

University of Central Florida

**STARS**

---

Honors Undergraduate Theses

UCF Theses and Dissertations

---

2020

## Corruption and Anti-corruption Agencies: Assessing Peruvian Agencies' Effectiveness

Kia R. Del Solar

*University of Central Florida*



Part of the [Political Science Commons](#)

Find similar works at: <https://stars.library.ucf.edu/honorsthesis>

University of Central Florida Libraries <http://library.ucf.edu>

This Open Access is brought to you for free and open access by the UCF Theses and Dissertations at STARS. It has been accepted for inclusion in Honors Undergraduate Theses by an authorized administrator of STARS. For more information, please contact [STARS@ucf.edu](mailto:STARS@ucf.edu).

---

### Recommended Citation

Del Solar, Kia R., "Corruption and Anti-corruption Agencies: Assessing Peruvian Agencies' Effectiveness" (2020). *Honors Undergraduate Theses*. 698.

<https://stars.library.ucf.edu/honorsthesis/698>

CORRUPTION AND ANTI-CORRUPTION AGENCIES: ASSESSING  
PERUVIAN AGENCIES' EFFECTIVENESS

by

KIA DEL SOLAR PATIÑO

A thesis submitted in partial fulfillment of the requirements  
for the Honors in the Majors Program in Political Science  
in the School of Politics, Security, and International Affairs  
and in the Burnett Honors College  
at the University of Central Florida  
Orlando, Florida

Spring Term, 2020

Thesis Chair: Bruce Wilson, Ph.D.

## **Abstract**

Corruption has gained attention around the world as a prominent issue. This is because corruption has greatly affected several countries. Following the exploration of various definitions and types of corruption, this thesis focuses on two efforts to rein in “grand corruption”, also known as executive corruption. The thesis is informed by existing theories of corruption as well as anti-corruption agencies and then situates Peru’s experience with corruption in its theoretical context and its broader Latin American context. This work conducts a comparative analysis and follows a process-tracing approach to examine and evaluate Peru’s recent anti-corruption agencies and their effectiveness in holding politically powerful people to account. An analysis is made regarding the efforts of two presidents who claimed to be committed to battling corruption; however, each had different motivations and operated under different circumstances. These differences were showcased in the following influential pillars: institutional design, funding, and oversight within the National Anti-Corruption Commission (CNA) and the Superior Court of Justice Specialized in Organized Crime and Corruption (CSJ).

## **Acknowledgements**

I would like to acknowledge everyone who played a role in my academic accomplishments. First of all, I want to thank my family, my mother, my stepfather and my father for giving me moral support throughout my academic career. Secondly, I want to thank my thesis chair, Dr. Bruce Wilson, for his patience and guidance throughout the research process. I would also like to thank my thesis committee member, Dr. Barbara Kinsey, for answering any questions I had and helping me throughout the final stages of my thesis. I would like to offer my gratitude to fellow researchers Joseph-Pozsgai Alvarez and Ken Yamashita, who pointed me in the right direction and shared any available data they had on the topic. Lastly, I would like to thank my colleagues, Nicholas Odom and Alexander Goldfarb, for working with me and encouraging me to excel in the program and further develop my interest in the field of international relations.

## TABLE OF CONTENTS

INTRODUCTION .....	1
LITERATURE REVIEW .....	3
An Introduction to Corruption .....	3
Definitions of Corruption.....	4
Types of Corruption.....	5
Why Do We Study Corruption?.....	6
Anti-Corruption Agencies.....	10
Causes of Corruption in Latin America .....	11
The Lava Jato Case .....	12
GRAND CORRUPTION IN PERU .....	16
1990-2000: Alberto Fujimori.....	16
2001-2006: Alejandro Toledo.....	18
2016-2018: Pedro Pablo Kuczynski.....	20
HYPOTHESIS .....	23
METHODOLOGY .....	24
PERU’S FIRST ANTI-CORRUPTION PROGRAM.....	26
The CNA: National Anti-Corruption Commission.....	26
The CNA’s Design.....	27
Financing.....	28
Oversight.....	30
SUPERIOR COURT OF JUSTICE SPECIALIZED IN ORGANIZED CRIME AND CORRUPTION OF OFFICIALS.....	32
The Emergence of the CSJ.....	33
The CSJ’s Design.....	34
Financing.....	35
Oversight.....	36
OUTCOME EXPLANATION.....	38
Oversight Mechanisms.....	38
Design .....	39
Funding .....	39

CONCLUSION.....	41
REFERENCES .....	43

## **LIST OF TABLES AND FIGURES**

Figure 1: Perceived Level of Corruption In Selected Agencies .....	9
--	---

## INTRODUCTION

On March of 2018, the President of Peru, Pedro Pablo Kuczynski stepped down from office after he was implicated in a corruption scandal that had plagued the previous five presidencies (Shiel & Chavkin 2019). This scandal involved illicit payments made to executive officials by the Brazilian construction company, Odebrecht. Kuczynski was not the first high-ranked official to step down as a result of their involvement. The Odebrecht scandal affected more than fourteen countries and their elected officials (Goldstein & Drybread 2018). It was during this year that several executives were charged with corruption crimes and that their involvement was put to light. This soon grabbed attention from the media, placing a focus on cases of corruption across Latin America.

The choice to study corruption within this thesis came from an interest in the aforementioned charging of officials within the Peruvian executive. It is interesting that a particular type of corruption spanned more than thirty years and furthermore, that the same scandal involved not only the previous five presidents of the republic but also presidents of other countries.

Although corruption has gained attention recently, the study of its causes, the categorization of its different forms and comprehensive studies on its solution continue to be understudied as this is generally a new topic (Ilona Wysmulek 2015). This thesis aims to answer some of the questions regarding how corruption takes form and under what conditions anti-corruption agencies (ACAs) can be effective at holding officials accountable for their crimes.

Given many of the corruption cases in Peru dealing with officials in the executive have been handled by the same anti-corruption agency, it is possible to ask the question: Is the new anti-corruption agency more effective than the previous one? This paper takes from theories of grand corruption (corrupt acts committed by political elites to benefit a few at the expense of many) to help answer this question.

## **LITERATURE REVIEW**

### **An Introduction to Corruption**

Corruption is a universal practice pervasive in societies around the world. But corrupt practices are not new, in fact, scholars have been documenting acts of corruption since colonial times. Moreno-Cebrián and Sala i Vila, use historical accounts from the 15<sup>th</sup> and 16<sup>th</sup> century to paint an overall picture of what corruption looked like in its early days (Quiroz 2008). Other academics focus on modern corruption and the trajectories of countries that have dealt with the corruption over time, analyzing modern successful cases of good governance (Mungiu-Pippidi 2013).

Through the work of many scholars we have learned that most modern democracies have been able to transform their societies and reduce corruption by shifting from patrimonialism to ethical universalism, that is, a government's application of equal and fair treatment for everyone (Mungiu-Pippidi 2016, 95). Modern cases of good governance include Denmark and Britain, where Denmark had a bureaucracy that was decently paid and selected on merit (before the nation even democratized) and Britain established a Parliament and local civil society that fostered public integrity (Mungiu-Pippidi 2013, 1274). The exact reason behind these successes is hard to determine, however, some scholars believe it is largely due to the strength of a country's institutions. These scholars believe that institutions such as a fairly elected legislature, an honest executive, and an independent and accountable judicial system are key to imposing accountability measures and have even developed frameworks for these institutional strengths (Pope 2000).

Others, however, place more emphasis on a government's willingness to fight corruption through institutions. Scholars, such as Mungiu-Pippidi claim that "oversight bodies work only if the government itself is not an extractive pyramid surviving on the spoliation of public resources—in other words, if control of corruption is already built" (Mungiu-Pippidi 2013, 1281). This prompts the question: can the strengthening of institutions increase accountability and enhance the fight against corruption? This can be addressed by using the case of Peru, a country which coincidentally has recently had two different anti-corruption institutions with clear differences in their oversight (among others).

### **Definitions of Corruption**

Corruption takes many different forms, which makes it difficult to define what exactly corruption is and how it can be measured. However, it must be noted that simply because corruption is pervasive and takes different forms, does not mean it cannot be defined. The term corruption has been defined differently by several scholars. For example, Graycar gives the definition of corruption when applied to the civil servant, while Mistree and Dibley define it more generally as an event that occurs when an actor seeks an unauthorized benefit from an organization in a manner that could compromise the public's trust (Mistree & Dibley 2018; Graycar 2015). On a different note, Mungiu-Pippidi champions the argument that corruption is ubiquitous, as it takes on different forms across societies according to "power distribution, natural resources and societal constraints" (Mungiu-Pippidi 2017, 2). Mungiu-Pippidi therefore defines corruption in general as 'deviation' from the norm of integrity,<sup>1</sup> though it must be made clear that according to Mungiu-

<sup>1</sup> Pippidi's definition is referring more specifically, to a country's formal norms of integrity as opposed to informal ones.

Pippidi, both today as well as in the past, corruption for the most part is an intrinsic part of a certain governance context (Mungiu-Pippidi 2017, 5).

Here I use Joseph Nye's 1967 definition of corruption which defines the act as "a violation of the norms of public office for personal gain" (J. Nye 1967, 419). This definition denotes specific behavior that is generally called corrupt by Western standards which "are partly relevant in most developing countries" (Nye 1967, 419). But not all scholars agree with this definition. Some scholars criticize Nye's definition of corruption for having several "terminological shortcomings" and failing to capture the "complex nature of the acts that are associated with corruption and the various motivations as to why actors carry out such acts" (Mistree & Dibley 2018, 4). These arguments can be countered however, because as Nye explains, the purpose of having a narrow definition of corruption is that it stops the term from being more relevant to moral evaluation than political analysis. This means that by using this definition scholars are prevented from analyzing the personal motivations behind corrupt acts and instead allows them to study the structural reasons for why they occur. In short, this definition is more straightforward and focuses more on the how as opposed to the why.

