo (i.e. poor governance) have little space to veto new rules.	Conversion: The critical juncture in 2000 displaced the rules related to provision judges, and converted the rules related to judicial reforms from something used as a tool by the Fujimori administration to an actual tool for good governance reforms.	Opportunists: Opportunists don’t actively seek to preserve rules, but consider the opportunity costs of opposing changes to the rules to be too high to advocate for such change. In this case, those opposed to good governance reforms are likely to try ignore and circumvent them, or grudgingly accept them, rather than publicly oppose them.

Vertical Accountability

That both government officials and citizens rapidly embraced the discourse on good governance speaks to the fact that societal norms have undergone a shift, particular in terms of the corruption-reduction aspect of good governance. Until the mid-1990s, the attitude toward

corruption seemed to be that corruption was something to be tolerated, as it was just the way things were and there was nothing the average citizen could do about it. This attitude began to shift somewhat during the second half of the Fujimori era, when his actions aimed at running for a third term in office prompted action among a small but growing number of citizens and NGOs. I suggest that the bid for re-election represents the beginning of the diffusion of good governance norms among different groups in Peruvian society. Economic crises and terrorism had been the main societal concerns for decades, but by 1997, the economy was stable and growing, and the Shining Path had largely been defeated. Attention turned to other societal problems, such as human rights violations committed by the government in its war against the Shining Path. The same group of NGOs under the umbrella of the CHDH that had focused the spotlight on human rights abuses joined with media organizations to document irregularities related to the re-election campaign, and were instrumental in calling for a national referendum on the “Law of Authentic Interpretation of the Constitution,” which had been implemented to allow Fujimori’s run for a third term. It is a reasonable inference that this period marks the beginning of a shift in good governance norms, in which corruption and subversion of democracy started to become unacceptable, and that Peruvian society decided that something could be done about it. The subsequent large-scale protests in the wake of Fujimori’s fraudulent re-election suggests that as norms, anti-corruption and good governance had diffused quite broadly by 2000.

It is possible that this wider acceptance of good governance might have caused a fundamental shift over time, as Fujimori’s decision to call for new elections in which he would not run, in 2001, indicates. The Montesinos scandal and Fujimori’s resignation, however, mark a sharp turning point between the slow diffusion of good governance as a norm and the immediate acceptance, at least in terms of public pretense, of good governance as a political agenda in Peru.

According to one of the leaders of the National Anti-Corruption Commission,

after the crisis, people started to search for the causes, and then came the need to move to a better transparency and the start of the current non-secrecy culture. It is not that anti-corruption, prevention, and transparency [were] born here; what has been

done is that after the crisis we looked out to the world to find out what is going on, what are the international comparison experiences, and that is what has been taken and used. Now, I would say this process has been very Peruvian in the sense that due to [the] crisis that we lived through, we had to search for the answers. I mean, I don't think that the international aid or international organizations put the issue [o]n Peru's agenda. Instead, the issue exploded in our faces.⁴²³

This sentiment is echoed by those working within the Comptroller General's office, who suggested that while corruption is an old phenomena, anti-corruption is a new phenomenon caused by the exposure of the extent of the Fujimori era corruption. While employees were concerned with what they were able to perceive as irregularities and suspected some level of corruption, they did not realize the extent of it:

In the decades previous to 2000, the anti-corruption issue here and abroad wasn't really a priority, and there wasn't a real consciousness that it was a problem [that we needed] to deal with. Of course, corruption existed, and everybody complained about it. But nobody talked about [things like] the right to access public information. We had a major shock with the Fujimori scandal, after [which] millions and millions [of soles in irregularities] came out. In that moment, we auditors felt an incredible frustration, not being able to have foreseen this or have acted with more integrity. The experience of the '90s created a certain anxiety to [ensure that] something like that never happened again.⁴²⁴

Thus the exposure of the massive level of corruption perpetrated by Fujimori and Montesinos acted as a critical juncture that shifted the political culture in Peru from one of passive acceptance to rejection of corruption, opacity, and a lack of accountability. While there were indications that this may have eventually happened in the course of the norm of good governance diffusing more broadly among NGOs and citizens, this exposure — facilitated by the availability of the Internet and the use of technologies like secret recording devices⁴²⁵ — forced Peru's government officials to confront the consequences of a lack of good governance more quickly, and all at once.

In the aftermath of this shock, Peru's civil society had continued to play a significant role in

⁴²³ Interview with official from the National Anti-Corruption Commission, July 16, 2012.

⁴²⁴ This was mentioned by in interviews with an official from Comptroller General (July 17, 2012) and with a Superior Court judge (October 12, 2012).

⁴²⁵ Interview with former lawyer, July 25, 2012.

diffusing these norms more broadly, and had emerged as a strong mechanism of vertical accountability that could effectively pressure government agencies to make reforms. During the transitional and Toledo governments, restrictions placed on the media were eased, and corruption became a main focus of reporting. This increased exposure of corruption in turn increased citizen anger about corruption, and the demand for government accountability increased. In the Comptroller General's office, the fact that citizens are more aware of corruption manifested itself as increased reporting on irregularities in local offices, making it easier for auditors to identify cases for investigation.⁴²⁶ In the Judiciary, this has presented a problem, in that a greater awareness of rights has sometimes translated into more lawsuits, exacerbating the case backlog.⁴²⁷ In addition, there is a sense that the culture of *denuncialogia* has skewed perception of corruption in government institutions too negatively, and that the perceptions are often much worse than the reality. As for the press, although it is constitutionally protected and is relatively free of censorship, the perception among the majority of Peruvians is that the media cannot safely express opinions that contradict government positions.⁴²⁸

This negativity led some NGOs, such as Ciudadanos al Día, to advocate for reporting on positive strides in good governance made by government agencies, as illustrated by their annual Award for Best Practices in Public Management.⁴²⁹ NGOs like Ciudadanos al Día and Proética have become effective at the national level, and Peru is now considered to have a robust and active civil society with the ability to effectively put pressure on the government, even though NGO recommendations are not binding.⁴³⁰ That NGOs are respected players in Peruvian society is underscored by the fact that the García government attempted to curtail their power by increasing oversight on NGOs that receive international funding. NGOs that engage in "international technical cooperation" fall within the supervision of the executive Peruvian Agency for International

⁴²⁶ Interview with official from Comptroller General, July 17, 2012.

⁴²⁷ Interview with a lower court judge, July 12, 2012.

⁴²⁸ Countries at the Crossroads, 2011

⁴²⁹ Ciudadanos al Día, "Premio a las Buenas Prácticas en Gestión Pública," <http://www.ciudadanosaldia.org/que-hacemos/reconocimiento-ciudadano/premio-bpg.html>.

⁴³⁰ Interview with officials from the Canadian Development Agency (CIDA), May 16, 2011.

Cooperation (APCI), and a 2006 law proposed increasing APCI auditing oversight of these NGOs. Significant outcry at what was seen as politically motivated interference led to a change in the law, and in 2007 the Tribunal Constitucional ruled that NGOs could opt out of registering with and reporting to APCI if they do not use state resources.⁴³¹

In addition, there are limits to the impact that civil society alone can have on processes of institutional change. The “press is strong, but not determinant,”⁴³² and although “civil society is... vigilant [and] can motivate [people to pay attention to] certain subjects, at the end the decision of carrying out the project or a reform process depends on the government, [meaning] all public entities and the political will of the institution head... because the most important part is the political commitment of the institution leader.”⁴³³ Despite these caveats, Peruvian civil society remains robust, with the media and NGOs, and to a lesser degree individual citizens, acting as effective mechanisms of vertical accountability on public-sector institutions. This is in deep contrast both to the Fujimori era, when vertical accountability was systematically weakened, and to earlier periods of democracy, when the press was vibrant but did not focus on good governance as an issue, and when civil society and citizens were preoccupied with advocating for economic equality and stability and an effective response to terrorism, rather than focusing on promoting good governance.

Horizontal Accountability and the Role of the Executive

Like structures of vertical accountability, structures of horizontal accountability were strengthened by new laws and policies in the early years of the transition. For the first time in Peru’s history, there was an explicit framework for promoting good governance, the 2002 National Accord for Governance, which laid out Peru’s commitment to fighting corruption and promoting transparency and accountability in the public sector. The adoption of good governance language in the Accord suggests that the diffusion of good governance norms that had gained traction in the late

⁴³¹ Freedom House, *Countries at the Crossroads 2011*

⁴³² Interview with a lower court judge, July 12, 2012.

⁴³³ Interview with an official from the National Anti-Corruption Commission, September 25, 2012.

1990s and was facilitated by the exogenous shock of Fujimori's downfall had reached a diverse cross-section of Peruvian leaders from civil society, the private sector, and the public sector. Several of the leaders that came into positions of power in the government during the transition era and the Toledo government had been involved in the campaign in the 1990s to halt Fujimori's bid for a third term, such as Javier Díez Canseco, who led the initiative to gather signatures for a national referendum against Fujimori's re-election. This change in leadership presented significant opportunities for reform, as there was "a lot more interest [in reforms] and space for political dialogue" than any previous period in Peru's history.⁴³⁴

These leaders facilitated changes that ultimately strengthened institutions of horizontal accountability that had been weakened by the Fujimori regime. As Chapter 5 suggested, the Fujimori regime temporarily changed the balance of power between the Judiciary, the Congress, the Executive, and autonomous institutions, such that the Judiciary and the Comptroller General had weak veto power over the actions of the Executive branch. Congress acted as an extension of the Executive branch, and was able to impose unpopular laws upon these institutions, many of which were weakened in their ability to fulfill their mandates, especially in terms of damaging the credibility or impeding the actions of the Executive branch. For example, the Comptroller General's office was no longer legally able to audit companies in which the state owned a majority of the shares, and the Judiciary could not effectively investigate and prosecute human rights cases against the state. The transition period swept away the majority of the legal changes made by Fujimori in an effort to protect the Executive branch from oversight by institutions of horizontal accountability. The 2002 Law No. 27785 established the Organic Law of the National System of Control and the Comptroller General of the Republic, repealing Decree Law No. 26162 from 1992 that had limited the powers and mandate of the Comptroller General's office, while Law No. 27367 deactivated the Judicial Executive Commission, which had served as a way for the Executive branch to control the judicial budget and weaken judicial power under the guise of reforms. In addition, the Toledo

⁴³⁴ Interview with official from International IDEA, May 16, 2011.

government quickly changed the majority of temporary judicial appointments back to permanent ones, thereby shifting the power dynamics away from those established during the Fujimori era, when the majority of temporary judges were beholden to the Executive in terms of job security.

These changes led to a rebalancing of power, and as a result both the Judiciary and the Comptroller General's office were significantly more independent, had more power to execute their functions autonomously, and had the support of other institutions in terms of effectively keeping executive power in check. The Tribunal Constitucional, for example, is more independent than it was in the Fujimori era, and this "consolidation of independence has been abetted by political factors, like the existence of a fragmented Congress and a competitive electoral process; and structural ones, such as an institutional design that prevents Congress and the Executive from forcing the [Tribunal Constitucional] to reach specific legal conclusions."⁴³⁵ In the Comptroller General's office, the renewed legal independence was key to its effective functioning, as auditors can now investigate any public institution, including the military, whose financial records were kept secret during the Fujimori era. In the past, "we used to go to a City Hall and nobody received us, but now that would never happen because nowadays we have a lot more legal strength. [Now] there are no barriers. The only barrier would be ourselves being scared of not investigating something."⁴³⁶

Another change that helped balance power across institutions of horizontal accountability was the significant push to decentralize political structures, which began with the 2002 reform that devolved 25 percent of the national budget to regional governments. The idea behind decentralization is to provide citizens with autonomous centers of power not controlled by the Executive branch, and to provide a more direct link between citizens and the government. Mixed opinions persist about the effect of Peru's decentralization process on good governance. Some suggest that it has been successful in terms of providing more oversight mechanisms at the regional level, engaging citizens in demanding more accountability from government, which in turn has led to

⁴³⁵ Freedom House, *Countries at the Crossroads*, 2011.

⁴³⁶ Interview with official from Comptroller General, July 17, 2012.

better governance.⁴³⁷ Others suggest that decentralization has decreased the efficiency of the state, and that demands for accountability at the regional level do not scale up to changes in the central government.⁴³⁸ In the Judiciary, which is already decentralized across multiple levels of courts in different regions, the impact of decentralization on good governance is unclear. In the Comptroller General's office, the impact has been somewhat positive, as it marks a return to the more decentralized structure that characterized the office in the 1980s. Fujimori centralized many of the offices and functions of the Comptroller General's office as a way of maintaining control over it, which severely hampered the office's ability to audit regional entities. However, the Comptroller General's office faces the challenge of building the capacity of regional auditors to monitor expenditures at the municipal level.⁴³⁹

Facilitated by reform-oriented leadership, the Toledo government made significant strides in restoring the balance of power between political institutions that had existed prior to the Fujimori era. There was a strong focus on fighting corruption, and during his administration, Toledo created "an anti-corruption system, special teams of judges, prosecutors... all of these people specifically dedicated toward working on anti-corruption. But then the irony for Toledo was that they investigated him for corruption because of the issue of voter [registration] fraud [during the 2000 election. So these people were actually doing the jobs that Toledo appointed them for⁴⁴⁰" so well that it undermined him. Clearly, in the Toledo era, there was no longer a culture of not being able to challenge the Executive branch without suffering serious consequences. Unfortunately, the window of opportunity that was present during the Toledo era "started to close"⁴⁴¹ by the end of his term. While Peru had developed a strong legal framework for good governance, and fighting corruption in particular, enforcement of that legislation was problematic in the García era:

You have a legal framework that is very positive, but implementation is still lax or very

⁴³⁷ This was mentioned in interview with both an official from AECID (May 17, 2011) and a representative of a USAID-funded decentralization program (May 10, 2012).

⁴³⁸ "Bertelsmann Transformation Index 2012: Peru Country Report," Bertelsmann Stiftung, 2012, <http://www.bti-project.de/fileadmin/Inhalte/reports/2012/pdf/BTI%202012%20Peru.pdf>.

⁴³⁹ Interview with an official from the Inter-American Development Bank, May 19, 2011.

⁴⁴⁰ Interview with journalist, July 6, 2012.

⁴⁴¹ Ibid.

slow. We have a very complete law of transparency and access to public information, changes in procurement in the Comptroller's Office, participatory budgets, and social involvement in the oversight of public resources — very positive improvements. In the implementation, it's another story. Eight years have passed since the law of transparency was given and still you have public officers, authorities who are not aware of the law, people who don't complain when an authority doesn't behave accordingly. You see some people are progressively getting informed about this legal framework and using it, but you see that the state, the institutions in general terms, only fulfill the formal requirements. They have their Web page, but it is not frequently updated. Authorities have to make public appearances annually to explain the [institution's] income, the expenditures, and the projects. The people in the audience didn't understand a thing because the administrator standing there in front of them beg[a]n a lot of numbers, using acronyms, and people don't understand a word — but the legal requirement was fulfilled. We have seen some cases where certain authorities are trying to change this, but it is not a trend.⁴⁴²

According to several international aid donors, under the García presidency, there was no political opening and thus no meaningful political reform, and García's government didn't launch any serious, credible anti-corruption campaigns.⁴⁴³ In some ways, this can be attributed to the fact that García style favored a return to a more powerful role for the Executive, a style to which he was accustomed during his first presidency from 1985 to 1990. This is evidenced by actions such as the promulgation of the 2006 law on NGOs, which many analysts suggested was aimed at intimidating those NGOs whose agendas were in opposition to that of the Executive. There was a widespread perception that García was an old-guard politician who was not serious about good governance and anti-corruption reforms, with critics charging that he had fallen back into old patterns of nepotism and cronyism that dominated his first presidency. This lack of political will at the top led to slow or stagnant efforts related to implementation of the legal framework for good governance:

In general terms, what we have seen is that by the beginning of the 2000s we needed to catch up with the way things should be regarding anti-corruption, catch up with the international standards. Luckily there are many conventions, international standards, et cetera that... allow us to know how delayed we are. In those first years, Peru kind of catches up. After 2000, a bunch of rulings were given — rulings that already existed abroad — in Peru. In the last 10-12 years, we have not followed the same rhythm. We are doing it, but in my opinion very slowly.⁴⁴⁴

⁴⁴² Interview with an official from *Proetica*, May 18, 2012.

⁴⁴³ Interview with official from USAID, May 2, 2011.

⁴⁴⁴ Interview with official from the Comptroller General, October 11, 2012.

The lack of political will for good governance reforms from the Executive is considered an impediment to implementation of the legal framework that was developed during the transition period. Yet interventions by Congress or the Executive in response to demands for good governance can also be seen as an overstep of power similar to the kind proffered by Fujimori. This presents a complicated problem in terms how the Executive can effectively pressure institutions to reform while respecting their autonomy and independence. In particular, the Judiciary now “zealously guards its autonomy, which has sometimes served as an excuse to prevent reform efforts and protect powerful vested interests.”⁴⁴⁵ This dynamic means that in cases where good governance reforms are not being driven endogenously by the Judiciary, other institutions like Congress may be limited in their willingness or ability to agitate for such reforms. The implication is that strengthened institutions of horizontal accountability alone cannot drive implementation of reforms; political will for reforms must come from those working within institutions. These dynamics are summarized in Table 14, which shows the role of the different drivers of change vis-à-vis the observed changes in the Comptroller General and Judiciary in the 2000s.

⁴⁴⁵ Freedom House, *Countries at the Crossroads*, 2011

Table 14. Summary of Observations on Role of Drivers of Change in the Comptroller General and Judiciary in the 2000s

Influence of Executive	Horizontal Accountability	Vertical Accountability	Influence of Institutional Leaders	Level of Good Governance
Comptroller General				
Toledo supported laws aimed at good governance, such as 2002 National Accord for Governance, 2002 Law on Transparency and Access to Information, and 2005 Law on Code of Ethics in Public Office. Strong influence of this counterbalanced by fractured, sometimes undermining efforts of Garcia administration. In the aggregate, the Executive as a driver of change exerted a Moderate, positive influence.	Both Institutions	Increased awareness of the extent of corruption was facilitated by the media, and the 2000s saw a significant increase in the number of NGOs aimed at promoting good governance and fighting corruption in public institutions. Increase citizen awareness has created a strong demand for good governance within the Judiciary, and civil society protests have the ability to counter Executive actions, as with the Garcia law on NGOs that was overturned. Thus as a driver of good governance changes, civil society influence has become Strong.	Reforms related to multiple dimensions of good governance were initiated by Matute; independence from Executive is more the norm than the exception; and interviewees suggested that there is now a culture of good governance in the Comptroller General aligned with the leadership. Thus in terms of driving its own good governance reforms, the Comptroller General exerts a Strong, positive influence.	Rapid legal changes early on created a framework for good governance, and this has been built upon with increased audits of state entities, for example. This has led to a shift in perception that the Comptroller General helps control corruption, for example. Thus there has been a strong, positive shift away from the low level of governance in the Fujimori era, and there is a High level of good governance in the Comptroller General.
Judiciary				
Toledo reduced the number of provisional judges and creating a legal framework for judicial reform. However, both Toledo and to a greater degree Garcia continued the practice of bribery and nepotism and thus in aggregate the Executive as a driver of change exerted a Weak, negative influence.			Positive reforms have been implemented, as noted by donors implementing projects in the Judiciary. Yet reforms have been inconsistent across different leaders and entities within Judiciary, with some strongly pushing for reform and others not taking action. As a driver of change, the Judiciary as a whole has exerted a Weak, positive influence on reforms.	New laws and reforms led to positive changes, as reflected in the fact that although it is still considered the most corrupt institution, the Judiciary was perceived as corrupt by fewer people in 2012 than in 2004. This suggests a moderate positive shift toward good governance since the Fujimori era, and that there is a Medium level of good governance across judicial institutions.

The Impact of Aid Donor Interventions

As outlined in previous sections of this chapter and Chapter 5, international aid donors played a limited role in Peru's transition to good governance. The consolidation of executive power mounted under the façade of judicial reforms led to cancelled projects, and the main role for aid donors in the 1990s was to diffuse human rights norms earlier in the decade, and democracy later in the decade. In the early days of the transition period, there was an increased presence of aid donor involvement, which encouraged Peru's adoption of the good governance agenda. However, the major influx of good governance aid originated toward the end of the Toledo era, and thus the focus here is on those projects aimed at institutional reforms implemented since 2004.

Since 2004, the majority of good governance aid in Peru has come in the form of technical assistance, and at the behest of the Peruvian government. The push for reforms was a result of the critical juncture precipitated by the downfall of the Fujimori regime, and was an initiative of the Peruvian government. Peru could therefore be said to have "ownership" in initiating the reforms, and the ensuing process of reform implementation is a true "partnership." All of the donors, as well as several of the individuals working in recipient institutions (see excerpts below), whom I interviewed suggested this was the case, and that good governance aid in Peru thus facilitates, but does not impose, reforms. While good governance aid has been instrumental in helping reform processes proceed faster than they might have in the absence of such assistance, the evidence suggests that such changes would have eventually taken place anyway as a result of the critical juncture. The majority of good governance aid in Peru takes the form of technical assistance, and this type of assistance is valued for its ability to help those structural changes initiated by the Toledo government become embedded practices that are difficult to uproot in the face of future executive interference or non-reform-oriented leadership. In addition, technical assistance is valued because it is responsive to the demand-driven nature of the donor-recipient relationship in Peru, in which the priority is facilitation of sharing knowledge about best practices and providing expert training on

implementation of different technical systems.⁴⁴⁶ Further, good governance aid helps create a framework of consistency for reforms in the absence of leadership continuity. However, the lack of leadership continuity can in turn affect the ability of good governance aid to impact institutional changes in the short- or medium-term, leading to the perception that it is not effective.

