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## **Regulating the Regulators**

*Tracing the Emergence of the Political  
Transparency Laws in Chile*

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## Abstract

Due to high social inequalities and weak public institutions, political corruption and the influence of business elites on policy-makers are widespread in the Andean region. The consequences for the opportunities of sustainable development are serious: regulation limiting harmful business activities or (re-)distributive reforms are difficult to achieve and public resources often end up as private gains instead of serving development purposes. Given international and domestic pressures, political corruption has reached the top of the political agendas in many countries. However, frequently transparency goals do not materialize into new binding policies or, when reforms are enacted, they suffer from severe implementation gaps. The paper analyses transparency politics in Chile where a series of reforms regarding political transparency were implemented since 2014. Hence, Chile counts among the few successful cases in the region. By tracing the process that led to the emergence of new transparency policies in Chile, the paper elaborates an analytical framework for the explanation of institutional innovation in the case of political transparency. In particular, the study emphasizes the importance of civil society actors' involvement in the whole policy cycle, particularly in the stages of formulation, implementation and evaluation.

## Keywords

Political transparency; public policy; Chile; Andean region; civil society

## Bio

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## Introduction

The “paradox of plenty” or “resource curse” refers to the fact that countries rich in natural resources (oil, gas, minerals) tend to be poor democratic, bureaucratic and economic performers.<sup>1</sup> The concept is generally divided into an economic and a political version (Gilberthorpe and Papyrakis 2015): the first is hypothesized as the result of the decline in the competitiveness of other economic sectors and the volatility of revenues from the natural resource sector due to the exposure to global commodity market swings. The second refers to phenomena such as government mismanagement of resources, weak, ineffective, unstable, or corrupt public institutions as well as a lack of democracy. It is being argued that the political resource curse is triggered by the abundant availability of “unearned income” (Moore 2001) for governments and functionaries generated by the natural resource sector. The result is a disconnection between public authorities and “their” citizens thereby preventing the accountability of governing institutions and fostering inefficiency, patronage and corruption.<sup>2</sup> Although many countries do conform to this pattern, empirical evidence for the harmful effect of resource dependence on democracy and institutional quality is mixed (Ross 2015). Hence, in a sort of an “institutional turn”, scholars have started to emphasize that the curse is dependent upon the particular ways natural resources are governed and, more generally, the wider institutional set-up in place in order to prevent patronage and corruption and to promote accountability and political transparency (Mehlum et al. 2006; Robinson et al. 2006).<sup>3</sup> However, while this statement constitutes common sense, the literature is almost silent on the conditions that allow for the emergence of such regulatory institutions in resource-dependent countries. A vast body of research has shown that institutional development or policy change, in particular the emergence of regulatory policies aiming at constraining individual and collective behavior (Lowi 1964), may depend on several factors, amongst others political will, technical knowledge or more in general the availability of information. In addition, it can be reasonable assumed that particularly the emergence of regulation, which would affect powerful economic or political interests will face huge opposition (see Barma et al. 2012).

Against this background, posing the question about the conditions allowing for policies that would promote greater political transparency and corruption-control is particularly important for Latin America and within it the Andean countries. The region has experienced for almost two decades a boom cycle regarding natural resources that led to an enormous increase of the extractive sectors of many countries (Bridge 2004; Bebbington and Bury 2013). Yet, as the sector went into boom, these countries lacked the political institutions that would help to intercept the negative effects of the “political resource curse”. On the other hand, notwithstanding slight improvements in terms of income inequalities precisely due to the latest boom cycle (López-Calva and Lustig 2010; Valdés Valencia 2017), Latin America still ranges as the most unequal place on earth. According to data provided by OXFAM, in 2014 the richest 10 percent possessed 71 percent of the region’s wealth (OXFAM2014). This group of wealthy individuals lives and does business in a rather weak institutional setting vulnerable to external influences and in tight, often friendship or family-based relationships with politicians and authorities (Bull 2014).

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<sup>1</sup> Auty 1993; Sachs and Warner 1995; Ross 1999; Lederman and Maloney 2006.