It is possible to conclude that although there are several different definitions of corruption, this thesis will use Joseph Nye's definition in order to focus on under what conditions or through which mechanisms elite officials within the executive were able to commit such acts.

### **Types of Corruption**

Scholars have also concluded that there are three general types of corruption that stand out as they tend to occur most often (Morris 2011; Mistree & Dibley 2018; Graycar 2017). These are:

grand, legislative, and petty corruption. Grand corruption refers to the abuse of power by political elites that benefits a few at the expense of many (Barrett & Fazekas 2019, 2). This would be equivalent to a president trading favors in exchange for campaign financing. Legislative corruption entails corrupt behavior associated with legislators (Morris 2011, 11); most of the time this deals with vote buying. The last type of corruption, petty corruption, takes place at the micro-level and involves smaller, routine payments (Morris 2011, 11). An example of this is seen in Costa Rica, whereby small under-the-table bribes (commonly known in Costa Rica as Biombos) are often given to medical staff at hospitals to reduce patient waiting time (Lewis 2006; Wilson 2014).

This thesis focuses on the subset of corruption known as “grand corruption.” Grand corruption as noted earlier has been defined as a type of corruption where “political elites allocate state resources in exchange for political support” (Barrett & Fazekas 2019, 2). Regardless of the definition however, grand corruption usually deals with officials within the executive. The executive is the focus of analysis because of the effects leaders have on corruption via their policy-making and the influence they have over government institutions (Budd 2003, 42). This is reflected in Peru’s case, whereby the President’s power over anti-corruption institutions has been historically dominant and responsible for how corruption has been dealt with. Furthermore, grand corruption was chosen given the past five Peruvian presidents have been involved in large-scale corruption cases.

### **Why Do We Study Corruption?**

Why is it important to study grand corruption? Because of the several impacts it has on a society. Some common examples include grafting, vote-buying, and extortion, with the effects

often being a decline in levels of democracy, public trust and economic growth. It must be noted that not all scholars see corruption as negative. Scholars studying this topic constantly debate on how to weigh the effects that often come from such practices. For example, Pozsgai-Alvarez, Mungiu-Pippidi, Wilson, and several other scholars agree that corrupt practices are detrimental as they often lead to unethical outcomes and power inequality. The logic behind this argument is that when influence is distributed unevenly, the result is “constant preferential treatment of certain groups by the state, with real power being held by the same individuals or networks regardless of the outcome of elections” (Mungiu-Pippidi & Johnson 2017, 10). Sen and Saha directly refute this however, claiming that corruption is not exclusively negative, as it can allow for greater economic freedom which leads to investment and growth (Sen & Saha 2019). It is argued that this is true because corruption has the potential to increase investment and annual growth within strong authoritarian regimes, as these types of governments often give firms confidence that the ruling powers will deliver on the deals that they have entered. Furthermore, these scholars argue that the overall effects of democracy on economic growth tend to be weakly negative (Tavares & Wacziarg 2001). Sen and Saha do recognize that the effects of corruption on economic growth varies based on the levels of democracy a country has.

With Peru’s case, it has been demonstrated that corruption was not positive for the economy. For example, former President Alan Garcia put Peru under one of the worst economic depressions in the country’s history and his political ties to elites as well as his involvement in several illicit enrichment acts such as the received bribes of more than US \$100 million for foiling the purchase of 26 Mirage aircrafts or those received from the International Bank of Credit and Commerce did not aid the situation (Pastor & Wise 1992; Semana Económica 2016; El Comercio

2019). According to the Central Reserve Bank of Peru, Garcia's first term suffered hyperinflation of 2,775%. Although Garcia conducted a plan to control inflation by nationalizing private industries, by the end of his administration, he had left his country with significantly higher inflation rates than with which he had received it (Paredes & Sachs 1991). The World Bank also refutes the claim that corruption is good for the economy as it demonstrates that in 2001, the biggest obstacle to doing business in Peru was corruption (World Bank 2003). As shown in Figure 1, the World Bank's interview concluded that "more than 85% of managers of enterprises rated corruption as the most serious problem they face" (World Bank 2003).

**PERCEIVED LEVEL OF CORRUPTION IN SELECTED AGENCIES**  
(as ranked by users)

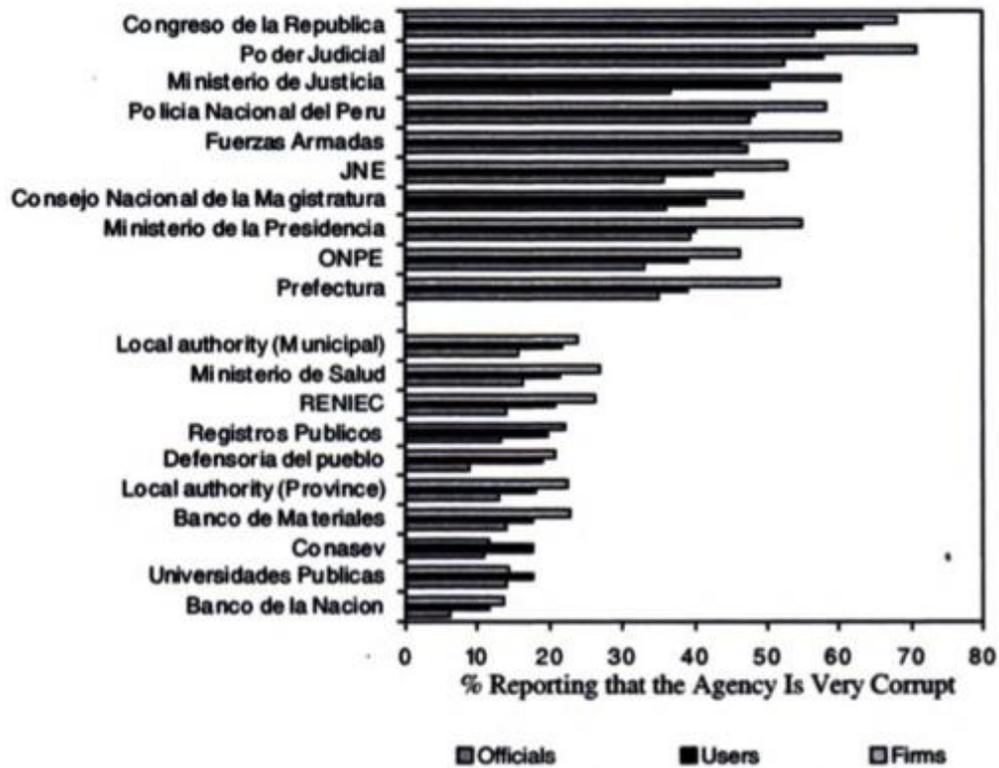


Figure 1: Perceived Level of Corruption In Selected Agencies

(Bank, PERCEIVED LEVEL OF CORRUPTION IN SELECTED AGENCIES, 2003)

## **Anti-Corruption Agencies**

It is important to understand the basic concepts of corruption as well as the principles that make anti-corruption agencies effective before analyzing the specific cases found in Latin America and Peru. There are three institutional pillars that influence the effectiveness of anti-corruption agencies (ACAs). As has been mentioned throughout this study, these three pillars are the oversight, institutional design, and funding mechanisms. Similarly, Dixit (2016) discusses these pillars in more detail, describing them as: 1. Political support from a country's leader and his/her appointment of a good head for the agency 2. A clear and comprehensive framework that delineates its powers and relationships with other agencies. 3. Adequate resources and independence (Dixit 2016, 16).

According to a public policy research program from Princeton University (which looked at the ACAs of eight countries), four key lessons were learned in relevance to the three institutional pillars. In these lessons we can recognize a relationship between them (Dixit 2016). For example, a strong leadership that imposes internal controls and works with accountability mechanisms, plays an important role in preserving integrity and keeping anti-corruption agencies from being subverted. Additionally, ACAs can be effective by building alliances with civil society, other state institutions, and the media to bypass their opposers. Furthermore, preventive efforts that work to disrupt corruption networks combined with educational efforts to reshape norms, help to make long-term gains. Finally, another key finding points out that timing is key in the success of ACAs. This is because “under certain conditions, ACAs pursuing high-level corruption can overcome retaliation by carefully managing timing, resources, and external support” (Dixit 2016, 17). These concepts are important in order to trace the process and dynamics of two Peruvian ACAs, which help to understand why one of the institutions succeeded while the other did not.

## **Causes of Corruption in Latin America**

In Latin America, most countries score high in corruption indexes (Transparency International 2018). According to Asamoah, corruption on a macro-level is widespread in developing countries because conditions are strong for it and the motivation to earn income is “extremely strong due to: poverty, low salaries, high risks of all kinds, (illness, accidents and unemployment, lack of insurance) etc. making opportunities to engage in corruption more numerous” (Asamoah 2017, 4). Goldstein and Drybread on the other hand, claim that some forms of corruption such as the one seen in Argentina or Colombia’s Monteria region, are based on regional characteristics of inequality and the country’s historically constituted hierarchies of class and race (Goldstein & Drybread 2018, 309). With regards to corruption within the executive, some scholars claim politicians take part in corrupt practices in order to achieve private gains and because the “strategic allocation of state resources buys loyalty, which in turn helps them consolidate their power and gain an advantage over their political competitors” (Barrett & Fazekas 2019, 2). Furthermore, other scholars and this paper claim that executive corruption arises out of a lack of strong institutions which generally serve to expose politicians and provide accountability (Goldstein & Drybread 2018, 303).