Aid as a Driver of Change

As previously established, Fujimori's downfall acted as a critical juncture that shifted Peru toward prioritizing good governance, and all of the interviewees noted that there was significant political will for reforms in the window of opportunity that followed. According to an official from the local chapter of Transparency International, the types of projects that aid donors implemented in the post-Fujimori era were aligned with reforms developed and driven by the Peruvian government, with aid donors funding specific aspects of these reforms. In both the Comptroller General's office and the Judiciary, there was a feeling in the early years of transition that reforms were a necessary measure to restore the reputation of these institutions in the eyes of citizens, given the legitimacy that had been lost during the Fujimori era. This was one of the rationales in creating the CERIAJUS reform framework in the Judiciary, which led to aid donors funding specific aspects of judicial reform through mechanisms like the World Bank's Justice Services Improvement Project.⁴⁴⁷ All of the interviewees said that the reforms were initiated by Peru, with one interviewee summing this up by noting that the

biggest pressure [for reforms] comes from the inside [Peru]. Before Fujimori, [those] initiatives did not exist, but [Fujimori] was a trauma we had that moved us. The transformation process is with our own resources, it does not depend on an external donor or an external practice. It is [a] mechanism that we have designed ourselves. The "big transformation" is not mortgaged to the donors.⁴⁴⁸

Linking this back to the idea that good governance aid acts as a critical juncture that drives the shift toward good governance, it becomes clear from the interviews that aid was driven by the

⁴⁴⁶ All of the interviewees working in the Comptroller General mentioned the relevance of this.

⁴⁴⁷ Interview with a Superior Court judge, October 12, 2012

⁴⁴⁸ Interview with official from the Comptroller General, October 11, 2012.

critical juncture caused by the fall of the Fujimori regime, but did not act as a critical juncture itself. Rather, aid aligned to the reform processes already underway in the country. Aid donors echoed the idea that the reforms were the initiative of Peru, and that good governance aid facilitates, but does not impose, these reforms. As one project manager of the IADB noted, the process that the Bank goes through in terms of project identification and design is to review the country strategy for reforms designed by the Peruvian government, and identify the main areas of reform that it wants to fund. Banks have specific policies that prevent them from engaging in certain activities, such as security reform programs that include building jails, for example, but other programs that fall under governance or “building the capacity of the state” can be funded. Once the strategy has been reviewed, a program mission from the Bank discussed with the Peruvian government the areas in which they would like to fund a project. The specifics of the potential project will be discussed, and the result will be a “formal demand of the government, saying we want a project, we want a loan.”⁴⁴⁹

Other donors echoed that aid facilitates good governance reforms, but does not impose them, and that Peru defines the agenda. In response, the donors I interviewed see where their relative strengths are, what kinds of assistance they can offer, what their own priorities are, and offer different options to the Peruvian government for the kinds of assistance they can offer. Thus, there is recipient ownership of the reform agenda, and donors align with this agenda. In the process of negotiating the scope and details of specific projects, there is a negotiation between the government and the implementing agencies. In this process, donors and the Peruvian government tend to “meet in the middle,”⁴⁵⁰ and sometimes problems arise during negotiations. This was more true during the Fujimori era, because the stated goals of the Fujimori government’s reform agenda were at odds with the types of projects they wanted implemented. As a project manager for the UNDP noted, “during the Fujimori government, we rejected a project with the Ministerio Publico because it was clear that it was going to be a political problem. With Toledo and García, there [weren’t] as many

⁴⁴⁹ Interview with an official from the Inter-American Development Bank, May 19, 2012.

⁴⁵⁰ Interview with an official from AECID, May 17, 2011.

problems, because it was a democracy.”⁴⁵¹

The consensus from both donors and Peruvian government officials is that reforms were taking place anyway, and that donor assistance facilitated but did not drive these reforms. Donor assistance has been key, however, in helping certain reforms get implemented faster than they otherwise would have in the absence of such assistance. In the Comptroller General’s office, aid has been a “must” and a “determinant” for putting reforms into practice, because of a lack of full funding for reforms,⁴⁵² and this supplemental funding that comes from aid donors has “speeded us up a bit”⁴⁵³ in implementing the desired reforms. In the Judiciary, international aid donors have been able to ensure that reforms “are not left just on paper,”⁴⁵⁴ and have facilitated the implementation of technical systems like biometric identification for parolees, which might have otherwise been prohibitively expensive.⁴⁵⁵ Reflecting both this necessity of international funding and the demand-driven nature of the reform agenda is a highly centralized system of coordination of donors managed by the Ministry of Economy and Finance and the APCI, which is an independent entity within the Ministry of Foreign Affairs. The former managed reimbursable aid such as international development bank loans, while APCI manages grants and other non-reimbursable funding through a National Policy for International Technical Cooperation.⁴⁵⁶ This coordination mechanism facilitates joint funding of initiatives, such as the (only) basket fund in Peru, which pools the resources of 22 different donors in funding the activities of the Defensoria del Pueblo,⁴⁵⁷ and ensures that there is little to no overlap of projects.⁴⁵⁸ It also gives rise to a certain strategy among different ministries and organizations seeking aid to find the best “bidder”⁴⁵⁹ willing to fund the types of reforms that the recipient wants to implement:

We are the ones who have designed the transformation scheme “in house” and have

⁴⁵¹ Interview with an official from UNDP, May 17, 2011.

⁴⁵² Interview with official from Comptroller General, July 17, 2012.

⁴⁵³ Interview with official from the Comptroller General, October 11, 2012.

⁴⁵⁴ Interview with official of the CNM, September 5, 2012.

⁴⁵⁵ Interview with an official from the World Bank, May 23, 2011.

⁴⁵⁶ Interview with an official from AECID, May 17, 2011.

⁴⁵⁷ Interview with officials from CIDA, May 16, 2011.

⁴⁵⁸ Interview with official from International IDEA, May 16, 2011.

⁴⁵⁹ Interview with an official from the National Anti-Corruption Commission, September 25, 2012.

showed it to the different donors and asked for help. It is not quite like a tender [process], but more like we already know [each donor's] line of work, and at what they are stronger. For example, I know GIZ [the German Technical Cooperation] is going to help in this, I know BID [the IADB] won't help me in that, so I don't even think of them.⁴⁶⁰

Aid as a Facilitator of Change

The individuals I interviewed clearly suggested that reforms are a recipient-driven initiative, and the relationship between donors and recipients is one that can be labeled a true partnership, based on how projects are negotiated and implemented. While there is some variation, the majority of these projects are focused on capacity development, or providing technical advice and assistance that support the strengthening of institutional processes over a long time frame.⁴⁶¹ (In contrast, awareness-raising programs, and programs with a short time frame, are less valued by government institutions, although they are considered to be relevant by civil society operators).⁴⁶² The value of technical assistance lies in its ability to help institutions implement systems, such as biometric identification signatures for parolees that help prevent corruption in the Judiciary, which become embedded structures difficult to overturn in the face of new leadership that may not embrace the reform agenda.⁴⁶³ In this way, technical assistance aid is responsive to the demands of the recipient institutions, and helps create continuity of reforms in cases where there is a lack of consistent leadership. Major donors, such as banks, favor this type of aid because it lends itself to a measurable return on investment, and this feeds into the perception that awareness-raising programs are less relevant in aiding reforms.

The way in which technical assistance is provided is through the use of specialists who provide advice, training, and related assistance to institutions that help them improve processes related to good governance, and increase institutional capacity to carry out certain functions. For

⁴⁶⁰ Interview with official from the Comptroller General, October 11, 2012.

⁴⁶¹ Riddell, 2007, distinguishes between technical assistance, technical cooperation, capacity building, and capacity development, suggesting that capacity development is the most commonly used term, at least among donors. However, most interviewees I spoke with called this technical assistance, and hence the use of this term. Roger Riddell, *Does Foreign Aid Really Work?* (Oxford: Oxford University Press, 2007).

⁴⁶² Interview with an official from *Proetica*, May 18, 2012.

⁴⁶³ Interview with an official from the World Bank, May 23, 2012.

example, specialists may train employees on how to use new systems of financial management, or how to develop an annual plan for evaluating progress toward reform goals, “which many ministries don’t know how to do,” thereby strengthening institutional capacity in these areas.⁴⁶⁴ The Comptroller General’s office, for example, is tasked with auditing asset declarations, which is a new instrument in Peru that has not been utilized before. The Comptroller General’s office requested that GIZ provide them with specialists who can train auditors on how to review public employee asset declarations for fraud.⁴⁶⁵ In this way, technical assistance is responsive to the demands of the recipient, who “may have very good ideas, but in some cases the state doesn’t give us the resources [to execute these ideas].”⁴⁶⁶ Donors are instrumental in helping institutions get the resources they need that might not be available otherwise, and in providing expertise that is not readily available in-house. In this way, donors act like expert consultants hired to help institutions move forward with reforms:

One of the great benefits that I find in international aid, besides funding and the possibility of doing things that you wouldn’t be able to with your own national funds, is that it lets you innovate, and implement ideas or good practices that under a different context would be impossible. We bring in a lot of practices from abroad, we go outside [the country] or see [practices] on the Web and look for the way to get [them], and when the donors are interested in [these practices] they come to implement [them. This donor support] reduces the risk of internal rejection toward new ideas. So if you remove the donor role, many of the things we have now maybe we wouldn’t have them. Not because we didn’t have the money, but because that innovation ability that comes from a third party that tells you this is interesting.⁴⁶⁷

Donors support initiatives strengthen these good practices, and help embed them as institutional structures. An example of this is the “Programa de Modernización del Sistema de Control” funded by the IADB and implemented by the Comptroller General’s office. One of the aims of the program was to develop the infrastructure of new Comptroller General’s offices at the regional level, thus supporting the efforts to deepen decentralization in Peru. Prior to this project, the Comptroller General’s office was highly centralized in Lima, whereas “now there are offices

⁴⁶⁴ Interview with official of the European Commission, May 23, 2012.

⁴⁶⁵ Interview with an official from Proetica, May 18, 2012.

⁴⁶⁶ Interview with an official from the Comptroller General, July 18, 2012.

⁴⁶⁷ Interview with official from the Comptroller General, October 11, 2012.

everywhere.”⁴⁶⁸ Another impact of the program was its assistance in helping the Comptroller General’s office revise its organizational plan, in conjunction with increased government funding that allowed it to hire more staff. This IADB assistance led to the creation of new line units related to research and development, regulations, and processes, thereby expanding the Comptroller General’s office beyond its main auditing unit. It also assisted the Comptroller General’s office with developing better customer service processes and reporting procedures. This provided the Comptroller General’s office with more tools to monitor and control state expenditures, and the office plans to continue the work that was started under the auspices of the IADB loan: “The [IADB] project is finishing, but we will keep going.”⁴⁶⁹ In the Judiciary, the World Bank’s support has helped identify areas in which petty corruption occurs, suggest tools that provide solutions, and thus help the Judiciary implement those solutions across Peru. This is the genesis of the biometric identification system, which aimed to both reduce corruption while making the system of parolee check-in more efficient. This was a recurring opportunity for corruption because parolees have to

sign a register at the office of the judge each month at the end of the month. The judge doesn’t manage the book — it’s the [lowest-level] employee at the office who manages that book, and [that person] is [usually] poor, needs money, so they tell [parolees who have to sign the book], “If you give me 100 soles, you can sign for ten months or five months. No worry. Or for example, they say, don’t worry if you have to travel to outside the country, don’t worry. You have a brother or a sister? Please call me and your [brother or] sister can sign for you. That’s a big issue of corruption inside the Judiciary. With the biometrical identify, you have to put your finger in the machine, [at which point] your photo with your age and name appear. It was totally successful. You eliminate the risk of corruption [because] people have to go to the office of the judge. It saves lots of time, too, because to find a book, to find a page, takes time; with this [system] you just put your finger [in] and that’s it.”⁴⁷⁰

Another World Bank-funded project helped build capacity within the Judiciary to provide continuing education opportunities for judges who practiced outside of Lima. With the Magistrates Academy (which is in charge of judicial education), the World Bank developed a distance-learning platform that provided access to online courses, which helped the Magistrates Academy offer more

⁴⁶⁸ Interview with official from Comptroller General, July 17, 2012.

⁴⁶⁹ Ibid.

⁴⁷⁰ Interview with an official from the World Bank, May 23, 2012.

expanded training opportunities to these judges.⁴⁷¹ The UNDP developed a system within the Judiciary that helped courts issue notifications of legal resolutions or procedures electronically, which had a measurable improvement on the speed with which such notifications were delivered.⁴⁷² This is similar to systems implemented in the Tribunal Constitucional and Ministry of Justice, which have implemented a tool that tracks official visits to government offices and publishes these details online (replacing the old system of paper-based visitor logs) in an effort to fight corruption. The rationale behind this tool is that “if we see that a supplier is visiting the Chief of Logistics five times before a selection process, and the result is he wins the contract, maybe you have found a case of corruption.”⁴⁷³ The appeal of these types of projects to donors, especially multilateral development banks, is that the results from implementation of these systems are easy to measure, and thus one can show a return on investment resulting from the loan:

I really think the projects have to be as technical as possible, because a project becomes much more concrete and it becomes much more demanded. If I go to any country and I tell them I'm going to make a project for democracy education and human rights, they're extremely nice. They look so great in the books, but I really have the feeling that I don't know to what extent they achieve results. However, if I go to them and they tell me, listen, my procurement system in the Ministry of Health doesn't work, or my public finance expenditure system in the Ministry of Education doesn't work, we need a reform of that, I really see that we can get that. And then if we have spent 30 million or 50 million [dollars], it really makes a difference. However, if you make a human rights education project, of course you can go into the streets and ask people if they know about human rights and so on, and it's great. But I don't know to what extent this is going to change anything. It is like, well, now people know more about human rights, but how that has improved the country? However, if you make it much more technical, like a new procurement system, new financial system, new registry. For example, in the Puno region, with a new loan from the bank, half a million people now have access to the civil registry and they can buy land. Well, I can perfectly measure that, because he has the paper that says that that little piece of land belongs to him.⁴⁷⁴

Those donors who focus on the growth and development rationale for good governance favor the technical nature of these types of projects because it allows them to avoid politics. Interestingly, this is not because these donors ignore the primacy of politics to reform processes; rather it is

⁴⁷¹ Ibid.

⁴⁷² Interview with an official from UNDP, May 17, 2011.

⁴⁷³ Interview with an official from the National Anti-Corruption Commission, September 25, 2012.

⁴⁷⁴ Interview with an official from the Inter-American Development Bank, May 19, 2012.

“because politics matters a lot in these kind of projects”⁴⁷⁵; technical solutions are viewed as a way to stay above the fray of such political machinations. Another reason that both donors and recipients favor technical assistance projects is that they provide a continuity of reforms that might otherwise get swept away by a change in leadership. Particularly in the Judiciary, where the president changes every two years, having a team funded by donors that provides a sort of permanent technical assistance is key.⁴⁷⁶ Every time there is a new government, new political forces come into the institution, and reforms that have not been embedded can be undone. For example, projects aimed at improving the quality or the legislative process in Congress were undermined by the fact that Congress was changing every six months, and there was thus too much instability and no ownership of the reforms. In contrast, the types of technical assistance projects implemented by international aid donors aim to develop infrastructure that cannot be so easily undone.⁴⁷⁷ Another facet of this is the fact that institutional reforms take a long time, so a continuous time frame is important. What this means is that projects that are only conceived with a short time frame in mind tend to have little impact, both because they are not long enough to impact institutional change, and because they are subject to implementation delays that occur when leadership changes.⁴⁷⁸ The rotation of staff, both within the donor and the recipient agencies, leads to the perception that good governance aid projects are ineffective: “There’s a neophyte bias because a lot of aid consultants don’t stay long enough to see the effects of their work.” In addition, sometimes the expectation is that projects will have a dramatic change in the short-term, further leading to this belief that aid is ineffective.⁴⁷⁹ As one donor stated, the result of this is that there is a perception that “building effective institutions and getting shit done quickly is often at odds.”⁴⁸⁰

The preference for technical assistance aid, then, is because it has shown more effective, tangible outcomes than other types of aid, avoids messy political dealings, and focuses on a long

⁴⁷⁵ Ibid.

⁴⁷⁶ Interview with a former official of the Decentralization Commission, September 20, 2012.

⁴⁷⁷ Interview with an official from the Inter-American Development Bank, May 19, 2012.

⁴⁷⁸ As mentioned in interviews with officials from the World Bank (May 23, 2011), MCC (May 10, 2011), CIDA (May 16, 2011) and International Republican Institution (May 10, 2011).

⁴⁷⁹ Interview with Interview with official of the European Commission, May 23, 2012.

⁴⁸⁰ Interview with official from USAID, May 2, 2011

time frame of implementation, which in turn helps provide a continuity and consistency to reforms. In contrast, projects that have a shorter time frame and focus on the types of aid that show less tangible outcomes are less valued. A prime example of this is the MCC project aimed at “Strengthening Democratic Institutions and Processes in Critical Areas.” The overall program was part of the MCC’s Threshold Program with Peru, the goal of which was to “help Peru combat corruption by working with the Judicial branch, law enforcement, the ombudsman and Comptroller’s offices and civil society organizations to improve internal controls, as well as analyze and simplify administrative processes to reduce opportunities for corruption.”⁴⁸¹ All of the MCC’s Threshold Programs aim to affect changes in selected countries that make it eligible to apply for a Compact grant; the selection criteria related to corruption requires that countries achieve a score above the median on the World Bank Institute’s Control of Corruption Indicator.⁴⁸² Unofficial assessments of this program suggest that the two-year time frame of this program makes it difficult to map onto the reform framework in institutions like the Peruvian Comptroller General’s office, which were aligned with the seven-year term of the Comptroller, and that the short-term activities that were implemented were ultimately not sustainable.⁴⁸³ In addition, one of the components of the Peru program was aimed at “[i]ncreasing the capacity of citizens to use public information to effectively assess and monitor the government’s transparency and accountability.”⁴⁸⁴ The fact that this was tied to changes in a macro-level indicator of control of corruption proved problematic, however, because public perception of corruption is more negative than the reality,⁴⁸⁵ and “trust is undercut by big corruption scandals and the level of public anger is getting more cynical.”⁴⁸⁶ The program may indeed have had an impact in increasing the public’s ability to use tools like the OCMA anti-

⁴⁸¹ Millennium Challenge Corporation, “Peru Threshold Program,” <http://www.mcc.gov/pages/countries/program/peru-threshold-program>

⁴⁸² Millennium Challenge Corporation, Guide to the MCC Indicators and the Selection Process for Fiscal Year 2013 (Washington: Millennium Challenge Corporation, 2012), <http://www.mcc.gov/documents/reports/reference-2012001114001-fy13-guide-to-the-indicators.pdf>.

⁴⁸³ Interview with mentioned in interview with officials from the MCC (May 10, 2012) and Comptroller General (July 17, 2012).

⁴⁸⁴ Millennium Challenge Corporation, “Peru Threshold Program.”

⁴⁸⁵ Interview with journalist, July 6, 2012.

⁴⁸⁶ Interview with official from USAID, May 2, 2011

corruption hotline to hold government officials accountable, but this would not necessarily lead to a decrease in the public perception of corruption.⁴⁸⁷ As the project leader of the MCC anti-corruption program noted, “it’s hard to make Peruvians any more cynical about corruption and thus hard to meet the final targets.”⁴⁸⁸

Aid as a Norm Diffusion Mechanism

Ironically, given donor preference for tangible outcomes, another way in which technical assistance aid facilitates good governance reforms is through the less tangible diffusion of best-practice norms. Information-sharing diffuses international standards established by organizations like the OECD, and creates a shared set of ideals to which reform-oriented leaders try to comply. A Superior Court President noted that “one of my main goals is to try to get this court internationalized. We have to be ahead, to be with the ones abroad, with those with practices that we don’t know.”⁴⁸⁹ He added that he is constantly seeking international speakers from countries like Spain, Venezuela, Mexico, and Colombia who can come to Peru to participate in conferences that address how Peru’s courts can modernize its obsolete information systems. The Comptroller General’s office draws upon the knowledge of donors to reach international standards of public financial management, noting that in contrast to the Fujimori era, “today we look up to the OECD and we aspire to become part of it, which implies a number of standards that we do not have today, they have requirements that we have not accomplished yet.”⁴⁹⁰ These standards are not applied in a cookie-cutter fashion, but rather “elaborated and incorporate[d] to the Peruvian process.”⁴⁹¹

The diffusion of models of best practices and sharing of technical expertise allows recipients to apply new methods of promoting and implementing good governance policies. Donor experience with similar processes has proved helpful in presenting the opportunities and challenges of different

⁴⁸⁷ Interestingly, it seems that the MCC effort to raise awareness did have an impact at the institutional level. A Superior Court judge noted that “everybody attacks the Poder Judicial, [with] the ones who lose a trial saying that the judge was probably paid off or something. It is true that there is corruption, but there would be a lot less corruption cases if people would come more easily to us. For example, they come easily to OCMA, because they already know that it won’t cost them a thing, that there is no need for lawyers, instead they just come and verbally report.”

⁴⁸⁸ Interview with an official from the MCC, May 10, 2011.

⁴⁸⁹ Interview with a Superior Court judge, October 12, 2012.

