



A Window of Opportunity to Clean Up Politics: Chile's Engel Commission

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BY ROBERTO SIMON

Surrounded by journalists in Santiago's La Moneda presidential palace in April 2015, Chilean President Michelle Bachelet was urgently trying to extinguish a firestorm of rumors about her political future. "I have not resigned, I am not thinking about resigning and I don't even know how that would play out constitutionally," said Bachelet.¹ The president had been avoiding reporters for several weeks, expecting the crisis then engulfing her administration to cool down. The strategy, however, had backfired, fueling speculation about her imminent departure. Bachelet needed a plan to regain control.

The scene would have been unimaginable only two months before. And the crisis that created it would lay the groundwork for one of the boldest anti-corruption reform efforts in Latin America's recent history.

A center-left former physician, Bachelet had ended her first presidential term in 2010 with an 84% approval rate. She was associated with integrity, post-dictatorship reconciliation and fiscal responsibility—as well as the economic boom years that took place under her leadership. In December 2013, she not only easily won the presidential contest again with 62% of the vote, but also helped her coalition secure a majority in Congress—an unprecedented achievement in Chile's recent democratic history. One year into her second term, Bachelet had already delivered on much of her ambitious campaign platform, including major education, tax and electoral reforms.

Then her government was abruptly turned upside down.

In February 2015, Chilean magazine *Qué Pasa* ran an explosive investigation detailing how Bachelet's oldest son, Sebastián Dávalos, and his wife Natalia Compagnon had benefited from insider trading and influence peddling in a multi-million-dollar real estate investment deal. They denied any wrongdoing. The scandal—dubbed the "Caval Case" after a company owned by Compagnon—triggered a judicial investigation into Bachelet and her family. As Bachelet was speaking to the press inside La Moneda, her daughter-in-law was entering a prosecutor's office, surrounded by cameras and policemen, to be interrogated.

To be sure, when the case erupted support for Bachelet was already trending down due to economic underperformance and opposition to her education and tax reforms. But the president's silence as compromising revelations piled up, as well as her Cabinet's general mishandling of the crisis, pushed the administration to the edge. Her refusal to fully and publicly condemn her son exasperated allies and supporters, and the government's approval rating would soon plummet to its lowest point in more than 15 years.²

The president flatly denied personal involvement in any alleged wrongdoing. But

Chileans were in no mood to give Bachelet the benefit of the doubt. In the previous six months, two major campaign finance scandals involving parties from left and right had shaken the country's belief that its politics were less corrupt than those of neighboring countries such as Argentina, Brazil or Peru. In the five months to April 2015, the share of the population that considered corruption one of the three biggest problems in the country jumped from 9% to 28%.³ For many, the Caval Case was the final blow: If an austere and principled figure like Bachelet was tainted, then surely the whole political establishment was dominated by corruption.

As the crisis deteriorated, Bachelet and key Cabinet members, as well as lawmakers from different parties, began to understand what was at stake: The corruption scandals that had devastated virtually every political party now threatened the foundations of Chile's democracy.

But these embarrassing episodes also represented a unique opportunity for change—a window to reform politics, implement new mechanisms to fight corruption, and potentially restore Chileans' confidence in their government.

In response, Bachelet's change in strategy included not just speaking more openly about the scandal involving her family, but also the creation of a Commission against Conflicts of Interest, Influence Peddling and Corruption. Led by Stanford- and MIT-trained economist Eduardo Engel, the independent advisory body formed by 16 prominent figures would be given 45 intense days to prepare a report with ideas for a reform program.

The document would be presented publicly just two weeks after Bachelet had received the journalists in La Moneda to deny rumors of her impending resignation. But could the Engel Commission succeed in making substantial changes in the Chilean public and private sectors to fight and prevent corruption? If so, how? And would it be able to begin restoring Chileans' trust in their politicians and institutions?

Thanks in part to Bachelet's leadership and to a powerful collaboration among politicians from different parties, civil society, the media and academics, Chile would soon embark on one of Latin America's most successful anti-corruption drives in recent history.

