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Abstract

This paper analyses the manipulative design or the manipulation of the electoral legislation, which affects the nature of political competition and may produce an unlevelled playing field that benefits primarily the incumbent party, without incurring in high legitimacy cost. The main purpose of this research is to assess the quality of elections in Latin America by looking at the manipulation of the legal framework in 4 areas of major concern in the region: media coverage, party finances, electoral management bodies (EMB) and use of state resources. Additionally, it aims to estimate the extent to which the Legal Electoral Mal Practices are related to political factors like electoral competitiveness, institutionalization of the party system, fragmentation of the opposition, majority governments and public opinion on the quality of elections.

Introduction

After the third wave of democracy, the political landscape of Latin America has radically changed. From highly influential international organizations, monitoring agencies such as IDEA and IFES, to recognized academics; all agree that one of the most important achievements in the last two decades is the democratic nature of most governments in the region. Governments elected through regular, free and competitive electoral processes are regarded then as a critical change in the history of democracy in Latin America. Despite these central political changes, there are still problems of fairness, accountability and transparency in the elections and old and new electoral mal practices still persist in the region. All this opens up questions about the integrity of elections in Latin America and their overall quality.

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2 Some accounts consider the non-return to authoritarian governments as the benchmark for the initial success of democracy in the region. For the UNDP for example one encouraging sign is that the countries in the region have not sought a return to authoritarianism but broadly sustained their democratic institutions (UNDP, 2004). For IDEA International, the "Third Wave of Democratization" that swept Latin America in the 1980s and 1990s (IDEA International), marked a shift from dictatorships to elected governments, from state-controlled economies to free market systems and, in some countries, from war to peace (IDEA, 2005). For Diamond, Linz and Lipset among others what is most important is what has not changed: not a single democracy in Latin America has broken down.

3 Elections with integrity imply a total commitment with democratic principles of universal suffrage and political equality and are professional, impartial and transparent in its preparation and administration (IDEA, 2012).
A growing literature on electoral malpractices in semi and new democracies shows that all kinds of malpractices - the manipulation of electoral institutions, the manipulation of voters’ choice and the manipulation of key stages of the electoral process - are still present to some extent in Latin American elections. Practices such as the limitation of universal and secret voting; the misuse of public resources, and media bias or even coercion and direct vote-buying have not disappeared, rather they have transformed into subtle ways of “shaping” choices. New practices such as the extensive use of the Internet to create favorable public opinion campaigns and indirect forms of vote buying⁴ have also become visible.

Recent studies have advanced some knowledge on the dynamics of electoral malpractice (Birch, 2010, 2011; Alvarez and Boehmke, 2008; Elklit and Reynolds, 2005). One of the latest cross-national analyses in the field shows that, among other ways of wrongdoing, the manipulation of the legal framework is the most common way of misconduct in Latin America (Birch, 2011:48). Some other scholars have pointed out the centrality of the “rules of the game” in the electoral arena and their constant manipulation in some Latin American countries (Schedler, 2002: Lehoucq, 2000, 2005). However, little is known in terms of the specific areas of manipulation of the legal framework within the law, the factors than can be associated to the manipulative design, as it is also known, and its impact on the integrity of elections and their overall quality.

This paper focuses on this type of electoral malpractice. The manipulative design affects the nature of political competition and may produce an unlevelled playing field that benefits primarily the incumbent party, without incurring in high legitimacy cost. The main purpose of this research is to assess the quality of elections in Latin America by looking at the manipulation of the legal framework in 4 areas of major concern in the region: media coverage, party finances, electoral management bodies (EMB) and use of state resources. Additionally, it aims to estimate the extent to which the Legal Electoral Mal Practices are related to political factors like electoral competitiveness, institutionalization of the party system, fragmentation of the opposition, majority governments and public opinion on the quality of elections.

This research intends to answer the following questions. To what extent are legal electoral malpractices explained by political factors such as electoral competitiveness, the fragile institutionalization of party systems, weak oppositions and majority governments? The secondary research questions are as follows: To what extent electoral laws in each country fail to include and punish electoral malpractices; fail to identify the possible offenders; and to what extent they include rules that give advantages to the incumbent party? To what extent are (legal) electoral malpractices observed and denounced? To what extent electoral malpractices affect public confidence on elections?

In order to identify the way in which the legal framework is shaped as to benefit the incumbent party or parties within the system while affecting the public interest and the integrity of elections, I designed a framework of analysis that comprises two dimensions of the manipulative design: the manipulation of the electoral laws, and the observation of electoral malpractices by international observers, in 4 areas of

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⁴ In Mexico, for example, local candidates in state elections between 2012 and 2013 distributed a kind of “credit card” called “la cumplidora”, with which citizens could claim certain benefits if the candidate won the election. The local electoral management body accepted this practice as legal.
major concern: media coverage, electoral management bodies, use of state resources and campaign expenses. This research is based on primary sources of information such as electoral legislation, electoral observers’ reports, expert surveys, and party legal disputes. I use both quantitative and qualitative tools to analyze electoral rules, observers’ reports, elections briefs and public opinion data.

This paper is divided into four parts. Part I addresses some of the core concepts in the field of elections with integrity and electoral malpractices, as well as the key assumptions in this research. Part II describes the specific framework developed to analyze the manipulative design in Latin America. Part III presents some of the key findings regarding the manipulation of electoral laws and observed malpractices in presidential elections in the 2006-2012 period. The final part explores the relationship between the electoral manipulative design in Latin America and political factors associated to party competition, as well as social factors related to the link between parties and society in the region.

Part I Approach and concepts: from free elections to electoral mal practices

This research is placed within the growing field of elections with integrity and electoral malpractices. Despite the interest and the rapidly rising body of research, there is clearly a lack of consensus around its key concepts and categories. What constitutes a democratic election with integrity? What constitutes an electoral malpractice and how different it is from open election fraud? How can we best approach electoral misconduct in Latin America? These are questions with no clear answers yet. On this basis, the main purpose of this section is to clarify the approach and core concepts used in this paper.