⁴⁹⁰ Interview with official from the Comptroller General, October 11, 2012.

⁴⁹¹ Interview with a former official of the Decentralization Commission, September 20, 2012.

approaches. For example, in the process of decentralization, Spain has played a particularly relevant role

because Spain has gone through its [own] process [of decentralization], a very similar process [that began after its transition to democracy in the late 1970s]. It's not that they want to apply what they did in Peru, no. Not at all. They feel that they have something to give Peru. Their experience, what they did wrong, what they did right, if it can be of use and of help to Peru. The process in Spain is still going on, it's not something that you can say, "Okay, we're finished here." No. It's more than 20 years, I think, they are in this. There's always something to say about it. They feel strongly that they can help in this matter.⁴⁹²

As noted previously, aid donors bring consistency and continuity in the face of changes in leadership, both at the institutional level and the country level, with presidential and Congressional elections occurring every five years. Institutional knowledge is vulnerable to being shuffled out with that leadership, but the presence of aid donors helps ensure that this knowledge is not lost, and is imparted to the subsequent leadership. One example of this comes from the process of decentralization. The experiences of international aid donors from Germany, the Netherlands, Spain, and other EU countries in particular helped the Secretariat for Decentralization better define the strategy and framework for decentralization, based on their "knowledge and accumulated experiences. The Capacity Development Plan for Regional Governments wouldn't have been able to be done if we had not been able to count on the help of technical experts, linked to the donors that gave us all the experience from the last government."⁴⁹³

Conclusions

This chapter showed that the actions surrounding Fujimori's resignation acted as an exogenous shock that ushered in a fundamental shift toward good governance in Peru. The first years of democratic transition saw a flurry of new laws and policies aimed at promoting good governance, disrupting the status quo of unchecked Executive power, and reorienting legal structures governing institutions of horizontal accountability so that a balance of power was

⁴⁹² Interview with an official from AECID, May 17, 2011.

⁴⁹³ Interview with a former official of the Decentralization Commission, September 20, 2012.

restored. Vertical accountability was strengthened with the lifting of press restrictions, and Peruvian citizens demanded more accountability from the state. Legal changes helped reintroduce independence in the Comptroller General's office and the Judiciary, precipitating a shift toward good governance which led to rapid changes in the Comptroller General's office and gradual changes in the Judiciary. These variations in outcomes can be attributed to the differences in endogenous power dynamics of these institutions, which have remained "sticky" even as the external environment has become more favorable to the promotion and adoption of good governance norms and practices.

In this context, international aid donors played a limited role in Peru's transition to good governance. Since 2004, the majority of good governance aid in Peru has come in the form of technical assistance and at the behest of the Peruvian government. The push for reforms was a result of the critical juncture precipitated by the downfall of the Fujimori regime, and was an initiative of the Peruvian government. While it has been instrumental in helping reform processes proceed faster than they might have in the absence of such assistance, the evidence suggests that such changes would have eventually taken place anyway as a result of the critical juncture. That said, aid is valued for its ability to 1) help structural changes become embedded practices that are difficult to uproot in the face of future opposition, 2) facilitate knowledge sharing about best practices related to technical systems, and 3) create a framework of consistency for reforms in the absence of leadership continuity. Aid has been effective in facilitating good governance-related institutional changes, which have been driven by the recipient institutions.

Chapter 7: Conclusions

Introduction

This thesis has sought to understand the role of good governance aid in reforming Peru's political institutions within a larger context that includes other drivers of change. This concluding chapter draws out the empirical material presented in Chapters 5 and 6 and answer the questions posed in Chapter 1: What has influenced or driven good governance-related shifts in Peru's political institutions? What role has good governance aid specifically played in driving or influencing good governance reforms in Peru's political institutions? Assuming good governance aid alone is not sufficient to drive institutional change, how do other drivers of change affect aid's role as a driver of change?

The empirical chapters summarized the good governance shifts that occurred in Peru's Judiciary and Comptroller General (see Tables 7, 8, 9, 10, 11, 13 and 14, and Figures 4-7) and outlined the actions of different drivers of change, explaining their roles in driving or resisting change. Building upon this within-case analysis, this chapter draws these observations and conclusions together in a cross-case comparison (see Tables 15 and 16). The first section provides a brief summary of the argument and problem statement, theoretical framework, and variables, as well as the methodology used to frame and conduct the empirical research. The second section presents a summary and interpretation of the within-case findings from the empirical chapters. The cross-case comparison then considers the relevance of, and relationship between, the independent variables and the observed good governance outcomes in the Judiciary and Comptroller General over time. In making this comparison, this thesis hypothesizes about the necessity and sufficiency of the independent variables in relation to different outcomes of the dependent variable. The final section suggests areas for future research, showing how the arguments developed can be applied to ongoing evaluations of good governance aid interventions.

Summary of Argument

This thesis began with an observation: Two good governance projects, financed by the World Bank and aimed at improving judicial services in Peru, had starkly different outcomes. The first, scheduled for implementation in 1998, was cancelled at the request of the Peruvian government. The second was implemented from 2005 to 2010 and rated as “Highly Satisfactory” by the donor agency. This thesis has sought to explain these divergent outcomes, not at the project level, but rather at the institutional level. While the motivation for this research is grounded in an interest in aid as a determinant or driver of institutional change, this research moved beyond project-specific outcomes to frame aid as an aggregate driver of change, asking what aid’s role is in building, strengthening, and changing political institutions. While aid donors suggest there is significant potential for aid to have a positive role, empirical evidence for this – including case studies – remains thin, and this thesis therefore aimed to conduct a comparative case study of different institutions that received good governance aid.

Chapters 1 and 4 showed that there is some congruence among donors in how they conceive of the dependent variable along the lines of four dimensions of good governance: efficiency, effectiveness, accountability, and transparency. The fact that political institutions in Peru have adopted changes related to key characteristics of good governance to differing degrees along these four dimensions made Peru an ideal context from which to draw cases and compare institutional change at the sub-national level.

Chapter 1 showed that donors tend to be concerned only with the linkages between the inputs of good governance aid and the intermediate-term outcomes of better-governed institutions, often at the expense of considering the impact of other drivers of change within the overarching political environment. Given that aid is unlikely to be the only driver of institutional change, the first question that guided this research focused on identifying all the relevant drivers of change, which were outlined in Chapter 2. The first was the Executive branch, namely the president and his cabinet, in whom policy-making power is strongly centralized in the Peruvian political system. The

second was other government institutions, such as Congress, which has the power to pass laws affecting the Judiciary and the Comptroller General. The third was citizens and civil society actors, including the media, who have the power to demand that institutions be reformed. Finally, the institution itself is a potential driver of change, as the discussion on endogenous institutional change in Chapter 3 illustrated. The empirical chapters sought to identify the actions of each of these drivers of change, as well as aid donors, in different time periods in the Judiciary and Comptroller General to answer the first two research questions posed in Chapter 1.

In Chapters 3 and 4, the actions of these drivers of change were conceptualized as independent variables, and a framework for explaining institutional change posited, although the explicit relationship between the independent and dependent variables was left open to inductive theorizing drawn from the cross-case comparison. This thesis applied the historical institutionalist framework of change to good governance aid, suggesting that aid has three potential roles in reforming Peru's political institutions, which can overlap and are therefore not mutually exclusive: (1) It can drive change by changing preferences that are based on self-interest; (2) it can drive change by diffusing new norms and practices; or (3) it can drive change by embedding new power dynamics and structures. This thesis suggested that identifying which of these roles aid played in driving institutional change is understood based on inductive theorizing developed from empirical cases that analyzed changes in Peru's political institutions over time, given that the independent variables work in conjunction, and the multiplicity of complex causal relationships that could result from different configurations of these independent variables hampers the development of a concise, deductive hypothesis. The empirical within-case analysis presented in Chapters 5 and 6 was conducted by focusing on changes in actors' preferences; changes in norms; changes in power dynamics and structures related to the five independent variables, and changes in four dimensions of the dependent variable.

Summary of Cross-Case Findings

Process-tracing of each individual case was utilized to conduct the empirical investigation

presented in Chapters 5 and 6 of the good governance-related changes that occurred in Peru's political institutions between 1980 and 2010. This section presents these findings from the within-case analysis are presented in a comparative framework, outlined in Table 15, which builds upon the Tables 7, 8, 9 and 11 in Chapter 5 and Table 14 in Chapter 6. Table 15 shows that good governance shifted from a moderate level in the Comptroller General's office and a weak level in the Judiciary in the 1980s, to a weak and very weak level in the 1990s, respectively. In the 2000s, good governance shifted from weak to strong in the Comptroller General's office, and from very weak to moderate in the Judiciary. Executive interference played a key role in influencing the shift to weak levels of good governance in the 1990s, which was facilitated by weak mechanisms of horizontal and vertical accountability and the unwillingness or inability of the leaders of the Comptroller General's office and Judiciary to block executive interference. In the 2000s, the Executive had a positive influence on good governance, which was facilitated by strong mechanisms of horizontal and vertical accountability and the desire of the leaders of the Comptroller General's office, and to a lesser degree the Judiciary, to implement reforms. Good governance aid was ineffective in influencing institutional change in the 1990s because the goal of good governance aid was at odds with the goal of the Executive, and therefore was blocked prior to implementation, or could have only a modest impact once implemented. The main role of good governance aid in the 1990s, therefore, was to diffuse good governance norms. In the 2000s, the goals of the government aligned with the goals of aid donors in terms of good governance, and aid was more effective both in diffusing norms of good governance and in facilitating structural changes in the Comptroller General's office and the Judiciary. However, aid's main role was to facilitate, not drive, institutional change, due to the Peruvian government's strong ownership of the reform agenda.

Table 15. Cross-Case Comparison

	Influence of Executive	Horizontal Accountability	Vertical Accountability	Influence of Institutional Leaders	Role of Aid Donors	Level of Good Governance
Comptroller General's Office 1980s	Attempts to interfere by appointing loyalists and influencing investigations worked some of the time; Moderate negative influence	Did not counterbalance Executive attempts at influence; Weak	Focused on economic issues; Weak	Some reforms instituted during 1980-1987, mixed independence; Moderate positive influence	No good governance programs in this era; None	Some reforms consistent with dimensions of good governance initiated; Medium level of good governance
<p>Critical Juncture 1: Fujimori changes legal structures, resulting in a strong, negative shift away from good governance-related reforms and resulting in a low level of governance. In terms of the Mahoney and Thelen framework, new (bad governance) rules displaced old (good governance) rules, and those who would actively seek to eliminate these new rules (insurrectionaries) would not be able to do so until another critical juncture occurred.</p>						
Comptroller General's Office 1990s	Executive imposed significant reforms; Strong negative influence	Facilitated Executive attempts at influence; Weak	Primarily focused on economic issues, then elections/judicial corruption; Weak	Leaders aligned with executive reforms; Strong negative influence	Few projects at the end of the decade were weak; Weak norm diffusion	Prior positive reforms undone and new reforms undermined dimensions of good governance; Low level of good governance
<p>Critical Juncture 2: Post-Fujimori governments undo laws and decrees of Fujimori era, resulting in a strong, positive shift (back) toward good governance-related rules, resulting in a higher level of governance than that observed during the Fujimori era. In terms of the Mahoney and Thelen framework, new (good governance) rules displaced old (bad governance) rules, as the insurrectionaries from Critical Juncture 1 were able to exploit Critical Juncture 2 to make this happen.</p>						
Comptroller General's Office 2000s	Toledo supported laws aimed at good governance, and no evidence that García had attempted to interfere; Moderate positive influence	Congress passed laws aimed at good governance reforms and kept Executive power mostly in check; Moderate	Strong demand for good governance and ability to counter Executive; Strong	Reforms related to multiple dimensions of good governance initiated; independence from Executive: Strong positive influence	Significant projects aimed at good governance, but driven by the Comptroller General; Strong norm diffusion and facilitation of structural changes	Rapid legal changes early on, then ongoing but visible change shifted perception, though challenges remain; High level of good governance
Judiciary 1980s	Attempts to interfere by purging judges aligned with opposition, but did not alter fundamental legal structures; Moderate negative influence	Did not counterbalance Executive attempts at influence; Weak	Focused on economic issues; Weak	Anti-reform actions often taken, no efforts to thwart executive influence; Strong negative influence	No good governance programs in this era; None	No reforms initiated; Low level of good governance

<p>Critical Juncture 1: Fujimori changes legal structures, resulting in a strong, negative shift toward good governance in an institution that was already perceived as poorly governed; this shifted judicial independence from a medium to low level. In terms of the Mahoney and Thelen framework, new (independence-undermining) rules displaced old (certain amount of independence) rules, and those who would actively seek to eliminate these new rules (insurrectionaries) would not be able to do so until another critical juncture occurred. In terms of administrative reforms that were introduced, opportunists who opposed these rules, such as the civil procedure code, but not committed enough to mount a public opposition could interpret or implement them with discretion, thereby converting them to serve purposes other than those for which they were intended.</p>						
Judiciary 1990s	Executive altered legal structures and imposed significant administrative reforms; Strong negative influence	Facilitated Executive attempts at influence; Weak	Initially focused on economic issues, but gradual demand for good governance; however, weak ability to counterbalance Executive; Weak	Variation in leadership alignment with Executive, but opponents' main recourse was to resign, so unable to halt reforms; Moderate negative influence	Projects were canceled or scaled back; Weak norm diffusion	Reforms undermined dimensions of good governance except efficiency, but effects were short-term; Low level of good governance
<p>Critical Juncture 2: Post-Fujimori governments undo laws and decrees of Fujimori era, resulting in a moderate, positive shift toward good governance-related rules, resulting in a higher level of governance than that observed during the Fujimori era. In terms of the rules governing provisional judges and the powers of the CNM, new (good governance/independence-strengthening) rules displaced old (bad governance/independence-undermining) rules, as the insurrectionaries from Critical Juncture 1 were able to exploit Critical Juncture 2 to make this happen. In terms of administrative reforms, reforms introduced, such as the criminal procedure code, were now converted back to their original intended purpose, as opportunists follow the shift in leadership/ tone set by leaders in terms of adhering to good governance.</p>						
Judiciary 2000s	Toledo supported positive legal changes, but continued attempts to align judges with Executive; Weak negative influence	Congress passed laws aimed at good governance reforms and kept Executive power mostly in check; Moderate	Strong demand for good governance and ability to counter Executive; Strong	Different leaders and entities within Judiciary had different reform outlooks; Weak positive influence	Significant projects aimed at good governance, but driven by judicial leaders; Strong norm diffusion and facilitation of structural changes	Rapid legal changes early on, then halting reforms, some of which have led to positive changes, but still significant issues; Moderate positive shift; Medium level of good governance

Changes in Good Governance

As Table 15 illustrates, there have been two major shifts in good governance in the Comptroller General’s office and the Judiciary between 1990 and 2010. The first shift occurred in 1992 (Critical Juncture 1), when the Executive altered legal structures and engaged in systematic bribery to ensure that those working in the Comptroller General’s office and the Judiciary did not undermine the objectives of the regime. Prior to 1992, good governance in Peru was not a priority for government institutions or civil society and citizens. Corruption and inefficiency were

acknowledged as problems, particularly in the Judiciary, but the focus on economic crises and terrorism in the 1980s meant that there was not widespread popular demand for reforms, and no systematic reform programs were initiated by the political institutions themselves, or by other government institutions. There are some indications that during the majority of the decade there was a reform-oriented leader in the Comptroller General's office who made changes consistent with increasing effectiveness, and that the Comptroller General has the independence and authority to investigate most cases (and did so), suggesting that there was a moderate level of accountability. However, there is insufficient evidence to make an inference about efficiency and transparency. In the Judiciary, data drawn from secondary sources suggest that corruption (as an indicator of effectiveness) and inefficiency were very high. Further, judicial independence was hampered by the Executive's practice of appointing loyalists to the Judiciary, although in some cases this did not affect judicial actions, as in the example of bank nationalization in 1987. This suggests a moderate level of accountability. There is insufficient data to make a claim about transparency. Given this incomplete picture, this thesis is forced to draw weak inferences to establish baseline levels of good governance circa 1990: There was a moderate level of good governance in the Comptroller General's office, and a low level of good governance in the Judiciary.

The actions taken by the Fujimori government during the 1990s negatively shifted levels of good governance in both institutions, as outlined in Tables 9 and 11 in Chapter 5. The Comptroller General was barred from auditing several government agencies, and auditors were no longer required to have the same competencies, thus impeding effectiveness. Analyses conducted at the end of the Fujimori regime in 2000 suggest that it was perceived as corrupt (specifically, influenced by ties to organized crimes syndicates) and lacking in transparency. (There is insufficient data to make a claim about efficiency). In the Judiciary, the low level of effectiveness was made worse due to the Executive firing most judges and replacing them with under-qualified, non-tenured judges whose positions were contingent upon acquiescence to the Executive branch. In addition, many judges were systematically bribed to ensure their compliance with the Executive's desired outcomes.

Accountability suffered as a result. As for transparency, one indicator that it was made worse was the fact that military courts were given jurisdiction over trials of suspected terrorists, which were closed proceedings. In contrast, there is an indication that efficiency increased, as administrative reforms introduced in the Judiciary resulted in a reduction in case backlog. On the whole, however, good governance in both the Judiciary and the Comptroller General's office was systematically weakened in the 1990s, and by 2000 was at a low level in both institutions.

The second good governance shifted occurred in 2000 (Critical Juncture 2), in reaction to the exposure of the massive bribery scandal and Fujimori's subsequent resignation. These events acted as a critical juncture that put good governance on the national policy agenda. During the first few years of this transition period, numerous laws and policies were implemented that related to different dimensions of good governance. In addition, a number of systematic reforms programs were launched that aimed to reduce corruption and increase transparency, efficiency, and accountability. Given that more attention was paid to good governance in this decade, more indicators were available to measure levels of the different dimensions of good governance in political institutions. Perception surveys showed that the Comptroller General was considered one of the least corrupt and most effective political institutions in Peru, and expert analyses suggested that its Web portal (a component of complying with the Law on Transparency and Access to Information) achieved a high standard of transparency. There were some indications from interviews that efficiency in managing audits was an ongoing challenge, but overall there is a strong base of evidence from which to infer that good governance significantly improved by 2010, as outlined in Figures 4 and 5 in Chapter 6, as well as Annex V.

The picture in the Judiciary suggests positive changes as well. Certain changes increased effectiveness and accountability in the Judiciary, particularly the replacement of temporary judges with tenured ones who were not beholden to the Executive, and the trial and sentencing of Fujimori and a number of other members of his cabinet to prison for corruption (and other charges). Further, judicial selection processes were revised to ensure that judges met competency standards, and a

strong internal anti-corruption oversight body (OCMA) was strengthened. In terms of transparency, the Judiciary complied with the Law on Transparency and Access to Information through its establishment of its Web portal. However, perceptions of the Judiciary continue to be extremely negative, with citizens complaining of corruption and massive inefficiency. Several interviewees suggested that perceptions of judicial corruption and efficiency are much more negative than *actual* instances of corruption, and that the public is unaware of improvement in reducing case backlogs. On balance, the conclusion to be drawn is that there is a moderate level of good governance in the Judiciary, as there have been major improvements, but that significant challenges remain.

Shift in Internal Dynamics and the Role of Institutional Leaders

The role of leaders in the Comptroller General's office and the Judiciary in driving good governance reforms has varied over time, in part due to institutional variation. In the former, the Comptroller is appointed for a seven-year term, whereas in the Judiciary, the individual in charge of reforms, the president of the Supreme Court, is appointed for a two-year term. Thus it is more difficult to characterize the leadership in the Judiciary as a cohesive whole over a decade, and this determination is necessarily impressionistic. That said, in the 1980s, there is no indication that any reforms were initiated, and there were few systematic attempts to thwart excessive executive influence in terms of the nepotism and cronyism perpetrated by the García administration. Thus there was a moderate, negative influence on good governance. During the Fujimori era, there was variation in how the respective leaderships aligned with executive reforms, but given that the main recourse for opponents of the Fujimori regime was to resign, they were unable to halt reforms. Those left in power were supporters, or at least not vocal opponents of the regime, and therefore they could be said to exert a moderate, negative influence on good governance reforms. The same variation in leadership occurred in the 2000s, with different leaders having different reform outlooks. However, enough leaders have either pushed for good governance reforms or paid lip service to them that they could be said to have a weak, positive influence on reforms. In the Comptroller General's office in the 1980s, the Comptroller who was in charge for the majority of the

decade instituted some good governance reforms, although they were not comprehensive, and the subsequent Comptroller was considered to lack a certain degree of independence and impartiality. Taken together, this suggests there was a moderate, positive influence on good governance reforms. In contrast, the Comptroller for the majority of the Fujimori era was chosen by Fujimori, was aligned with the Executive, and was considered to be corrupt; therefore, he had a strong, negative influence on good governance reforms. In the 2000s, the two Comptrollers were both reform-oriented, and reforms related to multiple dimensions of good governance were implemented. Thus, the leaders had a strong, positive influence on reforms.