CORRUPTION IN CHILE

Chile's reputation for less corruption and better governance when compared to its South American peers (with the possible exception of tiny Uruguay) is well-deserved. The country has historically been an outlier in Latin America on both counts. From the mid-1990s to 2017, Chile regularly scored in the top 10% of the World Bank's global index on corruption control, far ahead its neighbors and even above the OECD average.⁴ The year before the Caval story broke, Chile scored better than countries like France and Austria and just behind the United States on Transparency International's Corruption Perceptions Index (CPI).⁵

Explanations for Chile's success usually revolve around two main themes: higher levels of socioeconomic development and strong institutions. Chile is significantly better off than most of its neighbors in all kinds of socioeconomic indicators, from GDP per capita, which practically doubled from 2005 to 2015, to education and healthcare. For most of the past hundred years, Chile has enjoyed a remarkably stable democracy based on organic political parties—which not even the dark years of the Augusto

Pinochet dictatorship (1973-1990) were able to obliterate. In the regime that emerged following the transition back to democracy, the main parties operated based on a common denominator of macroeconomic and social responsibility. Meanwhile, efforts to build coalitions in Congress dragged presidents to the center of the ideological spectrum. Chile's consensus-based politics allowed for policy continuity and the gradual improvement of institutions. Some economists also argue that Pinochet's pro-market reforms, which were largely kept during the new democratic era, reduced rent-seeking and state capture opportunities.

But although overall levels of corruption remained relatively low, high-profile scandals repeatedly emerged in Chile after the end of the dictatorship in 1990. Some involved Pinochet himself, who remained the commander of the armed forces until 1998 and a senator for life until 2002. In 2004 a U.S. Senate investigation revealed that Pinochet had used the U.S.-based Riggs Bank to hide and launder several million dollars (aggregate deposits ranged from \$4 to \$8 million from 1994 to 2002). The bank had assisted the Pinochet family in setting up and operating a global network of accounts and shell companies, including wiring \$1.6 million to London while the former dictator was under arrest in the United Kingdom.⁶ The case was put to the Chilean justice system and, 14 years later, the Supreme Court ordered the Pinochet family to forfeit \$1.6 million.

"Pinochet's real loss in prestige in Chile came with the Riggs case and the (information about) corruption within the military," said Patricia Politzer, a veteran journalist and political commentator. "For many years, Chileans had a view that the dictatorship had been bloody but honest."

Scandals related to kickback schemes, influence peddling and insider trading also made the headlines in the 1990s and 2000s—including two involving the business tycoon Sebastián Piñera, who would be elected president in 2010 and again in 2017. Other cases involved opaque dealings in the armed forces and fake contracts to generate kickbacks at the public works ministry. Two such scandals triggered significant reform efforts: In 1994, the government instituted a National Commission on Public Ethics and in 2006 the Working Group on Integrity and Transparency. But from 1992 to late 2014, the share of Chileans who saw corruption as one of the country's three biggest problems never surpassed 17% and usually hovered around 10%, significantly below issues like education, healthcare and security.⁷ Episodes of corruption were mostly seen as isolated events, not as evidence of systemic corruption across parties and the public and private sectors.

Two connected campaign financing scandals, together with the Caval Case, would significantly change this perception.

PENTAGATE AND SQM

In September 2014, reports emerged that an ongoing investigation into dealings between a major business conglomerate, Empresas Penta, and a corrupt official at the Internal Tax Services (SII) had in fact also involved a number of senior political figures. Most of the politicians, including the former Mayor of Santiago Pablo Zalaquett and former Piñera administration spokesperson Senator Ena von Baer, were from the rightist Independent Democratic Union (UDI) party. In the ensuing months, the so-called Penta Case, or Pentagate, came to dominate headlines. Embarrassing emails leaked from UDI lawmakers, including Von Baer, begging Penta partners for off-the-books donations. The public learned the details of a well-oiled machine to launder money and illegally finance

numerous campaigns through fake consultancy invoices issued by politicians.

Bachelet had been in office for about six months when Pentagate came to light. Her center-left government mostly sat back and rejoiced over the scene of a major crisis engulfing a key opposition party and exposing their murky connections to a business group with long-time ties to *pinochetismo*. Meanwhile, UDI leaders accused the investigation of being politically motivated, intended to weaken opposition to Bachelet's reforms.

The government's comfort would be short-lived. In January 2015, while investigating the connections between Penta and Pablo Wagner, an undersecretary of mining during the Piñera years, prosecutors heard from a witness that another major company had used the same *modus operandi* to finance political campaigns: the mining conglomerate Sociedad Química y Minera de Chile, also known as Soquimich or SQM. This time, though, the political implications were different. SQM had been a generous donor to numerous politicians across the political spectrum.