There is almost a consensus that election fraud has the purpose of changing or altering the elections results and always implies the violation of electoral rules (Schedler, 2002; Vickery, Alvarez, 2008). Lehoucq extends its meaning to include all clandestine efforts to “shape” election results, whereas Chad Vickery and Erica Shein assert that election fraud constitutes a deliberate wrong-doing by election officials or other electoral stakeholders, which distorts the individual or collective will of the voters (Vickery, 2012). In their book -one of the recent works devoted to study election fraud-they consider the purpose of actions as a key criterion of differentiation: electoral fraud is an action committed deliberately, whereas electoral malpractices are the result of carelessness or neglecting. They also consider that possible actors that carry out election fraud might be the electoral officials or the party candidates; whereas electoral malpractices are carried out by election officials (Vickery, 2012).

Evidence from Latin American elections shows that actors involved in electoral malpractices may vary widely and may include parties, followers and governments at different levels. Even more, cases like Mexico shows that all parties within the system can carry out mal practices in order to alter the conditions to compete and unlevel the playing field whenever they realize this can make a difference in their likelihood to win. Therefore, limiting electoral malpractices to election officials is clearly inaccurate at least in the case of most Latin American countries. It is also relevant to consider the intention that guides electoral malpractices. It is difficult to prove that electoral mal practices are the result only or mostly of carelessness, as Chad Vickery and Erica Shein argue. The misuse of state resources or bias media coverage –two widespread malpractices in Latin America- are carried out with the
direct purpose of unlevelling the playing field, in favor of the incumbent party, as showed by Sara Birch in her recent study (Birch, 2011).

I assume that election fraud alters the effective exercise of rights and freedoms, which are the basis of free and fair elections. The classic examples of ballot stuffing, altering registration list, intimidation against candidates or voters, among others, affect directly the freedom of citizens to go to the polls and may even modify their choice, and by doing so they directly affect the legitimacy of elections and their democratic character. On the contrary, electoral malpractices are more closely related to manipulation, which implies turning the conditions or results into one’s own interest. Electoral malpractices act as to substitute personal or partisan interest for the public interest (Birch, 2011: 14). The aim is then altering the conditions to compete rather than the election results directly in most cases as incumbents intend to preserve election legitimacy.

Now, it should be recognized that the line that divides electoral malpractices and election fraud is often too thin and blurry. Birch acknowledges that the term ‘electoral malpractice’ “is fraught with a number of rather thorny problems” and advocates for making explicit the normative ideal that subtends the terms ‘malpractice’, ‘misconduct’ ‘manipulation’ and ‘corruption’ (Birch, 2011: 11). Yet, I argue that the distinction is important for achieving a clearer and if possible deeper understanding of the undergrounds of electoral politics and the nature of the phenomena.

I propose an alternative set of considerations to distinguish between electoral malpractices (of 2nd order) (EM) and election fraud (EF). The starting point is to recognize that both, electoral malpractices and election fraud represent a violation to the key principles and institutional requirements for democratic elections such as inclusiveness, effectiveness and equality that includes accurate counting, impartiality, and transparency. Now, they do affect democratic principles in different degrees. Election fraud violates them directly, whereas EM erodes them. EF leaves little room for voters to exercise the freedoms and rights that prove to be the foundations of democratic competitive elections, whereas EM still allows citizens to choose from alternatives, though in an unlevelled playing field. There are however more relevant differences.

I argue that the manipulation of the electoral legal framework has a unique character. To a great extent, by manipulating the rules of the game the incumbent party is able to legitimize the unlevelled playing field. And, unlike other ways of misconduct that represent the violation of the rules and international standards of democratic elections, the manipulation of the legal framework allow incumbents to substitute personal or partisan gains for the public interest without breaking the law. Additionally the manipulation of the legal framework is particularly relevant as it grants the incumbent opportunities for manipulating the electoral process with low costs in terms of legitimacy by designing rules that create open spaces to maneuver the conditions under which parties compete. Governments are in the end acting within the law. On this basis, the hypothesis that guides this research is that among the various types of misconduct, Latin American incumbent parties/governments tend to

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5 S Birch defines malpractice as “the manipulation of electoral processes and outcomes so as to substitute personal or partisan benefit for the public interest” (Birch, 2011: 14).
prefer the legal electoral manipulation, not only because it is considered to have lower legitimacy costs (Birch, 2011) but also because strong Latin American Presidents tend to enjoy/create favorable political conditions for approving electoral laws, despite their manipulation. The manipulative design creates at the end an unlevelled playing field in its favor but does not risk the stability of the election and the regime itself. There are certain conditions under which the manipulation of electoral institutions seems more likely to happen, namely: where elections are highly competitive, the party system is weakly institutionalized, the opposition is weak and/or fragmented, the incumbent has a majority in the legislative branch and people are highly divided in terms of their evaluation of the quality of elections. Hence the manipulation of the legal framework of elections in the region depends on political and social factors rather than economic conditions, as some academic works have assumed.

Part II The analytical framework of the manipulative design in Latin America

The analytical framework presented here is based on three basic assumptions. The first has to do with the relevance of the manipulation of the legal framework without incurring in legitimacy costs. Why rules matter in the first place? The electoral rules are crucial as they structure the party competition by setting the legitimate participants and their number, defining the playing field and the legitimate-legal courses of action and even limiting the information available for most actors. From an institutionalist approach, institutions condition actors’ preferences and the way they try to manage their objectives (North, 1990). In this sense, electoral rules may encourage parties and candidates and even electoral officials to fall into misconduct, depending on the costs set by the rules. For decades it was assumed that including basic freedoms and rights in the constitution and the electoral rules was enough to guarantee free and fair elections. However, from monitoring organizations and studies on electoral integrity and electoral malpractices, we have learnt that despite processes of democratization, elections are far from being fully democratic and there is a great diversity of wrongdoing in different regions and countries. Latin American emergent democracies are not the exception (Lehoucq, 2004, Alvarez, 2008, 2010, Birch, 2011, Elklit and Reynolds, 2002, 2005; Hartlyn et.al., 2009).

