

Toward a Second Generation of Financing System Reforms in Latin America

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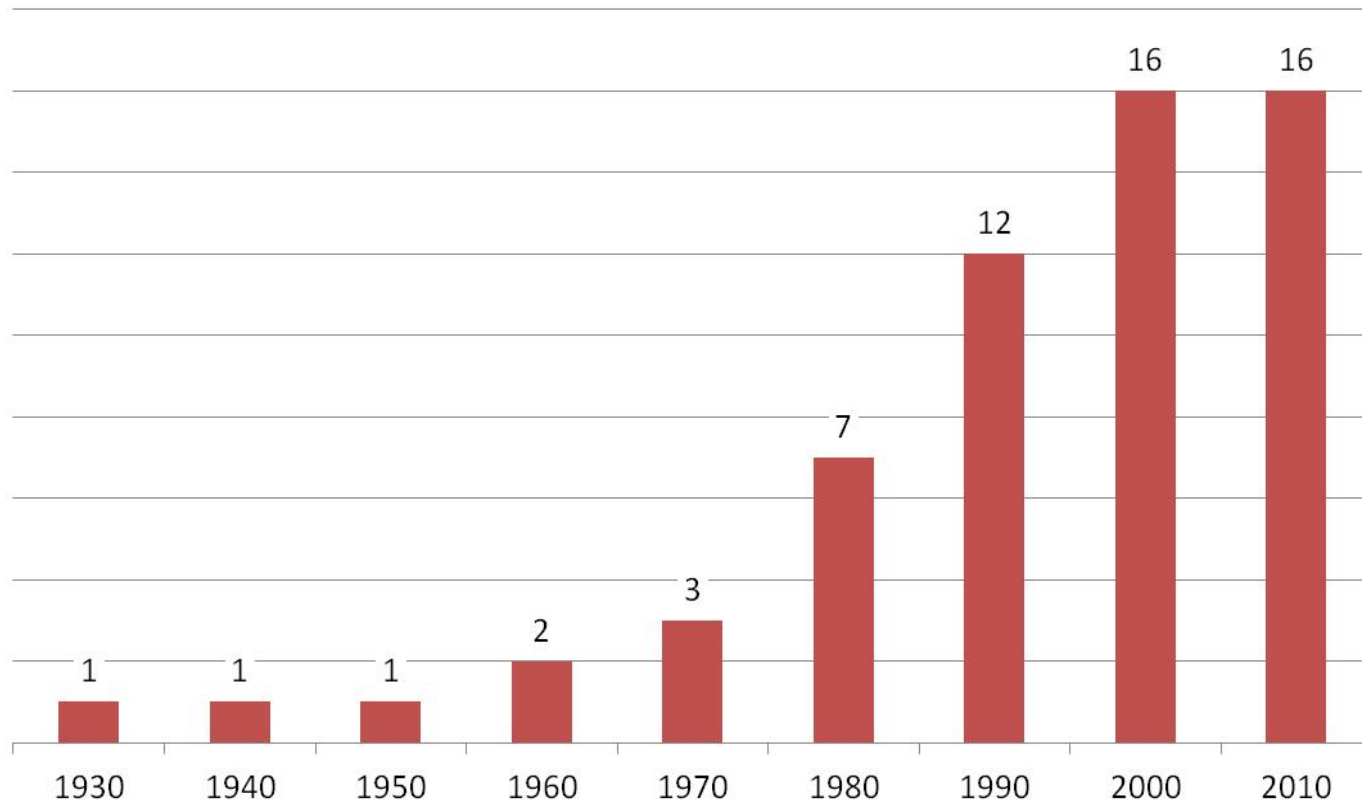
- Over the past 20 years, the countries of LA adopted reforms designed to create political financing systems
- The reform movement has followed two very clear courses of action:
 - The reforms were focused on financing electoral competition with public funds*
 - Moreover, provisions were established to control the flow of private funds



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Latin America Number of Countries with Direct Public Financing



Source: Gutiérrez & Zovato (2011)



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<i>COUNTRY</i>	<i>PROHIBITIONS ON CONTRIBUTIONS (SOURCE)</i>	<i>LIMITS TO CONTRIBUTIONS (AMOUNT)</i>
ARGENTINA	YES	YES
BOLIVIA	YES	YES
BRAZIL	YES	YES
CHILE	YES	YES
COLOMBIA	YES	YES
COSTA RICA	YES	NO
DOMINICAN REPUBLIC	YES	NO
ECUADOR	YES	YES
EL SALVADOR	NO	NO
GUATEMALA	YES	YES
HONDURAS	YES	NO
MEXICO	YES	YES
NICARAGUA	YES	NO
PANAMA	YES	NO
PARAGUAY	YES	YES
PERU	YES	YES
URUGUAY	YES	YES
VENEZUELA	YES	NO