The ensuing scandal was particularly damaging to the center-left figures involved. Following its controversial privatization in 1987, SQM had been under the control of Julio Ponce Lerou, a former son-in-law of Pinochet whose meteoric business career had been propelled by his family connections. The accusations in the press involved people like Carolina Tohá and Marco Enríquez-Ominami—the daughter of a former socialist minister jailed and tortured to death by the Pinochet regime, and the son of the most important guerrilla leader in the late 1960s and 1970s, respectively. The image of them receiving dirty money from someone directly connected to the Pinochet clan shocked and disgusted many. SQM's privatization under Pinochet, particularly the fact that his son-in-law managed to gain control of the company, was never fully investigated. The appearance was that SQM's ecumenical political largesse had had the ultimate goal of protecting the company from any serious investigation.

Interior Minister Rodrigo Peñailillo immediately understood what was at stake. A symbol of a new group of young leaders empowered by Bachelet to renew the center-left as she prepared her return to power, Peñailillo had overseen the president's 2013 campaign—which had been partially financed through the fraudulent invoices scheme using a shell consulting company, Asesorías y Negocios (AyN). He knew the money trail from SQM would lead to La Moneda.

“Peñailillo was the first one to understand that, if (the investigation) did not stop, it would involve him and the government. So he began to maneuver to make it stop,” said Daniel Matamala, a prominent investigative journalist and author of a book about the case. According to Chilean law, only a complaint from the national tax authority (SII) can trigger an investigation into alleged campaign financing violations. SII was supposed to be an autonomous and technical body, but it sat under the umbrella of the finance ministry and was exposed to political pressure. “The government intervened in SII to stop the presentation of additional complaints, blocking investigations that would lead to several other companies using the same mechanisms and to all the main parties,” said Matamala. “To a large extent they succeeded, since investigations did not go beyond SQM.”

However, even after the “intervention” at SII, information continued to leak to the press. Chilean TV and newspapers published a classified report concluding that Peñailillo's aides and one of the president's cousins had been among the beneficiaries of the fake invoices tied to her campaign.⁸ In total, 26 people had allegedly received money from AyN, the fake consultancy collecting funds for the Bachelet campaign, using 209

fraudulent invoices.

In contrast to other isolated cases, Penta and SQM exposed for the first time a systemic form of corruption involving virtually the entire political establishment and key business groups. Although no smoking gun proving Bachelet's knowledge of the scheme had been found, compromising evidence was getting closer and closer to the president. Then, in early February 2015, the Caval Case became public.

THE CAVAL CASE

While the Penta and SQM scandals were mostly about illegal campaign finance and money laundering, the Caval Case centered of accusations of influence peddling and insider trading. On Dec. 16, 2013—the day after Bachelet won the run-off in that year's presidential election—Banco de Chile approved a \$10 million loan to Caval, the property company in which the president elect's daughter-in-law, Natalia Compagnon, held a 50% stake. Shortly after the first scoop, the media also revealed that Bachelet's son, Sebastián Dávalos, had participated in a meeting between Compagnon and the vice president of Banco de Chile to discuss the loan.⁹ The funds were used to buy real estate in Machalí, a district in central Chile, with the purpose of swiftly reselling at a large profit after pending changes in zoning regulations were approved. Compagnon and her partner were accused of insider trading, trying to bribe municipal authorities to influence regulatory changes and committing tax fraud.

In the first months after the scandal broke, and as Bachelet's standing continued to deteriorate, the government's reaction to the crisis went through three different phases. First, the president and key members of her inner circle underestimated the impact of the accusations and appeared to bet on killing time until the scandal blew over by implementing a series of cosmetic initiatives. When the scandal broke, Dávalos was serving as director for social and cultural affairs in the president's office; one of the government's first steps was to release his tax returns. The administration hoped to distance itself from the controversy by proving that Dávalos had not been listed as a beneficiary of Caval.

The move, however, backfired and Bachelet's son was forced to resign. Dávalos and Compagnon also left Bachelet's Socialist Party soon after the party opened an inquiry to determine if the couple had violated its ethics code. And while prosecutors were launching a highly publicized investigation into the case, the government's official line continued to be that Bachelet was not directly involved and did not know about the Machalí negotiation.