The second assumption has to do with the actors involved in electoral malpractice. As mentioned earlier, most studies on election fraud and electoral malpractice agree that the incumbent party tends to be the key actor (and beneficiary) of electoral wrongdoing (Alvarez, 2008, 2010; Birch, 2011). However, evidence suggests that in some Latin American countries not only the incumbent but also the most important opposition political parties carry out, or are involved in electoral malpractices. Whether they collude or not, parties have incorporated some kind of manipulation of the electoral process into their menu of political strategies used to compete. Therefore I assume that not only the incumbent but all main political parties may be involved in electoral malpractices, either directly or indirectly.

The third assumption is related to the relevance of leveled playing field in Latin America. As mentioned earlier, one of the key conditions of elections with integrity is fair competition and its basic expression, a leveled playing field. From previous studies we know that there are common ways of electoral wrong-doing in Latin America which take place in different stages of the electoral cycle (Alvarez, 2008,
Four main ways are the manipulation of a) state resources; b) party finances; c) media coverage; and d) electoral authorities. These four kinds clearly affect the nature of political competition and produce an unlevelled playing field that tends to benefit the incumbent party and, under certain circumstances, other parties within the system. I limit my research to these 4 areas of major concern in Latin America and focus primarily on the way in which they affect the party competition. It is important to consider however that this is clearly an area where much research remains to be done. I do recognize that another area of major concern is vote buying. However, there is very limited first hand information about it.

Now, as mentioned earlier, the objective of this research is to analyze the quality of elections in Latin America by looking at the prevalence and dynamics of manipulative design or the manipulation of the legal framework. But as Sara Birch recognizes, it is difficult to determine whether any particular regulation constitutes a violation of the democratic norms (Birch, 2011: 30) and is then advisable judging electoral laws also according to the practical effects they have in the electoral process in a given state—following Goodwin-Gill (Goodwin-Gill, 1994, quoted by Birch, 2011:30).

On this basis the manipulative design will be analyzed in this paper through a combination of 2 dimensions of the legal framework and 4 areas of concern that have a direct impact on the integrity of elections in Latin America. The first has to do with the formal dimension of the legal framework, that is, the formal electoral rules; what they prescribe and prohibit regarding electoral malpractices in the areas of concern. The second has to do with observed electoral malpractices as reported by monitoring organizations. They represent, for many, the most reliable source of information regarding elections with integrity and electoral malpractices. The two dimensions are then:

a. Legal Framework: this looks at the electoral laws in each country. The aim is to analyze the extent to which the legal framework includes malpractices, punish them and inflict penalties/responsibilities on actors involved in malpractices in 4 areas of concern: 1) media coverage, 2) use of state resources, 3) campaign expenses and 4) electoral authorities. (Source of information: electoral laws).

b. Observed practices: this looks at malpractices reported by international observers in the areas of concern: state resources, media coverage, campaign expenses and electoral authorities. The purpose is to capture malpractices observed by the most reliable source of independent information about the quality of elections in Latin America today: international electoral observers’ reports.

The 4 areas of concern are the following:

i. State resources: according to the literature on electoral malpractices, the use of public resources by the incumbents is highly common and it is difficult to detect and probe in many cases (Birch, 2011). As power is distributed among parties in different states and levels of government,

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6 I will include in the future a third dimension related to the claimed electoral malpractices, and the way they are denounced by parties or electoral institutions and punished by authorities responsible for electoral disputes.
public resources are used by different parties in different elections without being detected and punished in most Latin American countries.

ii. Media coverage: there is a consensus on the key role that mass media play in electoral processes although its impact is still highly controversial. Evidence suggests that in Latin America bias media coverage is a pervasive electoral malpractice (Norris, 2012; Birch, 2011).

iii. Electoral authority: studies on the quality of elections and Electoral Management Bodies (EMB) have found that their constitution, independence and overall performance have a great impact on the legitimacy of elections and their quality (Hartlyn et. al. 2009; Elklit and Reynolds, 2002, 2005; Monsiváis, 2009; Van Aeken, 2009; Barrientos, 2010; Birch 2011). EMB in some Latin America countries are less impartial than expected.

iv. Party Finances: political studies agree that one area of great concern is the way in which parties use legal and illegal money to finance their activities, in particular their campaigns. The purpose here is to analyze the extent to which the legal framework is manipulated so as to allow parties to exceed campaign expenses without significant costs (Zovatto, 2004; IDEA, 2012).

Table 1 describes the combination of the 2 dimensions of manipulative design and the 4 areas of concern mentioned above (see Table 2)

<table>
<thead>
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<th>Legal Framework (electoral rules)</th>
<th>Observed electoral malpractices</th>
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<tr>
<td><strong>State resources</strong></td>
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<td></td>
<td>a) includes misuse of state resources as an offense/malpractice/</td>
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<td>b) punishes misuse of state resources</td>
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<td>c) indicates the individuals considered as offenders</td>
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<td></td>
<td></td>
<td>The extent to which misuse of state resources has been observed</td>
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<tr>
<td><strong>Media coverage</strong></td>
<td>The extent to which the electoral law:</td>
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<tr>
<td></td>
<td>a) includes biased media coverage as an offense/malpractice/</td>
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<td>b) punishes biased media coverage</td>
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<td>c) indicates the individuals considered as offenders</td>
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<td></td>
<td></td>
<td>The extent to which biased media coverage has been observed</td>
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<tr>
<td><strong>Electoral Authority</strong></td>
<td>The extent to which the electoral law:</td>
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<td></td>
<td>a) includes partiality of the EMB as an offense/malpractice/</td>
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<td>b) punishes partisan/partial performance of the EMB</td>
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<td>c) indicates the individuals considered as offenders</td>
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<td>The extent to which partisan/partial performance of the EMB has been observed</td>
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<td><strong>Party</strong></td>
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The framework described in Table 2 intends to capture the key conditions mentioned above of elections with integrity in contemporary Latin America: fair competition - expressed in a leveled playing field- and responsibility –expressed in the capacity to prevent electoral malpractices and punish them when they occur. In order to analyze the dimensions mentioned above, I developed three specific coding frameworks. In the case of the first dimension that deals with the electoral rules, the coding framework consists of 3 questions for each area of concern -state resources, media coverage, electoral authorities and party finances. The first question intends to capture the extent to which the electoral law includes the corresponding electoral malpractice as an offense; the second intends to see the extent to which the law includes any kind of punishment and finds out the specific type of punishment (penal, fine or other). The third question looks at the actors or persons behind the electoral malpractice or offense. The scale goes from 1 to 3, where 1 represents the lowest degree of malpractices and 3 the highest degree of malpractices. I also include a category for cases with no information.