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Monitoring Institutions and Types of Penalties

Country	Monitoring body	Monetary (parties and donors)	Criminal (candidates and donors)	Administrative (parties and candidates)
Argentina	Federal judges and Nat. Elect. Chamber	Yes	Yes**	NO
Bolivia	Electoral Body	Yes*	NO	Yes
Brazil	Electoral Body	Yes	NO	Yes
Chile	Electoral Body/Comptrollership	Yes*	NO	Yes
Colombia	Electoral Body	Yes*	NO	Yes
Costa Rica	Electoral Body	Yes*	Yes	NO
Dom. Republic	Electoral Body/Comptrollership	NO	NO	NO
Ecuador	Electoral Body	Yes	Yes	Yes
El Salvador	Court of Accounts of the Republic	NO	NO	NO
Guatemala	Electoral Body	Yes*	NO	Yes
Honduras	Electoral Body	Yes	NO	NO
Mexico	Electoral Body	Yes	Yes	Yes
Nicaragua	Comptrollership/ Electoral Body/Treasury	Yes	Yes	Yes
Panama	Electoral Body/Comptrollership	Yes*	NO	Yes
Paraguay	Electoral Body	Yes	NO	Yes
Peru	Electoral Body (Funds Supervision)	Yes*	NO	NO
Uruguay	Electoral Body	Yes*	NO	NO
Venezuela	Electoral Body	Yes*	NO	NO

*Only sanctions parties or candidates; **only sanctions donors

Source: Gutiérrez & Zovato (2011)



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Reasons for reforms

- To guarantee equitable competition
- To eliminate or weaken the influence of private parties
- Quality of democracy:
 - Transparency (citizens' interest)
 - Stronger political parties
- Scandals: money laundering
- Contagion of ideas



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However, at the end of this cycle ... problems still exist

- In the 2006 presidential campaign in **Argentina**, *“differences were observed between declared advertising expenses and those detected by the media monitoring system”* (XXXX, 2012)
- In **Chile**, *“monitoring mechanisms are inadequate. The Electoral Service can only detect administrative errors in reports, but there is no auditing mechanism to verify what is declared as an electoral expense”* (Fuentes, 2012)



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- In **Colombia**, *“the financing system has various problems: rules violations (a culture of noncompliance with the law), limited capacity of election officials to impose significant penalties, (...), low technical capacity, and a shortage of resources for election officials to conduct efficient audits ...”* (Restrepo, 2012)
- In **Ecuador**, *“monitoring limited to the election campaign, some provisions inconsistent with reality, weakness of the electoral authority, and the absence of daily monitoring (which was recently corrected) made it impossible to ensure equity in electoral contests”* (Pachano, 2012)



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- **Brazil** is facing two major challenges: (a) monitoring the source of campaign funds; and (b) regulating the political and administrative actions of public office holders who run for reelection (Jardim, 2012)
- In **Uruguay**, the parties generally declare expenses and income that are not borne out empirically. The reports are usually well intentioned declarations with little connection to reality (Chasquetti, 2011)
- In **Costa Rica**, the National State Program (2007) referred to *“the need for the Supreme Electoral Tribunal to assume oversight of financing in all regards and exclusively and to have the instruments needed to follow up thoroughly on the financial activity to be reported”* (Sobrado, 2012)



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Enforcement Problems or how to enforce legislation

- Baldwin and Cave (1999) maintain that successful legislation rests on three factors or stages:
 - Enactment of appropriate legislation
 - Creation of standards and regulatory units
 - Implementation of said standards among the individuals or groups subject to monitoring (enforcement)
- Proper enforcement should make participants aware of the strong likelihood they will be held accountable