<sup>2</sup> Karl 1997; Torvik 2002; Leite and Weidmann 2002; Robinson et al. 2006.

<sup>3</sup> The “institutional turn” of course also applies to the economic resource curse.

Hence, the opportunities for shaping policies and in particular preventing regulation that would affect their power, profits or wealth are huge. Indeed, numerous empirical studies reveal how business elites in Latin America (and elsewhere) influence public policies or manipulate political decisions in collusion with public officials.<sup>4</sup> Moreover, also in a general perspective, unequal societies have been shown to be particularly vulnerable to elite capture or political capture (Fuentes-Nieva and Galasso 2014; Dal Bó 2006).<sup>5</sup> As a result, in Latin America political corruption and the resulting regulatory manipulation is a huge problem (as the recent mega scandals such as the Odebrecht case or the Petrobras case reveal). It severely affects the opportunities for sustainable development by preventing necessary regulation or by diverting public funds to private ends, amongst others.<sup>6</sup>

The region's governments have not remained inactive in the face of this widespread political corruption. Due to the membership in international organizations, or the inclusion in global networks and business chains, as well as an ever increasing social pressure (particularly by the so called new middle classes that have emerged as a result of the recent commodities boom), political transparency has reached the top of the political agenda in several countries – at least in the immediate aftermath of the revelation of major corruption affairs. However, while action plans have been ratified and in some cases specialized agencies have been created within governments, more often than not transparency goals did not materialize into new binding policies. Or, when reforms were executed, they are suffering severe implementation gaps. As a consequence, the LAC region (the Latin American and the Caribbean countries together) as a whole received very low ratings under the recent Enabling Environment component of the National Resource Governance Institute's "Resource Governance Index" (RGI), averaging 50 out of a total of 100 points, compared to the 95-point average for the Organisation for Economic Cooperation and Development (OECD) countries. The region scored particularly low under the Rule of Law and Control of Corruption variable (NRGI 2017).

Chile is an outlier to this trend: in the last decade, several reforms providing for more political transparency and accountability have been implemented (such as the regulation of the financing of electoral campaigns or concerning transparency of interests of legislators or public institutions and employers) (Sahd and Valenzuela 2018). These reforms are not trivial given the fact that Chile is among the most unequal countries on earth with a business elite classified as particularly influential (Fairfield 2015; Bogliaccini and Luna 2016). Moreover, the Chilean economy depends massively on the extraction of minerals, mainly copper. Hence, Chile can serve as an example for progressive change regarding political transparency in particular and political regulation in general in the context of a resource-dependent economy.

This paper is the first output of an incipient research on the conditions of the emergence and implementation of regulatory policies and institutions. Focusing on the case of Chile as a

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<sup>4</sup>Bogliaccini and Luna 2016; Crabtree and Durand 2017; Bull 2014; Fairfield 2014; see Gilens 2012 for the US; Wealthy individuals can achieve influence over public decisions by various means: They may use their wealth to corrupt policy-makers or functionaries directly and reach the formulation and implementation of certain policies that benefit their businesses (by favoring specific corporations, imposing sectorial de-regulation or hampering redistributive measures). They may also employ corruption to obtain a preferential access to scarce resources made available exclusively through government permissions (such as huge public infrastructural contracts) or to assure access to public resources such as subsidies. Moreover, wealthy individuals may reach policy impact by other more indirect measures such as the funding of electoral campaigns. They may also go through "revolving doors" and move between political institutions and their businesses in order to assure beneficial regulation or legislation. Lastly, the rich also have more money to buy good lawyers in order to get their ends met.

<sup>5</sup> The term political capture refers to a process whereby public resources that should benefit the larger population are usurped by a few individuals of superior status (see Crabtree and Durant 2017, Carpenter and Moss 2013). <sup>4</sup> Fair enough: this is not only in resource dependent societies the case.