The coding framework for the second dimension that looks at the observed malpractices focuses on the extent to which the observers’ reports by international monitoring organizations report electoral malpractices in the areas of concern: state resources, media coverage, electoral authorities and campaign expenses. The results of the analysis of electoral laws in 14 Latin American countries using the analytical framework presented above are described next.

Part III The manipulation of electoral laws and observed electoral malpractices in Latin America

Analyzing the legal framework of elections in Latin America is undoubtedly a challenge. How do we know a legal framework or electoral law is really biased? How do we know it is manipulated? What does a non-biased legal framework of elections looks like? How is the best possible way to capture the manipulation of the legal framework of elections? As mentioned earlier, the study of electoral laws under this perspective is an unexplored territory (Massicotte, 2004). There is certainly a long tradition of studies looking at electoral institutions in different ways. One of the most important approaches looks at the political consequences of electoral systems, like Proportional Representation and Majority systems. There is also another body of studies looking at gerrymandering and other ways of manipulating representation. They all have focused on the actual effect or impact of certain rules rather than the rules themselves and the way they were manipulated in the first place. So, despite their relevance, the rules of the electoral arena have been scarcely analyzed in a systematic and comparative way from the perspective of elections with integrity and electoral malpractices.
Now, studying electoral laws is not an easy task, and there are certainly limitations that have to be taken into account. As comparative political studies and monitoring organizations have shown there is an important variation in the electoral legal frameworks around the world and in Latin American in particular. In the first place, the rules of the electoral arena are disseminated in different arrangements: constitutions, electoral laws, party laws, political laws, penal laws. In the second place, electoral systems vary considerably among countries. Despite the difficulties, there are two factors that make electoral rules a valid and comparable subject of study in Latin America: all countries analyzed in this paper have a clear and identifiable set of rules that govern the electoral arena. On the other hand, such rules are applied at a national level for presidential and legislative elections, despite their system of government (Federal vis-a-vis Unitarian). Hence, they constitute the most reliable source of information regarding the rules of electoral competition in Latin America.

On this basis, the results presented next are based on the analysis and codification of Latin American electoral laws that governed the electoral arena in the 2000-2012 period. I examined the extent to which the electoral laws of each country fail to include electoral malpractices as an offense, fail to punish them and fail to indicate the individuals or groups potentially involved in malpractices in 4 areas of concern: misuse of state resources, biased media coverage; partisan performance of the EMB and lack of limits for parties’ campaign expenses.

The codification process was based on the coding framework explained in the previous section. It is important to mention that the codification followed the double blind procedure.
Graph 1 represents the degree to which electoral laws in Latin American countries failed to include, punish and identify perpetrators of electoral malpractices in the 4 areas of concern analyzed in this paper. The scale goes from 1 to 3, where 1 represents the lowest degree of malpractices and 3 the highest degree of malpractices. Each country’s score represents the simple average of sub scores in all four areas of concern (e.g. Chile’s final score is the average of misuse of state resources score, bias media score, EMB’s partiality score and excess campaign expenses). The graph includes the two last electoral laws per country and their degree of manipulation.

As can be seen in the graph, the manipulative design is not an extraordinary event in Latin America. All countries tended to manipulate their electoral laws but in different degree. Chile is the country with the lowest degree of legal mal practices. Its electoral law of 2005/2006 was slightly less manipulated than the 2009/2010 law, though both can be considered fair rules that prevent, in general, mal practices in the electoral arena. The following country with low manipulated electoral laws was Bolivia. Its electoral law did not change from one election to the other, and so did its level of manipulation.

On the other side of the scale, towards the highest level of legal electoral malpractices (LEMP) we found Peru, Paraguay and Nicaragua. In the Peruvian case the electoral law in 2011 was simply silent in terms of malpractices, that is to say,
the electoral law in Peru did not include or mention anything about malpractices in all areas of concern. In Paraguay, limits to campaign spending were not addressed in the law, whereas the Nicaraguan electoral law was totally silent in three areas: media coverage, EMB and limits to parties’ expenses during campaigns. In the middle of the scale of LEMP, There were countries with electoral laws that either did not clearly prohibit malpractices or did not punish them or identified the perpetrators. This was the case of Panama, Argentina or Colombia. In all of these countries, electoral malpractices were not completely forbidden in the political arena.

From a comparative perspective over time, it is significant to find a consistent tendency to decrease the level of manipulation in an important group of countries between 2000 and 2012. Argentina, Costa Rica, Ecuador, Honduras Mexico and Panama all had medium to highly manipulated electoral laws at the beginning of the period and moved their electoral rules towards fairness at the end of the period. Then electoral laws of these countries recognized some malpractices and they clearly limited or prohibited them, they also established clear punishments for all or most sources of misconduct and identified their possible perpetrators. There were also some cases where electoral laws moved backwards, that is to say, from a medium/lower level of malpractice to the highest degree. The most dramatic case was Venezuela. Its 2006 electoral law was in the middle range of the scale, whereas its 2012 law reached the highest degree of malpractice.

Mexico and Uruguay deserves a specific comment. Mexico is the fourth best country regarding the explicit prohibition of malpractices. The Mexican electoral law has been reformed several times – in 1990, 1993, 1996, 2008 and more recently in 2014- and such reforms have moved the party and electoral system from manipulated elections where open fraud was very common to democratic elections organized by professional electoral management bodies (EMB. The Federal Electoral Institute – the Mexican national EMB- has been widely recognized for its professionalism but also criticized for failing to punish malpractices. Uruguay is clearly a special case. Its electoral laws were almost silent in terms of electoral malpractices but at the same time this is a country with no records of electoral mal practices, as no observers reports are available. Then it could well be the case that countries with limited number of malpractices simply tend not to legislate about them, despite the international tendency to prohibit malpractices explicitly.