The Influence of the Executive Branch

Peru's political landscape has been characterized by a strong presidential system that tends to centralize power in the Executive branch. The president has often utilized this concentration of power to try and ensure that public-sector institutions in other government branches are aligned with his policy priorities. In the 1980s, the Executive branch exerted a moderate, negative influence on the Comptroller General's office and the Judiciary by appointing individuals to these institutions who were aligned with the president's party and were therefore unlikely to undertake reforms or pursue investigations or judgments that would undermine the Executive's policy priorities. This in turn undermined good governance in these institutions. However, this influence was not systematic, as different events, as shown by the Comptroller General's investigations of impropriety in certain government expenditures, and the Judiciary's willingness to oppose executive actions in court. In contrast, the Executive branch was a strong, negative driver of change in the 1990s for both institutions. Significant legal reforms were imposed upon both the Comptroller General's office and the Judiciary during the Fujimori era, and this was complemented by systematic bribery of individuals working within these institutions to dissuade them from opposing executive actions. This influence amounted to state capture, and fundamentally undermined good governance in these institutions. This dynamic shifted radically in the 2000s, when new laws aimed at good governance were supported by the Executive branch, particularly during Toledo's term as president. During

García's term as president, several executive actions raised concerns about executive influence on the Judiciary, and observers have noted that García reverted to his past practice of appointing loyalists to the Judiciary. However, there is no suggestion that this influence was present in the Comptroller General's office. On balance in the 2000s, then, the Executive exerted a weak, negative influence on the Judiciary, and a weak, positive influence on the Comptroller General's office.

The Role of Horizontal Accountability Mechanisms

The analysis of Peruvian history in Chapter 5 showed that those government institutions that might serve as a check on executive power, namely Congress, have often been weak due to the fragmentation of political parties, which organized around individual leaders rather than platforms focused on specific issues. In addition, members of Congress, like other Peruvian citizens, were preoccupied with issues related to the economic crises and terrorism in the 1980s, and did not recognize good governance as a major reform priority. This meant that Congress acted as a weak mechanism of horizontal accountability to keep executive power in check, and did nothing to counterbalance the Executive branch's attempts to influence the Comptroller General's investigations of, or the Judiciary's judgments against, the Executive branch's interests. At the same time, it did not pass any laws aimed at good governance reforms. In the 1990s, Fujimori dismissed Congress and then ensured that when it was reinstated, it was filled with those loyal to him, loyalties that were reinforced by the systematic bribery of members of Congress. As a result, Congress facilitated executive attempts to interfere with the Comptroller General's office and the Judiciary, and thus continued to act as a weak mechanism of horizontal accountability. This shifted in the 2000s, as a new Congress passed several laws aimed at good governance reforms, such as the Law of Transparency and Access to Information, and acted more decisively to keep executive power in check by voting against executive decrees that represented an overstep of executive power. Thus Congress acted as a moderate mechanism of horizontal accountability in the 2000s.

The Role of Vertical Accountability Mechanisms

Citizens, civil society, and the mass media in Peru did not demand good governance reforms

until the late 1990s. Prior to that, in the 1980s, they were preoccupied with the economic crises and terrorism, much like Congress. Therefore, as a mechanism of vertical accountability to demand reforms or monitor good governance in political institutions, their role was fairly weak. This was also true in the 1990s, as the majority of Peruvians favored the Fujimori government's actions to limit the powers of the Comptroller General and the Judiciary. A shift began to occur in the late 1990s, as more NGOs and citizens reacted to Fujimori's attempt to secure election for a third term by opposing these actions through protests and campaigns like a national referendum to allow citizens to validate election laws. And the mass media continued to work to expose corruption during this time, which led to the exposure of the massive web of bribery under Montesinos. However, on balance, civil society's ability to counterbalance executive action and act as a mechanism of vertical accountability was weak during the 1990s. This changed in the 2000s, as civil society's role as a government monitor increased, as have the number of organizations and media outlets reporting on good governance. Civil society was more effectively able to launch campaigns to demand reforms, and more able (and willing) to pressure other actors like Congress to counterbalance executive actions — as it did when García attempted to impose an NGO registration law that would have undermined their independence. As a result of the changes during the 2000s, civil society is now considered robust, or strong, by most analysts, and good governance is often mentioned in citizens' surveys as a top reform priority.

The Role of Good Governance Aid

In the 1980s, no good governance aid projects were implemented in Peru, as good governance aid had not yet become an entrenched sector of development aid in general. Therefore, good governance aid did not have any influence on reforms in either institution during this period. In the 1990s, good governance projects either failed to be implemented, such as the World Bank loan to the Judiciary, or were implemented but had modest results within the context of the Fujimori regime. However, these projects did have the effect of diffusing norms of good governance, albeit weakly given the political context, by engaging in citizen awareness-raising activities related to

participation in the political process. The major opening for good governance aid to play a significant role in reforms came after the end of the Fujimori regime, when the political opening and democratic transition ushered in a new era of cooperation between the Peruvian government and aid donors. There were significant projects implemented in both the Comptroller General's office and the Judiciary with funds provided from aid donors. However, both Peruvian government officials and aid donors stated that donors did not impose the reforms, which were driven by the Peruvian government. Rather, donors facilitated reforms through the provision of training and technical assistance, as well as through support to NGOs. In this context, good governance aid acts as a mechanism by which norms are strongly diffused. Further, some of the systems that donors are helping to implement, like the World Bank's biometrical scan, help facilitate changes that might lead to a shift in actor preferences, in that there are fewer opportunities to extract bribes, which might not make it worth the effort. In addition, this could facilitate changes in power dynamics, in that certain actors have less power over different processes within institutions.

Necessary and Sufficient Conditions

Table 16 shows the findings from the cross-case comparison reduced to a parsimonious relationship.

Table 16. Parsimonious Cross-Case Comparison

	Executive	Horizo. Account.	Vertical Account.	Institutional Leaders	Aid Donors	Good Gov.
Comptroller General 1980s	Moderate negative influence	Weak	Weak	Moderate positive influence	None	Medium
Comptroller General 1990s	Strong negative influence	Weak	Weak	Strong negative influence	Weak norm diffusion	Low
Comptroller General 2000s	Moderate positive influence	Moderate	Strong	Strong positive influence	Strong norm diffusion and facilitation of structural changes	High
Judiciary 1980s	Moderate negative influence	Weak	Weak	Strong negative influence	None	Low
Judiciary 1990s	Strong negative influence	Weak	Weak	Moderate negative influence	Weak norm diffusion	Low
Judiciary 2000s	Weak negative influence	Moderate	Strong	Weak positive influence	Strong norm diffusion and facilitation of structural changes	Medium

Drawing from these observations, this thesis makes three claims about necessary and sufficient conditions related to good governance changes in Peru. The first is that in the absence of strong horizontal or vertical accountability, Executive interference is sufficient for negative good governance outcomes. As the case of the Judiciary in the 2000s shows, there were executive efforts to influence the Judiciary, but the strong horizontal and vertical accountability mechanism helped to prevent this interference from having a negative impact on good governance. This is in contrast to the cases of the Judiciary and the Comptroller General's office in the 1990s, when weak mechanisms of horizontal and vertical accountability resulted in low levels of good governance in both institutions.

The second claim is that endogenously driven reforms — those driven by the leaders of the Comptroller General's office or the Judiciary — are sufficient for positive good governance outcomes, so long as the Executive does not exert a strong, negative influence. This was the case in the Comptroller General's office in the 1980s, when the Comptroller initiated some good governance reforms, which the Executive at the time did not attempt to undermine, although in general the Executive had a tendency to interfere in a moderate way by appointing party loyalists to political institutions. In the Judiciary in the 1980s, strong anti-reform actions on the part of judicial leaders resulted in a low level of good governance. As these cases are similar in all aspects save this one, and the levels of good governance were different, it can be inferred that a pro-reform leader driving good governance reforms is sufficient for good governance outcomes, and can circumvent moderate or weak executive interference. He or she cannot circumvent strong interference, as the multiple examples of resignations by top leaders in the Comptroller General's office and the Judiciary in the 1990s show.

The third claim is that good governance aid is neither a necessary nor a sufficient condition for good governance outcomes. As the example of the Comptroller General's office in the 1980s shows, reforms can be driven by the institutional leader, without the presence or influence of aid donors. Nor is aid sufficient for good governance reforms, as the cases in the 1990s showed. While

aid could act as a weak norm diffusion mechanism, it could not counterbalance the strong, negative influence of the Executive. However, these claims of necessity and sufficiency rest on framing aid as a driver of change, and it should not be concluded that aid is therefore irrelevant, or ineffective. If we frame aid as a facilitator of change processes already taking place, or in the context of a government that wants to initiate good governance reforms, then there are clear examples of how aid is relevant, and can be effective in driving reforms. Numerous Peruvian government officials mentioned in the interviews that aid was invaluable in helping implement reforms faster than they might be implemented in the absence of aid donor assistance. In addition, these same interviewees mentioned that long-term aid projects, such as the five-year projects implemented by the World Bank and IADB, provide a continuity to reforms that might otherwise be lost due to changes in institutional leadership. Thus aid may be a necessary condition for reform continuity and speed.

That aid can only facilitate, but not drive, institutional change is a conclusion that is consistent with the literature on aid effectiveness, which states that aid can only be effective when there is recipient ownership of reforms, and when donors align their aid to recipients' reform objectives. In addition, good governance aid is only effective when the political environment is conducive to institutional reform — that is, when major actors are in agreement on an overarching reform agenda or priorities. This is illustrated by the cases of the Comptroller General's office and the Judiciary in the 1990s, when there was no consensus on good governance reform priorities, versus the 2000s, when there was a consensus that led to a National Accord for Governance. In the former cases, aid could not drive significant institutional changes in the Comptroller General's office or in the Judiciary, and at best could act as a weak norm diffusion mechanism. In the 2000s, the Peruvian transition government, reacting to the Fujimori regime's undermining of good governance, chose to make good governance reforms a policy priority. Donors' good governance objectives did not change over time; the difference was that these objectives aligned with those of the transition government, whereas they did not align with the objectives of the Fujimori government. In the context of this ownership and alignment, good governance aid has been able to act both as a strong

diffuser of good governance norms, as well as a diffuser of expertise and know-how related to implementing structural changes that strengthen good governance.

Further Research Agenda

Many of those designing and implementing good governance aid projects implicitly recognize that these projects can only facilitate, rather than drive change, and the literature on aid effectiveness and drivers of change explicitly understands that aid is unlikely to be either a necessary or sufficient condition for overarching change in political institutions. How then, does this thesis contribute something new, particularly to aid donors, given these acknowledgments? I suggest that this thesis has helped empirically illustrate the types of mechanisms by which good governance aid can contribute to institutional change in different contexts or political environments – for example, in an environment with a strong Executive with an interest in blocking or undermining good governance reforms, compared with an environment where this is not the case. Not all donors have adopted a drivers-of-change approach, and it is sometimes difficult to conceptualize and adapt this approach at the level of intervention at which good governance aid projects are typically aimed. This thesis shows the relevance of embedding a project-specific logical framework or theory of change (as in Figure 1 in Chapter 1) within a larger framework that explicitly incorporates the potential impact of meso- and macro-level drivers of change (as in Figure 2 in Chapter 1). In doing so, aid donors can better strategize about the anticipated impact of their interventions, understand what is likely to be achieved and not achieved by discrete good governance aid interventions, and shape expectations about the role their specific projects are likely to play in different political contexts.

There are several avenues for future research that can build upon the work presented in this thesis. The first involves examining a larger number of cases to increase the scope of the findings. The small number of cases has allowed this thesis to delve into a rich level of detail, but it also bounds the findings from the cross-case comparison by the specific context of Peru. One way to expand upon this — and increase the generalizability of the findings — is to compare similar good governance projects in different countries. For example, it would be fruitful to analyze the role of

good governance aid projects in the Colombian Judiciary compared with the case of the Peruvian Judiciary (see below), given that both countries went through similar periods of armed conflict, and have seen significant improvements in good governance since the 1980s. This would be particularly interesting in terms of comparing the effectiveness of the same donor, such as the World Bank, implementing the same type of projects in a different country, and could draw in issues of program management in different settings as a possible influence on aid effectiveness.

This relates to a second area for further research, which could analyze different donor programs from the project level of analysis. Since this research project started in 2007, many more donors have embraced the need to evaluate good governance aid projects, so there is more potential for evaluating each specific project, and then conducting a meta-analysis to draw conclusions about the comparative role of different donors and mechanism by which change is achieved. It would be worthwhile to analyze in greater detail what variables at the project level might have accounted for differences in outcomes in the World Bank versus the Millennium Challenge Corporation's judicial reform programs, for example, as several interviewees made reference to the positive impact of the former and the negligible contribution of the latter. This might be difficult to do as an outsider, given that certain documents and government officials are inaccessible, as the I found during the course of her research. However, there is the possibility of gaining this access as a program evaluator, which I have experienced in my professional work that has built upon the research developed in this thesis. While writing up the results of my field work and empirical research for this thesis, I was engaged as a monitoring and evaluation specialist on an evaluation of U.S. aid to the Colombia Judiciary, as referenced above. The level of access that came with an official role as a contracted program evaluator, as well as the additional resources that came with working on a multi-person team rather than as a solo researcher, resulted in being provided with exponentially more information than I was during the course of my thesis.

A third avenue for future research could be to focus on one aspect of good governance in particular, rather than all four. Given that corruption is cited in citizens' perception surveys as one of

the top issues facing Peru, narrowing the scope of the analysis to focus only on corruption outcomes would allow researchers to expand upon the cases in greater detail. As this thesis pointed out in several different chapters, there was limited data available to establish all the dimensions of the dependent variable, particularly in earlier eras. Quantitative data on these four dimensions of good governance was particularly limited until the 2000s, and such data were often not comparable over time. In addition, sources of information that might provide an understanding of the rationale behind policy decisions were limited due to a lack of access to a wider number of interviewees. That said, this thesis did triangulate numerous sources of data to form a clear impression of both the overall status of the dependent variable for each case, as well as a solid understanding of decisions that were made and the probable rationale behind those decision. In future research, however, focusing on just one aspect of good governance, such as corruption, would contribute even further to understanding the cases presented in this thesis.

Bibliography

- "Auditor finds more than 10,000 Cases of Irregularities Under Garcia." *Andean Air Mail & Peruvian Times*, September 1, 2011. <http://www.peruviantimes.com/01/peru-auditor-finds-more-than-10000-cases-of-govt-irregularities-in-garcias-final-years/13542>.
- "Bertelsmann Transformation Index 2012: Peru Country Report." *Bertelsmann Stiftung*, 2012. <http://www.bti-project.de/fileadmin/Inhalte/reports/2012/pdf/BTI%202012%20Peru.pdf>.
- "César San Martín Anuncia que se Seguirá Fortaleciendo Labor de la OCMA." *Andina*, June 3, 2011. <http://www.andina.com.pe/ingles/Noticia.aspx?id=h4SQN9zvukw=>.
- "Comptroller General Resolution No. 077-99-CG." *Peruvian Ministry of Justice and Human Rights*, July 7, 1999. [http://spij.minjus.gob.pe/CLP/contenidos.dll/temas/coleccion00000.htm/tomo00722.htm/libro00796.htm/sumilla00799.htm?f=templates\\$fn=document-frame.htm\\$3.0#JD_modifica5566_](http://spij.minjus.gob.pe/CLP/contenidos.dll/temas/coleccion00000.htm/tomo00722.htm/libro00796.htm/sumilla00799.htm?f=templates$fn=document-frame.htm$3.0#JD_modifica5566_).
- "Comptroller General Resolution No. 147-83-CG-04.AGO.83." *Peruvian Ministry of Justice and Human Rights*, 1983.
- "Comptroller General Resolution No. 328-83-JUS-1983." *Peruvian Ministry of Justice and Human Rights*, 1983.
- "Ending Corruption in Peru Easier Said than Done." *United Press International*, October 31, 1985.
- "Fiscalía de la Nación Investiga a Contralor por Subirse el Sueldo." *Diario16*, November 19, 2011. <http://diario16.pe/noticia/11789-fiscalia-de-la-nacion-investiga-a-contralor-por-subirse-el-sueldo>.
- "Fujimori Fires Top Banker in Peru." *Reuters*, April 28, 1992.
- "Governance Fact Sheet: Peru." *U.S. Agency for International Development*, February 2012. <http://peru.usaid.gov/sites/default/files/Democracy-English-FEBRUARY-2012.pdf>.
- "Head Of Civil Guard Removed In Financial Investigation." *The Associated Press*, November 21, 1984.
- "IDB approves \$28 million to support modernization and decentralization of the state in Peru." *Inter-American Development Bank*, November 27, 2002. <http://www.iadb.org/en/news/news-releases/2002-11-27/idb-approves-28-million-to-support-modernization-and-decentralization-of-the-state-in-peru,1310.html>.
- "Inside INTOSAI: Governing Board Holds 35th Meeting in Washington." *International Journal of Government Auditing* 19:1 (1992): 19-23. <http://archive.gao.gov/t2pbat4/150966.pdf>.
- "Irregularities In Peruvian Elections Cited." *United Press International*, November 24, 1986.
- "Judicial Commission Suspends Competition Following Corruption Allegations." *Andean Air Mail &*

Peruvian Times, February 23, 2010. <http://www.peruviantimes.com/23/judicial-commission-suspends-competition-following-corruption-allegations/5027>.

"Las Ejecuciones Extrajudiciales del Penal de el Frontón y el Lurigancho (1986)." *Final Report of the Peruvian Truth and Reconciliation Commission*, August 28, 2003. <http://www.cverdad.org.pe/ifinal/pdf/TOMO%20VII/Casos%20Ilustrativos-UIE/2.67.FRONTON%20Y%20LURIGANCHO.pdf>.

"Order in the Jungle." *The Economist*, March 14, 2008.

"Otra Compra Irregular a Gildemeister." *Diario La Primera*, November 22, 2007. http://www.diariolaprimeraperu.com/online/politica/otra-compra-irregular-a-gildemeister_7617.html.

"Peru: Comptroller-General Resigns After Reporting Missing Gold." *BBC Summary Of World Broadcasts: The Monitoring Report*, March 27, 1993.

"Peru's President Says He'll Accept Resignations of Top Petroperu Officials." *Platts Oilgram News*, August 26, 1986.

"Police Accused of Stealing \$100 Million of Impounded Goods." *The Associated Press*, July 24, 1991.

"President Says Peru Court Won't Stop Bank Takeovers." *The Toronto Star*, August 4, 1987.

"Prosecutor in Fujimori Trial Appointed as Next Attorney General." *Andean Air Mail & Peruvian Times*, April 15, 2011. <http://www.peruviantimes.com/15/prosecutor-in-fujimori-trial-appointed-as-next-attorney-general/11902>.

"Prosecutor in Fujimori Trial Planning to Resign." *Andean Air Mail & Peruvian Times*, February 18, 2010. <http://www.peruviantimes.com/18/prosecutor-in-fujimori-trial-planning-to-resign/4996>.

"Resolution 261-2000." *Peruvian Ministry of Justice and Human Rights*, March 7, 2003. http://www.mininter.gob.pe/admin/archivos/13122009231525_mof_oci.pdf.

"Water: Peruvian Copper Mine Abuses Its Rights." *Inter Press Service*, February 18, 1992.

Abusada, Roberto, Fritz Du Bois, Eduardo Morón, and José Valderrama, eds. *La Reforma Incompleta, Rescatando los Noventa*. Lima: Universidad del Pacífico, 2000. <http://ipe.org.pe/wp-content/uploads/2009/05/la-reforma-incompleta-web.pdf>.

Agencia Peruana de Cooperación Internacional. "Banco de Proyectos." <http://www.apci.gob.pe/bancoproyecto.php>.

AidData. <http://aiddata.org>.

Amenta, Edwin, and Kelly M. Ramsey. "Institutional Theory." In *Handbook of Politics: State and Society in Global Perspective*, edited by Kevin T. Leicht and J. Craig Jenkins, 15-39. New York: Springer Science and Business Media, 2010.

- Aoki, Masahiko. *Toward a Comparative Institutional Analysis*. Cambridge, MA: MIT Press, 2001.
- Aubut, Julie. *The Good Governance Agenda: Who Wins and Who Loses. Some Empirical Evidence for 2001*. London: LSE Development Studies Institute, 2004.
- Banerjee, Abhijit V., Esther Duflo, and Rachel Glennerster. "Putting a Band-Aid on a Corpse: Incentives for Nurses in the Indian Public Health Care System." *Journal of the European Economic Association* 6:2-3 (2008): 487-500.
- Barbier, Chrystelle. "Victims of Alberto Fujimori's Death Squads Unearthed in Peru." *The Guardian*, September 6, 2011. <http://www.theguardian.com/world/2011/sep/06/peru-human-rights-fujimori>.
- Barrios Altos Case, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 147 (March 14, 2001). <http://www.worldlii.org/int/cases/IACHR/2001/5.html>.
- Bazeley, Pat. *Qualitative Data Analysis with NVivo*. London: Sage Publications, 2007.
- Bebbington, Anthony, and Willy McCourt. *Development Success: Statecraft in the South*. New York: Palgrave Macmillan, 2007.
- Beer, Michael, Russell A. Eisenstat, and Bert Spector. "Why Change Programs Don't Produce Change." *Harvard Business Review* (1990): 2-11.
- Birdsall, Nancy, Augusto de la Torre, and Felipe Valencia Caicedo. "The Washington Consensus: Assessing a Damaged Brand." *CGD Working Papers*, no. 211. Washington: Center for Global Development, 2010.
- Blume, Lorenz, and Stefan Voigt. "Does Organizational Design of Supreme Audit Institutions Matter? A Cross-Country Assessment." *European Journal of Political Economy* 27:2 (2011): 215-229.
- Boettke, Peter, Christopher J. Coyne, and Peter T. Leeson. "Institutional Stickiness and the New Development Economics." *American Journal of Economics and Sociology* 67:2 (2008): 331-58.
- Bonilla, Rosa. "¿En Ruta de Salida?" *Caretas*, no. 1669, May 10, 2001. <http://www.caretas.com.pe/2001/1669/secciones/marfon.phtml>.
- Booth, David, and Verena Fritz. *Good Governance, Aid Modalities and Poverty Reduction: From Better Theory to Better Practice*. Dublin: The Advisory Board for Irish Aid, 2008.
- Bovens, Mark. "Public Accountability." In *The Oxford Handbook of Public Management*, edited by Ewan Ferle, Laurence E. Lynn, Jr., and Christopher Pollitt, 182-208. Oxford: Oxford University Press, 2005.
- Bowen, Sally. "International Reprisals after Coup Strain Peru's Economic Reforms." *The Christian Science Monitor*, May 14, 1992.
- Brady, Henry, and David Collier, eds. *Rethinking Social Inquiry*. Lanham, MD: Rowman and Littlefield, 2010.