Irrespective of the cause, executive corruption has been exemplified in real cases throughout Latin America (Goldstein & Drybread 2018, 303). Furthermore, the above arguments serve to make apparent one assertion: institutions are very influential in controlling grand corruption. Goldstein and Drybread support this claim as they explain that the most infamous corruption investigations and crackdowns on corruption in Latin America (such as those including the former Guatemalan President Otto Perez Molina, former Brazilian President Dilma Rouseff,

and former Argentine President Cristina Fernández de Kirchner) were successful because of maturing legal institutions that held a high level of scrutiny and accountability (Goldstein & Drybread 2018, 303).

### **The Lava Jato Case**

The Lava Jato case supports the importance of studying corruption as officials have not only taken money from foreign companies in exchange for personal monetary gains, but also interfered with the democratic institutions of their respective countries and taken advantage of the public's trust in doing so.

On 2014, Brazil's federal police launched Operation Lava Jato (also known as Operation Car Wash). The case began as a minor investigation on money laundering schemes but soon became a bigger inquiry that has since exposed officials in more than fourteen Latin American countries for taking millions of dollars in bribes from the Brazilian construction company, Odebrecht, in exchange for infrastructure contracts.

Scholars are currently debating on what exactly allowed for the Lava Jato investigation to succeed at holding individuals accountable for their crimes. For example, according to researchers from the Wilson Center's Brazil Institute, Judge Sergio Moro was an integral part of the investigation (Wilson Center 2016). These scholars explain that Moro kept guilty individuals in jail before their trials, something unheard of for Brazil's wealthy elite. During this time, Moro gave them a plea bargain whereby if they gave out the names of who they were working with, they would receive shorter sentences. This is how high-end executives and eventually politicians from more than fourteen Latin American countries became entangled in the investigation (Shiel & Chavkin 2019). Other scholars disagree with this line of reasoning and have denounced the

investigation itself as corrupt. Francisco Celso-Calmon explains that Moro targeted former President Luiz Inácio “Lula” da Silva, in order to remove him from Brazil’s 2018 election. Furthermore, Celso-Calmon points out that it was strange that “Judge Moro allocated about 50 pages of the total of 238 of his decision, to talk about himself and defend his opinion” and calls this a “kind of self-defeating sentence” (Celso-Calmon 2018, 54). Similarly, Ricardo Lodi-Ribeiro calls the entire investigation a striking case of lawfare (a portmanteau of *law* and *warfare*), used by Moro to harass his political adversaries, while Lenio Luiz-Streck describes it as a case with an explosive combination of a “biased judge, biased prosecutor and free assessment of evidence” (Lodi-Ribeiro 2018; Luiz-Streck 2018). Celso-Calmon argues that by subverting the law (by taking part in improper practices such as phone tapings) and having not followed the proper rules of conduct within the investigation, Moro has damaged the institutions of Brazil and made it more likely for the country to become tyrannical.

However, it can be argued that Celso-Calmon is exaggerating the effects that Operation Lava Jato has had on the democratic state. This is seen within his writing, where the Marxist scholar calls Moro an “illusionist forced to present constant surprises to keep the eyes of the audience fixed on him” and refers to those working on the investigation as Moro’s “minions that carry out a new blow to law and democracy every day” (Celso-Calmon 2018, 53). Furthermore, Celso-Calmon claims that “there is no proof of the crimes of corruption and money laundering”, yet this was recently proven wrong, as reports have found concrete evidence of participation in money laundering not only by Lula but by dozens of other politicians within Latin America, including Peru (Celso-Calmon 2018, 54; Goldstein & Drybread 2018).

It must be noted that although the Lava Jato investigation brought corruption news to light, not all Latin American countries reformed their accountability agencies. In contrast to other countries in the region, Peru has given more extensive penalties to those involved with the corruption scandal. For example, according to the U.S. Department of Justice, Argentinian officials were paid at least \$35 million in bribes by Odebrecht in exchange for contracts (Shiel & Chavkin 2019). Despite the concrete evidence however, until recently, the courts have been relaxed and have failed to hold officials accountable over the Odebrecht scandal. Those implicated within the investigation include a former vice president, a former public works minister, and former Presidents Néstor Kirchner and Cristina Fernández de Kirchner, who were in office from 2003-2007 and 2007-2015, respectively (Gedan & Phalen 2018). According to Benjamin Gedan and Daniel Alonso, the lack of action can be explained because of Argentina's weak institutions, for example, its criminal justice system (Americas Quarterly 2018). Other scholars predict "judges, prosecutors, lawmakers and even anticorruption crusaders" have not taken action in order to protect political allies (Americas Quarterly 2018).

In contrast, Peru has charged several officials with corruption crimes and has held a majority of those charged accountable, as seen with most of the former presidents (Americas Quarterly 2018). This is greatly owed to the reforming of institutions by former President Pedro Pablo Kuczynski and his decree N.º 1307, which created the Superior Court of Justice Specialized in Organized Crime and Corruption (El Peruano 2018). This court is significant, as it has been responsible for helping charge three presidents as well as several other officials for their crimes.<sup>2</sup>

<sup>2</sup> Such as former Congresswoman Keiko Fujimori, who is currently accused of money laundering (Corte Superior De Justicia Especializada En Delitos De Crimen Organizado Y Corrupción De Funcionarios 2018).

It can be concluded that the Lava Jato case was crucial for the connected crimes of corruption to surface. This investigation has not only shed light on these cases but has also brought about discussions on reforms to curb corruption, pushing governments to put in place mechanisms that deal with such crimes. Though as mentioned earlier, not all countries have made the attempt to make changes or put in place measures that provide accountability. Furthermore, the Lava Jato investigation has also served to provide a contextual narrative of what grand corruption currently looks like throughout Latin America.

## **GRAND CORRUPTION IN PERU**

The following is a brief analysis of corruption scandals that surrounded the presidents in power shortly before and after the creation of Peru's two major anti-corruption programs. These presidents and their actions are significant in the upcoming analysis of anti-corruption institutions as their administrations played important roles in shaping the conditions under which the institutions were put in place.

### **1990-2000: Alberto Fujimori**

Alberto Fujimori was involved in perhaps the most infamous case of corruption within Peru's numerous corruption scandals. Fujimori, the son of Japanese immigrants, was elected to the presidency at a time when Peru was plagued by pervasive poverty, inflation, nearly depleted foreign reserves, a growing narcotics trade, and two growing terrorist groups: the Tupac Amará Revolutionary Movement and the Shining Path (Sendero Luminoso) (Calderón Bentin 2018).

Although Fujimori began his term as any other president, looking to resolve the nation's problems with reforms and structural changes to the system, two weeks after taking office, he imposed a series of harsh measures known as "Fujishocks" meant to decrease the country's inflation. One such measure included the raising of gasoline prices by 3,000 percent (Pastor 2019, 136). Manuel Pastor explains that this action had mixed reactions as it went against his promised gradualist approach to inflation-fighting and hurt the poor yet stimulated economic growth.

Two years into his presidency, Fujimori found it hard to work with congress as he lacked a majority, and therefore in April of 1992, he instituted a self-coup<sup>3</sup> which dissolved congress and suspended the constitution. In addition to this, he created death squads, removed the judiciary by taking out 13 out of the 23 Supreme Court Justices, and introduced a law of “authentic interpretation” that essentially gave him the power to interpret the Constitution. He used this to interpret the constitution’s two-term limit to mean that it only counted after his first term, which allowed allowing him to run for a third term in 2000 (Crabtree 2006, 298).

Fujimori claimed this was done in order to effectively root out corruption and combat terrorism in Peru (Calderón Bentin 2018). However, shortly after, the Peruvian public was surprised by the famous “Vladi-videos”, a series of videos (approximately 2,400 tapes) that showed Fujimori’s right-hand man and chief advisor, Vladimiro Montesinos bribing members of congress with cash to support Fujimori’s policies. The most famous of these videos shows Montesinos as he placed \$15,000 in cash on a table in an attempt to bribe Congressman Luis Alberto Kouri into supporting Fujimori’s upcoming presidential campaign (Coyne & Leeson 2009, 1). These events sparked an investigation into allegations that Montesinos had been laundering money through Swiss banks. The evidence showed that he had illegally misallocated around \$800 million (Martin 2017).

Following the investigation, Fujimori unexpectedly traveled to Japan for a summit, and three days later he faxed his resignation to Congress (Quiroz 2008). Due to his double citizenship, and Japan’s lack of an extradition treaty with Peru, Fujimori was able to remain in Japan. In June

<sup>3</sup> Known in Peru as an *autogolpe* (Quiroz 2008).

of 2001, Montesinos was arrested in Venezuela after attempting to withdraw some of the \$38 million he had in a bank account in Miami (Feinstein 2001). In 2006, Fujimori traveled to Chile and was arrested upon arrival and subsequently sent to Peru where he was charged with corruption, human rights violations, kidnapping, and murder (Transparency International 2005).

While some scholars argue that Fujimori fits the definition of a neo-populist leader, others claim he is a classic example of authoritarian rule (Crabtree 2001). Some scholars have combined the two claims, describing the former president's regime as a hybrid or "an admixture of democratic and autocratic elements" (Crabtree 2001, 287). Regardless of which definition he falls under, most scholars would agree that Fujimori's presidency was characterized by the consolidation of power within the executive and his taking of advantage of weak institutions and political parties.

Fujimori's actions support the hypothesis of this study as it reveals the importance of having strong institutions and the consequences of a lack thereof. In this case, Fujimori dissolved congress, changed the constitution, and weakened institutions in order to have his policies passed. Successful anti-corruption institutions were seen for the first-time during Alejandro Toledo's presidency.