<sup>6</sup> Salas 2016; Caputo 2011; Kaufmann 2015; Casas-Zamora and Carter 2017.

successful outlier (as explained before) it asks for the factors that facilitated the emergence of political transparency laws in the context of resource dependency and huge social inequalities. In the following, I will describe in more detail the political and social context in Chile in which the political transparency laws emerged. I then proceed to a preliminary case analysis that will highlight a series of factors that I have (so far) identified as having shaped the relatively successful course of transparency laws in Chile. The empirical section builds on data and information from expert interviews conducted in Chile in April 2018 and on an extensive literature and media review.

After a brief summary in the conclusion, I will finish with some reflections on the (potential) theoretical fundament of the study and on how the study of the Chilean case can contribute to existing theory.

## The emergence of transparency laws in Chile

Historically, social perception of corruption in Chile was relatively low as compared to the rest of the region. However, along with several other countries in Latin America, in recent years Chile has experienced a series of major corruption scandals that involved public officials or their families. As a consequence did not only the social perception of corruption increase, the subject also rushed onto the top of the public agenda.

The cases of corruption that were brought to light since 2013 affected various sectors and involved public officials, politicians and authorities (or their families) from the whole of the political spectrum, from the left to the right: for instance, the “Penta Case” revealed in 2013 involved the Chilean holding company “Grupo Penta” (that manages investments in the banking, insurance, pension funds, health care and real estate sectors) and employees of the Chilean National Tax System (SII). The latter were found guilty of committing tax fraud by creating fake invoices. The payments to these fake invoices were directed to the political campaigns of politicians from the right wing party UDI (Unión Demócrata Independiente).<sup>7</sup> The arrangement collapsed when the former general manager of Penta, Hugo Bravo, was fired after over 30 years in office, in the middle of the tax fraud investigations. In reaction, Bravo took the company owner to court for unjustified dismissal and denounced, by the way, the illegal campaign contributions.

Moreover, during the investigation of the case another illegal arrangement between a company and politicians became public. It was revealed that Chile’s Chemistry and Mining Society SOQUIMICH (Sociedad Química y Minera de Chile, mainly engaged in Lithium production in the Chilean North) had also issued false bills and receipts to get tax reductions. In addition, SOQUIMICH also was charged with having issued fake invoices that facilitated the illegal transfer of money to a political party, this time the centre-left party “Nueva Mayoría” (President Bachelet’s party). So far, at least in one case it has been confirmed that the illegal campaign contributions have resulted indeed in political favors (the case of the former mining minister Pablo Wagner), others are still under investigation.

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<sup>7</sup> Several Penta employees, as some of their family members, have been convicted on charges of tax evasion, bribery or money laundering.

Several other cases popped up in the course of 2013: that of former delegate and head of the congressional mining commission, by then general secretary of the Bachelet government Jorge Insunza who had provided classified information to mining corporations via his consultancy firms.<sup>8</sup> Or, the rather huge “Caso Corpesca” that confirmed that the fishing industry had practically written the sectors’ legislation thereby guaranteeing important (fiscal) benefits and preventing regulation that would affect production.

While all these scandals provoked public outrage, it was the “Caso Caval” that triggered a process of policy change towards greater transparency and (political) corruption control because it involved than President Michelle Bachelet personally. “Caso Caval” refers to the fact that Bachelet’s son Sebastián Dávalos (together with his wife Natalia Compagnon) was supposedly involved in an act of traffic of influence by facilitating a 10-million-dollar loan from the Bank of Chile for his wives’ company “Sociedad Exportadora y de Gestión Caval Limitada” making use of his contacts to the banks’ director Antonio Luksic. The company received the loan only 24 hours after Bachelets’ victory at the polls. Further worsening the panorama, the company then used the loan to buy lands near the town of Machati that had been defined as apt for agricultural use. Later on, Dávalos was found to have influenced the municipal government of Machati and reached a re-classification of the area in question as “urban use” which considerably increased its value and thereby the profits of his wife’s company.