- Buchanan, David, Louise Fitzgerald, Diane Ketley, Rose Gollop, Jane Louise Jones, Sharon Saint Lamont, Annette Neath, and Elaine Whitby. "No Going Back: A Review of the Literature on Sustaining Organizational Change." *International Journal of Management Reviews* 7, no. 3 (2005): 189-205.
- Bueno de Mesquita, Bruce, Alastair Smith, Randolph M. Siverson, and James D. Morrow. *The Logic of Political Survival*. Cambridge, MA: MIT Press, 2003.
- Bulmer, Martin, and Donald P. Warwick. *Social Research in Developing Countries: Surveys and Censuses in the Third World*. London: Routledge, 1993.
- Cameron, Maxwell A. "Political and Economic Origins of Regime Change in Peru: The Eighteenth Brumaire of Alberto Fujimori." In *The Peruvian Labyrinth: Polity, Society, Economy*, edited by Maxwell A. Cameron and Philip Mauceri, 37-69. University Park, PA: Pennsylvania State University, 2007.
- Cameron, Maxwell A., and Philip Mauceri. *The Peruvian Labyrinth: Polity, Society, Economy*. University Park, PA: Pennsylvania State University Press, 1997.
- Campos, Milagros. *KAS Democracy Report 2009*. Berlin: Konrad Adenauer Foundation, 2009. <http://www.kas.de/wf/en/33.18261>.
- CAMRIS International, *Peru Threshold Program: Data Quality Review and Midterm Assessment*, U.S. Agency for International Development, July 2010. http://pdf.usaid.gov/pdf_docs/pdacr871.pdf
- Capoccia, Giovanni, and R. Daniel Kelemen. "The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism." *World Politics* 59:3 (2007): 341-369.
- Carey, J.M. "Parchment, Equilibria, and Institutions." *Comparative Political Studies* 33:6-7 (2000): 735-61.
- Carrión, Julio F., ed. *The Fujimori Legacy: The Rise of Electoral Authoritarianism in Peru*. University Park, PA: Pennsylvania State University Press, 2006.
- Chang, Ha Joon. *Kicking Away the Ladder: Development Strategy in Historical Perspective*. London: Anthem Press, 2003.
- Chávez, Franz. "Bolivia-US: Drugs, USAID Complicate Relations." *Inter Press Service*, June 16, 2010. <http://www.ipsnews.net/2010/06/bolivia-us-drugs-usaid-complicate-relations>.
- Chhotray, Vasudha, and Gerry Stoker. *Governance Theory and Practice: A Cross-Disciplinary Approach*. London: Palgrave MacMillan, 2009.
- Ciudadanos al Día. "Premio a las Buenas Prácticas en Gestión Pública." <http://www.ciudadanosaldia.org/que-hacemos/reconocimiento-ciudadano/premio-bpg.html>.
- Clark, Jeffrey. *Building on Quicksand: The Collapse of the World Bank's Judicial Reform Project in Peru*. New York: Human Rights First, 2000.

<https://secure.humanrightsfirst.org/pubs/descriptions/perubuilding.htm>.

- Collier, David, Henry E. Brady, and Jason Seawright. "Sources of Leverage in Causal Inference: Toward an Alternative View of Methodology." In *Rethinking Social Inquiry: Diverse Tools, Shared Standards*, edited by Henry E. Brady and David Collier, 229-66. Lanham, MD: Rowman & Littlefield, 2004.
- Collier, David. "Data, Field Work and Extracting New Ideas at Close Range." *APSA-CP Newsletter* 10:1 (1999): 1-6.
<http://community.apsanet.org/ComparativePolitics/ComparativePoliticsSectionNewsletter>.
- Collingwood, Vivien. *Good Governance and the World Bank*. London: Bretton Woods Project, 2003.
- Comisión Especial de Estudio del Plan Nacional de Reforma Integral de la Administración de Justicia. "Plan de Trabajo." <http://www.congreso.gob.pe/comisiones/2004/ceriajus/plan.htm>.
- Comisión Especial de Estudio del Plan Nacional de Reforma Integral de la Administración de Justicia. "Presentación." <http://www.congreso.gob.pe/comisiones/2004/ceriajus/presentacion.htm>.
- Comisión Investigadora Sobre los Delitos Económicos y Financieros Cometidos Entre 1990-2001. *Informe Final de Investigación*. Lima: Congreso de la República del Perú, 2002.
<http://www.congreso.gob.pe/historico/ciccor/excomi/infojdc.pdf>.
- Comision Investigadora sobre los Delitos Económicos y Financieros Cometidos entre 1990-2001, "Informe Final De Investigación," Congreso de la República, June 2002.
<http://www.congreso.gob.pe/historico/ciccor/excomi/infojdc.pdf>
- Comision Investigadora sobre los Delitos Económicos y Financieros Cometidos entre 1990-2001, "Informe Preliminar De Investigación," Congreso de la República, August-December 2001,
<http://www.congreso.gob.pe/comisiones/2002/CIDEF/preliminares/infopre1.pdf>
- Comision Investigadora sobre los Delitos Económicos y Financieros Cometidos entre 1990-2001, Análisis de la corrupción en la Contraloría General de la República, CGR, durante la década del noventa, Congreso de lae Republica, 2002.
<http://www.congreso.gob.pe/comisiones/2002/CIDEF/oscura/InformeContraloria.pdf>
- Conaghan, Catherine M. "The Immoral Economy of Fujimorismo." In *The Fujimori Legacy: The Rise of Electoral Authoritarianism in Peru*, edited by Carrión, Julio F., 102-125. University Park, PA: Pennsylvania State University Press, 2006.
- Conaghan, Catherine M. *Fujimori's Peru: Deception in the Public Sphere*. Pittsburgh: University of Pittsburgh Press, 2005.
- Constance, Paul. "One-Stop Justice." *IDB América*, August 2003.
<http://www.iadb.org/idbamerica/index.cfm?thisid=2305>.
- Cornett, Linda. *The Evolution of the World Bank's Governance and Anti-Corruption Agenda: From Prohibition to Prominence*. Washington: Bank Information Center, 2007.
- Coronel, Sheila S. "Measuring Openness: A Survey of Transparency Ratings and the Prospects for a

- Global Index." *Freedom Info*, October 30, 2012.
<http://www.freedominfo.org/2012/10/measuring-openness-a-survey-of-transparency-ratings-and-the-prospects-for-a-global-index>.
- Cotler, Julio. "Military Interventions and Transfer of Power to Civilians in Peru." In *Transitions from Authoritarian Rule, vol. 2: Latin America*, edited by Guillermo O'Donnell, Philippe C. Schmitter, and Laurence Whitehead, 148-172. Baltimore: The Johns Hopkins University Press, 1986.
- Craig, David, and Douglas Porter. *Development Beyond Neoliberalism? Governance, Poverty Reduction and Political Economy*. New York: Routledge, 2006.
- Cramer, Christopher, Howard Stein, and John Weeks. "Ownership and Donorship: Analytical Issues and a Tanzanian Case Study." *Journal of Contemporary African Studies* 24:3 (2006): 415-36.
- Crawford, Gordon. "The World Bank and Good Governance: Rethinking the State or Consolidating Neo-Liberalism?" In *The IMF, World Bank and Policy Reform*, edited by Alberto Paloni and Maurizio Zanardi, 115-142. London: Routledge, 2006.
- Creswell, John W. *Qualitative Inquiry and Research Design: Choosing among Five Traditions*. London: Sage Publications, 1997.
- Csáky, Corrina, ed. *Alliances against Poverty: Dfid's Experience in Peru, 2000-2005*. London: Department for International Development, 2005.
<http://www.gsdrc.org/docs/open/ds53.pdf>.
- Dakolias, Maria, and Javier Said. *Judicial Reform: A Process of Change through Pilot Courts*. Washington: The World Bank, 1999.
<http://documents.worldbank.org/curated/en/1999/05/437839/judicial-reform-process-change-through-pilot-courts>.
- de Renzio, Paolo. *Incentives for Harmonization and Alignment in Aid Agencies*. London: Overseas Development Institute, 2005.
- de Vaus, David. *Surveys in Social Research*. London: Routledge, 2002.
- Denhardt, R. B. and Denhardt, J.V. *Leadership for Change: Case Studies in American Local Government*. Washington, D.C. IBM Center for the Business of Government, 1999.
- Desai, Vandana, and Robert B. Potter, eds. *Doing Development Research*. London: Sage Publications, 2006.
- Deutsche Gesellschaft für Internationale Zusammenarbeit. "Modernisation of the State and Democratic Participation: Programme Description."
<http://www.giz.de/Themen/en/17099.htm>.
- Diamond, Larry. "Institutions of Accountability." *Hoover Digest* 3 (1999): 88.
<http://www.hoover.org/publications/hoover-digest/article/7512>.
- Diamond, Larry. "Promoting Democracy." *Foreign Policy* 87 (1992): 25-46.

- DiMaggio, Paul J., and Walter W. Powell. "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields." *American Sociological Review* 48 (1983): 147–160.
- Dininio, Phyllis, Sahr John Kpundeh, and Robert Leiken. *A Handbook on Fighting Corruption*. Washington: U.S. Agency for International Development, 1999.
- Dollar, David and Lant Pritchett. *Assessing Aid: What Works, What Doesn't, and Why*. Washington: The World Bank, 1998.
<http://documents.worldbank.org/curated/en/1998/11/438890/assessing-aid-works-doesnt>.
- Doornbos, Martin. "'Good Governance': The Rise and Decline of a Policy Metaphor?" *Journal of Development Studies* 37:6 (2001): 93-108.
- Dye, Kenneth M., and Rick Stapenhurst. *Pillars of Integrity: The Importance of Supreme Audit Institutions in Curbing Corruption*. Washington: The World Bank, 1997.
- Easterly, William, and Tobias Pfütze. "Where Does the Money Go? Best and Worst Practices in Foreign Aid." *Journal of Economic Perspectives* 22:2 (2008): 29-52.
- Easterly, William. *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good*. New York: The Penguin Press, 2006.
- Evaluation Gap Working Group. *When Will We Ever Learn? Improving Lives through Impact Evaluation*. Washington: Center for Global Development, 2006.
- Fairbrother, M.H. "Development: Institutional Perspectives." In *International Studies Encyclopedia*, edited by R.A. Denemark. Hoboken, NJ: Wiley-Blackwell, 2010.
- Finkel, Jodi S. *Judicial Reform as Political Insurance: Argentina, Peru, and Mexico in the 1990s*. Notre Dame, IN: University of Notre Dame Press, 2008.
- Finkel, Steven E., Aníbal Pérez-Liñán, Mitchell A. Seligson, and C. Neal Tate. *Deepening Our Understanding of the Effects of U.S. Foreign Assistance on Democracy Building*. Washington: U.S. Agency for International Development, 2008.
- Finnemore, Martha. "Norms, Culture, and World Politics: Insights from Sociology's Institutionalism." *International Organization* 50:2 (1996): 325-47.
- Fisher, John R. *Government and Society in Colonial Peru, 1784-1814*. London: The Athlone Press, 1970.
- Forero, Juan. "Peruvians Tire of Toledo, but Worry about Ousting Him." *New York Times*, August 5, 2004. <http://www.nytimes.com/2004/08/05/world/peruvians-tire-of-toledo-but-worry-about-ousting-him.html>.
- Freedom House. "Countries at the Crossroads 2011: Peru."
http://www.freedomhouse.org/sites/default/files/inline_images/PERUFINAL.pdf
- Freedom House. "Freedom in the World 1999: Peru."

- <http://www.freedomhouse.org/report/freedom-world/1999/peru>.
- Freedom House. "Freedom in the World 2001: Peru."
<http://www.freedomhouse.org/report/freedom-world/2001/peru>.
- Freedom House. "Freedom in the World 2003: Peru."
<http://www.freedomhouse.org/report/freedom-world/2003/peru>.
- Freedom House. "Freedom in the World 2005: Peru."
<http://www.freedomhouse.org/report/freedom-world/2005/peru>.
- Freedom House. "Freedom in the World 2006: Peru."
<http://www.freedomhouse.org/report/freedom-world/2006/peru>.
- Freedom House. "Freedom in the World 2007: Peru."
<http://www.freedomhouse.org/report/freedom-world/2007/peru>.
- Fritz, Verena, and Ivar Kolstad. "Corruption and Aid Modalities." *U4 Anti-Corruption Resource Centre, Issue 4:2008*. Bergen: Chr. Michelsen Institute, 2008.
- Fukuyama, Francis. "What Is Governance?" *Governance* 26:3 (2013): 347-368.
- Gamarra, Ronald. "A Leader Takes Flight: The Indictment of Alberto Fujimori." In *Prosecuting Heads of State*, edited by Ellen L. Lutz and Caitlin Reiger, 95-110. New York: Cambridge University Press, 2009.
- George, Alexander L., and Andrew Bennett. *Case Studies and Theory Development in the Social Sciences*. Cambridge, MA: Harvard University Press, 2005.
- George, Susan, and Fabrizio Sabelli. *Faith and Credit: The World Bank's Secular Empire*. Boulder, CO: Westview Press, 1994.
- Gerring, John. "What is a Case Study and What is it Good For?" *American Political Science Review* 98:2 (2004): 341-346.
- Gibson, Clark C., Krister Andersson, Elinor Ostrom, and Sujai Shivakumar. *The Samaritan's Dilemma: The Political Economy of Development Aid*. Oxford: Oxford University Press, 2005.
- Glaser, Barney G., and Anselm L. Strauss. *The Discovery of Grounded Theory: Strategies for Qualitative Research*. Piscataway, NJ: Transaction Publishers, 1967.
- Global Advice Network: Business Anti-Corruption Portal. "Peru Country Profile."
<http://www.business-anti-corruption.com/country-profiles/the-americas/peru/show-all.aspx>.
- Goertz, Gary. *Social Science Concepts: A User's Guide*. Princeton: Princeton University Press, 2005.
- Gorriti, Gustavo. "Peru: Reporter's Notebook." *Global Integrity Report*, 2007.
<http://report.globalintegrity.org/Peru/2007/notebook>.

- Greif, Avner and Guido Tabellini. "Cultural and Institutional Bifurcation: China and Europe Compared." *American Economic Review* 100:2 (2010): 135-40.
- Greif, Avner, and David D. Laitin. "A Theory of Endogenous Institutional Change." *American Political Science Review* 98:4 (2004): 633-52.
- Greif, Avner. *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade*. New York: Cambridge University Press, 2006.
- Grindle, Merilee S. "Good Enough Governance Revisited." *Development Policy Review* 25:5 (2007): 533-74.
- Guest, Greg, Arwen Bunce, and Laura Johnson. "How Many Interviews are Enough? An Experiment with Data Saturation and Variability." *Field Methods* 18:1 (2006): 59-82.
- Hackenberg, Roland. "Supporting Domestic Accountability in Developing Countries: Taking Stock of the Approaches and Experiences of German Development Cooperation in Peru." *ECDPM Discussion Papers, no. 112*. Maastricht: European Centre for Development Policy Management, 2011.
- Hall, Peter A. "Historical Institutionalism in Rationalist and Sociological Perspective." In *Explaining Institutional Change: Ambiguity, Agency and Power*, edited by James Mahoney and Kathleen Thelen, 204-24. New York: Cambridge University Press, 2010.
- Hall, Peter A., and Rosemary C.R. Taylor. "Political Science and the Three New Institutionalisms." *Political Studies* 44:5 (1996): 936-57.
- Hay, Colin. "Constructivist institutionalism." In *Oxford Handbook of Political Institutions*, edited by R.A.W. Rhodes, Sarah A. Binder, and Bert A. Rockman, 56-74. Oxford: Oxford University Press, 2006.
- Hjertholm, Peter, and Howard White. "Foreign Aid in Historical Perspective: Background and Trends." In *Foreign Aid And Development: Lessons Learnt And Directions For The Future*, edited by Finn Tarp, 80-102. London: Routledge, 2000.
- Hoebink, Paul. "European Donors and 'Good Governance': Condition or Goal?" *European Journal of Development Research* 18:1 (2006): 131-161.
- Inter-American Development Bank. *Country Program Evaluation: Peru (1990-2000)*. Washington: Inter-American Development Bank, May 2002.
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=320593>
- Inter-American Development Bank. *Peru: Program for Modernization of the Office of the Comptroller General of the Republic and Deconcentration of the National Control System (PE-L1002)*. Washington: Inter-American Development Bank, undated.
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=461875>.
- Inter-American Development Bank. *Peru: Sector Program for Transparency in and Reform of Fiscal, Social And Judicial Policy (PE-0212)*. Washington: Inter-American Development Bank, undated. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=420564>.

- International Association of Anti-Corruption Authorities. "Anti-Corruption Authorities: Peru: Comptroller General's Office." Last modified February 10, 2012. http://www.iaaca.org/AntiCorruptionAuthorities/ByCountriesandRegions/Perujigou/201202/t20120210_802518.shtml.
- International Budget Partnership. *Latin American Index of Budget Transparency: 2003*. Washington: International Budget Partnership, 2003. <http://www.internationalbudget.org/themes/BudTrans/English.pdf>.
- International Monetary Fund. "Peru: Report on the Observance of Standards and Codes: Fiscal Transparency Module." *IMF Country Reports, no. 04/109*. Washington: International Monetary Fund, 2004. <http://www.imf.org/external/pubs/ft/scr/2004/cr04109.pdf>.
- Jepperson, Ronald L. "Institutions, Institutional Effects, and Institutionalism." In *The New Institutionalism in Organizational Analysis*, edited by Walter W. Powell and Paul J. DiMaggio, 143-63. Chicago: University of Chicago Press, 1991.
- Kapur, Devesh, and Richard Webb. "Governance-Related Conditionality of the International Financial Institutions." *G-24 Discussion Paper Series*. New York: United Nations, 2000.
- Kaufmann, Daniel, Aart Kraay, and Pablo Zoido-Lobaton. "Governance Matters." *Policy Research Working Papers, no. 2196*. Washington: The World Bank, 1999. <http://elibrary.worldbank.org/content/workingpaper/10.1596/1813-9450-2196>.
- Kaufmann, Daniel, and Paul Siegelbaum. "Privatization and Corruption in Transition Economies." *Journal of International Affairs* 50:2 (1997): 419-458.
- Kaufmann, Daniel, Judit Montoriol-Garriga, and Francesca Recanatini. "How Does Bribery Affect Public Service Delivery? Micro-Evidence from Service Users and Public Officials in Peru." *Policy Research Working Papers, no. 4492*. Washington: The World Bank, 2008. <http://elibrary.worldbank.org/content/workingpaper/10.1596/1813-9450-4492>.
- Keating, Joshua. "Coups Ain't What They Used to Be." *Foreign Policy*, June 27, 2012. http://www.foreignpolicy.com/articles/2012/06/27/coups_ain_t_what_they_used_to_be.
- Kenny, Charles D. *Fujimori's Coup and the Breakdown of Democracy in Latin America*. Notre Dame, IN: University of Notre Dame Press, 2004.
- Killick, Tony, Ramani Gunatilaka, and Ana Marr. *Aid and the Political Economy of Policy Change*. London: Routledge, 1998.
- Killick, Tony. "Politics, Evidence and the New Aid Agenda." *Development Policy Review* 22:1 (2004): 5-29.
- King, Garry, Robert O. Keohane, and Sidney Verba. *Designing Social Inquiry: Scientific Inference in Qualitative Research*. Princeton: Princeton University Press, 1994.
- Klarén, Peter F. *Peru: Society and Nationhood in the Andes*. Oxford: Oxford University Press, 2000.
- Klitgaard, Robert E., Ronald MacLean Abaroa, and H. Lindsey Parris. *Corrupt Cities: A Practical Guide*

- to *Cure and Prevention*. World Bank Publications, 2000.
- Knight, Jack. *Institutions and Social Conflict*. New York: Cambridge University Press, 1992.
- Kolstad, Ivar, Verena Fritz, and Tam O'Neil. "Corruption, Anti-Corruption Efforts and Aid: Do Donors Have the Right Approach?" *Good Governance, Aid Modalities, and Poverty Reduction Working Papers*, no. 3. London: Overseas Development Institute, 2008.
- Kuzel, Anton J. "Sampling in Qualitative Inquiry." In *Doing Qualitative Research*, edited by Benjamin F. Crabtree and William L. Miller, 33-46. London: Sage Publications, 1999.
- La Porta, Rafael, Florencio Lopez-de-Silanes, Andrei Shleifer, and Robert Vishny. "The Quality of Government." *Journal of Law, Economics, and Organization* 15:1 (1999): 222-279.
- Landa, César. "The Scales of Justice in Peru: Judicial Reform and Fundamental Rights." *Institute of Latin American Studies Occasional Papers*, no. 24. London: University of London Press, 2001.
- Leech, Beth. "Asking Questions: Techniques for Semistructured Interviews." *Political Science & Politics* 35:4 (2002): 665-68.
- Leftwich, Adrian. "From Drivers of Change to the Politics of Development: Refining the Analytical Framework to Understand the Politics of the Places Where We Work." *Notes of Guidance for Dfid Offices*, 2007.
- Levitsky, Steven. "Fujimori and Post-Party Politics in Peru." *Journal of Democracy* 10:3 (1999): 78-92.
- Levy, Jack S. "Case Studies: Types, Designs, and Logics of Inference." *Conflict Management and Peace Science* 25:1 (2008): 1-18.
- López-Cálix, José R., Lorena Alcazar, and Erik Wachtenheim. "Peru: Public Expenditure Tracking Study." Washington: The World Bank, 2002.
<http://siteresources.worldbank.org/INTPUBSERV/Resources/peru.pets.concept.sep9.2002.pdf>
- Macleane, Sandra J., Fahimul Quadir, and Timothy M. Shaw. "Structural Adjustment and the Response of Civil Society in Bangladesh and Zimbabwe: A Comparative Analysis." *New Political Economy* 2:1 (1997): 149-64.
- Mahoney, James, and Dietrich Rueschemeyer, eds. *Comparative Historical Analysis in the Social Sciences*. New York: Cambridge University Press, 2003.
- Mahoney, James, and Kathleen Thelen, eds. *Explaining Institutional Change: Ambiguity, Agency, and Power*. New York: Cambridge University Press, 2010.
- Management Systems International. *Democracy and Governance in Peru: An Assessment*. Washington: U.S. Agency for International Development, 2000.
<http://www.gci275.com/archive/governance.pdf>.
- Management Systems International. *Evaluation of USAID/Peru's Democracy Education Activities*. Washington: U.S. Agency for International Development, 2000.

http://www.gci275.com/archive/demo_edu.pdf.