Next I present the dimension of observed electoral malpractices, which measures the level of misconduct actually observed during elections in Latin America. The analysis presented here is based on the examination and codification of Observers Reports issued by international monitoring organizations such as the Organization of American States (OAS) the Carter Centre, the European Parliament, the International Foundation for Electoral Systems (IFES), among others, according to the corresponding coding framework.

Graph 2 presents the degree to which electoral malpractices were reported in the last two presidential elections in Latin American countries regarding all areas of concern considered here. As can be seen in Graph 2, there were 5 countries with the highest level of Observed Electoral Mal Practices (OEMP) in the areas of concern in the last presidential election: Venezuela, Nicaragua, Mexico, Guatemala and El Salvador. It is relevant then that electoral missions found evidence of actual electoral malpractices carried out before, during or after elections in all five countries despite the legislation in many cases. El Salvador was even a case of regression between its
two presidential elections, as observers found evidence of a higher degree of manipulation in the 2009 contest.

Graph 2

![Graph showing Observed Electoral Mal Practices in Latin America, 2000-2012](image)

Source: Irma Méndez with data from the electoral observers of each country

There are also 2 countries with a slightly minor average of observed electoral malpractices but still well above the rest in terms of wrong doing during their last presidential elections –Paraguay and Honduras. In the latter case there was a clear and strong contrast in terms of what the law prohibited and what was actually done. The classical gap between formal rules and actual practice, well addressed by Guillermo O’Donnell, among other scholars, was then exemplified by Honduras. Paraguay, on the other hand, was a case of deterioration where the degree of misconduct increased dramatically from the 2003 to the 2008 election. Finally, there are 2 countries with the lowest level of OEMP in the selected areas where the Electoral Observers Reports were generally favorable -Costa Rica and Panama- with positive comments about reforms and specific and minor areas of misconduct.

It is relevant to mention two exemplary 2 cases with no observer’s reports: Chile and Uruguay as no observers’ missions were sent to monitor elections since 2000. As mentioned earlier, Uruguay is a unique case as its electoral legislation did not prohibit mal practices, may be because it was necessary at all. In terms of changes over time, from the previous election to the following one in the 2000 2012 period, there were 6 countries where observers found evidence of much more manipulation, so integrity reverted in a decade. These cases included Paraguay, Mexico, El Salvador, Ecuador, Colombia and Peru. Also there were two countries with minor advances, Honduras and Bolivia, whereas the rest remained with the same level of manipulation as the previous election.

From the evidence presented above some questions arise: to what extent manipulated electoral rules are linked to actual observed electoral malpractices? To what extent rules that prohibit or limit mal practices act as a deterrent of misconduct?
International organizations promote electoral and political reforms as a way of limiting misconduct. But, how effective are electoral reforms to prevent manipulation? In order to explore the potential relationship between legal and observed electoral malpractices the next graph shows the average final score for each of these dimensions in all Latin American countries studied in this paper.

**Graph 3**

![Graph showing Legal Electoral Mal Practices and Observed Electoral Mal Practices in Latin America, 2006-2012](image)

Source: Irma Méndez with data from the electoral laws and the reports of the electoral observers of each country

As can be seen in Graph 3 there were only two cases with an almost perfect match between both dimensions, Legal Electoral Malpractices (LEMP) and Observed Electoral Malpractices (OEMP), Paraguay and Colombia. This indicates that the level of manipulation of the electoral law was almost the same as the level of misconduct. This suggests a political relationship between the extent to which the electoral law prohibits electoral malpractices and the extent to which electoral malpractices are carried out. In the case of Paraguay, both dimensions, legal and observed malpractices, were very high, whereas in Colombia both dimensions were placed in the medium-high level.

Now, two cases of extreme discrepancy were Mexico and Honduras followed by Bolivia and El Salvador. In these countries the observed electoral malpractices rose well above the level of manipulation of the legal framework. So, in a sense, misconduct opened into question the extent to which the rules of the electoral arena effectively prohibited and punished electoral malpractices and identified those responsible. Mexico was a good example of disparity between rules and practice, that is, between the efforts to ban misconduct and the way in which the rules were systematically broken and malpractices were apparently carried out by most political parties and actors within the system. Honduras was another case of great disparity between “rules of the game” and practice. Despite electoral reforms of the “third...
generation”, actors continued with old electoral malpractices that erode the quality of elections. Both cases rises questions related to the rule of law. To what extent misconduct was reflecting a problem of implementation of electoral rules or even more a problem of enforcement of such rules? This issue overcomes the focus of this paper, though the enforcement of the law is clearly a relevant problem in most countries in Latin America, and is considered in the last section of this paper as an independent relevant factor.

The description above rose questions on the factors affecting misconduct. Under which conditions the manipulation of the legal framework is an option? How can we explain legal and observed electoral malpractices in Latin America? What political factors, but also social and economic factors might be influencing the legal manipulation of electoral legislation and observed malpractices. I tried to answer these questions in the next section.

IV Political factors and manipulative design

Moving to the exploratory analysis of the potential determinants of legal electoral malpractices, there are certain factors that deserve to be analyzed. From previous studies it has been recognized that there are structural and conjunctural factors that interact and impact the incumbents and major parties’ decisions to manipulate the electoral rules. The particular combination of such factors depends on each country’s history and particular context. As Sarah Birch argues “the structural and historical context establishes the menu from which actors can realistically choose, and their calculations of perceived interest then condition the choices they ultimately make” (Birch, 2011: 54). Despite differences in the way in which the national context shapes the particular “menu of manipulation” in each country there are economic, political and social factors associated to malpractices according to comparative studies.

Some of the few studies that have explored why elections fail and what explain changes in electoral integrity overtime have pointed out the relevance of economic factors, such as the GDP growth, trade dependence, economic inequality and fuel exports to explain the occurrence and variation of misconduct. There are also societal factors like corruption, and the link between rulers and citizens, that is, structures of mediation between society and the government which are particularly relevant in the explanation of electoral malpractices (Lehoucq, 2002; Birch, 2011; Norris, 2012, Alvarez, 2008; Hartlyn, 2009, Schedler, 2002).