### **2001-2006: Alejandro Toledo**

Following Fujimori's term, Alejandro Toledo (Peru Posible party) took office on July of 2001. Toledo distanced himself from Fujimori by having an anti-corruption platform, focusing on accountability, job creation, and helping the working-class. Toledo used his indigenous background and achievements to reinforce the idea that this was possible (Greene 2007). Once his

presidency began, his promises fell flat (Pozsgai-Alvarez 2018). For example, the economy remained stable following Fujimori's term, however, other issues such as corruption resurfaced. Several scholars point out that Toledo did not focus on fighting corruption as much as he focused on the economic state of the country, and even then, he failed to create enough jobs to significantly decrease poverty (Pozsgai-Alvarez 2018).

Despite his promise to diminish corruption, Toledo's attempts to crack down on the issue were insignificant. Furthermore, towards the end of his presidency it was discovered that not only had Toledo committed corrupt acts himself, but he had dismantled the institution he created that focused on keeping corruption levels down and enforcing accountability measures within Peruvian politics (Cervantes-Bautista 2019).

While at first glance these offenses might seem trivial in comparison with those of Fujimori's, years later in 2016, Toledo was accused of taking more than \$20 millions in bribes from the Brazilian construction company Odebrecht (La Republica 2017). This was uncovered by Operation Lava Jato (Also known as Operation Car Wash), an ongoing investigation conducted by the Federal police of Brazil into the corrupt acts of a Brazilian company that had numerous construction contracts across Latin America. According to the operation, Odebrecht paid Toledo millions in exchange for a guaranteed profitable highway-building contract during his term (Organized Crime and Corruption Reporting Project 2019). Toledo was arrested on July of 2019 in California and is currently facing extradition from the United States.

In the years that followed, grand corruption acts stayed relatively on a par with those of the Toledo administration. Each president after him becoming involved with the Odebrecht company. It was not until Pedro Pablo Kuczynski won the presidency in 2016 that anti-corruption reforms were given an emphasis again.

## **2016-2018: Pedro Pablo Kuczynski**

Pedro Pablo Kuczynski (also known as PPK) began his presidency on unsteady ground. Kuczynski's first 100 days were plagued with corruption charges involving several members of his administration. PPK's health advisor, Carlos Moreno, was the first member accused of corruption after he was recorded trying to negotiate corrupt deals with the administrators of clinics<sup>4</sup>, calling the agreement a "gold mine" (Americas Society and Council of the Americas 2016). Next, his Deputy Agriculture Minister, Juan Carlos Gonzáles, was charged with favoring a private company to take care of nutritional school programs in exchange for more than \$680,000 (RPP 2016).

As a result, PPK released a series of anti-corruption measures. This included five anti-corruption policies: 1. A comprehensive review of the presidential office and the parameters involved in choosing advisors, 2. Ministers will evaluate their environment, 3. "Civil death" barring employees convicted of corruption from ever returning to a state job, 4. The creation of a council of state that works with congress and the judiciary in overseeing the fight against corruption within government institutions, 5. The creation of a presidential integrity commission (WALAC 2016).

In an ironic twist of events however, Kuczynski himself was charged with corruption by the organized Crimes Division of the Superior Court, a program created by a decree (N.º 1307) that Kuczynski himself sponsored and signed into law (El Peruano). Much like the previous presidents, PPK was accused of having ties to Odebrecht during his days as Minister of Economy, helping the Brazilian company score contracts. In return for these favors, Odebrecht would deposit funds into

<sup>4</sup> Called "patients-for-money" deals (Americas Society and Council of the Americas 2016).

accounts managed by a consulting firm co-owned by Kuczynski. The investigation that followed prompted for an impeachment vote; however, the impeachment request was rejected by congress as there was insufficient evidence of his involvement as well as a necessary number of votes (Global Americans 2018).

After another corruption scandal broke out, a second impeachment vote was initiated by the opposition. In a desperate attempt to stay in power, Kuczynski secretly sought help from the opposition party, Popular Force, (composed mainly of Fujimori supporters) and negotiated with Congressman Kenji Fujimori for the necessary votes to block the impeachment (OCCRP 2018). This was done in exchange for a presidential pardon to Kenji's father, former president Alberto Fujimori, who was serving a 25-year sentence for corruption and crimes against humanity (Global Americans 2018).

Hours before the vote however, Congressman Moisés Mamani, released videos of the compromising meetings in which PPK discussed the bribes promised to members of congress in exchange for votes against impeachment (El Espectador 2018). The releasing of these videos worsened PPK's on-going corruption investigation and solidified the results of his second impeachment, forcing him to resign shortly after. This paper argues that it was the institutions created during Kuczynski's term (such as decree N.º 1307) that significantly helped implicate officials and political leaders in the Odebrecht scandal.

Additionally, it is imperative to recognize that Operation Car Wash is a root cause for why many Latin American presidents have become entangled and held accountable for their crimes. What began as a minor investigation by the Brazilian federal police on money laundering schemes, grew into a bigger inquiry that has exposed the largest ever corruption scandal in Latin America. These findings in combination with the anti-corruption measures passed by the Kuczynski

administration culminated in stronger accountability agencies and the exposure of corruption within Peru's executive branch.

## **HYPOTHESIS**

H1: The anti-corruption agencies of Peru today are more effective at holding elected officials accountable than those of previous administrations.

## **METHODOLOGY**

This study began with exploratory research, as the topic of corruption is very broad and often a highly ambiguous situation. Through exploratory methods, the scope of the work was narrowed down. Through a comparative analysis and a process tracing approach, this study aims to determine the differences between anti-corruption institutions and how they affect the accountability of officials within the executive branch.

The accountability of anti-corruption institutions has been determined based on observations. The strength of anti-corruption institutions is measured using a compilation of studies and reports that point out judicial effectiveness (as well as government integrity within institutions). By taking into account the different anti-corruption measures generated by the CNA and the CSJ, judicial effectiveness can be observed based on the number and the rank of the executive officials charged with preventive arrests.

In order to give context with regards to how grand corruption operates in Peru, the presidencies of Alberto Fujimori, Alejandro Toledo, and Pedro Pablo Kuczynski were studied. These particular presidents were chosen given they shaped the political climate of Peru during their terms and accordingly, its corruption levels. Fujimori set the conditions and need for anti-corruption agencies while the Toledo and Kuczynski presidencies were crucial to the creation of the CNA and the CSJ.

Although the two presidencies created the institutions under different circumstances, the two aforementioned institutions are studied in detail with regards to their design, their financing

and the quality of their oversight which are theoretically seen as determining factors for an anti-corruption agency's effectiveness.

## **PERU'S FIRST ANTI-CORRUPTION PROGRAM**

### **The CNA: National Anti-Corruption Commission**

The National Anti-Corruption Commission (CNA) was established under Supreme Decree No. 120- 2001-PCM during Alejandro Toledo's presidency. Prior to the CNA, there had been few initiatives to curb corruption, though some did exist. For example, Valentin Paniagua (in office from 2000-2001), of the Acción Popular Party, instituted the National Anti-Corruption Initiative (INA) after taking office as interim president shortly after Fujimori and his two vice presidents resigned<sup>5</sup> (Feinstein 2001). The INA attempted to address these issues by encouraging discussions and proposals of anti-corruption policies. However, it was only after Toledo created the CNA as well as the anti-corruption czar position in 2001 that Peru finally saw the creation of a formal anti-corruption institution (Pozsgai-Alvarez 2018, 7).

Although there is little literature on Toledo's work against corruption, scholars tend to agree on why the CNA was created. Most argue that the institution was created in part because of pressure and expectations from civil society actors (such as international forces and NGOs) that demanded Toledo decrease Peru's corruption levels following the Fujimori presidency (Pozsgai-Alvarez 2018; Crabtree 2006). The CNA was meant to investigate the illicit enrichment, drug

<sup>5</sup> The purpose of the INA was to address the rampant corruption that was unveiled during the Fujimori presidency as well as the constitutional and human rights violations that occurred during those years (Pozsgai-Alvarez 2018).

trafficking and money laundering of the previous governments (Valenzuela 2001). This chapter will go over the CNA's institutional design, its financing mechanism, and its oversight.

### **The CNA's Design**

The CNA was poorly designed to work hand-in-hand with the anti-corruption Czar. This is because as anecdotal evidence reveals, the Czar himself was appointed based on patronage and the program lacked formal guidelines to follow (Center for Public Impact 2018; Pozsgai-Alvarez 2018). According to a personal interview conducted by Pozsgai-Alvarez, both a staff member of the CNA and a former senior official of the Association of Lawyers of Lima explain that the Czar that Toledo picked, Martin Belaunde Moreyra, was appointed head of the CNA in order to return a favor (Pozsgai-Alvarez 2018). According to these sources, Belaunde Moreyra was selected because he helped Toledo during his election campaign. Some of these favors include arranging for Toledo to speak at events hosted by the Association of Lawyers of Lima, an association headed by Belaunde Moreyra (Pozsgai-Alvarez 2018, 7).

Given this connection, it can be concluded that the institution itself lacked independence from the beginning of its inception. This argument is further backed up by the fact that the Czar himself used his power for personal gains (Cervantes-Bautista 2019). For instance, shortly after beginning his position, Belaunde Moreyra refused to deal with cases surrounding politicians he had good relationships with, and on several occasions "even acted as in their defense" (La Republica 2002). Furthermore, the Czar's pick for members to fill the institution's commissioner seats was composed of close friends (Pozsgai-Alvarez 2018, 9). This was an issue not only because of a lack of impartiality but also because some of the seats taken up were crucial for fulfilling the

CNA's goals. For example, three out of the four members that were supposed to represent civil society were Belaunde Moreyra's close friends.