March, James G., and Johan P. Olson. *Rediscovering Institutions: The Organizational Basis of Politics*. New York: The Free Press, 1989.

Mason, Mark. "Sample Size and Saturation in PhD Studies using Qualitative Interviews." *Forum: Qualitative Social Research* 11:3 (2010). <http://www.qualitative-research.net/index.php/fqs/article/view/1428>.

Mauceri, Philip. "An Authoritarian Presidency: How and Why did Presidential Authority Run Amok in Fujimori's Peru?" In *The Fujimori Legacy: The Rise of Electoral Authoritarianism in Peru*, edited by Carrión, Julio F., 39-60. University Park, PA: Pennsylvania State University Press, 2006.

Mauceri, Philip. *State under Siege: Development and Policy Making in Peru*. Boulder: Westview Press, 1998.

McClintock, Cynthia, and Fabian Vallas. *The United States and Peru: Cooperation at a Cost*. London: Routledge, 2003.

McClintock, Cynthia. "Peru: Precarious Regimes, Authoritarian and Democratic." In *Democracy in Developing Countries: Latin America*, edited by Larry Diamond, Jonathan Hartlyn, Juan J. Linz, and Seymour M. Lipset, 309-66. Boulder: Lynne Rienner Publishers, 1999.

Millennium Challenge Corporation. "Peru Threshold Program." <http://www.mcc.gov/pages/countries/program/peru-threshold-program>.

Millennium Challenge Corporation. *Guide to the MCC Indicators and the Selection Process for Fiscal Year 2013*. Washington: Millennium Challenge Corporation, 2012. <http://www.mcc.gov/documents/reports/reference-2012001114001-fy13-guide-to-the-indicators.pdf>.

Molenaers Nadia and Leen Nijs. "From the Theory of Aid Effectiveness to the Practice: The European Commission's Governance Incentive Trance," *Development Policy Review* 27:5 (2009): 561-580.

Morón, Eduardo, and Cynthia Sanborn. *The Pitfalls of Policymaking in Peru: Actors, Institutions and Rules of the Game*. Washington: Inter-American Development Bank, 2006.

Moyo, Dambisa. *Dead Aid: Why Aid is Not Working and How there is Another Way for Africa*. London: Allen Lane, 2009.

Mulgan, Richard. "'Accountability': An Ever-Expanding Concept?" *Public Administration* 78:3 (2000): 555-73.

Nash, R., Hudson, A., & Luttrell, C. *Mapping Political Context: A Toolkit for Civil Society Organisations*. Overseas Development Institute (ODI), 2006.

National Research Council. *Improving Democracy Assistance: Building Knowledge through Evaluations and Research*. Washington: National Academies Press, 2008.

- North, Douglass. *Institutions, Institutional Change, and Economic Performance*. New York: Cambridge University Press, 1990.
- North, Douglass. *Understanding the Process of Economic Change*. Princeton: Princeton University Press, 2005.
- O'Donnell, Guillermo. "Delegative Democracy." *Journal of Democracy* 5:1 (1994): 55-69.
- O'Donnell, Guillermo. "Horizontal Accountability in New Democracies." In *The Self-Restraining State: Power and Accountability in New Democracies*, edited by Andreas Schedler, Larry Diamond, and Marc F. Plattner, 29-52. Boulder: Lynne Rienner Publishers, 1999.
- O'Donnell, Guillermo. "Horizontal Accountability: The Legal Institutionalization of Mistrust." In *Democratic Accountability in Latin America*, edited by Scott Mainwaring and Christopher Welna, 34-55. New York: Oxford University Press, 2003.
- Ocantos, Ezequiel González. "The Ideational Foundations of Judicial Power: Legal Cultures, Strategic Litigation and Judicial Behavior in Cases of Gross Human Rights Violations in Peru." Paper presented at a meeting of the Latin American, Caribbean and Iberian Studies Program, University of Wisconsin-Madison, April 9, 2012.
- Oreg, Shaul. "Resistance to Change: Developing an Individual Differences Measure." *Journal of Applied Psychology* 88, no. 4 (2003): 680.
- Organization for Economic Cooperation and Development. *Paris Declaration on Aid Effectiveness*. Paris: OECD, 2005. <http://www.oecd.org/dataoecd/11/41/34428351.pdf>.
- Ostrom, Elinor. *Understanding Institutional Diversity*. Princeton: Princeton University Press, 2005.
- Peiffer, Caryn. "From Islands of Integrity to Understanding the Politics of Corruption Reduction. Phase One: Statistical Identification of 'Positive Outliers.'" *DLP Research Papers, no. 21*. Birmingham: Development Leadership Program, 2012. <http://www.dlprog.org/news-events/islands-of-integrity-identifying-positive-outliers.php>.
- Peruvian Ministry of Justice. <http://www.minjus.gob.pe>.
- Peruvian Truth and Reconciliation Commission. "Final Report." <http://www.cverdad.org.pe/ingles/ifinal/index.php>.
- Pierson, Paul, and Theda Skocpol. "Historical Institutionalism in Contemporary Political Science." In *Political Science: The State of the Discipline*, edited by Ira Katznelson and Helen V. Milner, 693-721. New York: W.W. Norton & Company, 2002.
- Poister, Theodore H., and Gregory Streib. "Performance Measurement in Municipal Government: Assessing the State of the Practice." *Public Administration Review* (1999): 325-335.
- Popper, Karl R. *Conjectures and Refutations: The Growth of Scientific Knowledge*. New York: Basic Books, 1965.
- Proética. *Cuarta Encuesta Nacional sobre Corrupción*. Lima: Proética, 2006.

<http://www.scribd.com/doc/46756098/Cuarta-Encuesta-Nacional-Anticorrupcion>.

Proética. *Séptima Encuesta Nacional sobre Percepciones de la Corrupción*. Lima: Proética, 2012.
<http://www.proetica.org.pe/wp-content/uploads/2012/07/Proética-VII-Encuesta-Nacional-sobre-percepciones-de-la-corrupción-en-el-Perú-2012.pdf>.

Proética. *Sexta Encuesta Nacional sobre Corrupción*. Lima: Proética, 2010.
<http://www.scribd.com/doc/46759836/Sexta-Encuesta-Nacional-sobre-Corrupcion-2010>.

Radelet, Steven. "A Primer on Foreign Aid." *CGD Working Papers, no. 92*. Washington: Center for Global Development, 2006.

Rapley, John. *Understanding Development: Theory and Practice in the Third World*. Boulder: Lynne Rienner Publishers, 1996.

Rauch, James E. "Leadership Selection, Internal Promotion, and Bureaucratic Corruption in Less Developed Polities." *Canadian Journal of Economics* 34:1 (2001): 240-258.

Reich, Simon. "The Four Faces of Institutionalism: Public Policy and a Pluralistic Perspective." *Governance* 13:4 (2000): 501-22.

Rhodes, R. A. W., et. al (2008). *The Oxford Handbook of Political Institutions*.

Riddell, Roger. *Does Foreign Aid Really Work?* Oxford: Oxford University Press, 2007.

Robinson, Eugene. "Peru's Neophyte President Defies Political Norms but Retains Support." *Washington Post*, November 13, 1990, A12.

Robles, Victor. "Entrevista a José Dellepiane." *Políticamente Incorrecto*, October 22, 2008.
<http://victorrobles.wordpress.com/2008/10/22/entrevista-a-jose-dellepiane>.

Romney, A. Kimball, Susan C. Weller, and William H. Batchelder. "Culture as Consensus: A Theory of Culture and Informant Accuracy." *American Anthropologist* 88:2 (1986): 313-38.

Rose-Ackerman, Susan. *Corruption and Government: Causes, Consequences, and Reform*. Cambridge University Press, 1999.

Rothstein, Bo. "Political Institutions: An Overview." In *A New Handbook of Political Science*, edited by Robert E. Goodin and Hans-Dieter Klingemann, 133-66. Oxford: Oxford University Press, 1996.

Rothstein, Bo. *Social Traps and the Problem of Trust*. New York: Cambridge University Press, 2005.

Ruiz Molleda, Juan Carlos. "Campaign: 'Corruption is Still Stealing from You: Break the Chain of Impunity.'" *Justicia Viva Mail, no. 161*, December 7, 2004.
<http://www.justiciaviva.org.pe/justiciamail/jm161.htm>.

Sachs, Jeffrey D. *The End of Poverty*. New York: The Penguin Press, 2005.

Sagasti, Francisco, Pepi Patron, Nicolas Lynch, and Max Hernandez. *Democracy and Good*

- Government: Towards Democratic Governance in Peru*. Lima: Peru Monitor S.A., 2001.
- Santiso, Carlos, and Arturo Garcia Belgrano. "Legislative Budget Oversight in Presidential Systems: Governance of the Budget in Peru." Paper presented at the 16th Regional Seminar on Fiscal Policy, Santiago de Chile, January 26-29, 2004.
- Santiso, Carlos. "Good Governance and Aid Effectiveness: The World Bank and Conditionality." *The Georgetown Public Policy Review* 7:1 (2001): 1-22.
- Scheyvens, Regina, and Donovan Storey. *Development Fieldwork: A Practical Guide*. London: Sage Publications, 2003.
- Schmidt, Vivien A. "Discursive Institutionalism: The Explanatory Power of Ideas and Discourse." *Annual Review of Political Science* 11 (2008): 303-26.
- Schmidt, Vivien A. "Taking Ideas and Discourse Seriously: Explaining Change through Discursive Institutionalism as the Fourth 'New Institutionalism.'" *European Political Science Review* 2:1 (2010): 1-25.
- Scott, W. Richard. *Institutions and Organizations: Ideas and Interests*. London: Sage Publications, 2007.
- Sen, Amartya K. *Development as Freedom*. Oxford: Oxford University Press, 2001.
- Skidmore, Thomas E., and Peter H. Smith. *Modern Latin America*. Oxford: Oxford University Press, 2001.
- Smulovitz, Catalina, and Enrique Peruzzotti. "Societal Accountability in Latin America." *Journal of Democracy* 11:4 (2000): 147-58.
- Solana, Miguel. "Transparency Portals: Delivering Public Financial Information to Citizens in Latin America." *Thinking out Loud* 5 (2004): 71-80.
http://www.worldbank.org/socialaccountability_sourcebook/Tools/Other/tp.html.
- St. John, Ronald Bruce. *The Foreign Policy of Peru*. Boulder: Lynne Rienner Publishers, 1992.
- Stapenhurst, Rick, and Mitchell O'Brien. "Accountability in Governance." *The World Bank*, undated.
<http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf>.
- Steinmo, Sven, Kathleen Thelen, and Frank Longstreth, eds. *Structuring Politics: Historical Institutionalism in Comparative Analysis*. New York: Cambridge University Press, 1992.
- Stern, Elliot, Nicoletta Stame, John Mayne, Kim Forss, Rick Davies, and Barbara Befani. "Broadening the Range of Designs and Methods for Impact Evaluation." *DFID Working Papers, no. 38*. London: Department for International Development, 2012.
<http://www.dfid.gov.uk/Documents/publications1/design-method-impact-eval.pdf>.
- Suddaby, Roy, and Royston Greenwood. "Methodological Issues in Researching Institutional Change." In *The SAGE Handbook of Organizational Research Methods*, edited by David A.

- Buchanan and Alan Bryman, 176-95. London: Sage Publications, 2009.
- Svensson, Jakob. "Eight Questions about Corruption." *Journal of Economic Perspectives* 19:3 (2005): 19-42.
- Tarp, Finn, and Peter Hjertholm. 2000. *Foreign Aid and Development: Lessons Learnt and Directions for the Future*. Routledge.
- Tashakkori, Abbas, and Charles Teddlie. *Mixed Methodology: Combining Qualitative and Quantitative Approaches*. London: Sage Publications, 1998.
- The World Bank: International Development Association. "Country Policy and Institutional Assessment Criteria." <http://go.worldbank.org/EEAIU81ZG0>.
- The World Bank: Legal Vice Presidency. *Initiatives in Judicial and Legal Reform*. Washington: The World Bank, 2004.
- The World Bank. "Peru Overview." <http://www.worldbank.org/en/country/peru/overview>.
- The World Bank. "Project: Justice Services Improvement Project II." <http://www.worldbank.org/projects/P110752/justice-services-improvement-project-ii?lang=en>.
- The World Bank. *Governance: The World Bank's Experience*. Washington: The World Bank, 1994. http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/1994/05/01/000009265_3970716142854/Rendered/PDF/multi0page.pdf.
- The World Bank. *Peru – Justice Services Improvement Project*. Washington: The World Bank, 2010. <http://documents.worldbank.org/curated/en/2010/12/13781294/peru-justice-services-improvement-project>.
- The World Bank. *Restoring Fiscal Discipline for Poverty Reduction in Peru*. Washington: The World Bank, 2003. <http://elibrary.worldbank.org/content/book/9780821354476>.
- Thelen, Kathleen. "Institutional Change in Advanced Political Economies." *British Journal of Industrial Relations* 47 (2009): 471-98.
- Thelen, Kathleen. *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States, and Japan*. New York: Cambridge University Press, 2004.
- Thorbecke, Erik. "The Evolution of the Development Doctrine and the Role of Foreign Aid, 1950-2000." In *Foreign Aid and Development: Lessons Learnt and Directions for the Future*, edited by Finn Tarp, 17-47. London: Routledge, 2000.
- Transparency International. *Country Report on the National Integrity System in Peru*. Berlin: Transparency International, 2001. http://archive.transparency.org/policy_research/nis/nis_reports_by_country.

- U.S. Agency for International Development. "An Anti-Corruption Reader," 2005. Available at http://pdf.usaid.gov/pdf_docs/PNADF530.pdf
- U.S. Agency for International Development. "Where Does the Money Go? Excel Spreadsheet." <http://www.usaid.gov/documents/1870/where-does-money-go-excel-spreadsheet>.
- U.S. Agency for International Development. *USAID Evaluation Policy*. Washington: U.S. Agency for International Development, 2011. <http://transition.usaid.gov/evaluation/USAIDEvaluationPolicy.pdf>.
- U.S. Agency for International Development. *USAID Strategy on Democracy, Human Rights, and Governance: June 2013*. Washington: U.S. Agency for International Development, 2013.
- U.S. Department of State. "Department of State Program Evaluation Policy." Last modified May 12, 2011. <http://www.state.gov/s/d/rm/rls/fs/2011/163299.htm>.
- United Nations Development Programme. *Assessment of Development Results: Evaluation of UNDP Contribution: Peru*. New York: United Nations, 2009. http://web.undp.org/evaluation/documents/ADR/ADR_Reports/Peru/ADR_Peru_English.pdf
- United Nations Development Programme. *Governance for Sustainable Human Development*. New York: United Nations, 1997. <http://mirror.undp.org/magnet/policy>.
- Unsworth, Sue. "Focusing on Aid and Good Governance: Can Foreign Aid Instruments be Used to Enhance 'Good Governance' in Recipient Countries?" *GEG Working Papers, no. 2005/18*. Oxford: Global Economic Governance Programme, 2005.
- Unsworth, Sue. "Focusing Aid on Good Governance: Can It Work?" in *Exporting Good Governance*, edited by Welsh, J., & Woods, N., 21-40. London: Wilfred Laurier, 2007.
- Van de Walle, Nicolas. *Overcoming Stagnation in Aid-Dependent Countries*. Washington: Center for Global Development, 2005.
- Van Zyl, Albert, Vivek Ramkumar, and Paolo De Renzio. *Responding to Challenges of Supreme Audit Institutions: Can Legislatures and Civil Society Help?* Bergen: Chr. Michelsen Institute, 2009.
- Vásquez, Rocío La Rosa. "Crónica Política: La Difícil Tarea de Pedir Cuentas." *El Comercio*, November 30, 2008. <http://elcomercio.pe/ediciononline/HTML/2008-11-30/cronica-politica-dificil-tarea-pedir-cuentas.html>.
- Weingast, Barry. "Rational-Choice Institutionalism." In *Political Science: The State of the Discipline*, edited by Ira Katznelson and Helen V. Milner, 660-92. New York: W.W. Norton & Company, 2002.
- Weyland, Kurt. "The Rise and Decline of Fujimori's Neopopulist Leadership." In *The Fujimori Legacy: The Rise of Electoral Authoritarianism in Peru*, edited by Carrión, Julio F., 13-38. University Park, PA: Pennsylvania State University Press, 2006.
- White, Howard. "Evaluating Aid Impact." *UNU-WIDER Research Papers, no. 2007/75*. Tokyo: United Nations University, 2007. <http://mpr.ub.uni-muenchen.de/6716>.

Williamson, John. "What Washington Means by Policy Reform." In *Latin American Adjustment: How Much has Happened*, edited by John Williamson, 7-20. Washington: Institute for International Economics, 1990.

Wise, Carol. *Reinventing the State: Economic Strategy and Institutional Change in Peru*. Ann Arbor: University of Michigan Press, 2003.

Zuckerman, Sam. "Nationalization of Peru's Banks Bogs Down in Judicial Challenges." *The Globe and Mail*, July 27, 1988.

Annex I. Control of Corruption

Percentile rank is based on a score of 0-100, with 100 denoting least corrupt and 0 denoting most corrupt. Countries in Central and South America scoring between the 34th and 67th percentile have been highlighted.