Other studies –also in limited number- have introduced the role of political institutions such as the electoral systems, the democratic stock (Norris, 2012) and the specific rules of the electoral administration (Birch, 2012, Hartlyn, 2009), whereas another group of scholars have stressed the relevance of short-term political factors such as the level of electoral competition (Lehoucq, 2003; Alvarez y Boehmke, 200), the structure of EMBs and the presence of free media and electoral observers (Birch, 2010; 2011; Van Ham, 2010). Nonetheless, there is a group of factors that has been widely neglected; those related to the party system, such as the strength of parties, measured by competitiveness of elections, nominal and effective number of parties, the percentage of incumbents’ legislative seats, the strength of opposition parties, the volatility and the overall stability of the party system.
I argue that these political factors of medium and short term are crucial to understand the scale, and rate of legal electoral malpractices in Latin America. Political systems in the region tend to be dominated by the Executive Power. The presidential system prevailing in most countries has guaranteed an extensive number of faculties and powers by law for the Presidents in detriment of those of the legislative power. Even though transition to democracy helped establishing a more balanced distribution of power, the Executive power still dominates the political and electoral arena in most Latin American countries. So, to the extent that the incumbents exercise more control over the legislature; have a majority in the Chamber of Deputies; the opposition is weak or is divided; and elections are more competitive, the rulers tend to manipulate further the legal framework for elections.

As part of the exploratory analysis, Table 3 presents some of the significant correlations between Legal and Observed Electoral Malpractices and some of the most relevant independent variables considered in this study, grouped in different categories. The political-institutional variables include the margin of victory, the percentage of seats of the incumbent party, the percentage of votes of the winning party and dimensions of governance, such as rule of law, government effectiveness, and regulatory quality. The socio political structure variables include the index of corruption, urbanization and inequality, whereas the civil society variables include freedom of the press, and clientelism. Finally the control variables are the GDP per capita, the number of public employees and the level of democracy.

According to the results presented in Table 3 the manipulation of the electoral laws in Latin America in the 2000-2012 period, (identified as dimension 1) is significantly and negatively correlated with most of the political variables. This is the case of electoral competitiveness, measured by the margin of victory. This negative relationship suggests that as the margin of victory increases, and presumably the incumbent party enjoys a better position to win, the need to lay on electoral malpractices to secure success diminishes. At the same time, when the margin of victory diminishes and results tend to be close; parties are tempted to rely on misconduct. Even more, the trend for electoral competitiveness to trigger malpractices is confirmed with the negative relationship between LEMP and the percentage of votes of the winning party. Another relevant result is the strong and negative relationship between malpractices and 4 of the variables related to governance. It is the case of the rule of law, which is particularly relevant for this study. The negative coefficient suggests that the effective enforcement of the law may act as a deterrent to electoral malpractices. In the case of the civil society variables, it is relevant the positive and significant relationship between malpractices and clientelism, measured by the extent to which people feel more incline to vote for a party who offer something. The result suggests that clientelistic relationships, either between parties and citizens or governments and citizens, are associated with electoral manipulation.

Regarding the second dimension, which looks at observed electoral malpractices, (according to observers' reports) there is a positive and significant relationship between the level of authoritarianism and the degree of electoral malpractices. This relationship indicates that the more authoritarian (or less democratic) a country is, the more electoral mal practices are observed. There is another significant and
negative relationship, as expected, between observed electoral malpractices and freedom of the press. This suggest that the higher the limitations for a free media the higher the level of electoral misconduct. There are two more significant correlations between OEMP and the party system. The results suggest that party identification and/or a close relationship with a party –with data coming from LAPAP- are both linked to mal practices, something that open to question the nature of party links to citizens.

Finally, the mixed variable that combines the legal electoral malpractices and observed electoral malpractices, measured by a simple average, is negatively and significantly related to all dimensions of governance. This suggest that among other things strong democratic institutions like accountability, regulatory quality, ways to control corruption and the enforcement of the law may contribute to diminish electoral misconduct. There is another significant and positive relationship between legal and observed electoral malpractices and clientelism, which suggest that the interchange of material goods or favors for votes is not only an extensive practice in many countries of the region but also that it is associated to other electoral malpractices.

Table 2 Correlations of Legal and Observed Electoral Malpractices and political factors in Latin America

<table>
<thead>
<tr>
<th>Dependent V.</th>
<th>Independent V.</th>
<th>Coef</th>
<th>Sig (bilateral)</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Political Institutions Variables</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal Electoral Mal Practices, LEMP, (Dimension 1)</td>
<td>%VM</td>
<td>-0.333*</td>
<td>0.033</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>% Votes Winner</td>
<td>-0.350*</td>
<td>0.025</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>% Seats Incumbent Party</td>
<td>-0.508**</td>
<td>0.001</td>
<td>38</td>
</tr>
<tr>
<td></td>
<td>Rule of Law</td>
<td>-0.394*</td>
<td>-0.011</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Government Effectiveness</td>
<td>-0.472**</td>
<td>0.002</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Regulatory Quality</td>
<td>-0.319*</td>
<td>0.042</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Control of Corruption</td>
<td>-0.348*</td>
<td>0.026</td>
<td>41</td>
</tr>
<tr>
<td><strong>Civil Society Variables</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>More inclined to vote for candidate due to offer</td>
<td>0.340*</td>
<td>0.034</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td><strong>Control variables</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GDP per Capita</td>
<td>-0.363*</td>
<td>0.020</td>
<td>41</td>
<td></td>
</tr>
<tr>
<td>IDD-Lat</td>
<td>-0.390*</td>
<td>.012</td>
<td>41</td>
<td></td>
</tr>
<tr>
<td><strong>Civil Society Variables</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Observed Electoral Mal Practices, OEMP, (Dimension 2)</td>
<td>Freedom House-Freedom in the World Final Score</td>
<td>0.458**</td>
<td>0.008</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td>Freedom House-Freedom of the Press Final Score</td>
<td>0.537**</td>
<td>0.002</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td>Close to political party</td>
<td>0.496**</td>
<td>0.004</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td>Very partisan to political party</td>
<td>0.468**</td>
<td>0.007</td>
<td>32</td>
</tr>
<tr>
<td>Dependent V.</td>
<td>Independent V.</td>
<td>Coef</td>
<td>Sig (bilateral)</td>
<td>N</td>
</tr>
<tr>
<td>-------------</td>
<td>---------------</td>
<td>------</td>
<td>-----------------</td>
<td>----</td>
</tr>
<tr>
<td></td>
<td>Political Institutions Variables</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Voice and Accountability</td>
<td>-0.814**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Political Stability and Absence of Violence</td>
<td>-0.660**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Government Effectiveness</td>
<td>-0.780**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Regulatory Quality</td>
<td>-0.536**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Rule of Law</td>
<td>-0.826**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Control of corruption</td>
<td>-0.811**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Socio-Political Structure Variables</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Urbanization: Percentage of urban population</td>
<td>-0.602**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Civil Society Variables</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Freedom House-Freedom in the World Final Score</td>
<td>0.780**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Freedom House-Freedom of the Press Final Score</td>
<td>0.736**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Candidate frequently offered something in Exchange for vote</td>
<td>0.376*</td>
<td>0.018</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>More inclined to vote for candidate due to offer</td>
<td>0.565**</td>
<td>0.000</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>Control variables</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>GDP per Capita</td>
<td>-0.472**</td>
<td>0.002</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>IDD-Lat</td>
<td>-0.767**</td>
<td>0.000</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>EIU</td>
<td>-0.743**</td>
<td>0.000</td>
<td>41</td>
</tr>
</tbody>
</table>