Tha “Caso Caval” immediately affected Bachelet and with particular force: the opposition and the media accused her of collusion and of covering her son’s illegal activities. As a consequence, public disapproval of her presidency rose to an astonishing 61 percent. In reaction to this threatening political scenario and probably also to emphasize her own disapproval of the case and ultimately her innocence, Bachelet constituted in February 2015 a presidential commission. The “Consejo Asesor Presidencial contra los conflictos de interés, el tráfico de influencias y la corrupción” (Presidential Advisory Council against conflicts of interest, traffic of influence and corruption) was set in charge with the mission of drafting policy proposals for greater political transparency. The council was comprised of 16 persons and headed by the economist Eduardo Engel, an internationally renowned professor for economics at the Universidad de Chile with a large expertise in issues related to transparency and corruption.

Because of him, the commission became known as the “Comisión Engel” (Engel-Commission). After a record of only 45 days, the council submitted its final report of 217 pages with 234 concrete policy recommendations for probity and transparency in the public sector. The proposals were grouped into five thematic categories: prevention of corruption, regulation of conflicts of interest, political finance, trust in markets and, finally, integrity, ethics and civil rights (Consejo Asesor Presidencial contra los conflictos de interés, el tráfico de influencias y la corrupción 2015). After the report was published, President Bachelet announced that the execution of the agenda defined by the council would start immediately and would count with

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<sup>8</sup> There were several further cases of corruption and collusion in the years since 2013, some between private actors as in the case of the “toilet paper” cartel, which had involved two of the country’s biggest toilet paper manufacturers. They had established a price-fixing scheme to corner the market for sanitary tissue and other products between 2000 and 2011. In June 2017 “the pacogate” scandal brought a huge system of collusion established within the national police (Carabineros) to light that allowed for the malversation of public funds to private accounts of former policemen.

the governments' full support. As of 2017, 62 percent of the proposals were implemented converting Chile in a relatively short period of time into one of the most advanced countries in terms of probity and anti-corruption in the region (Sahd and Valenzuela 2018).

## Analysis: The emergence of transparency laws in Chile

The emergence of the political transparency institutions in Chile can be explained by the confluence of various factors that operated during the different phases of the policy cycle and stemmed from international, regional and domestic sources.

First, the various corruption scandals revealed since 2013 triggered an enormous social discontent that served as a stimulus and brought the subject into public attention (public agenda setting). However, political transparency had already been on the political agenda (within the legislative) before the scandals broke loose. In other words, transparency politics had a previous history in Chile: in order to achieve the OECD membership in 2010, the country had to implement a series of political reforms regarding political transparency in order to fulfill the OECD pre-requisites (such as establishing legislation against bribery by corporations and converting the public copper company CODELCO into a (more) autonomous corporation). One of the most important reforms of this wave of policy change (beneath the reforms affecting CODELCO) was the "Ley de Transparencia de la Función Pública y de Acceso a la Información de la Administración del Estado" promulgated in 2009. This law created the "Council for Transparency" (Consejo de Transparencia), an autonomous entity in charge of monitoring the laws' implementation and guaranteeing citizens' access to any sort of public information.

In 2011, Chile joined the "Open Government Partnership", a multilateral initiative with 70 participating countries, which voluntarily have adopted commitments for promoting transparency, empowering citizens, fighting corruption, and harnessing new technologies to strengthen governance.<sup>9</sup> This partnership requires the member-countries to submit a two-year National Action Plan (NAP) that must be developed jointly with civil society actors. In this context, in 2012 the Chilean National Congress along with several other Latin American representatives signed the "Santiago Declaration" (Declaración de Santiago sobre transparencia e integridad en los parlamentos y partidos políticos) and committed itself to engage in an "open parliament process".<sup>10</sup> In June 2012, the congress became member of Red "Red Parlamentaria Latinoamericana Pro Transparencia, Acceso a la Información Pública y Probidad" and in November the bi-cameral group for transparency was created (Montero 2015).