Another issue with the design of the CNA was the fact that its role was never clearly defined, and it lacked formal guidelines to follow. The INA and Ana Elena Townsend<sup>6</sup> condemned the design of the CNA, recommending that the institution instead have its chair appointed by a majority of parliament (Pozsgai-Alvarez 2018, 9). This in return would have allowed for political and administrative autonomy. However, the CNA did not pay particular attention to this advice and because there was no written guideline to abide by, the Czar was able to continue appointing underqualified individuals to these positions (Pozsgai-Alvarez 2016, 147). As a consequence, several NGOs such as *Proética*, Transparency International's anti-corruption branch in Peru, criticized the CNA for not following the recommendations set out by the National Anti-Corruption Initiative (INA) (Peña-Mancillas 2011). It was evident that "notwithstanding the formal power given to the CNA, its effectiveness would be impaired if a level of independence was not maintained" (Pozsgai-Alvarez 2018, 9).

### **Financing**

In addition to a weak foundation and missing guidelines, the CNA had issues regarding its financing. This is because the CNA's funding depended heavily on the executive (Pozsgai-Alvarez 2018, 10). Within its first year, the institution was under-funded as it lacked offices for several employees and made many of them (including the Czar) work remotely for the first few months (PCM 2006). Even after the CNA received funding, a budget was never set up. Furthermore, the

<sup>6</sup> A member of congress who worked closely with the International Anti-Corruption Conference and who initially but unsuccessfully proposed legislation to create an Office Against Corruption (Pozsgai-Alvarez 2018, 9).

amount allocated was not enough to construct offices, which forced Belaunde Moreyra to fit the CNA employees that had been hired up to that point, in his office at the headquarters of the Association of Lawyers of Lima (Senior Official of the Association of Lawyers of Lima 2014). These conditions did not help in providing a successful path for the institution. Some scholars argue that the financing issue stemmed from the fact that the CNA lacked formal procedures and basic elements such as a budget, while others such as employees of the CNA and INA, claimed it was due to Toledo's lack of interest in the institution and its task to decrease corruption in politics (Cervantes-Bautista 2019).

According to an audit report from the Presidency of the Council of Ministers (PCM), in 2002 the CNA was allocated roughly S/. 3 million soles (at the time about \$1 million USD) for the entire year (Pozsgai-Alvarez 2016). Seeing as this was a federal anti-corruption institute, the funds seemed inadequate relative to the large task it was assigned. The amount was simply “insufficient for the execution of its activities” (Pozsgai-Alvarez 2016, 156). Furthermore, the institution took several months to actually operate given the first half of the budget was only transferred late in March; for reference, the institution was created in October and had been attempting to operate since January of 2002 without funds.

In addition, financial issues appeared to be one of the CNA's downfalls as the funding was cut off once the commission actually began performing its duties. Pozsgai-Alvarez explains that although these aforementioned conditions made it hard for the CNA to crack down on corruption cases, its commission did eventually seek institutional legitimacy, which did not please many politicians (Pozsgai-Alvarez 2018). The logic behind this is simple, by becoming involved in cases dealing with corruption scandals, the CNA compromised the interests of many powerful

individuals within congress and the executive. This forced Toledo (with the help of the Czar, Belaunde Moreyra) to quickly cut the organization's funding.

### **Oversight**

The final issue that will be analyzed with regards to the failure of the National Anti-Corruption Commission is its oversight bodies and the effect that this had on the functioning of the CNA. Because the decree that created the commission instructed for the institution to be presided over by the advisor of the president, that is, the anti-corruption czar, the CNA lacked the independence that a non-biased and stand-alone institution should have. Furthermore, as mentioned previously, its functions depended largely on how they affected the president and his political comrades. For example, during its first year, the CNA attempted to review cases against corrupt acts and "irregular procurements" by investigating the National Superintendent Agency for Tax Administration (SUNAT) (Pozsgai-Alvarez 2016, 157). The CNA also attempted to open a case against the First Lady, Eliane Karp after she was involved in a scandal with the Peruvian bank, Wiese Sudameris. However, shortly after the CNA began investigating the issue, the first lady resigned from the offered \$10,000-a-month consulting job, as she claimed it raised unnecessary suspicions of influence peddling and transparency (La Republica 2002). Both the SUNAT and the Wiese investigations began to create friction between the executive and the CNA as many politicians felt the commission was "exerting pressure over the system" (Member of the CNA 2014<sup>7</sup>). Toledo himself grew upset at the CNA for the investigation on his wife (Associated Press 2002). Following this incident, it was evident that the commission had become "a sort of

<sup>7</sup> Interviews of former workers of the CNA and the Association of Lawyers of Lima were conducted by Joseph Pozsgai-Alvarez.

enemy, or an agency that should be feared” and given the personal conflicts this posed, the presidency “stopped providing any [further] support [for the work of the CNA]” (member of the CNA 2014).

In 2003, the Supreme Decree No. 047-2003-PCM was published which modified the norm that had created the CNA, thereby making it useless and effectively deactivating it (Pozsgai-Alvarez 2019). The negative impacts that came out of this biased oversight are very evident, as the CNA’s functions were undoubtedly weakened and eventually altogether stopped as soon as the institution showed minimal signs of potential and a threat to the corrupt bureaucracy.

## **SUPERIOR COURT OF JUSTICE SPECIALIZED IN ORGANIZED CRIME AND CORRUPTION OF OFFICIALS**

In order to understand the different outcomes of Toledo and Kuczynski's institutions, both must be analyzed using the same variables for comparison. Therefore, PPK's Corte Superior de Justicia Especializada en Delitos de Crimen y de Corrupción de Funcionarios (now known as the Corte Superior Nacional de Justicia Penal Especializada) will be analyzed on its design, its financing as well as its oversight bodies and how they have affected its functions. For consistency purposes, from this point forward the court will be referred to by its former name, Corte Superior de Justicia Especializada en Delitos de Crimen y de Corrupción de Funcionarios (CSJ for short) given this was the name it had when it took on cases involving the former presidents.

Former President Pedro Pablo Kuczynski (from the Contigo Party) won the Peruvian presidency on July of 2016 and remained in office until March of 2018. Although the presidency calls for the head of state to govern for five years, Kuczynski resigned from office shortly after he was implicated in a major corruption scandal and faced an impeachment vote for the second time over the span of two years (IDEA 2018). Despite the allegations however, Kuczynski's short presidency ironically focused on reducing political corruption in Peru. It was during his second year in office that Kuczynski decided to roll out five anti-corruption measures and created the CSJ.

According to WALAC, the five measures involved: 1. An exhaustive review of the presidential office. 2. An assessment of the environment under which ministers work, to ensure that they have the right people and comply with their given commandments. 3. Civil death for corrupt officials, this ensures that any officials involved in corrupt acts cannot go back to work for

the government. 4. The creation of a council of state, convened to fight against corruption and headed by the President of Congress, the President of the Judiciary, and the President of the Republic. 5. The creation of a presidential integrity commission aimed at proposing legislative and management measures to deal with corruption (WALAC 2016).

Based on these observations, the Kuczynski administration appeared to be very focused on reducing corruption levels. However, the president himself was allegedly involved in corrupt acts, which poses the question: What allowed for these measures and institutions to succeed when compared to Toledo's anti-corruption institution? As mentioned earlier in this chapter, the answer lies in part in the design of the institution, the security of its funds received, and the institution's oversight bodies.

The CSJ was chosen for analysis because this institution was responsible for the investigation and subsequent preliminary arrest of former President Kuczynski, former President Alan Garcia from the American Popular Revolutionary Alliance Party (2006-2011), and several other politicians and officials.

### **The Emergence of the CSJ**

The CSJ was created in 2018, through Administrative Resolution N°138-2018-CE-PJ (Instituto de Democracia y Derechos Humanos 2019). The court was created as a fusion between two institutions: the Sala Penal Nacional (Peru National Criminal Chamber) and the Sistema Especializado en Delitos de Corrupción de Funcionarios (Specialized System for Corruption Offenses of Officials) (El Peruano 2018). This court was created as one of Kuczynski's anti-corruption measures.

It is important to note that similar to Toledo's case, the new president took office in 2016, shortly after the previous presidency (headed by Ollanta Humala of Peru's Nationalist Party) was

heavily criticized for its involvement with the corrupt construction company mentioned earlier, Odebrecht (Organized Crime and Corruption Reporting 2017). Furthermore, Fuerza Popular (Popular Force), the former congress-ruling opposition party, forced Kuczynski to censure both his Education Minister Jaime Saavedra and later on Marilu Martens, as well as his Finance Minister, Alfredo Thorne, before completely forcing his entire cabinet to resign. This came after Kuczynski's cabinet lost a vote of confidence over alleged corruption attempts within public contracts (El Diario 2017). Aware of slipping approval rates and a congress controlled by the opposition, Kuczynski followed through with his plan to reduce corruption, the same corruption that his cabinet had been accused of (Statista 2017). Through decree N° 318-2018-CE-PJ published in El Peruano on December 12, 2018, the statute of the CSJ was approved and began operating on December 30<sup>th</sup> of the same year (El Peruano 2018).

### **The CSJ's Design**

The CSJ currently acts as a specialized court and has national jurisdiction that focuses on investigating cases involving acts of corruption. The court rules over three transitory courts as well as two appellate courts, with three judges per court (Instituto de Democracia y Derechos Humanos 2019). At the most basic level, the CSJ is meant to investigate cases in which a corruption crime or its effects has had national or international repercussions. The design of the CSJ is very clear. As seen in El Peruano, the court's duties are clearly outlined and the acts that it is meant to punish are extensively described within the decree it was passed under (El Peruano 2018). The institution seems to be successful in part because of the two institutions that it formed from. The National Criminal Chamber is in charge of categorizing crimes (those established in art. 3 under law N° 30077) while the Specialized System for Corruption Offenses of Officials recognizes how those crimes have had national or international repercussions.