** Significant at 0.01 (bilateral)
* Significant at 0.05 (bilateral)

Source: Elaborated with data from the Electoral Malpractices Database elaborated for this project, Freedom House, Transparency International Corruption Perceptions Index and the Political Database of the Americas.

Now, in order to explore the possible determinants of legal electoral malpractices (LEMP) which is the dependent variable in this study, I used Ordinary Least Squares Regression (OLS). I intended to analyze the impact of competitiveness and the rule

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7 The Freedom House Index measures political rights and civil liberties and has a range of values from 1.0 to 7.0. It is the Final Score of the Freedom in the World Index. Its values are: Status of Free (F), Partly Free (PF), Not Free (NF). Each pair of political rights and civil liberties ratings is averaged to determine an overall status of “Free,” “Partly Free,” or “Not Free.” Those whose ratings average 1.0 to 2.5 are considered Free, 3.0 to 5.0 Partly Free, and 5.5 to 7.0 Not Free. The Transparency International Corruption Perceptions Index ranks countries/territories based on how corrupt their public sector is perceived to be. A country/territory’s score indicates the perceived level of public sector corruption on a scale of 0 – 10. 0 means that a country is perceived as highly corrupt and 10 means that a country is perceived as very clean. The Victory Margin is the difference of the percentage of votes received by the winning party minus the percentage of votes obtained by the second party with the most votes.
of law on the manipulation of electoral laws applied during presidential elections in the 2000/2012 period in 16 Latin American countries. I also tried to confirm the argument that corruption and clientelistic relationships between citizens and rulers contribute to explain electoral malpractices.

Table 3 presents the OLS model. This model suggest that accounting for a social demographic variable such as Gini, the manipulation of the electoral laws in Latin American countries is a function of electoral competitiveness, measured by the margin of victory, clientelism, the rule of law and the level of corruption. All of them are significantly related to the manipulation of the law. In the case of corruption, it is significantly and negatively related to the LEMP and for every unit of the Transparency International Corruption Perception Index (TICPI) there is a reduction in the manipulation of the electoral law. TICPI goes from zero for the most corrupt countries and 10 for the cleanest countries, so any reduction in corruption might cause a reduction in electoral misconduct. In the case of competitiveness, it is also significantly and negatively related to the LEMP, and for every unit of the margin of victory there is a decline in electoral malpractices. This confirms that competitiveness, which entails close results, trigger manipulation in the electoral arena, and more specifically the manipulation of the electoral law, recognized by its low cost in terms of legitimacy and its high efficiency.

Table 3

<table>
<thead>
<tr>
<th>Dependent V.</th>
<th>Independent V.</th>
<th>Coef.</th>
<th>P&gt;t</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Electoral Mal Practices, LEMP, (Dimension 1)</td>
<td>Transparency International Corruption Perceptions Index</td>
<td>-0.0203465</td>
<td>0.071*</td>
</tr>
<tr>
<td></td>
<td>% Victory Margin</td>
<td>-0.0197752</td>
<td>0.002**</td>
</tr>
<tr>
<td></td>
<td>Rule of Law</td>
<td>-0.1658223</td>
<td>0.050*</td>
</tr>
<tr>
<td></td>
<td>More inclined to vote for candidate due to offer</td>
<td>0.0341802</td>
<td>0.043*</td>
</tr>
<tr>
<td></td>
<td>Gini Index</td>
<td>-0.0106013</td>
<td>0.442</td>
</tr>
<tr>
<td></td>
<td>cons</td>
<td>2.698635</td>
<td>0.002**</td>
</tr>
<tr>
<td></td>
<td>R-squared</td>
<td>=0.47</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Adjusted R-squared</td>
<td>= 0.4004</td>
<td></td>
</tr>
<tr>
<td></td>
<td>* Significant at 0.01 (bilateral)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>** Significant at 0.05 (bilateral)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In the case of the rule of law, a dimension created by the World Bank as part of the Governance indicators, it is relevant to mention that it intends to capture perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence. According to the results presented in Table 4, the rule of law is significantly and negatively related to the LEMP and for every unit of the rule of law there is a reduction in electoral misconduct. Finally, in the case of clientelism, measured with data from LAPOP, it is also significantly and positively related to the manipulation of electoral laws in Latin American countries. This confirms that for every unit of clientelism, there is an increase of legal electoral manipulation. Overall, the model suggest that the manipulation of the electoral legal framework is to a great extent explained by a combination of a sturdy party competition with close results, strong clientelistic
linkages and a high perception of corruption, in a context shaped by a weak rule of law.