Then, as the scandal continued to spiral out of control, Bachelet's closest advisers agreed that the government should work on a policy framework to overcome the crisis. Yet they sharply differed over its substance. Some, including Peñailillo, argued that Bachelet should double down on the more socially progressive aspects of her program, deflecting pressure from Caval with an appeal to her base. Proposals included accelerating education reform or beefing up cash transfer programs. Others in the administration, such as Education Minister Nicolás Eyzaguirre—who had served as finance minister from 2000 to 2006 and had returned to government in 2014 to run the education reform—argued for a full embrace of the anti-corruption debate and for a reform program to address the issue. Whereas Peñailillo was part of a new generation of young progressive leaders tapped by Bachelet to form her second administration, Eyzaguirre

was a veteran of the center-left.

By early March, Bachelet had begun to align herself with those who supported a wide anti-corruption and transparency initiative. In the ensuing months, the president would reshuffle top Cabinet positions: Peñailillo and other members of the “new left” departed, while Eyzaguirre moved to the powerful General Secretariat of the Presidency (Segpres) and IMF veteran Rodrigo Valdés became finance minister, among other changes. The new upper echelon of the administration would be fully aligned with the president’s plan for an anti-corruption program.

Looking back, Eyzaguirre argues that the three scandals created something similar to what economists Daron Acemoglu and James Robinson call critical junctures: a window of opportunity for pressuring powerful groups—such as party bosses or business elites—to surrender part of their power and submit to stricter norms, improving existing institutions. But given the widespread malaise with the political class, the government understood that any proposals coming directly from La Moneda would be received by the public with enormous skepticism. A more neutral agent would have to initiate the process. “Penta had hit the right, SQM the left and the right, and Caval the president and her family. No one could cast the first stone. So we needed people with credibility beyond politics to propose a reform agenda that would not be partisan,” explained Eyzaguirre.

THE ENGEL COMMISSION

The answer came in the form of a presidential commission made up of 16 well-respected figures from diverse backgrounds. To head the commission, Bachelet tapped Eduardo Engel, a U.S.-trained economist and former Yale professor who had become an influential voice in the Chilean anti-corruption discussion through his column in *La Tercera*, a daily newspaper. Engel had been part of a group of 10 economists advising Bachelet on her second presidential campaign, but had never served in government and was not seen as a political figure. For the Bachelet administration, Engel was what they needed: a trustworthy public intellectual with ideas closer to the center-left.

When first approached by a Cabinet member, Engel responded that he would only accept the invitation under two conditions. First, no politicians or private sector leaders should be members of the commission, although he was determined to give access and engage with these groups to formulate recommendations. Second, he would need a budget and a technical team to make sure the commission had the manpower to deliver a relevant report. Three days after that first conversation, Bachelet herself reached out. “I get a phone call from the president and she invites me, saying that (the commission) would be announced the next day. And she tells me ‘I can’t tell you who is in the commission, but I can assure you there are no politicians or business leaders.’ Bachelet and her team chose the group—and it was a great group,” said Engel.

The following day, Bachelet held a press conference standing with Engel and the other 15 commission members, which included a former central banker, a renowned social activist and others in between. Four members were more aligned with the center-right and the remaining 12 with the center-left. According to Bachelet, the newly installed Presidential Advisory Commission against Conflicts of Interest, Influence Peddling and Corruption—which would be unofficially known as the Engel Commission—would have 45 days to prepare a report with recommendations

“based on global best practices and listening to citizens, experts and international organizations through public hearings.”

In contrast to its initial reaction to the Caval scandal, this time the Bachelet administration carefully designed a communications strategy to shape public debate. Symbolism mattered. For example, although the commission was autonomous, the president and Engel agreed it would be headquartered inside the presidential palace. This allowed Bachelet to demonstrate the importance of the group to her administration, but also to open La Moneda to the various groups—civil society, business organizations, labor unions, party officials, lawmakers, and the press—that would attend the commission’s hearings.

Chile had a long history of presidential commissions, dating back to the National Commission for Truth and Reconciliation instituted by President Patricio Aylwin immediately after Pinochet’s fall. These independent panels had focused on a variety of topics—from education reform to indigenous rights. Some, like the first Truth Commission, were groundbreaking; others were much less relevant. The idea behind the commissions was to offer the president, Congress and civil society a more neutral and expert-based assessment of major national policy issues.