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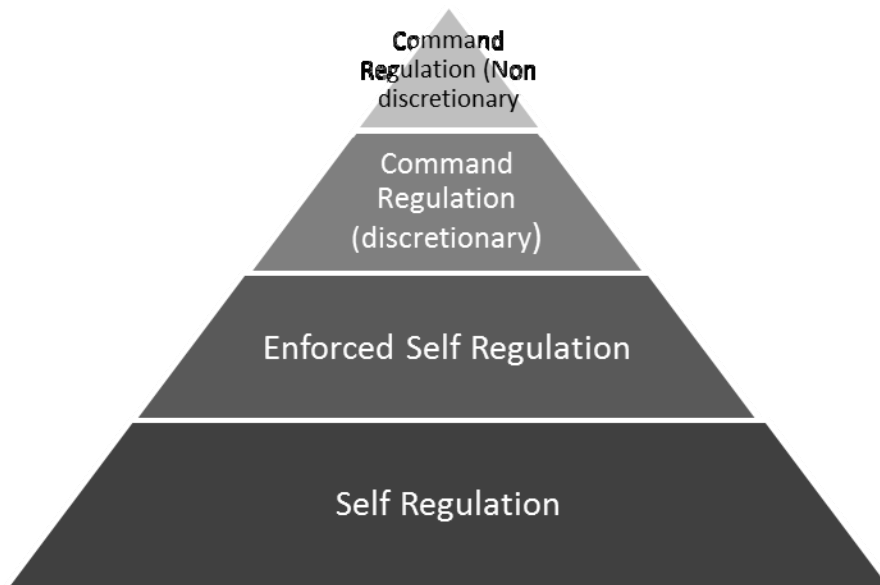
- Different regulatory strategies have an impact on enforcement strategies and structures (Ménard & Ghertman, 2009)
- Economic experience shows that just as highly publicized cases of fraud can have a negative impact on confidence, well publicized cases of law enforcement can have a positive effect
- Enforcement strategy can range from compliance (obtaining conduct consistent with legal standards without any punitive consequences) to deterrence (discouragement of future infractions)



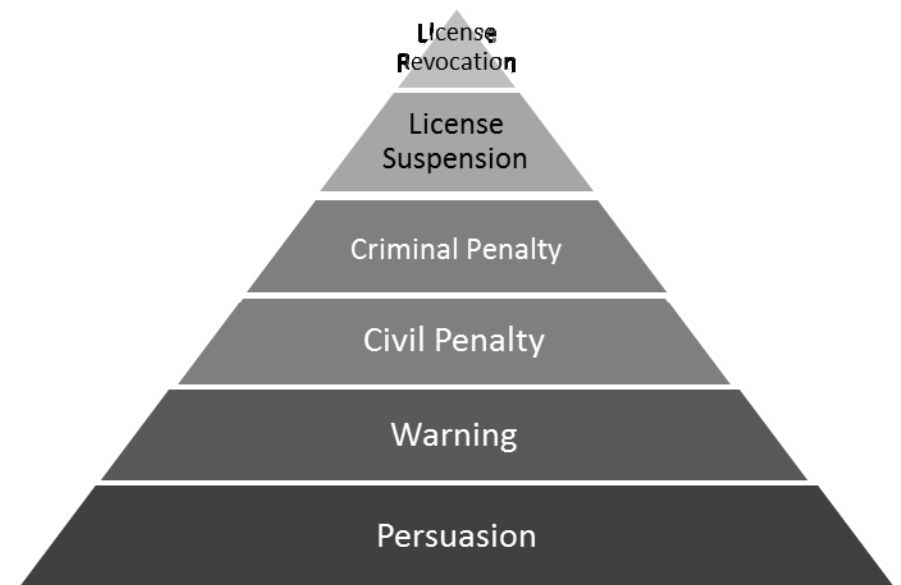
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- Ayres and Braithwaite (1992) established a structure for enforcement and penalty strategies:



Strategy Pyramid



Penalty Pyramid



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Three institutional enforcement models

1. Specialized regulations (expenses, income, reporting)
2. Single regulator (centralized)
3. Twin Peaks (two different regulators with similar functions)



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Toward the Second Generation of Reforms

- Costa Rica (2009) and Mexico (2008-2009) are in the lead
- In both cases, improvements were made in substantive aspects of the financing system but especially in matters dealing with enforcement
 - Institutional strengthening of the regulatory body
 - Penalty system



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- It would be reasonable for the other LA countries to follow suit
- The most important determining factor in this second reform is related to agreement between parties and movements
- Unless the competitors reach agreements or make commitments, it will be impossible to approve measures to strengthen enforcement
- Consider that a number of factors unrelated to financing play a role in enforcement:
 - A culture of compliance with the law
 - Respect for institutions
 - Level of transparency of the state and the political system



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