### Table 4

<table>
<thead>
<tr>
<th>Dependent V.</th>
<th>Independent V.</th>
<th>Coef.</th>
<th>P&gt;t</th>
</tr>
</thead>
<tbody>
<tr>
<td>% Votes Winner</td>
<td>Legal Electoral Mal Practices, LEMP, (Dimension 1)</td>
<td>-7.958272</td>
<td>0.035*</td>
</tr>
<tr>
<td></td>
<td>More inclined to vote for candidate due to offer</td>
<td>0.8607735</td>
<td>0.065*</td>
</tr>
<tr>
<td></td>
<td>President looking for re-election</td>
<td>10.78637</td>
<td>0.001**</td>
</tr>
<tr>
<td></td>
<td>GDP per capita</td>
<td>0.0004851</td>
<td>0.332</td>
</tr>
<tr>
<td></td>
<td>cons</td>
<td>48.2041</td>
<td>0.001**</td>
</tr>
<tr>
<td></td>
<td>R-squared=0.3617</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Significant at 0.01 (bilateral)
** Significant at 0.05 (bilateral)

Now, as mentioned earlier, it has been argued in the literature of elections with integrity that electoral malpractices have low legitimacy costs. I also argue at the beginning of this paper that the first type of malpractice— the manipulation of the electoral legislation— was a very effective option too. In order to explore its effect I used Least Squares Regression (OLS) analysis. I intended to examine the impact of the manipulation of the legal framework of elections on the incumbents’ fortune, measured by its percentage of votes in presidential elections.

Table 4 presents the results. The model suggests that accounting for an economic variable such as GDP per capita, the percentage of votes of the winning party is a function of the manipulation of the electoral legislation, the clientelistic relationship between parties and citizens, and also the fact that the incumbent president was looking for reelection. All of them are significantly related to the percentage of votes of the incumbent party in Latin American countries in the 2000-2012 period. In the case of the manipulation of the electoral legal framework it is significantly and negatively related to the percentage of votes of the winning party and for every unit of the manipulative design there is a reduction in the percentage of votes of the winning party. In the case of clientelism, measured with data from LAPOP, it reflects the extent to which favors or material goods offered by parties or candidates during elections made the voter more inclined to vote for it. It is significantly and positively related to the percentage of votes of the winning party and for every unit of clientelism there is an increase in the incumbents vote. Another significant variable is the president looking for reelection. It is also positively and significantly related to the percentage of votes of the winning party and for every unit of this variable there is a raise in the percentage of the winning party. Overall, the model suggests that the incumbents fortunes is probably associated to the a strategy that combines the manipulation of the electoral legislation that despite its negative impact allows to take advantage of being the president and at the same time a candidate (looking for reelection) and relying on clientelistic linkages.

Despite the relevance of the findings described above, much more research is needed to advance in the analysis of electoral manipulation, and the diverse
combinations of the manipulation of the legal framework, the manipulation of the voters’ decision and the manipulation of the electoral administration, according to Sarah Birch’s classification.

Conclusions
Despite democratization and free and competitive elections, electoral mal practices are still carried out in some Latin American countries. Among different types of misconduct the manipulation of the legal framework constitutes one of the most pervasive practices in the region. By doing so they affect the conditions to compete and unlevel the playing field, eroding the principles of democratic elections.

The codification and analysis of electoral laws of 16 Latin American countries in the 2000-2012 period showed that the manipulation of the legal framework is an extended and highly frequent way of misconduct in four areas of concern: misuse of state resources, bias media coverage, partial/partisan performance of the management electoral bodies and excessive campaign expenses. Now it was also found that most electoral laws are silent in terms of limits to campaign spending, and to a lesser extent to media coverage.

The analysis of observers’ reports showed that actual mal practices such as misuse of state resources, bias media coverage, excessive campaign expenses and to a lesser extent partisan electoral management bodies are still pervasive in many countries of the region. Unfortunately observers’ reports do not cover often many of the areas of misconduct, and they do not follow universal standards in the way in which they observe malpractices and report them. Despite these limitations, observers’ reports by international monitoring organizations are still the most reliable source of information about the manipulation that is effectively carried out.

Regarding the potential relationship between the manipulation of the electoral laws and the actual observed malpractices it was found that there is seemingly a positive relationship between both dimensions, though much more evidence is needed to confirm this finding.

The analysis to explore the determinants of the legal electoral malpractices in Latin America in the 2000-2012 period included first the description of the most relevant independent variables linked to misconduct, according to the literature of elections with integrity. Second, the analysis of significant correlations between the dependent variable –the manipulation of the electoral legislation in Latin American countries- and independent variables was offered. Finally I presented a model of OLS to explore the determinants of the manipulative design but also a model of OLS to examine the actual effect of the manipulation of the electoral legislation on the percentage of votes of the winning party.

The exploratory analysis based on Pearson correlation coefficients showed a positive and significant relationship between the level of authoritarianism and the level of misconduct, or the other way around, between the level of democracy and elections with integrity. There was also a positive relationship between corruption and manipulation, that is, a high level of corruption was favorable to mal practices. A very important finding was the negative and significant correlation between legal electoral malpractices and electoral competitiveness, measured by the margin of
victory. This confirms that competitiveness triggers misconduct. There is also a negative and significant relationship with the percentage of the winning party and the percentage of the incumbents’ seats. This suggested that as the incumbent party had more seats in the legislative power and a significant percentage of votes, the government did not have to rely on electoral malpractices.

Finally, the regression model showed that regarding the determinants of the manipulative design in Latin American countries in the 2000-2012 period much of it is explained by a combination of a small margin of victory, strong and persuasive clientelistic linkages, corruption and a context shape by a weak rule of law. The model looking at the effects of the manipulative design on the other hand suggested that the incumbents fortunes was probably associated to the strategy that combined the manipulation of the electoral legislation, the president looking for reelection and clientelistic linkages.

Now, despite the contribution intended by this research it is clear that much more research is needed to understand and disentangle the way in which political actors still manipulate elections in contemporary Latin America.

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