On the other hand, before the various scandals were revealed, Chile already had very active civil society organizations engaged with political transparency, mainly the Chilean chapter of Transparency International founded in 1998 (Chile Transparente), the NGO "Ciudadanía Inteligente" founded in 2001 and the more recently created NGO "Espacio Público" founded amongst others by Eduardo Engels in 2012. Together with PNUD/UNPD (United Nations Program for Development) Chile, these organizations were key in advancing the probity agenda promoting concrete policy proposals since the 2000s. As a matter of fact, the Engel-Commission was only able to produce its voluminous report in the short time frame it had,

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<sup>9</sup> See <http://www.ogp.gob.cl/en/what-is-the-alliance-for-open-government/>

<sup>10</sup> The "Santiago Declaration" can be accessed here:

<http://www.parlamericas.org/uploads/documents/Declaracion%20de%20Santiago.pdf>.

because the majority of the proposals advanced in it already existed. Hence, when the window of opportunity created by the huge corruption scandals popped up and forced Bachelet to react, these proposals could slip through it first into the Commissions' report and then into the legislative process.

Regarding the formulation and implementation of the policy reforms regarding transparency, presidential commitment was key. Michelle Bachelet not only put transparency policies upon her political agenda in order to undo potential accusations against her family and herself following the "Caso Caval". She also continued to promote the agenda designed by the Engel-Commission within her government by issuing the "agenda de probidad y transparencia" (agenda of probity and transparency). In 2016, the President created by decree the "Comisión Asesora Ministerial para la Probidad Administrativa y Transparencia en la Función Pública" which supports the implementation and execution of the transparency agenda within the governmental institutions.<sup>11</sup>

On the other hand, the transparency agenda issued by the Engel-Commission received also support from various representatives cutting across partisan and ideological lines (as does corruption itself).<sup>12</sup> In fact, given the public attention towards the subject, it was impossible for any delegate to publicly dismiss the transparency reforms. As a consequence, several delegates tried to influence the actual content of the laws in the respective congressional commissions in order to maintain as much "privacy" as possible.<sup>13</sup>

A third important factor that explains policy change towards political transparency in Chile was the active involvement of civil society actors in the policy-formulation and implementation process. Moreover, their activism was not isolated, but they managed to build a sort of consortium committed to the Engels-agenda. Supported by the congressional commitment for an "open parliament" that included public sessions and the participation of civil society, representatives of the aforementioned civil society organizations participated in the drafting of the policy proposals. In addition, they actively lobbied legislators to work along the lines of the Councils' report. Their activism also included the organization of public events and talks with renowned international experts in transparency themes as well as regular appearances in important national news media (newspapers, television, social media etc.).<sup>14</sup> They also frequently produce reports and information material that can be accessed publicly on their respective web pages.<sup>14</sup> One of the most important instruments developed jointly by the NGOs Espacio Público and Ciudadano Inteligente is the "Observatorio Anti-corruption" (anti-corruption observatory), a platform launched in 2015 that meticulously documents the advances (and setbacks or gaps) in the implementation of the agenda Engels.<sup>15</sup> It also offers information material and detailed analysis of the process of implementation for journalists, researchers and public officials. As such it allows for a quick assessment of how the reforms are going and which gaps still have to be filled.

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<sup>11</sup> The process is rather transparent as well. Legislative and normative advances of the agenda are documented on the commissions' homepage, see: <http://www.lasnuevasreglas.gob.cl/>.

<sup>12</sup> Interviews with NGO personal in Santiago de Chile, April 2018.

<sup>13</sup> Ibid.

<sup>14</sup> See for instance the annual reports by Espacio Público: <https://www.espaciopublico.cl/category/personas/> <sup>14</sup> [espaciopublico.cl](https://www.espaciopublico.cl) and [ciudadanointeligente.org](http://ciudadanointeligente.org) <sup>15</sup> <https://observatorioanticorruption.cl/> <sup>16</sup> Espacio Público, Memoria 2016.

While this group activism was without any doubt crucial for the implementation of the transparency agenda, the figure of Eduardo Engels himself was also important for the process. As a university professor of economics at the University of Chile with an outstanding academic trajectory both in Chile as well as abroad and a huge expertise in public policy issues (as founding president of the Chilean Public Policy Society), Eduardo Engels enjoyed a great public legitimacy. As proof of it, in 2016 he was elected as one of the most admired personalities in Chile by the readers of the newspaper *La Segunda*.<sup>16</sup> Furthermore, Engels commanded good contacts within functionaries of public institutions and among decisionmakers which, one can assume, have helped to advance his councils agenda.