However, influential players in Santiago had deep reservations about the new commission on corruption. Some veteran lawmakers and party bosses objected to the absence of “professional politicians” in a panel dedicated to reforming politics—and particularly to the fact that an academic with no political experience was heading the initiative. “It is not easy for politicians to accept that the solution for a political problem will come from a group of academics converted by the government into a ‘supra-power’ to dictate what needs to be done,” explained Leonardo Soto, a lawmaker from the Socialist Party and a supporter of Engel in the Chamber of Deputies. At the time Soto was the chairman of the Committee on Constitutional and Legal Affairs. He recalls that even within Bachelet’s coalition, prominent lawmakers bristled at the notion of “submitting to rules created by someone who never ran a single campaign.”

When the Engel Commission invited members of Soto’s committee to a meeting at La Moneda, some lawmakers threatened not to show up. According to them, Congress had full autonomy and the act of physically going to La Moneda to be heard would amount to a submission to the executive branch, violating the principles of equality and separation of powers. Soto convinced most of his peers that the commission was separate from the presidency itself, and that not attending the session would send the wrong message.

Politicians also faced strong incentives to keep their grievances with the commission behind closed doors. With few exceptions, the Chilean media—and public opinion in general—soon became very supportive of the Engel Commission, with Engel himself becoming a constant presence in newspapers and on prime-time TV. Elected officials understood that publicly opposing a popular body with a mission to clean up politics would not play well with their constituents. The prestige of the commission would later prove essential to making Congress act upon its recommendations.

At the same time, Engel found some lawmakers eager to collaborate—particularly those who resented the fact that party bosses and veteran legislators held too much power. One of them was Congressman Pepe Auth, at the time a member of the finance committee from the center-left Party for Democracy (PPD) and a longtime advocate of electoral and party reforms. Auth argues that Penta, SQM and Caval catalyzed—but did not initiate—the decline in prestige that made the political old guard vulnerable to

external pressure for reform. “In the 1990s, after the return of democracy, politicians were applauded in the streets. Not long ago, we were being invited to TV game shows or to dance and play soccer on TV charity events. This is unimaginable today.”

But in order to initiate a reform process, the Engel Commission would first need to put forward a set of action-oriented ideas on how to improve regulations governing the relationship between money and politics, transparency and accountability. And all the recommendations would have to be ready in the form of a report in only 45 days.

THE COMMISSION'S REPORT

One of Engel's two conditions for accepting the job was access to a technical team, and on this the Bachelet administration kept its word. Engel's staff included a group of around 10 people borrowed from different parts of the government bureaucracy, the United Nations Development Program (UNDP) and Espacio Público, an NGO presided over by Engel himself.

Given a very broad mandate, the commission had to first define the scope of work and decide the exact themes that would be addressed in its report. At their first meeting, the 16 members came up with an initial list of the issues that were top priority, as well as a few others that could be included if they had enough time. They settled on 21 topics, ranging from strengthening governance at the municipal level to regulating revolving doors between the private and public sectors. Once these key themes were identified, the commission began looking at proposals that had already been presented—in Congress, academia, multilateral organizations, civil society and elsewhere—and assessing their quality. This extensive research work mostly fell to the commission's technical team.

In fewer than 45 days, the commission held 40 meetings with a wide variety of groups, as well as eight public hearings in different cities involving 78 political, academic and civil society organizations. Chileans were also able to submit their proposals directly through the commission's webpage. The workings of the Engel Commission received enormous media attention throughout this period.

Engel believed that most recommendations in the report needed to be unanimously approved by the 16 members of the group. He argued that internal division would undermine the legitimacy and ultimately the power of the final proposals—Congress or the executive branch would be less likely to act upon a set of ideas that was not unanimously supported by the group. Yet the requirement significantly raised the bar for including a proposal and created a risk of paralysis. To face this challenge, the commission designed a simple methodology: they would discuss a topic, prepare a draft, incorporate additional contributions and temporarily put it to the side, moving to the next item on the list.

Towards the end of the 45 days, all 16 members were taken to a two-day isolated retreat near the beach in Santo Domingo. The idea was to remove the commission from the pressure of the press, politicians and interest groups, giving them the breathing space and time to finalize the report. Afraid that the information would leak, Engel kept the destination secret until the last minute—even the bus driver was told where to go only when the group was ready to leave Santiago.

In Santo Domingo, the draft proposals with amendments were presented again, and the

group worked hard to narrow their disagreements. According to Engel, 93% of the 236 ideas in the final report received unanimous support from the 16 members. Subjects that generated clear ideological divisions—such as whether companies should be allowed to fund electoral campaigns or parties—did not make the final version.