This combining of institutions seems to have worked in their complex categorization of crimes and their effects. Since its inception, the CSJ has been successful in its task of investigating officials. The case of former President Alan Garcia suggests the effectiveness of the new court. On April 16, 2019, the court ordered the preemptive arrest of Garcia as well as eight other officials on charges of money laundering (CSJ 2019). In 2018, the court ordered for Kuczynski to complete 36 months of house arrest (as a substitute for preventive incarceration) while his involvement with Odebrecht continues to be investigated (CSN 2019). The choice to give Kuczynski house arrest was allowed given his age and health issues (La Ley 2019).

### **Financing**

Another important element that supported the CSJ in its endeavors was the provisions it received from the federal government and smaller contributions from other sources (Presupuesto del Pliego Poder Judicial Año Fiscal 2018). Essentially, the manner in which the court receives funding is determined by decrees passed by the government. For the most part, Peruvian courts are allocated resources in this manner and the actual monetary funds come from the public sector (Poder Judicial del Peru 2019). For example, according to the 2018 Institutional Opening Budget, the estimated budget for Peruvian courts was S/. 2.272 billion soles, which roughly translates to \$670,000,000 USD. These funds are divided between sixteen jurisdictions and ten superior courts (Poder Judicial del Peru 2018). The funding has continued into the 2020 budget and the CSJ has established itself as worthy of financing as it has evidently held several officials accountable for corrupt crimes.

It is interesting that congress under Kuczynski's administration continued funding this program despite several officials in his cabinet being implicated in the Odebrecht scandal, which

has been claimed by some as the most expansive corruption crime of the century (Shiel & Chavkin 2019). The answer perhaps lies in Kuczynski's incentives to keep the institution running. As explained earlier in this chapter, Kuczynski's entire cabinet was replaced after a vote of no confidence and early on in his presidency his top picks for ministers and secretaries were linked to crimes of corruption by opposition parties (El Diario 2017). This could be said to have given Kuczynski a strong incentive to reduce corruption as a strong anti-corruption institution would have helped give his administration more legitimacy.

### **Oversight**

The CSJ is currently overseen by the president of the court and abides by the Single Ordered Text of the Organic Law of the Judiciary. The current president of the CSJ is Dr. Inés Felipa Villa Bonilla, who also acts as the superior judge of the court. According to Article 10 of the decree found in El Peruano, the president of the court is in charge of overseeing the Superior Court (El Peruano 2018). This oversight is independent from political influence as the president must be elected, not appointed and this election is "subject to the provisions of the Organic Law of the Judiciary", a text developed by the Ministry of Justice and Human Rights (El Peruano 2018). The Organic Law of the Judiciary details the guidelines that the justice system must abide by (Ministerio de Justicia y Derechos Humanos 2012). The way in which the president is chosen is of particular importance given it makes the institution's head politically transparent, which allows for accountability and an exposure of any political influence or affiliation that the CSJ's head might have.

The CSJ must also abide by the guidelines created by the Single Ordered Text of the Organic Law of the Judiciary (SOT for short), also known as the Texto Unico Ordenado de la ley

Organica del Poder Judicial. The SOT was created in 1993 and although courts are subject to its advices, no other anti-corruption institutions (such as the CSJ) have had to follow its measures. The SOT currently pushes for courts to remain autonomous from “political, administrative, economic, and disciplinary influence. In addition, the SOT ensures that they are jurisdictionally independent, subject to the Constitution and the present law” (El Peruano 1993). This is particularly effective when compared to other anti-corruption mechanisms because this code provides basic rules to follow and sets up a high level of independence which allows for greater effectiveness (Pozsgai-Alvarez 2018).

## **OUTCOME EXPLANATION**

As seen with the Toledo and Kuczynski case studies, both anti-corruption institutions were created under different conditions and their success deviated because of the difference in relevance of the three institutional pillars: their design, funding, and oversight mechanisms. Although the pillars are analyzed on their own within specific sections, they must work together to create effective ACAs.

### **Oversight Mechanisms**

Both the CNA and the CSJ were created to fight corruption shortly after the corresponding previous presidents were associated with crimes of grand corruption. Whether the institutions were created for legitimate reasons or not, their success or lack thereof is the main focus of this thesis. It can be noted however, that Kuczynski and Toledo differed in their incentives to support their respective institutions. For example, while some scholars claim Toledo created his anti-corruption commission to establish legitimacy (after the Fujimori presidency lowered levels of political trust), Kuczynski created his anti-corruption court in order to fight accusations of corruption placed on his cabinet (Carrión 2009; Pozsgai-Alvarez 2018).

While Toledo received little backlash from the opposition during his term, Kuczynski constantly engaged in disputes with members of the opposition party, Popular Force, headed by Fujimori's daughter, Keiko Fujimori<sup>8</sup> (Arce & Incio 2017). It was Fujimorists (the nickname given to members of Popular Force that side with Fujimori) that initiated a vote of no confidence against

<sup>8</sup> Keiko Fujimori was elected to congress in 2006 and as its head managed to enlarge her party's seats.

Kuczynski, his two impeachment trials, and later on secretly recorded him offering favors to congressmembers in exchange for votes to not impeach (El Espectador 2018). It can be said that the political climate made it easier for Toledo to shift his attention to other matters and eventually dissolve his commission while for Kuczynski, his anti-corruption measures were seen as vital to saving his presidency. The actions of these leaders demonstrate the relevance and importance of having a leadership that supports institutions and works to promote accountability and public integrity.

### **Design**

The CNA's responsibilities were never clearly defined, and the duties of its president were unclear. To go further into detail, the decree that created the CNA's czar, failed to outline the duties he/she was supposed to fulfill and did not establish measures of accountability to ensure the decisions made by the head were unaffected by political motives. Moreyra Belaunde's own appointment helps prove this point as he was unfairly appointed by Toledo. As theory states, a comprehensive framework is important for the success of an ACA as it provides accountability and prevents the institution from being dependent of other agencies. In contrast, Kuczynski's anti-corruption court was created under a detailed decree that outlines the duties the institution is supposed to fulfill, the objectives and tasks of its president and guidelines that must be followed. As the CNA case demonstrated, a lack of independence was detrimental as the original intent of the commission became blurred and eventually the ACA was dismantled.

### **Funding**

The funding of the institutions also differed, as the CNA was allocated funds that were simply not appropriate for the national task it was created for and it never established a formal budget. Whereas the CSJ continues to receive a steady funding and is part of a budget of about

\$600 million USD, the CNA during its first year received a mere \$330 thousand USD as its first disbursement with the payments that followed scheduled irregularly (PCM 2006). This disparity in funding suggests that careful management of financial resources are crucial for an ACA to work effectively to deter and counter the beneficiaries of corruption. In the case of the CNA, the funding was simply not enough to curb corruption of officials within the institution itself.

## CONCLUSION

The research presented here supports the thesis' initial hypothesis. The current anti-corruption institution is more effective than the one created during the Toledo administration. The institutional pillars of the ACAs in question demonstrate as seen by the empirical observations, that it is necessary to have proportional and independent financing relative to the responsibilities an institution is built to fulfill. With reference to oversight, it has been demonstrated that it is crucial to receive support from the executive. Additionally, a clear design and proper guideline must be present in order for an ACA to keep its independence and maintain a clear objective.

The CSJ serves as proof that efforts by the government to curb corruption can be successful at holding corrupt officials accountable. In Kuczynski's case, it was favorable for him to roll out anti-corruption measures, making it easier for the institution to succeed. The CSJ's objectives have been very clear since its inception and many of its goals have been met. The opposite can be said of the CNA, which was ultimately dismantled by its own creators.

Finally, it can also be concluded that although the CSJ has been successful in charging presidents and other high-ranked officials on money laundering and grand corruption crimes, this does not necessarily mean institutions in Peru are becoming stronger. Rather, this demonstrates that the political environment of Peru can change from administration to administration and it is with the help and support of the executive that institutions such as the CSJ can forge a path towards success. Currently, this appears to be the case as the CSJ continues to operate and is conducting

ongoing investigations on both former President Alejandro Toledo and Pedro Pablo Kuczynski. The new President Martin Vizcarra (Independent Party), who took office after Kuczynski stepped down, has continued to support the anti-corruption institutions created by the previous presidency (OCCRP 2019). Most recently, Vizcarra has called for a constitutional referendum banning private financing of political campaigns to reduce corruption crimes (NCLA 2019). Additionally, in January 2020, Vizcarra dissolved congress with the support of the Constitutional Court and replaced many of the politicians involved in political graft (OCCRP 2019). Although immediate results cannot accurately be analyzed nor will they be visible, these efforts have been commended by many scholars and governments alike as they have demonstrated their effectiveness in helping Peruvian agencies provide accountability.