Also, Chile Transparente and PNUD continue to actively promote the transparency agenda and monitor the reform process by providing information for the general public and the media as well as with an ongoing contact with legislators and other public institutions. Only recently (2018), Chile Transparente has launched a web platform that registers meetings and audiences of governmental officials and legislators with private actors.<sup>15</sup> The platform provides a tool for critically scrutinizing political decisions adopted by state institutions and individual office-holders. Chile Transparente also opened a Centre for Legal Assistance in cases of corruption (Centro de Asesoría Legal Anticorrupción) which provides gratis legal assistance for victims of corruption or collusion, whistleblowers and witnesses of corruption involving public authorities, officers or institutions.<sup>16</sup> PNUD for its part is realizing a series of workshops with legislators in order to create awareness for the importance and value of the probity agenda.<sup>17</sup> As the others, both have regular media appearances and reporting activities.

Lastly, the process of implementation of the probity agenda (even before 2015) involved the creation of new institutions that helped to further promote it. For instance, the Council for Transparency created already in 2009 has established itself as an important public institution constantly reminding citizens and office-holders of the importance of political transparency for democratic quality and economic as well as bureaucratic efficiency. Its mission is greatly supported by its institutional autonomy and independence from other state institutions or from authorities. On the other hand, the Commission of the presidency created in 2015 promotes the process of transparency and probity within governmental institutions (although it depends on presidential good-will and it will be seen how the council will perform during the new Piñera government).

## Preliminary Conclusion and the Search for Theory

The objective of this paper was to trace the process that led to the adoption and implementation of political transparency laws in Chile. Several factors were found to have shaped the process that ultimately led to policy change towards greater political transparency: social and political pressure in the aftermaths of the several huge corruption scandals not only forced the President (who was personally affected) to act. By constituting the Engel-Commission, Bachelet also created a window of opportunity for policy proposals to enter the legislative and executive domains. However, it is important to note first, that given Chile's admission to the OECD political transparency was already a subject of discussion within governmental institutions.

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<sup>15</sup> See [www.integritywatch.cl](http://www.integritywatch.cl)

<sup>16</sup> See: <https://denunciacorrupcion.cl/>

<sup>17</sup> Interviews with NGO personal in Santiago de Chile, April 2018.

Second, many of the policy proposals advanced by the Engels-report already existed when the Council was convened. It was for that reason that Eduardo Engel and his team were able to assemble a comprehensive policy proposal within a relatively short period of time.

After finishing the report and with it the concrete political agenda, the actual adoption of the several transparency laws depended upon several factors: first, presidential commitment was key in advancing the agenda within governmental institutions. Second, the figure of Eduardo Engels helped to endow the agenda with legitimacy and reliability. Together with his good contacts within governmental institutions, this may well have helped to create commitment to the transparency agenda. Third, the involvement of civil society groups in the formulation process was important in order to orient the post-report discussions and also to ensure that the content of the resulting laws was actually complying with the councils' proposals. Fourth, at the same time, civil society groups continued their work to keep the subject of political transparency and probity on the public and political agendas and provided tools for other actors (research, media) to monitor the process and the behavior of authorities. Lastly, new autonomous public institutions such as the "consejo de transparencia" as well as the "consejo ministerial" further advanced the agenda both by creating civil attention towards the subject as well as by monitoring the adoption and implementation of the agenda within the governmental institutions.

The laws and policies resulting from the transparency agenda aim at regulating the activities of national legislators, politicians (candidates) and parties in order to prevent influences of particular interests upon public policies. Particularly in societies characterized by huge power differences among its social groups, such laws are supposed to help construct more equal and just social, economic and ecological arrangements. On the other hand, they are also assumed to reduce the probability of a "political resource curse" (which by the way would also be an expression of social and power inequalities).