On April 24, 2015, after 45 intense days, Bachelet and all the members of the commission stood in front of the cameras again to present the report. “We accepted this challenge because we are convinced that our country can correct its course and make the necessary decisions to strengthen our democracy, to guarantee a market that benefits all and, in so doing, to recover confidence,” said Engel in his speech.

The final report covered over 210 pages, with the 21 topics divided into five major areas: preventing corruption, regulating conflicts of interest, campaign finance and oversight, market regulations, and ethics education and training. Finally, under each of the topics, the group presented several specific recommendations. They ranged from making tax disclosure mandatory to all members of the government’s upper echelon and better integrating a national procurement online platform (ChileCompra) to adopting new criteria for earmarking public funds to parties and giving minority shareholders in publicly traded companies more access to trading information.

After delivering its final report, the Engel Commission’s work was officially over. The question now was how to translate the conclusions into an actual reform plan with the goal of regaining Chileans’ trust in their institutions. Not only would the Bachelet administration have to act, but a sound majority in Congress would have to back the proposals.

The first signs coming from the political establishment were not very encouraging.

MAKING THE PLAN WORK

Almost immediately after the Engel Commission presented its report, Bachelet unveiled a broad reform plan—dubbed the Integrity and Transparency Agenda (APT)—based on 14 executive actions and 18 bills to be sent to Congress. The 32 proposals were built upon several points of the report. They included a new law to increase controls and disclosure requirements for public officials, constitutional autonomy for the Electoral Justice Service (Servel), major party and campaign finance reforms, and a new autonomous commission overseeing the financial market.

Still, Engel feared that momentum for reform was rapidly fading. “We delivered the report, but two months later nothing had happened,” he remembered.

In this new phase, the reform program faced two major challenges. The first was technical: the government had limited capacity to draft the APT bills and resolutions, which concerned very intricate issues in dozens of different areas. It was one thing to come up with a general recommendation or policy proposal; codifying them into a legal text in full accordance with Chilean law and supported by the main forces in Bachelet’s coalition was much more complex and time consuming.

As president, Bachelet’s role was to set the tone, shape the public’s expectations and point her administration towards a horizon of reform. Since the creation of the Engel Commission, the president had clearly signaled to Congress, the private sector and civil society that making government more transparent was now a top priority for her. But the president avoided micromanaging: she was too high-level to be involved in day-to-

day policymaking and the direct negotiations with Congress.

Most of APT's technical work fell to the staff working under Segpres and the newly appointed finance minister, Rodrigo Valdés. His ministry was responsible for all policy matters affecting the government's budget and market regulations, which included practically all aspects of APT. "The government had announced a bunch of stuff with a very short deadline. So when I became minister of finance, there was a lot of tension (inside the government) between our capacity to deliver high quality and well thought policy proposals and the president's rush to show that she was implementing the agenda," said Valdés.

According to him, the number of people inside the government bureaucracy with the necessary qualifications, skills and experience to deal with APT's nuts and bolts was very limited. This lack of human resources created "a significant bottleneck." In the case of the finance ministry, Valdés had only five subordinates dedicated to drafting the various APT proposals—and they were simultaneously working on other projects. "At one point, we did three projects in one week, sitting in front of a drawing board."

The second major challenge was political. After the commission ended, powerful players in the Chilean political class wanted to swiftly move on to a new topic, hoping the report alone would placate pressure for change. After drafting their report, the commission's members went back to their normal lives. Yet to keep momentum and contain opposition, Engel launched a civil society initiative called Observatorio Anticorrupción (Anti-Corruption Observatory) dedicated to monitoring APT's progress in Congress, as well as to lobbying lawmakers and mobilizing the media. Engel had become a widely known and respected figure in Chile—the following year, Chileans would elect him the most admired public figure in the world of policy, according to *La Segunda* daily.¹⁰ He used his and the commission's prestige to keep up an intense media campaign, with the support of journalists sympathetic to his reform plan.

Soon, Observatorio became a permanent invitee in the Senate commission dedicated to APT-related legislation. "We would raise our hand and make suggestions and proposals, becoming a very relevant actor in the lawmaking process. This was a very unusual thing for the Senate," said María Jaraquemada, the executive director of the Observatorio. The Senate—home to many old guard politicians holding powerful positions in their respective parties—was the focal point for APT negotiations.