## REFERENCES

- Arce, Moisés and José Incio. 2017. "Peru 2017: An Extreme Case of Divided Government." *Revista de Ciencia Política* 38(2). Retrieved from: <https://scielo.conicyt.cl/pdf/revcipol/v38n2/0718-090X-revcipol-38-02-0361.pdf>
- Asamoah, John. 2017. "The Role of Leadership in Combating Corruption in Decentralized Governance Structures of Ghana: An Empirical Study of GA South District Assembly." *Review of Public Administration and Management* 5. Retrieved from: <https://www.semanticscholar.org/paper/The-Role-of-Leadership-in-Combating-Corruption-in-Asamoah/db5417f4f6cd64a72be43ae342d298d07f1b92b3>
- Associated Press. 2002. "Peru's 1st Lady Cancels Consulting." *Associated Press*. August 16. Retrieved from: <https://apnews.com/2357605b60a7baf9f2a19ea15ce7b9e5>
- Budd, Eric. 2003. *Democratization, Development, and the Patrimonial State in the Age of Globalization*. Maryland: Lexington Books.
- Calderón Bentín, Sebastián. 2018. "The Politics of Illusion: The Collapse of the Fujimori Regime in Peru." *Theater Survey* 59(1). Retrieved from: <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/6DA4DC60C2017748B62F6BD712AD2E9B/S0040557417000503a.pdf/div-class-title-the-politics-of-illusion-the-collapse-of-the-fujimori-regime-in-peru-div.pdf>
- Campos-Barranzuela, Edhín. 2019. "Nueva Corte Superior de Justicia." *El Peruano*, April 1. Retrieved from: <https://elperuano.pe/noticia-nueva-corte-superior-justicia-74813.aspx>
- Cavero, E. 2002. "Consejero presidencial declara 'cerrado' el caso denunciado por Alvaro Vargas Llosa." *La República*, January 26. Retrieved from: <https://larepublica.pe/politica/340079-consejero-presidencial-declara-cerrado-el-caso-denunciado-por-alvaro-vargas-llosa-no-hay/>
- Celso-Calmon, Francisco. 2018. "The Tyranny of Justice." Comments on a Notorious Verdict: The Trial of Lula. CLACSO. Retrieved from: [www.jstor.org/stable/j.ctvn96gjp.13](http://www.jstor.org/stable/j.ctvn96gjp.13).
- Cervantes-Bautista, Christian. 2019. "The institutionalization of corruption in Peru: Diagnosing its causes and effects." *4th International Conference on Public Policy*, June. Retrieved from: <https://www.ippapublicpolicy.org/file/paper/5ceda121a2fde.pdf>

- Corte Superior de Justicia Especializada en Delitos de Crimen Organizado Y Corrupción de Funcionarios. 2019. "Investigación de Keiko Sofía Fujimori Higuchi." *Poder Judicial del Perú*, January 3. Retrieved from: <http://cdn01.pucp.education/idehpucp/wp-content/uploads/2018/08/11194216/apelacion-keiko-fujimori.pdf>
- Corte Superior de Justicia Especializada en Delitos de Crimen Organizado Y Corrupción de Funcionarios. 2019. "Resolución de Detención Preliminar y Allanamiento contra Alan García." *Poder Judicial del Perú*, April 16. Retrieved from: <https://www.scribd.com/document/406659277/Resolucion-de-Detencion-Preliminar-y-Allanamiento-contra-Alan-Garcia>
- Coyne, Christopher J. and Peter T. Leeson. 2009. *Media, Development, and Institutional Change*. Edward Elgar Publishing.
- Crabtree, John. 2006. *Making Institutions Work in Peru*. London: Institute of Latin American Studies.
- David-Barrett, Elizabeth, and Mihály Fazekas. 2019. "Grand corruption and government change: an analysis of partisan favoritism in public procurement." *European Journal on Criminal Policy and Research*. Retrieved from: <https://link.springer.com/article/10.1007/s10610-019-09416-4>
- Díaz, Carla. 2019. "Resolución de Detención Preliminar y Allanamiento contra Alan García." *El Ojo Público*, April 25. Retrieved from: <https://ojo-publico.com/1168/version-de-secretario-de-Alan-Garcia-sobre-competencia-policia-para-detenciones-es-falsa>
- Díaz, Reiner. 2016. "Fernando Olivera aprovecha debate para recordar denuncias contra Alan García." *Semana Económica*, April 3. Retrieved from: <https://semanaeconomica.com/legal-politica/politica/184619-debate-presidencial-fernando-olivera-alan-garcia>
- Dixit, Avinash. 2016. "Anti-Corruption Institutions: Some History and Theory." *Princeton University*, 9 July. Retrieved from: [https://www.princeton.edu/~dixitak/home/IEAConf\\_Dixit\\_Rev.pdf](https://www.princeton.edu/~dixitak/home/IEAConf_Dixit_Rev.pdf)
- El Diario. 2017. "Kuczynski respalda al ministro de Economía ante amenaza de censura del Congreso." *El Diario*, June 16. Retrieved from: [https://www.eldiario.es/\\_270c9312](https://www.eldiario.es/_270c9312)
- El Espectador. 2018. "El fujimorista que grabó los videos que tumbaron a PPK." *El Espectador*, March 22. Retrieved from: <https://www.elespectador.com/noticias/el-mundo/el-fujimorista-que-grabo-los-videos-que-tumbaron-ppk-articulo-745787>

- El Peruano. 2018. "Aprueban el Estatuto de la Corte Superior de Justicia Especializada en Delitos de Crimen Organizado y de Corrupción de Funcionarios, y emiten otras disposiciones." *El Peruano*, December 12. Retrieved from: <https://busquedas.elperuano.pe/normaslegales/aprueban-el-estatuto-de-la-corte-superior-de-justicia-especi-resolucion-administrativa-no-318-2018-ce-pj-1727502-1/>
- El Peruano. 1993. "DECRETO SUPREMO N° 017-93-JUS." *Organization of American States* June 2. Retrieved from: [http://www.oas.org/juridico/PDFs/mesicic4\\_per\\_ds017.pdf](http://www.oas.org/juridico/PDFs/mesicic4_per_ds017.pdf)
- Feinstein, Tamara. 2000. "Fujimori's Rasputin": The Declassified Files on Peru's Former Intelligence Chief, Vladimiro Montesinos." *George Washington University*, November 22. Retrieved from: <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB37/>
- Figaredo, Cristina. 2018. "Tackling Corruption In Peru." Centre for Public Impact (CPI). <https://www.centreforpublicimpact.org/case-study/tackling-corruption-peru/>
- Gedan, Benjamin and Christopher Phalen. 2018. "In Argentina, Why Is All Quiet on the Odebrecht Front?" *Americas Quarterly*, April 9. Retrieved from: <https://www.americasquarterly.org/content/argentina-why-all-quiet-odebrecht-front>
- Gedan, Benjamin and Daniel R. Alonso. 2018. "Only Criminals Can Clean Up Argentina's Corruption." *Foreign Policy*, November 15. Retrieved from: <https://foreignpolicy.com/2018/11/15/only-criminals-can-clean-up-argentinas-corruption/>
- Goldstein, Donna Meryl and K. Drybread. 2018. "The Social Life of Corruption in Latin America." *Culture Theory and Critique* 59(4). Retrieved from: <https://www.tandfonline.com/doi/pdf/10.1080/1473r5784.2018.1531816>
- Graycar, Adam. 2015. "Corruption: Classification and analysis." *Policy and Society* 34(2). Retrieved from: <https://doi.org/10.1016/j.polsoc.2015.04.001>
- Greene, Shane. 2007. "Incas, Indios, and Indigenism in Peru." *The North American Congress on Latin America*, September 25. Retrieved from: <https://nacla.org/article/incas-indios-and-indigenism-peru>
- Instituto de Democracia y Derechos Humanos. 2019. "Corte Superior de Justicia Especializada en delitos de Crimen Organizado y de Corrupción de Funcionarios." *Instituto de Democracia y Derechos Humanos*, January 30. Retrieved from: <http://cdn01.pucp.education/idehpucp/wp-content/uploads/2019/02/18210557/corte-superior-corrupcion.pdf>
- La Ley. 2019. "PPK: Por estas razones la Sala Penal de Apelaciones dictó arresto domiciliario." *La Ley*, April 29. Retrieved from: <https://laley.pe/art/7764/ppk-por-estas-razones-la-sala-penal-de-apelaciones-dicto-arresto-domiciliario-descargue-el-fallo>

- La Republica. 2017. “Expresidente Alejandro Toledo recibió US\$ 20 millones en sobornos de Odebrecht.” *La Republica*, February 2. Retrieved from: <https://larepublica.pe/politica/845286-expresidente-alejandro-toledo-recibio-us-20-millones-en-sobornos-de-odebrecht/#.Xo-4clydQrc.link>
- La Republica. 2002. “Silencio en Palacio sobre relación laboral con el Banco Wiese Sudameris Eliane Karp evalúa.” *La Republica*, August 14. Retrieved from: <https://larepublica.pe/politica/334793-silencio-en-palacio-sobre-relacion-laboral-con-el-banco-wiese-sudameris-eliane-karp-evalua/>
- La Rosa-Vásquez, Rocío. 2019. “Alan García: una vida política marcada por la polémica.” *El Comercio*, June 5. Retrieved from: <https://elcomercio.pe/politica/alan-garcia-vida-politica-marcada-polemica-noticia-632459-noticia/>
- Mackie, Kyle. 2017. “Peru: Prosecutors Request Arrest of Former First Couple.” *Organized Crime and Corruption Reporting Project*, July 12. Retrieved from: <https://www.occrp.org/en/daily/6710-peru-prosecutors-request-arrest-of-former-first-couple>
- Martin, Laila. 2017. “Montesinos is gone, but has Peru recovered all the money he stole?” *Civil Forum for Asset Recovery*, June 29. Retrieved from: <https://cifar.eu/montesinos-gone-peru-recovered-money-stole/>
- Ministerio de Justicia Y Derechos Humanos. 2012. “Texto Único Ordenado De La Ley Orgánica Del Poder Judicial. Ley Orgánica Del Ministerio De Público.” May. Retrieved from: <https://www.minjus.gob.pe/wp-content/uploads/2014/09/DGDOJ-Ley-Orgánica-Poder-Judicial-y-Ministerio-Público.pdf>
- Mistree, Dinsha and Arjuna Dibley. 2018. “Corruption and the Paradox of Transparency.” *Working Paper*. Retrieved from: <https://law.stanford.edu/wp-content/uploads/2018/07/Mistree-Dibley-Corruption.4.18.18.pdf>
- Morris, Stephen. 2011. “Forms of Corruption.” *CESifo DICE Report* 9(2):10-14. Retrieved from: [https://www.researchgate.net/publication/227383753\\_Forms\\_of\\_Corruption](https://www.researchgate.net/publication/227383753_Forms_of_Corruption)
- Mungiu-Pippidi, Alina. 2013. “Becoming Denmark: Historical Designs of Corruption Control.” *Social Research: An International Quarterly* 80(4). Retrieved from: *Project Muse* (Accessed October 23, 2019).
- Mungiu-Pippidi, Alina. 2017. *Transitions to Good Governance: Creating Virtuous Circles of Anticorruption*. Edward Elgar Pub.
- Nye, Joseph. 1967. “Corruption and Political Development: A Cost-Benefit Analysis.” *The American Political Science Review* 61(2). Retrieved from: <https://www.jstor.org/stable/1953254>

