

# Capacity and Strategy in Pension Reform: The Case of the "cédula viva" (Law N° 20530) in Peru

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## Abstract

The pension system for public servants referred to as "20530" or the "cedula viva" caused severe fiscal damage to the Peruvian state until its reform in 2004. The reform was particularly difficult to accomplish because a number of senior officials and former government authorities were elite beneficiaries of this pension regime. In this article, we explore the reform process led by a government agency, identifying this agency's capacity and the implementation of a strategy of visibilization as key factors.

Keywords: Pensions; public officials; policy reform; agenda setting; policy entrepreneur.

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### Acronyms

AFP	Pension Fund Administrators (Administradora de fondos de pensiones)
ALACIP	Latin American Political Science Association (Asociación Latinoamericana de Ciencia Política)
ANR	National Assembly of Rectors (Asamblea Nacional de Rectores)
CCD	Democratic Constituent Congress (Congreso Constituyente Democrático)
DGAES	General Office for Economic and Social Issues (Dirección General de Asuntos Económicos y Sociales)
EAP	Economically active population
EsSalud	Health Social Security (Seguro Social de Salud)
FIM	Independent Moralization Front (Frente Independiente Moralizador)
GICEP	Research Group on State Capacity (Grupo de Investigación sobre Capacidad del Estado)
GPDI	Independent Democratic Parliamentary Group (Grupo Parlamentario Democrático Independiente)
INC	National Institute of Culture (Instituto Nacional de Cultura)
IPSS	Peruvian Social Security Institute (Instituto Peruano de Seguridad Social)
MEF	Ministry of the Economy and Finance (Ministerio de Economía y Finanzas)
ONP	Pension Normalization Office (Oficina de Normalización Previsional)
PCM	Presidency of the Council of Ministers (Presidencia del Consejo de Ministros)
RPPS	Alternative Social Security Systems, Brazil (Regimes Próprios de Previdência Social)
SUNEDU	National Superintency of University Education (Superintendencia Nacional de Educación Universitaria)
UIT	Tax Revenue Unit (Unidad Impositiva Tributaria)

## INTRODUCTION

There are reforms that no one wants to implement. Some are politically uncomfortable; others economically unviable; others are technically complex and therefore difficult to explain to the public; there are also reforms that create dilemmas: any decision will affect some people or others, but will always affect someone; and no one wants to carry out some reforms because of the boomerang effect, in that the decision will end up affecting those that take it.

In the case of this study, various of these reasons converge. The issue is the reform of Decree Law N° 20530, better known as the "*cédula viva* regime" which applies the rule that benefits are equal to the wage received in the last position the retiree held, among other privileges. Although this regime had a "closed" character when it was first implemented, successive exceptions were made that greatly increased the number of beneficiaries and, consequently, also fiscal expenditures (MEF 2004). This study examines the successive unsuccessful efforts at reform and, principally, the effort led by the Ministry of the Economy and Finance (MEF) that resulted in the final constitutional closure of the system in 2004.

This case raises various questions: What strategies and resources were effective in closing a pension regime that favored high government officials and put the government at fiscal risk? What actors played a leading role in this reform and what were the limitations that they encountered? In what institutional and political context was the scope of the pension reform determined?

Our analysis is oriented toward highlighting the work of the MEF as a technical area that was strengthened by the state, with the capacity (recourses and leadership) to put together a solid team to deal with the technical and political processes involved in the reform of this pension regime. At the same time, the visibilization strategy in the political debate made it possible to confront the empowered actors of the state: high level officials and politicians (currently employed and retired), who had received the greatest benefits in previous years and thus had been the principal obstacles to reform since in many cases they were both judge and jury in the decision-making process. This analysis demonstrates that the policy entrepreneurs at the MEF took advantage of an institutional context in which political actors were weak when it came to dealing with the issues related to social security (and especially pensions), managing to focus the debate on the fiscal risks and the scandalousness of the high pensions received by some officials.