The most sensitive topics were those impacting lawmakers' immediate interests: party and campaign finance reforms. At one point, when it became clear that legislators were working behind closed doors to water down proposals, the NGO made a direct appeal to the public. Observatorio chose a leading national daily to publish a letter co-signed by numerous opinion leaders calling out politicians with an appeal to "defend Chilean democracy" and support the changes. The following day, Observatorio organized a press conference in Congress presenting five demands for the legislation. The lawmakers opposing the changes backed off and four of the five points were approved. After an APT bill was defeated by a 7 to 3 vote in a Senate commission, Observatorio repeated the same strategy. The proposal was adopted 10 to 0.

Jaraquemada notes that lawmakers' stance vis-à-vis APT did not follow partisan or ideological lines. Politicians who controlled party machines tended to oppose party and campaign finance reforms, while more independent and younger lawmakers—"the more maverick types" as Engel calls them—usually were supportive of APT.

Also, popular support for reforming politics was so high that elected officials knew

that going against APT in public could be politically suicidal. “In Chile, once you make lawmakers vote on something related to transparency or anti-corruption, usually they are going to vote in favor. They know that opposing these projects will send a very negative signal (to voters)—and this matters to them. So, the challenge for us is pressuring them to vote, because once they do, it will likely be in favor,” explained Jaraquemada. On two occasions Senators voted against APT proposals, but after Observatorio and others went to the press, the lawmakers changed their votes. For senators and deputies opposing reforms, the game was about trying to prevent, delay or derail negotiations to avoid a vote. Yet they were largely unsuccessful.

THE APT PROPOSALS

In the second semester of 2015, Congress began delivering APT with impressive speed. In October, lawmakers passed a reform granting full constitutional autonomy and improving the efficiency and transparency of electoral courts (Serval). The following month, Congress made the violation of transparency and campaign finance regulations an impeachable offense for all members of federal and local legislative chambers, as well as for mayors. In January, Chile passed a new “integrity bill” imposing much stricter requirements for public servants to prevent conflicts of interest. Three other projects were approved in April, including the imposition of primary elections and strict financial disclosure requirements for all parties, and a new system of campaign finance based on public and private funds for candidates.

By the time Bachelet completed her mandate in March 2018, Congress had already passed 12 major APT-related bills, while the executive branch had implemented a large part of the proposed administrative changes. According to Observatorio Anticorrupción, in areas like party reform and campaign finance the Engel Commission’s recommendations were implemented at 91% and 83%, respectively. In other areas, such as improving market regulations and preventing corruption, the rate was 65% and 46%, respectively.¹¹

In the two and a half years following the Penta, SQM and Caval scandals, Chile was able to reform crucial aspects of its political system, improve controls over relations between money and politics, and reduce state capture by political forces, among other key changes. Although initiated by the center-left Bachelet administration, this reform cycle received wide support in Congress, civil society and the media. Chileans were able to fix critical elements of civic life that allowed for scandals like Penta, SQM and Caval to occur in the first place.

In 2018, researchers Jorge Sahd and Cristián Valenzuela ran a survey of 21 Chilean experts from civil society, government and academia to understand why and how Chile was able to launch this impressive reform cycle. The authors ranked the causes according to the survey results:

1. Presidential leadership: Bachelet’s personal involvement with the push for reforms and her ability to use public pressure against the political class to produce positive change;
2. The window of opportunity created by the scandals, with the high mobilization of public opinion, the media and civil society;
3. Political support across party lines, with leaders from the

left and the right coming together to act;

4. Having a comprehensive and ambitious agenda, instead of limiting the scope of the policy debate;
5. The Engel Commission's capacity to push the political class to the side and empower non-partisan drivers of change;
6. The role of Congress in granting legitimacy to the reforms;
7. Monitoring of APT's progress by civil society and the media;
8. The government's capacity to propose and implement reforms;
9. The repurposing of good ideas that were already part of public debate;
10. Technical and political support from multilateral organizations, such as the Inter-American Development Bank (IDB) and the UNDP.

A BITTERSWEET TASTE

But was the transparency and anti-corruption agenda enough to make Chileans regain their trust in the political system? The answer is ambiguous.

Bachelet would never fully recover from Caval. Her approval numbers continuously dropped over the 12 months after the scandal and by mid-2016—when Congress had already passed several major APT-related bills, overhauling party and electoral laws—her support fell to a mere 15%, a record low for Chilean presidents. Bachelet's approval rate later slightly rebounded to around 20%, but mostly due to a better economic environment and her position in a national debate over abortion. By the end of her term, over 70% of Chileans did not trust their president and thought that she had been “weak”—a 30 percentage point increase from the time when Bachelet came into office.