- Paredes, Carlos and Jeffrey Sachs. 1991. *Estabilización y Crecimiento En El Perú*. Grupo de Análisis para el Desarrollo. Retrieved from: <http://lanic.utexas.edu/project/laoap/iep/ddt064.pdf>
- Pasquali, Marina. 2019. "Approval rates of presidents in office in Peru from 2002 to 2018." *Statista*, October 24. Retrieved from: <https://www.statista.com/statistics/1060086/presidents-approval-rate-peru/>
- Pastor, Manuel Jr. and Carol Wise. 1992. "Peruvian Economic Policy in the 1980s: From Orthodoxy to Heterodoxy and Back." *The Latin American Studies Association* 27(2). Retrieved from: <https://www.jstor.org/stable/2503750>
- Pastor, Manuel. 2019. *Inflation, Stabilization, And Debt: Macroeconomic Experiments In Peru And Bolivia*. Routledge.
- Peña-Mancillas, Víctor S. 2011. "Combatir la corrupción en el Perú: A diez años de Fujimori." *Revista del CLAD Reforma y Democracia*, No. 51. Retrieved from: <https://www.redalyc.org/articulo.oa?id=357533683008>
- Perelló, Lucas. 2018. "The rise and fall of Pedro Pablo Kuczynski." *Global Americans Organization*, March 23. Retrieved from: <https://theglobalamericans.org/2018/03/rise-fall-pedro-pablo-kuczynski/>
- Perry, Maya. 2019. "Ex-Peru President Accused of Corruption Arrested in California." *Organized Crime and Corruption Reporting Project*, July 18. Retrieved: <https://www.occrp.org/en/daily/10237-ex-peru-president-accused-of-corruption-arrested-in-california>
- Poder Judicial del Peru. 2018. "PROYECTO DE PRESUPUESTO INSTITUCIONAL: Año Fiscal 2019." *Comision De Presupuesto Y Cuenta General De La Republica*, October. Retrieved from: [http://www.congreso.gob.pe/Docs/comisiones2018/Presupuesto/files/resumen\\_ejecutivo\\_proyecto\\_presupuesto\\_2019.pdf](http://www.congreso.gob.pe/Docs/comisiones2018/Presupuesto/files/resumen_ejecutivo_proyecto_presupuesto_2019.pdf)
- Pope, Jeremy. 2000. *Confronting Corruption: The Elements of a National Integrity System*. Transparency International.
- Pozsgai-Alvarez, Joseph. 2018. "The Political Cycle of Fighting Corruption: Peru's Experience with its First National Anti-Corruption Commission." *Stability: International Journal of Security & Development* 7(1). Retrieved from: <https://doi.org/10.5334/sta.600>
- Pozsgai-Alvarez, Joseph. 2016. "Anti-Corruption Demands and Government's Defense: The Case of Peru, 2000-2014." Retrieved from: <http://hdl.handle.net/2241/00143747>

- Quiroz, Alfonso W. 2008. *Corrupt Circles: A History of Unbound Graft in Peru*. Baltimore: John Hopkins University Press.
- Ribeiro, Ricardo Lodi. 2018. "Lula's conviction: Brazil's most striking case of lawfare." *Comments on a notorious Verdict: The Trial of Lula*. CLACSO. Retrieved from: [www.jstor.org/stable/j.ctvn96gjp.41](http://www.jstor.org/stable/j.ctvn96gjp.41)
- RPP. 2016. "Juan Carlos Gonzales: El ministro de Agricultura sabía de denuncia en mi contra." Radio Programas del Peru, October 24. Retrieved from: <https://rpp.pe/p/1004827>
- Sabados, Katarina. 2018. "Peruvian President Offers Resignation After Video Released." *Organized Crime and Corruption Reporting Project*, March 22. Retrieved from: <https://www.occrp.org/en/daily/7810-peruvian-president-offers-resignation-after-video-released>
- Saha, Shrabani, and Kunal, Sen. 2019. "The Corruption-Growth Relationship: Do Political Institutions Matter?" *UNU-Wider. Working Paper*. Retrieved from: <https://www.wider.unu.edu/sites/default/files/Publications/Working-paper/PDF/wp-2019-65.pdf>
- Salazar, Claudia. 2016. "Conoce las 5 medidas anticorrupción anunciadas por PPK." *WALAC*, October 18. Retrieved from: <https://walac.pe/conoce-las-5-medidas-anticorrupcion-anunciadas-por-ppk/>
- Shiel, Fergus and Sasha Chavkin. 2019. "Bribery Division: What is Odebrecht? Who is Involved?" *International Consortium of Investigative Journalists*, June 25. Retrieved from: <https://www.icij.org/investigations/bribery-division/bribery-division-what-is-odebrecht-who-is-involved/>
- Silva, Angela. 2018. "El Presidente Pedro Pablo Kuczynski renuncia a su cargo tras acusaciones de Corrupción." Institute for Democracy and Electoral Assistance, April 23. Retrieved from: <https://www.idea.int/es/news-media/news/es/el-presidente-pedro-pablo-kuczynski-renuncia-su-cargo-tras-acusaciones-de>
- Sonneland, Holly K. 2016. "PPK's First 100 Days as President." *Americas Society Council of the Americas*, November 8. Retrieved from: <https://www.as-coa.org/articles/peru-update-ppks-first-100-days-president>
- Streck, Lenio Luiz. 2018. "Moro's Sentence Proves That the Unrestrained Judicial Assessment of Evidence Must Come to an End." *Comments on a Notorious Verdict: The Trial of Lula*. Retrieved from: [www.jstor.org/stable/j.ctvn96gjp.26](http://www.jstor.org/stable/j.ctvn96gjp.26)
- Tavares, Jose and Romain Wacziarg. 2001. "How Democracy Affects Growth." *European Economic Review* 45(8). Retrieved from: [https://doi.org/10.1016/S0014-2921\(00\)00093-3](https://doi.org/10.1016/S0014-2921(00)00093-3)

- Taylor, Lewis. 2005. "From Fujimori to Toledo: The 2001 Elections and the Vicissitudes of Democratic Government in Peru." *Government and Opposition*, 40(4). Retrieved from: [www.jstor.org/stable/44483132](http://www.jstor.org/stable/44483132)
- Toledo Orozco, Zarái. 2019. "Peru Dissolves Its Congress, Setting Up A Fight For The Political Future." *NACLA*. Retrieved from: <https://nacla.org/news/2019/11/04/peru-congress-vizcarra>
- Transparency International. 2019. "Corruption Perceptions Index." Retrieved from: <https://www.transparency.org/research/cpi/overview> (Accessed December 3, 2019).
- Transparency International. 2005. "Alberto Fujimori Arrested In Chile: Chile Must Extradite Former President Of Peru." Retrieved from: [https://www.transparency.org/news/pressrelease/alberto\\_fujimori\\_arrested\\_in\\_chile\\_chile\\_must\\_extradite\\_former\\_president\\_of](https://www.transparency.org/news/pressrelease/alberto_fujimori_arrested_in_chile_chile_must_extradite_former_president_of)
- Trilling, Samuel. 2019. "Peru'S President Wins Vote For Corruption Reforms." OCCRP. <https://www.occrp.org/en/daily/9886-peru-s-president-wins-vote-for-corruption-reforms2>
- Valenzuela, Cecilia. 2001. "Toledo propone congelar la compra de armas en su toma de posesión como presidente de Perú." *ABC International*, July 29. Retrieved from: <https://www.abc.es/internacional/abci-toledo-propone-congelar-compra-armas-toma-posesion-como-presidente-peru-200107290300-37205noticia.html>
- Wilson, Bruce M. 2014. "Costa Rica's Anti-Corruption Trajectory: Strengths and Limitations." Work Package: WP3, Corruption and governance improvement in global and continental perspectives. Anti-Corruption Policies Revisited Project. Retrieved from: <http://anticorrp.eu/publications/background-paper-on-costa-rica/>
- Woodrow Wilson International Center For Scholars. 2016. "Handling Systemic Corruption in Brazil. *Brazil Institute*. Retrieved from: [https://www.wilsoncenter.org/sites/default/files/media/documents/publication/bi\\_rule\\_of\\_law-sergio\\_moro\\_finalv2.pdf](https://www.wilsoncenter.org/sites/default/files/media/documents/publication/bi_rule_of_law-sergio_moro_finalv2.pdf)
- World Bank. 2003. "Restoring Fiscal Discipline for Poverty Reduction in Peru: A Public Expenditure Review." *World Bank Country Studies*. Retrieved from: [http://documents.worldbank.org/curated/en/110261468757766215/pdf/266060PAPER0P\\_U1pline0see0also024286.pdf](http://documents.worldbank.org/curated/en/110261468757766215/pdf/266060PAPER0P_U1pline0see0also024286.pdf)
- Wysmulek, Ilona. 2015. "Informal Payments in Public Schools: Determinants of Corruption Perception and Behavior in Europe." *The Ohio State University*. Retrieved from: <https://www.asc.ohio-state.edu/dataharmonization/related-projects/corruption-in-education-systems/>