This study presents Chile as a successful case for the adoption of a comprehensive transparency agenda. This is not to say that the policy process in Chile was (or is since it is ongoing) without problems. On the contrary, several laws promoted by the Engels-Commission are currently "sleeping" in Congress, which means that delegates have ceased to advance towards their adoption. For instance, a law establishing an autonomous Office for Congressional Ethics is currently being blocked by some legislators that do not wish to lose control over the body (up to now the office is managed by the delegates themselves which means that they are supposed to exert a sort of auto-control. All in all, to fully implement the Agenda Engels is still a far cry ahead. Moreover, legislation addressing corruption among privates or horizontal corruption or undue influence within the state's structures is missing.<sup>18</sup> The regulation of both would be of particular importance in order to create transparency in the extractive sector.

From a theoretical perspective, the adoption and implementation of the transparency agenda in Chile represents a case of emergence of regulatory institutions in the context of an unequal society. As mentioned on the outset, the resource curse literature has stressed the importance of such institutions for preventing the curse but has paid little attention to the agency and structures that promote them. However, there is an ample political science literature (both theoretical as well as empirical) on the drivers and conditions of policy change. Earlier approaches within this

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<sup>18</sup> Interview with NGO personal in Santiago de Chile in April 2018.

line of thinking have stressed institutions (i.e. structures), rational choice or incremental learning as well as the impact of dominant groups or elites on the content of policies. The latter have been criticized for their incapacity to explain cases of policy change that would affect the interests of elites or dominant groups. Moreover, all of them failed to consider that policies emerge as a product of an often contentious process which involves different phases and actors. This point was later taken up by Kingdon (1984) who developed the policy cycle model, a heuristic tool to understand policy processes by dividing them into different phases: the setting of the public agenda, the setting of the political agenda, policy formulation, policy adoption, policy implementation and policy evaluations. Some formulation of the model also includes policy termination. The model assumes that each phase has different actors and takes place in different settings (on the streets, within specialized institutions, within Congress, etc.). The last point has received ample criticism since the phase heuristic with its clear divisions is empirically untenable.

More recent approaches have emphasized the importance of precipitating events for (Baumgartner and Jones 1993) (radical) policy change and the importance of political networks (Marsh and Rhodes 1992; Marin and Mayntz 1992) or advocacy coalitions (Sabatier 1998). The first holds that tightly networked sectors tend to produce policy stability and, if any change at all occurs, towards incrementalism, i.e. smaller changes to existing policies. As a consequence, the network approach is more useful to explain policy stability and not change or even emergence. Policy change, to the contrary, is at the heart of the Advocacy Coalition Framework (ACF). The essential premise of the ACF is that policymaking occurs in a policy subsystem inhabited by several multi-actor advocacy coalitions which compete to influence policies in line with the policy beliefs that bind each coalition together (Sabatier 1998). The process of competition between advocacy coalitions is supposed to generate policy-oriented learning by decision-makers. The ACF conceives policy change as a relatively open and competitive process between belief systems and therefore stresses agency over structure in explanations of change.

However, in the light of the case under study the ACF exhibits several blind-spots. In particular, its focus on learning and its assumption of a somewhat neutral “governmental broker” that must be “convinced” of a specific policy proposal dismisses the fact that learning may not be in the interest of policy makers and, related, that policy makers are not neutral, but actors with different individual and collective interests. Along these lines, the ACF does not take power inequalities and barriers for access to public institutions into account. As a consequence, it cannot explain how specific agendas set by competing advocacy coalitions may ultimately transform into binding policies or laws, especially when the opposition by powerful actors can reasonably assumed to be huge. Additionally, it does not consider the mechanisms and factors that may induce and lastly ensure policy change (such as the participation of civil society actors in the policy formulation phase). Hence, the insights providing from the papers’ case analysis might help to fill these gaps and, potentially, complete the ACF by calling attention to factors that were present in the different phases or during the whole process and that ensured the actual transformation of a coalitions’ agenda and activism into concrete policies – even against powerful opponents within the governmental institutions.

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