Meanwhile, the share of Chileans who felt “unrepresented” by mainstream parties went up from around 55% to 70% following the three corruption scandals. By the time Bachelet left office, the number was back at around 55%. In mid-2016, when Congress had already passed seven APT bills, corruption surpassed education on the list of Chilean's top concerns for the first time in history. On Transparency International's Corruption Perception Index (CPI), Chile's score dropped from 70 to 66 between 2015 and 2016—when the SQM and Caval scandals took place and the reform push began—and did not recover until 2018.

Part of the explanation is that although the reforms were advancing, a lot of the media and public attention remained on criminal investigations into Penta, SQM and Caval. Headlines with incriminating evidence and news about arrests of politicians, party operators or campaign funders overshadowed the good news coming from the political system. Moreover, in August 2015 a new scandal broke involving the Armed Forces' use of a fund from copper sales (the case became known as “Milicogate”). For a large part of the public, things did not look to be improving at all.

Another issue was the government's challenge to explain the transparency and integrity

agenda to the broader public. Topics like new campaign finance mechanisms or disclosure requirements for high-ranking bureaucrats were largely unpalatable to the average Chilean and unappealing for journalists. “People wanted to see blood, not laws,” said former Finance Minister Rodrigo Valdés.

Finally, the reforms did not yield immediately visible gains to the population. Chileans heard about the better norms regulating money and politics or the new guarantees for electoral courts, but they couldn’t see any actual improvement in their daily lives. The only exception to this were the changes to campaign regulations, particularly stricter limits on advertising in public spaces. According to an Ipsos poll conducted after the 2016 local elections, 82% of the population noticed and supported the new restrictions to political ads.¹² But the other APT issues did not have a similar impact on people’s routines.

Still, transparency and anti-corruption policies remained highly popular among Chileans—and consequently, critical for Chilean politicians. In November 2018, during the first year of the second center-right Piñera presidency, Congress passed its 13th APT-related bill. The new law increased penalties for bribery and other types of corruption and made these crimes easier to prosecute. Speaking on a popular TV show, Piñera took full credit for the legislation. Members of the opposition and former allies of Bachelet were enraged. The Socialist Congressman Leonardo Soto took to social media to “remind” the president that the bill had been presented in the context of the Engel Commission, almost two years before his election.

“While Chileans still believe that ‘all politicians are crooks,’ the center-left and the center-right keep fighting with each other,” said the journalist Politzer, who advised the Engel Commission on communications strategy.

The consequences of this failure would become clear in October 2019, almost five years after the first APT reforms. A student demonstration against increases in subway fares, violently dispersed by police, ballooned into the largest street protests in Chilean history, taking place for several months. Under pressure, Piñera and Congress would agree to a referendum on a new Constitution. By the time this case study was published, Chileans were facing a question with echoes from a recent past: Can a broader constitutional change make the population regain their trust in democracy and politics?

ENDNOTES

- 1 <https://es-us.noticias.yahoo.com/pensado-renunciar-pi-enso-afirma-bachelet-150702876.html>
- 2 Encuesta CEP. Estudio Nacional de Opinión Pública. Agosto 2015.
- 3 CEP historical data on corruption perception.
- 4 Worldwide Governance Indicators database, World Bank.
- 5 <https://www.transparency.org/cpi2014/results>
- 6 [https://www.hsgac.senate.gov/imo/media/doc/REPORT-Money%20Laundering%20&%20Foreign%20Corruption%20\(July%202004\).pdf](https://www.hsgac.senate.gov/imo/media/doc/REPORT-Money%20Laundering%20&%20Foreign%20Corruption%20(July%202004).pdf)
- 7 Data from Centro de Estudios Públicos (CEP)
- 8 <http://www.t13.cl/noticia/politica/asesores-de-penailillo-y-prima-y-amiga-bachelet-figuran-con-boletas-emitidas-a-martelli>
- 9 <http://www.quepasa.cl/articulo/actualidad/2015/02/1-16220-9-la-reunion-de-andronico-luksic-con-sebastian-davalos-bachelet-y-natalia.shtml/>
- 10 <http://impresa.lasegunda.com/2016/05/16/A/fullpage#slider-18>
- 11 <https://observatorioanticorrupcion.cl/cumplimiento.html>
- 12 <https://www.espaciopublico.cl/wp-content/uploads/2017/01/Conferencia-de-Prensa-Final-Web.pdf>