Country	Percentile Rank, 2008
FINLAND	100
SINGAPORE	100
DENMARK	99
ICELAND	99
NEW ZEALAND	98
SWEDEN	98
NETHERLANDS	97
SWITZERLAND	97
AUSTRALIA	96
CANADA	96
LUXEMBOURG	95
NORWAY	95
HONG KONG	94
AUSTRIA	94
GERMANY	93
UNITED KINGDOM	93
IRELAND	92
UNITED STATES	92
FRANCE	91
BAHAMAS	91
BELGIUM	90
ANDORRA	87
ANGUILLA	87
ANTIGUA AND BARBUDA	87
ARUBA	87
BERMUDA	87
NETHERLANDS ANTILLES	87
CHILE	87
BARBADOS	86
LIECHTENSTEIN	86
JAPAN	86
QATAR	85
SPAIN	85
ST. LUCIA	84
URUGUAY	84
PORTUGAL	83
CYPRUS	83
UNITED ARAB EMIRATES	82
MALTA	82
ST. KITTS AND NEVIS	81
ST. VINCENT AND THE GRENADINES	81

BOTSWANA	80
SLOVENIA	80
ESTONIA	79
ISRAEL	79
CAYMAN ISLANDS	76
FRENCH GUIANA	76
GUAM	76
MARTINIQUE	76
REUNION	76
VIRGIN ISLANDS (U.S.)	76
CAPE VERDE	75
BHUTAN	75
DOMINICA	74
OMAN	74
NAMIBIA	73
TAIWAN	73
HUNGARY	72
MAURITIUS	72
BRUNEI	71
PUERTO RICO	71
KUWAIT	71
COSTA RICA	70
KOREA, SOUTH	70
BAHRAIN	69
SLOVAKIA	69
JORDAN	68
POLAND	68
GRENADA	67
CZECH REPUBLIC	67
AMERICAN SAMOA	66
VANUATU	66
SOUTH AFRICA	65
LATVIA	65
SAMOA	64
SEYCHELLES	64
LITHUANIA	63
MALAYSIA	63
ITALY	62
CROATIA	62
SAUDI ARABIA	61
GREECE	61
TURKEY	60
LESOTHO	60
RWANDA	59

KIRIBATI	59
BRAZIL	58
MACAO	58
TUNISIA	57
ROMANIA	57
GHANA	57
CUBA	56
SURINAME	56
MADAGASCAR	55
MACEDONIA	55
SRI LANKA	54
PANAMA	54
SERBIA	53
TRINIDAD AND TOBAGO	53
BULGARIA	52
TUVALU	52
EL SALVADOR	51
GEORGIA	51
COLOMBIA	50
MEXICO	50
PERU	49
MOROCCO	49
BELIZE	48
MONTENEGRO	48
NAURU	47
PALAU	47
FIJI	46
BOSNIA-HERZEGOVINA	46
DJIBOUTI	45
BURKINA FASO	45
INDIA	44
SWAZILAND	44
ERITREA	43
THAILAND	43
SOLOMON ISLANDS	43
BENIN	42
MICRONESIA	42
CHINA	41
ALGERIA	41
ARGENTINA	40
SAO TOME AND PRINCIPE	40
ALBANIA	39
SENEGAL	39
BOLIVIA	38
MALI	38
GUYANA	37
ZAMBIA	37
TANZANIA	36
JAMAICA	36
MARSHALL ISLANDS	35

ARMENIA	35
MOZAMBIQUE	34
MALAWI	34
LIBERIA	33
MALDIVES	33
MONGOLIA	32
DOMINICAN REPUBLIC	32
INDONESIA	31
MOLDOVA	31
ETHIOPIA	30
KOSOVO	30
EGYPT	29
NEPAL	29
IRAN	29
UKRAINE	28
GUATEMALA	28
YEMEN	27
TONGA	27
PHILIPPINES	26
COMOROS	26
VIETNAM	25
PAKISTAN	25
GAMBIA	24
BELARUS	24
UGANDA	23
ECUADOR	23
MAURITANIA	22
LIBYA	22
NICARAGUA	21
HONDURAS	21
NIGER	20
LEBANON	20
TIMOR-LESTE	19
CAMEROON	19
CENTRAL AFRICAN REPUBLIC	18
NIGERIA	18
PARAGUAY	17
NEW CALEDONIA	17
KAZAKHSTAN	16
BURUNDI	16
RUSSIA	15
TOGO	15
TAJIKISTAN	14
AZERBAIJAN	14
KENYA	14
KYRGYZSTAN	13
SIERRA LEONE	13
GABON	12
SYRIA	12
UZBEKISTAN	11

BANGLADESH	11
WEST BANK GAZA	10
PAPUA NEW GUINEA	10
VENEZUELA	9
CAMBODIA	9
GUINEA-BISSAU	8
CONGO	8
COTE D'IVOIRE	7
HAITI	7
ANGOLA	6
LAOS	6
Congo, Dem. Rep.	5

TURKMENISTAN	5
GUINEA	4
ZIMBABWE	4
CHAD	3
IRAQ	3
SUDAN	2
EQUATORIAL GUINEA	2
AFGHANISTAN	1
MYANMAR	1
KOREA, NORTH	0
SOMALIA	0

Source: The World Bank's Worldwide Governance Indicators: <http://info.worldbank.org/governance/wqi/index.aspx#home>.

Annex II. Disaggregated List of Donor-Funded Projects in Select Political Institutions

Donor	Recipient Institution	Project Name	Years	Committed Amount	Source
Agency Catalonia	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2010-2011	\$124,371	2009 APCI Project List
Belgium	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2007-2010	\$3,795,030	2009 APCI Project List
Belgium (BTC)	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para la promocion y defensa de los derechos ciudadanos iii fase	2007-2008	\$2,148,973	2007 APCI Project List
Belgium (BTC)	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para la promocion de la defensa de los derechos ciudadanos - fase ii	2004-2006	\$3,660,000	2004 APCI Project List
Belgium (BTC)	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para la promocion de la defensa de los derechos ciudadanos - fase ii	2004-2006	\$1,958,100	2005 APCI Project List
Canada (CIDA)	Ombudsman	Programa de la equidad e inclusión para la realización de los derechos humanos	2006-2010	\$4,438,580	2008 APCI Project List
Canada (CIDA)	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo (ddp)	2003-2008	\$3,750,000	2004 APCI Project List
Canada (CIDA)	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo (ddp)	2003-2007	\$647,130	2005 APCI Project List
CARE	Ombudsman	Campaña por una cultura de atención y acceso a la información en salud	2007	\$5,778	2007 APCI Project List
CIDA	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2006-2010	\$4,438,580	2009 APCI Project List
CIDA	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2006-2010	\$6,058,084	2010 APCI Project List
European Commission	Ombudsman	No project name listed at time of search; potentially contribution	2006-2009	\$1,001,475	2009 APCI

		to basket fund			Project List
European Commission (EC)	Ombudsman	Defensoria del pueblo y el seguimiento a las recomendaciones de	2006-2009	\$1,001,475	2008 APCI Project List
European Commission (EC)	Ombudsman	Fortalecimiento de la defensoria del pueblo y el seguimiento a las recomendaciones de la verdad y reconciliacion	2006-2007	\$1,001,476	2006 APCI Project List
European Commission (EC)	Ombudsman	La defensoria del pueblo y el seguimiento a las recomendaciones de la comision de la verdad y la reconciliacion (cvr) (via undp)	2005-2008	\$565,217	2005 APCI Project List
Finland	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2009-2010	\$89,013	2009 APCI Project List
Finland	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2009-2010	\$89,013	2010 APCI Project List
Germany	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2009-2010	\$8,932	2009 APCI Project List
Germany	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2009-2010	\$8,932	2010 APCI Project List
Germany	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2007-2010	\$171,582	2009 APCI Project List
Germany	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2007-2010	\$171,582	2010 APCI Project List
Germany	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2007-2009	\$100,000	2009 APCI Project List
Germany	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2004-2010	\$134,429	2009 APCI Project List
Germany	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2004-2010	\$296,385	2010 APCI Project List

Germany (GIZ)	Ombudsman	Fortalecer el papel de supervisión preventiva y de intermediación de la defensoría del pueblo en los	2008-2010	\$36,757	2008 APCI Project List
Germany (GIZ)	Ombudsman	Fortalecimiento de las capacidades de la defensoría del pueblo para la defensa y respeto de los der	2008-2010	\$134,429	2008 APCI Project List
Germany (GIZ)	Ombudsman	Fortalecer las capacidadesde comunicación de la defensoría del pueblo en temas ambientales - mejorar	2007-2008	\$52,652	2008 APCI Project List
Germany (GIZ)	Ombudsman	Apoyo a la defensoria del pueblo	2004-2008	\$1,225,000	2004 APCI Project List
Germany (GIZ)	Ombudsman	Fortalecimiento de las capacidades de la defensoría del pueblo para la defensa y respeto de los derechos ciudadanos a un ambiente sano y ecológicamente equilibrado	2004-2006	\$108,467	2005 APCI Project List
Int'l. Inst. Of Ombudsmans	Ombudsman	Generación de capacidades y gestión del conocimiento en la defensoría del pueblo del Perú: diseño e	2008	\$10,501	2008 APCI Project List
Italy (Mofa)	Ombudsman	Consolidación de las instituciones democráticas y tutela de los derechos humanos en el departamento de san martin	2003-2007	\$162,890	2005 APCI Project List
Italy (Mofa)	Ombudsman	Consolidación de las instituciones democráticas y tutela de los derechos humanos en el departamento de san martin	2003-2007	\$108,777	2005 APCI Project List
Netherlands	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2008-2009	\$102,400	2009 APCI Project List
Netherlands	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2008-2009	\$80,000	2009 APCI Project List
Netherlands (Mofa)	Ombudsman	Protección y promoción de los derechos de las poblaciones con mayor grado de afectación a sus derechos	2008-2009	\$80,000	2008 APCI Project List
Netherlands (Mofa)	Ombudsman	Fortalecimiento de la institucionalidad para la prevención, manejo y	2008-2009	\$102,400	2008 APCI Project

		transformación de conflictos so			List
Netherlands (Mofa)	Ombudsman	Mejoramiento de la capacidad de la dp para impulsar la participacion ciudadana en la oportuna progra	2007-2009	\$100,000	2008 APCI Project List
OAS	Ombudsman	Fortalecimiento de las capacidades de los operadores de la administración de justicia con relación a	2007-2009	\$98,594	2008 APCI Project List
OAS	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2007-2009	\$98,594	2009 APCI Project List
Oxfam America	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2006-2010	\$262,954	2009 APCI Project List
Spain	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2009-2010	\$500,000	2009 APCI Project List
Spain	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2009-2010	\$50,000	2010 APCI Project List
Spain (AECID)	Ombudsman	Proyecto de defensa y respeto de los derechos de los pueblos indígenas amazonicos y las comunidades andinas de la sierra central del peru (ii fase)	2002-2004	\$1,040,959	2004 APCI Project List
Spain (AECID)	Ombudsman	Proyecto de defensa y respeto de los derechos de los pueblos indigenas amazonicos y las comunidades andinas de la sierra central del peru (ii fase)	2002-2004	\$26,601	2005 APCI Project List
Sweden (SIDA)	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para promover la superacion de las secuelas de la violencia politica en el peru	2003-2007	\$1,359,773	2006 ACPI Project List
Sweden (SIDA)	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para promover la superacion de las secuelas de la violencia politica en el peru	2003-2006	\$1,551,340	2004 APCI Project List
Sweden (SIDA)	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para promover la superacion de las secuelas de la violencia	2003-2006	\$389,500	2005 APCI Project List

Switzerland (SECO)	Ombudsman	Equipos itinerantes de proteccion de los derechos de los ciudadanos fase ii	2002-2006	\$346,692	2005 APCI Project List
Switzerland (SECO)	Ombudsman	Equipos itinerantes de proteccion de los derechos de los ciudadanos fase ii	2002-2005	\$1,448,822	2004 APCI Project List
UK (Dfid)	Ombudsman	Fortalecimiento institucional de la defensoría del pueblo para la protección de los derechos humanos en salud	2003-2006	\$177,949	2005 APCI Project List
UK (Dfid)	Ombudsman	Mejorando la salud de los pobres: un enfoque de derechos humanos	2003-2005	\$1,494,000	2004 APCI Project List
UK (Dfid)	Ombudsman	Programa de derechos humanos para los pobres en el peru (with oxfam uk)	2002-2005	\$3,831,374	2004 APCI Project List
UK (Dfid)	Ombudsman	Apoyo a las elecciones regionales y municipales en el 2002	2002-2004	\$1,099,560	2004 APCI Project List
UN HIV/AIDS	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2006-2009	\$39,655	2009 APCI Project List
UN HIV/AIDS Program	Ombudsman	Apoyo a los derechos humanos en personas afectadas y viviendo con vih, lucha contra el estigma y di	2006-2009	\$39,300	2008 APCI Project List
UN Population Fund	Ombudsman	Supervisión defensorial de la implementación de la ley de igualdad de oportunidades	2008	\$22,600	2008 APCI Project List
UNDP	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2009-2010	\$160,000	2009 APCI Project List
UNDP	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2009-2010	\$160,000	2010 APCI Project List
UNDP	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo de las instituciones públicas y de la soci	2007-2009	\$20,000	2008 APCI Project List
UNDP	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2007-2009	\$20,000	2009 APCI Project

					List
UNDP	Ombudsman	Promocion y proteccion de los derechos de los hombres y mujeres indigenas en huancavelica	2005-2006	\$15,895	2005 APCI Project List
UNDP	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para la proteccion de los derechos a la identidad	2004-2006	\$13,868	2005 APCI Project List
UNDP	Ombudsman	Promocion y proteccion de los derechos de los hombres y mujeres indigenas en huancavelica	2004-2005	\$30,000	2004 APCI Project List
UNDP	Ombudsman	Apoyo a la defensoria del pueblo para el seguimiento de las recomendaciones de la comision de la verdad y reconciliacion	2003-2006	\$2,660	2005 APCI Project List
UNDP	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para la proteccion de los derechos humanos en salud	2003-2005	\$338,996	2005 APCI Project List
UNDP	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para la proteccion de los derechos humanos en salud	2003-2004	\$664,000	2004 APCI Project List
UNDP	Ombudsman	Evaluacion del programa de proteccion las poblaciones afectadas por la violencia de la defensoria del pueblo	2003-2004	\$17,270	2004 APCI Project List
UNDP	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2010	\$103,500	2009 APCI Project List
UNDP	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2010	\$7,418	2010 APCI Project List
UNDP	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2010	\$103,500	2010 APCI Project List
UNDP	Ombudsman	Fortalecimiento institucional de la defensoria del pueblo para la proteccion de los derechos a la identidad	2004	\$65,268	2004 APCI Project List
UNFPA	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2009	\$15,210	2009 APCI Project List

UNICEF	Ombudsman	No project name listed at time of search; potentially contribution to basket fund	2008-2009	\$33,424	2009 APCI Project List
UNICEF	Ombudsman	Fondo de las naciones unidas para la infancia - unicef	2006-2009	\$33,159	2008 APCI Project List
United States (USAID/MCC)	Ombudsman	Promocion de derechos en huancavelica	2004-2005	\$15,896	2005 APCI Project List
Germany (GIZ)	Comptroller General	Fortalecimiento del sistema nacional de control	2003-2006	\$1,780,000	2004 APCI Project List
Germany (GIZ)	Comptroller General	Fortalecimiento del control y la supervisión de la acción estatal	2010	\$631,714	2010 APCI Project List
Germany (GIZ)	Comptroller General	Fortalecimiento del control y la supervisión de la acción estatal (en el marco del programa de gober	2009	\$332,785	2009 APCI Project List
Germany (GIZ)	Comptroller General	Fortalecimiento del sistema nacional de control	2007	\$93,260	2007 APCI Project List
Netherlands (Mofa)	Comptroller General	Fortalecimiento del control de la gestion ambiental y patrimonio cultural de la nacion	2002-2005	\$2,019,398	2004 APCI Project List
Netherlands (Mofa)	Comptroller General	Fortalecimiento del control de la gestion ambiental y patrimonio cultural de la nacion	2002-2005	\$680,133	2005 APCI Project List
Sweden (SIDA)	Comptroller General	Contribucion del control de gestion a los programas de salud publica en el peru (enfasis en la preparacion de personal del sistema nacional de control)	2005-2006	\$89,973	2005 APCI Project List
UNDP	Comptroller General	Reforzamiento de la capacitación institucional en apoyo a las inversiones públicas regionales	2007-2008	\$172,000	2008 APCI Project List
UNDP	Comptroller General	Aplicación piloto de veedurias ciudadanas en programa social juntos	2006-2008	\$20,000	2008 APCI Project List
UNDP	Comptroller General	Veedurias ciudadanas	2006-2008	\$50,000	2008 APCI

					Project List
UNDP	Comptroller General	Fortalecimiento y modernización de la contraloría general de la república del Perú	2007	\$222,000	2007 APCI Project List
United States (USAID/MCC)	Comptroller General	Herramientas de control para la reducción de la corrupción programa umbral anticorrupción	2009-2011	\$2,627,706	2010 APCI Project List
United States (USAID/MCC)	Comptroller General	Herramientas de control para la reducción de la corrupción programa umbral anticorrupción	2008-2011	\$5,408,800	2009 APCI Project List
IADB	Comptroller General	Contraloría general de la república modernization program	2005-2025	\$17,143,000	IADB Website/ Project Database
European Commission (EC)	Ministerio De Justicia (Judiciary)	Apoyo a la reforma del sistema de justicia del peru (jusper) - prp - implemented by giz	2005-2009	\$12,812,500	2006 APCI Project List/GTZ Web Site
Finland (FINNIDA)	Ministerio De Justicia (Judiciary)	Proyecto amazonico promocion del desarrollo humano sostenible a lo largo del rio santiago	2002-2006	\$609,881	2005 APCI Project List
Germany (GIZ)	Ministerio De Justicia (Judiciary)	Convenio de cooperación técnica/asesoría para fortalecimiento de la comisión nacional de estudio y aplicación del derecho internacional humanitario-conadiah	2004-2008	\$50,920	2007 APCI Project List
Germany (GIZ)	Ministerio De Justicia (Judiciary)	Apoyo a la reforma del sistema procesal penal	2003-2006	\$1,870,260	2004 APCI Project List
Japan (JICO)	Ministerio De Justicia (Judiciary)	Remodelacion y equipamiento del taller de panificacion	2004	\$125,912	2004 APCI Project List
UNDP	Ministerio De Justicia (Judiciary)	Plan nacional de derechos humanos: audiencias regionales	2005-2006	\$51,567	2005 APCI Project List
UNDP	Ministerio De Justicia (Judiciary)	Fortalecimiento del sistema juridico y apoyo a la administracion de justicia prp	2004-2011	\$9,298,983	2006 APCI/UNDP Web Site

UNDP	Ministerio De Justicia (Judiciary)	Fortalecimiento del sistema juridico y apoyo a la administracion de justicia	2004-2006	\$5,806	2005 APCI Project List
UNDP	Ministerio De Justicia (Judiciary)	Procuradorias anticorrupcion ad-hoc	2002-2006	\$25,153	2005 APCI Project List
United States (USAID/MCC)	Ministerio De Justicia (Judiciary)	Fortalecimiento de los procesos e instituciones democraticas en áreas criticas (split among ministerio de justicia, presidencia del consejo de ministros, congreso de la republica)	2001-2006	\$50,000,000	2004 APCI Project List
World Bank	Ministerio De Justicia (Judiciary)	Justice services improvement project	2004-2010	\$12,000,000	World Bank Website/ Project Database
IADB	Ministerio De Justicia (Judiciary)	Modernization of the justice administration system program	2007-2011	\$1,179,250	IADB Website/ Project Database
IADB	Ministerio De Justicia (Judiciary)	Apoyo a la preparación del programa de modernización del sistema de administración de justicia peruano.	2008-2010	\$375,388	IADB Website/ Project Database
United States (State/INL)	Ministerio Público-Fiscalía (Public Prosecutor)	Actividad de capacitacion "trafico ilicito de drogas y lavado de activos en el contexto de la reform	2010	\$25,845	2010 APCI Project List
IOM	Ministerio Público-Fiscalía (Public Prosecutor)	Programa de asesamiento y capacitacion para el fortalecimiento de la gestion del ministerio publico	2005-2006	\$65,000	2005 APCI Project List
IOM	Ministerio Público-Fiscalía (Public Prosecutor)	Programa de consolidacion del proceso de reorganizacion y modernizacion del sector publico	2005-2006	\$47,000	2005 APCI Project List
Spain (AECID)	Ministerio Público-Fiscalía (Public Prosecutor)	Implementacion del laboratorio adn para la fiscalia especializada en exhumaciones	2009-2010	\$60,800	2009 APCI Project List
Spain (AECID)	Ministerio Público-Fiscalía	Implementacion del laboratorio adn para la fiscalia especializada en exhumaciones	2009-2010	\$60,800	2010 APCI Project

	(Public Prosecutor)				List
Spain (AECID)	Ministerio Público-Fiscalía (Public Prosecutor)	Proyecto 0046683"apoyo de aeci a la fiscalía especializada para desapariciones forzadas, ejecuciones	2007-2009	\$63,776	2008 APCI Project List
Spain (AECID)	Ministerio Público-Fiscalía (Public Prosecutor)	Proyecto 0046683"apoyo de aeci a la fiscalía especializada para desapariciones forzadas, ejecuciones	2007-2009	\$63,776	2009 APCI Project List
Spain (AECID)	Ministerio Público-Fiscalía (Public Prosecutor)	Proyecto del pnud apoy de aeci a la fiscalia especializada para desapariciones forzadas, ejecuciones extrajudiciales y exhumaciones	2007-2008	\$63,776	2007 APCI Project List
Spain (AECID)	Ministerio Público-Fiscalía (Public Prosecutor)	Apoyo de aeci a la fiscalia especializada para desapariciones forzadas, ejecuciones extrajudiciales y exhumaciones	2010	\$7,369	2010 APCI Project List
Sweden (SIDA)	Ministerio Público-Fiscalía (Public Prosecutor)	Proyecto 00048655 "exhumaciones e identificacion de victimas desaparecidas y judicializacion de los	2008-2009	\$348,075	2008 APCI Project List
Sweden (SIDA)	Ministerio Público-Fiscalía (Public Prosecutor)	Proyecto 00048655 "exhumaciones e identificacion de victimas desaparecidas y judicializacion de los	2008-2009	\$348,075	2009 APCI Project List
Sweden (SIDA)	Ministerio Público-Fiscalía (Public Prosecutor)	Fiscalia especializada para desapariciones forzadas, ejecuciones extrajudiciales y exhumaciones	2002-2006	\$11,523	2005 APCI Project List
Sweden (SIDA)	Ministerio Público-Fiscalía (Public Prosecutor)	Fiscalia especializada para desapariciones forzadas, ejecuciones extrajudiciales y exhumaciones	2002-2004	\$144,750	2004 APCI Project List
UNDP	Ministerio Público-Fiscalía (Public Prosecutor)	Apoyo a la fiscalia especializada para desapariciones	2002-2006	\$2,530	2005 APCI Project List
UNDP	Ministerio Público-Fiscalía (Public	Apoyo a la fiscalia especializada para desapariciones forzadas, ejecuciones extrajudiciales y exhumaciones	2002-2006	\$11,523	2005 APCI Project List

	Prosecutor)				
USAID	Ministerio Público-Fiscalía (Public Prosecutor)	Programa umbral anticorrupcion	2010-2011	\$123,835	2010 APCI Project List
Belgium (BTC)	Poder Judicial (Judiciary)	El estado y la sociedad contra la violencia, abuso sexual infantil y explotacion sexual infantil: acciones del poder judicial	2008-2010	\$142,770	2008 APCI Project List & Doubled Checked On PJ Web
Belgium (BTC)	Poder Judicial (Judiciary)	El estado y la sociedad contra la violencia, abuso sexual infantil y explotacion sexual infantil: acciones del poder judicial	2008-2010	\$142,770	2009 APCI Project List & Doubled Checked On PJ Web
Switzerland (SECO)	Poder Judicial (Judiciary)	Acceso a la justicia en comunidades rurales - projur fase iii	2010-2011	\$856,564	2010 APCI Project List
UNDP	Poder Judicial (Judiciary)	Fortalecimiento del poder judicial en su rol impulsor del acuerdo nacional por la justicia	2003-2004	\$131,753	2004 APCI Project List
United States (USAID/MCC)	Poder Judicial (Judiciary)	Adquision de ascensores para contribuir a la modernización del sistema de justicia comercial	2005-2006	\$100,000	2008 APCI Project List & Doubled Checked On PJ Web
Germany (GIZ)	SEC.TECN. DEL GRUPO DE TRABAJO DE ALTO NIVEL PARA LA MODERNIZACION DEL SIST. NAC. DE ADM.DE JUST.	Apoyo a la reforma del sistema procesal penal en el Perú	2003-2007	\$510,000	2005 APCI Project List

	(Judiciary)				
Canada (CIDA)	ONPE	Sistema de información geográfico electoral	2004-2006	\$58,756	2005 APCI Project List
European Commission	ONPE	Promoción de la participación política de las mujeres peruanas en el ejercicio del derecho al sufragio y en el uso de mecanismos de vigilancia ciudadana	2005-2007	\$306,221	2005 APCI Project List
EC/Belgium (BTC)	ONPE	Promoción de la participación política de las mujeres peruanas en el ejercicio del derecho al sufragio y en el uso de mecanismos de vigilancia ciudadana	2005-2008	\$1,065,000	2006 APCI Project List
Canada (CIDA)	ONPE	Sistema de información geográfico electoral	2005-2006	\$78,743	2006 APCI Project List
OEI	ONPE	Ciclo de conferencias temas para el debate electoral	2007-2008	\$4,000	2007 APCI Project List
EC/Belgium (BTC)	ONPE	Promoción de la participación política de las mujeres peruanas en el ejercicio del derecho al sufragio y en el uso de mecanismos de vigilancia ciudadana	2005-2008	\$318,437	2007 APCI Project List
OAS	ONPE	Fortalecimiento de valores y prácticas democráticas para el sostenimiento y consolidación de la demo	2008-2009	\$58,332	2008 APCI Project List
UNDP	ONPE	Implementacion del observatorio de voto electronico en america latina	2009-2010	\$34,000	2009 APCI Project List
OAS	ONPE	Fortalecimiento de valores y prácticas democráticas para el sostenimiento y consolidación de la demo	2008-2010	\$95,704	2010 APCI Project List
UNDP	JNE	Educacion ciudadana para el fortalecimiento d ela democracia participativa en zonas rurales	2007-2008	\$50,000	2007 APCI Project

					List
UNDP	JNE	Educacion ciudadana para el fortalecimiento d ela democracia participativa en zonas rurales	2008-2009	\$110,000	2008 APCI Project List
GENERALITA T VALENCIANA	JNE	Fortalecimiento de la democracia y mejoramiento de las condiciones de gobernabilidad - observatorio	2009-2010	\$223,302	2009 APCI Project List

Source: APCI Database, <http://www.apci.gob.pe/bancoproyecto.php>

**Annex III. Good Governance-Related Projects Implemented in the Judiciary and
Comptroller General, 2002-2010**

Donor	Recipient Institution	Project Name	Years	Committed Amount	Source
Switzerland (SECO)	Poder Judicial (Judiciary)	Acceso A La Justicia En Comunidades Rurales - Projur Fase Iii	2010-2011	\$856,564	2010 APCI Project List
UNDP	Poder Judicial (Judiciary)	Fortalecimiento Del Poder Judicial En Su Rol Impulsor Del Acuerdo Nacional Por La Justicia	2003-2004	\$131,753	2004 APCI Project List
United States (USAID/MCC)	Ministerio de Justicia (Judiciary)	Fortalecimiento De Los Procesos E Instituciones Democraticas En Areas Criticas (Split Among Ministerio De Justicia, Presidencia Del Consejo De Ministros, Congreso De La Republica)	2001-2006	\$50,000,000	2004 APCI Project List
European Commission (EC)	Ministerio de Justicia (Judiciary)	Apoyo A La Reforma Del Sistema De Justicia Del Peru (Jusper) - PRP - Implemented by GIZ	2005-2009	\$12,812,500	2006 APCI Project List/GTZ Web site
World Bank	Ministerio de Justicia (Judiciary)	Justice Services Improvement Project	2004-2010	\$12,000,000	World Bank Website/ Project Database
UNDP	Ministerio de Justicia (Judiciary)	Fortalecimiento Del Sistema Juridico Y Apoyo A La Administracion De Justicia Prp	2004-2011	\$9,298,983	2006 APCI Project List/UNDP Web site
Germany (GIZ)	Ministerio de Justicia (Judiciary)	Apoyo A La Reforma Del Sistema Procesal Penal	2003-2006	\$1,870,260	2004 APCI Project List
IADB	Ministerio de Justicia (Judiciary)	Modernization of the Justice Administration System Program	2007-2011	\$1,179,250	IADB Website/ Project Database
IADB	Ministerio de Justicia (Judiciary)	Apoyo a la Preparación del Programa de Modernización del Sistema de Administración de Justicia Peruano.	2008-2010	\$375,388	IADB Website/ Project Database
UNDP	Ministerio de Justicia (Judiciary)	Procuradorias Anticorrupcion Ad-Hoc	2002-2006	\$25,153	2005 APCI Project List
UNDP	Ministerio de Justicia (Judiciary)	Fortalecimiento Del Sistema Juridico Y Apoyo A La Administracion De Justicia	2004-2006	\$5,806	2005 APCI Project List

IADB	Comptroller Genera	Contraloría General de la República Modernization Program	2005- 2025	\$17,143,00 0	IADB Website/ Project Database
United States (USAID/MCC)	Comptroller Genera	Herramientas De Control Para La Reducción De La Corrupción Programa Umbral Anticorrupción	2008- 2011	\$5,408,800	2009 APCI Project List & CG Web site
United States (USAID/MCC)	Comptroller Genera	Herramientas De Control Para La Reducción De La Corrupción Programa Umbral Anticorrupción	2009- 2011	\$2,627,706	2010 APCI Project List
Germany (GTZ)	Comptroller Genera	Fortalecimiento Del Sistema Nacional De Control	2003- 2006	\$1,780,000	2004 APCI Project List
Germany (GTZ)	Comptroller Genera	Fortalecimiento Del Control Y La Supervisión De La Acción Estatal	2010 2004- 2007 & 2008- 2010	\$631,714	2010 APCI Project List
UNDP	Comptroller Genera	Fortalecimiento Y Modernización De La Contraloría General De La República Del Perú	2006- 2008	\$464,000	2007 APCI Project List
Germany (GTZ)	Comptroller Genera	Fortalecimiento Del Control Y La Supervisión De La Acción Estatal (En El Marco Del Programa De Gobernabilidad E Inclusion De La Cooperacion Alemana Al Desarrollo	2009 Phase II 2008- 2010	\$332,785	2009 APCI Project List
Germany (GTZ)	Comptroller Genera	Fortalecimiento del Sistema Nacional de Control	2007	\$93,260	2007 APCI Project List

Source: APCI Database (<http://www.apci.gob.pe/bancoproyecto.php>) and recipient institutions' Web sites

Annex IV. Interview Questionnaires

The first of the two questionnaires in this annex was used in interviews with those who worked, or had worked, in the Judiciary or Comptroller General. The sample questionnaire is for the Judiciary, and was adapted when speaking to those affiliated with the Comptroller General. The second questionnaire was used to guide discussions with international aid donors and others who worked outside the institutions, such as journalists and NGO representatives.

Cuestionario Sobre Reformas Buen Gobierno

Questionnaire on Governance Reforms – Judiciary and Comptroller General

La investigación se centra en el rol de la ayuda internacional respecto a cómo las mismas reforman las instituciones políticas en Perú. Específicamente en relación a reformas relacionadas a buen gobierno y corrupción introducidas en Poder Judicial. El objetivo es tratar de comprender quienes son los partícipes (jugadores/actores) en estas instituciones, cuáles son sus intereses e incentivos en términos de reformas gubernamentales, y finalmente aspectos de cultura política o estructura en las referidas instituciones que podrían afectar dichas reformas.

As we mentioned in our email, this research is part of Jennifer's doctoral thesis. It focuses on the role of aid donors in reforming Peru's political institutions. We're specifically looking at governance and corruption-related reforms introduced in Poder Judicial and trying to understand who the players are in these institutions, what their interests and incentives are in terms of governance reforms, and aspects of the political culture or structure in these institutions that would affect such reforms.

La información que usted comparta con nosotros será confidencial y solo será usada para efectos de la tesis doctoral. Le importaría si se graba esta conversación?

The information you share with us will be confidential, and will only be used in Jennifer's thesis. Would you mind if we recorded this conversation?

1) Primero queríamos su impresión general sobre como el Poder Judicial funciona al día de hoy. Cuáles considera usted son sus mayores fortalezas y cuales sus mayores retos?

First we'd like your overall impression of how Poder Judicial functions today. What do you think are its main strengths? And what do you think are its main challenges?

2) Cuantos años ha trabajado usted en el poder judicial? Siempre en el mismo cargo?

How many years have you worked in Poder Judicial? Have you been in your current position for all of that time?

3)Cuál considera usted hayan sido los grandes cambios en políticas de buen gobierno dentro del Poder Judicial que usted haya podido observar? Cómo describiría tales cambios?

What do you think have been the major policy changes related to good governance in Poder Judicial during the time that you have worked here? How would you describe these changes?

4) Qué grupos de actores internos o externos al Poder Judicial podrían haber influenciado estos cambios en políticas de buen gobierno? De los mismos, cuáles cree usted tienen mayor o menor poder para influenciar el cambio?

Which groups of actors inside and outside of Poder Judicial influenced these policy changes? Which of

these actors do you think have the most and the least power to influence changes?

5) Cuál es la forma en que a usted y a sus colegas se les pone en conocimiento sobre cambios o implementación en políticas de buen gobierno? Y respecto a su aplicación en la práctica?

How you and your colleagues were made aware of good governance-related policy changes? And how did you know how to apply them?

6) Existan o existen diferentes formas (discrecionalidad) de aplicar una regla o política? Ello podría haber generado problemas?

Were there different ways of applying the same rules or policies, and did this ever cause any problems?

7) De estos grupos de actores, cree usted que han existido cambios en sus posiciones respecto a apoyar o no estas políticas? Por qué cree que esto podría haber pasado?

Of these groups of actors, have any shifted their positions in terms of supporting or blocking these policies? Why do you think this happened?

8) Considera que usted que la ayuda internacional haya contribuido a cambios en las políticas mencionadas? Cree usted que dichos cambios hubiesen sucedido son la intervención de la ayuda externa?

Do you think international aid donors contributed to any of these changes you mentioned? Why or why not? Do you think that these changes would have happened without the involvement of donors?

9) Algunas otras personas que nos recomendaría para ponernos en contacto?

Can you recommend any colleagues who might be willing to share their opinions with me?

Cuestionario Sobre Reformas Gubernamentales
Questionnaire on Governance Reforms – Donors, NGOs, etc.

Nuestra investigación se centra en el rol de la ayuda internacional respecto a cómo las mismas reforman las instituciones políticas en Perú. Específicamente en relación a reformas relacionadas a buen gobierno y corrupción introducidas en las instituciones judiciales. El objetivo es tratar de comprender (1) quienes son los participantes (jugadores/actores) en estas instituciones, (2) cuáles son sus intereses e incentivos en términos de reformas gubernamentales, y (3) finalmente aspectos de cultura política o estructura en las referidas instituciones que podrían afectar dichas reformas.

As we mentioned in our email, this research focuses on the role of aid donors in reforming Peru's political institutions. We're specifically looking at governance and corruption-related reforms introduced in the judiciary, trying to understand (1) who the players are in these institutions, (2) what their interests and incentives are in terms of governance reforms, (3) and aspects of the political culture or structure in these institutions that would affect such reforms.

La entrevista es voluntaria y su anonimato está protegido. Usted no será identificado por su nombre o cargo. La información que otorgué será únicamente utilizada para fines doctorales y nadie tendrá acceso a esta data a excepción de mi asistente y asesor. No existen riesgos posibles en su

participación. Puede elegir no responder alguna o ninguna de las preguntas y puede retirarse en cualquier momento. Al acceder a esta entrevista, está dando consentimiento expreso a participar en este estudio.

The interview is voluntary, and your anonymity will be protected. You will not be identified by your name or specific title. The information you provide will only be used in my thesis, and no one else will have access to this data except for my research assistant and thesis advisor. There are no foreseeable risks to you by participating in this study. You may choose to not answer any question or questions, and you may withdraw at any time. By agreeing to be interviewed, you are providing informed consent to participate in this research.

- 1) Luego del final del régimen de Fujimori, que ha observado usted como las principales reformas relativas a la gobernabilidad y la corrupción que hayan tomado lugar en MINJUS y Poder Judicial?

Since the end of the Fujimori regime, what have you observed as the major reforms related to governance and corruption that have taken place in MINJUS and Poder Judicial?

- 2) Cuales identificaría usted como otros detonantes para reformas en corrupción y gobernabilidad? Se trata siempre de un evento en específico el que pone las cosas en movimiento o se trata a veces de un proceso gradual?

What would you identify as the main catalysts for governance and corruption reforms? Is it always a specific event that sets reforms in motion, or is it sometimes a process of gradual change?

- 3) Quienes cree usted sostienen el poder suficiente para cambiar temas de gobernabilidad en las instituciones?

Whom do you think holds the power to change governance in the institutions?

- 4) Como considera usted que la ayuda internacional ha contribuido a estas reformas? Cree que las mismas hubieran sucedido sin la ayuda de los donantes?

How do you think aid donors have contributed to these reforms? Do you think these reforms would have happened without the help of donors?

- 5) Algunos se refieren a la "cultura de la corrupción" al interior de las instituciones públicas, mientras que otros sugieren que ha habido un cambio hacia una "cultura de buen gobierno." Cuál es su opinión sobre esto en términos del Poder Judicial y el MINJUS?

Some say that public institutions have a "culture of corruption," but others suggest there has been a shift toward a "culture of good governance." What is your opinion on this in terms of Poder Judicial and MINJUS?

- 6) En caso haya existido un cambio hacia una cultura de buen gobierno, cuáles podrían ser las causas?

If there has been a shift to a "culture of good governance," what have been the reasons for this?

- 7) Toda institución/organización tiene reglas explícitas o normas (normas/leyes) y reglas implícitas o

códigos al interior que se aprenden en la práctica. En términos de las reformas, cree usted que estos códigos coincidieron siempre con las reglas explícitas?

Every institution has a set of explicit rules or laws, as well as a set of implicit norms or codes that are learned in practice. In terms of governance reforms, do you think such implicit norms or codes have always aligned with the explicit rules or laws?

- 8) Quienes considera usted han sido los principales actores abogando por reformas de gobernabilidad en los periodos de Fujimori, Toledo y Gracia y quienes se han opuesto? Existen otros actores que se mantienen neutrales al respecto?

Who would you consider to be the major actors advocating for governance reforms in the Fujimori, Toledo and Garcia regimes, and who has opposed reforms in each regime? Are there other actors that remained neutral on governance reforms?

- 9) Por qué cree usted que algunos actores han estado a favor, en contra o neutrales respecto a las reformas? Dichas posiciones cree usted que se mantienen en el tiempo? Y si cambian, cuáles podrían ser las razones?

Why do you think these actors took a position of advocacy, opposition, or neutrality on these reforms? Have they always held the same position on these reforms over time? If they changed their position, why do you think they did so?

- 10) Algunas otras personas que nos recomendaría para ponernos en contacto?

Are there other people you would recommend we speak with?

Annex V. Quantitative Indicators of Good Governance in Peru, 1995-2012

Indicator	Scale	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
1. Confidence in the Judiciary	Percent out of 100%	-	24.67	18.12	16.46	24.38	-	15.84	16.45	12	19.32	20.32	-	-	-	-	-	-	-
2. Accountability in the Budget Process	Percent out of 100%	-	-	-	-	-	-	-	-	14	-	22	-	22	-	21	-	-	-
3. Trust in the Justice System	0 (none) to 100 (full)	-	-	-	-	-	-	-	-	-	-	-	32.6	-	34	-	37.5	-	-
4. Equality under the Law	Percent out of 100%	-	-	-	-	-	-	-	-	-	-	18.6	-	-	-	15	-	-	-
5. Favoritism in Decisions of Government Officials	1 (high favoritism) to 7 (neutrality)	-	-	-	-	-	-	-	2.7	2.8	2.6	2.5	3	2.8	2.9	3	2.9	-	-
6. Government Effectiveness in Fighting Corruption	Percent out of 100%	-	-	-	-	-	-	-	-	-	-	-	11	17	-	2	0.08	-	-
7. Judicial Independence	1 (highly influenced) to 7 (independent)	-	-	-	-	-	-	-	2.3	1.9	2.2	2	2	2.2	2.7	2.9	2.6	-	-
8. Corruption in Legal System or Judiciary	1 (none) to 5 (extreme corruption)	-	-	-	-	-	-	-	-	-	-	-	4.5	4.2	-	-	4.4	-	-
9. Burden of Government Regulation	1 (extreme) to 7 (none)	-	-	-	-	-	-	-	2.7	2.4	2.7	2.8	2.8	-	-	-	-	-	-
10. Auditing and Reporting Standards	1 (weak) to 7 (strong)	-	-	-	-	-	-	-	-	-	-	-	-	4.8	4.7	4.8	-	-	-

Text

22. Political Stability and Absence of Violence	Percentile rank among all countries	-	16.35	-	25.96	-	15.38	-	18.27	14.9	18.75	18.75	22.12	22.12	17.7	13.74	16.98	23.11	19.91
23. Government Effectiveness	Percentile rank among all countries	-	55.12	-	60.98	-	52.68	-	43.41	39.51	38.05	32.68	31.71	35.92	43.2	42.11	47.37	48.34	48.8
24. Regulatory Quality	Percentile rank among all countries	-	73.53	-	72.55	-	66.67	-	55.88	57.84	62.75	55.88	56.86	59.71	62.14	64.59	67.94	67.3	67.94
25. Rule of Law	Percentile rank among all countries	-	29.19	-	29.19	-	30.14	-	35.89	33.01	36.36	29.19	26.79	25.84	25	30.81	33.18	31.46	32.7
26. Control of Corruption	Percentile rank among all countries	-	51.71	-	49.76	-	39.02	-	46.34	54.63	46.83	46.34	51.71	50.49	50.97	46.89	50	52.13	43.06
27. Perception of Corruption	0 (highly corrupt) to 100 (not corrupt)	-	-	-	45	45	44	41	40	37	35	35	33	35	36	37	35	34	38

Sources

1. Corporación Latinobarómetro. Santiago de Chile. <http://www.latinobarometro.org>
2. Fundar. Latin American Index of Budget Transparency 2005, A Comparison of 8 Countries. Mexico City. <http://www.fundar.org.mx/indice2005/index.html>
3. Vanderbilt University. Latin American Public Opinion Project (LAPOP), AmericasBarometer. Nashville. www.americasbarometer.org
4. Corporación Latinobarómetro. Santiago de Chile. <http://www.latinobarometro.org>
5. World Economic Forum. The Global Competitiveness Report. Geneva: Palgrave MacMillan.
6. Transparency International. Global Corruption Barometer. Germany. http://www.transparency.org/policy_research/surveys_indices/gcb
7. World Economic Forum. The Global Competitiveness Report. Geneva: Palgrave MacMillan.
8. Transparency International. Global Corruption Barometer. Germany. http://www.transparency.org/policy_research/surveys_indices/gcb
9. World Economic Forum. The Global Competitiveness Report. Geneva: Palgrave MacMillan.
10. Ibid.
11. Corporación Latinobarómetro. Santiago de Chile. <http://www.latinobarometro.org>
12. World Economic Forum. The Global Competitiveness Report. Geneva: Palgrave MacMillan.
13. Fundar. Latin American Index of Budget Transparency 2005, A Comparison of 8 Countries. Mexico City.

- <http://www.fundar.org.mx/indice2005/index.html>
14. World Economic Forum. The Global Competitiveness Report. Geneva: Palgrave MacMillan.
 15. Fundar. Latin American Index of Budget Transparency 2005, A Comparison of 8 Countries. Mexico City. <http://www.fundar.org.mx/indice2005/index.html>
 16. Ibid.
 17. The World Bank. Doing Business. Washington, D.C. <http://www.doingbusiness.org>
 18. The Fraser Institute. Economic Freedom of the World. Vancouver. <http://www.freetheworld.com>
 19. Ibid.
 20. The World Bank. Worldwide Governance Indicators. Washington, D.C. <http://www.worldbank.org/wbi/governance>. The data and methodology used to construct the indicators are described in: Kaufmann, D., Kraay, A. and Mastruzzi, M. (2006) 'Governance Matters V: Governance Indicators for 1996-2005', The World Bank, WPS3630.
 21. Ibid.
 22. Ibid.
 23. Ibid.
 24. Ibid.
 25. Ibid.
 26. Transparency International. Corruption Perceptions Index. Germany. <http://www.transparency.org/research/cpi>