Our analysis starts with a historical overview of the operation of this regime and proceeds to a review of institutional change (Mahoney and Thelen 2010), identifying the factors that made it possible to carry out the reform as well as the strategies that turned out to be effective.

Through the analysis of this case, we want start a debate on the relative advantages that different actors can have when undertaking reforms of public policy. Given that a priori the issues of social security, and pensions in particular, seem very easy to politicize, it was to be expected that politicians would be found who were motivated to be highly informed and either to act as serious opponents or to provide important support (Culpepper 2011: 5). Nevertheless, this case reveals that politicians knew little about the subject, and this provided an opportunity for policy entrepreneurs to operate from in an agency of the executive branch.

From this view point, our focus starts with historical institutionalism in case studies, applying a singular case for the analysis of the processes targeted at achieving a concrete public decision that achieves the desired reform. Thus, the case is singular but also instrumental (Yin 2014); the former because no attempt is made to generalize but rather to provide explanations about the factors related to state capacity that led to the success of a reform; the latter because it turns out to be useful in finding an explanation about the theoretical problematization of how a state entity at the highest level of the executive branch can implement relevant reforms that in practice no one wants to achieve, by implementing strategies, exploiting its capacities, and taking advantage of leadership in its teams.

In methodological terms, this is a qualitative case study methodology which links elements of process tracing (George and Bennett 2005; Collier 2011) with narrative techniques that enable the reconstruction of decision-making processes, as well as in-depth interviews with the actors involved.<sup>1</sup> The research methodology also included the review of documents and bibliographic sources and the systematization of journalistic information, from newspapers and serial publications. It should be noted that this study had its origins in a research project headed by Carlos Alza for the National Authority for Civil Service (Autoridad Nacional del Servicio Civil, SERVIR) and in which Henry Dyer participated as part of the research team (Alza 2012).

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1. Interviews with Jorge Danós (2012); Pierina Pollarolo (2012); Jimdey Yeffimo (2015); Javier Neves (2015); Jorge Toyama (2015); Eduardo Morón (2015); Mauricio Gonzáles (2015); Juan José Martínez (2016); Santos Jaimes (2015).

## ESTABLISHING PRIVILEGE: "CÉDULA VIVA" BENEFITS LAW (LEY DE GOCES A LA CÉDULA VIVA)

The pension system called '*cédula viva*' has its origins in a 19<sup>th</sup> century law (called the Benefits Law [Ley de Goces]; Congreso de la República [1850]), which favored a small number of high government officials with lifetime pensions financed by the public treasury. According to this law, public servants would have access to their retirement pensions because of their advanced age or because they had a proven chronic illness which prevented them from continuing at their posts (MEF 2004: 5; González 2004: 189).

The regime of the 1850 Benefits Law was fiscally unsustainable, as its contributions did not finance pension benefits and the gap between contributions and pension payments grew as more and more individuals entered the pension system. For this reason, from 1962, there were numerous efforts to eliminate this pension system. In that year, the Supreme Decree of July 11 created the Pension Fund for Social Security of the Employee (Caja de Pensiones de Seguro Social del Empleado) and was complemented by Law N° 13724, which provided for an end to the pension regime established by the Benefits Law (González 2004) and provided the right to this type of pension only to public servants hired up to July of that year. Later, on February 26, 1974, Decree Law N° 20530

[...] was issued with the purpose of, on one hand, improving the regime of severance, retirement, and widow's pensions – Benefits Law – and, on the other, duly assuring the recognition of the right of interested parties and the protection of the fiscal patrimony. For this reason, this norm, [...] establishes that it is a pension regime of a closed character.<sup>2,3</sup>

The Constitution of Peru of 1979 established – in its eighth final and transitory provision – the progressive leveling out of pensions subject to the pension regime of Decree Law N° 20530. Not only were currently employed public servants absorbed into this regime, but:

[...] also workers who worked in publically-owned enterprises and entities, incorporated into the pension regime of the state through laws of exception, also acquire the right, when their working life is over, to have their severance pension or retirement leveled with that of the worker under a current labor regime in the private sector who provides services in the position in which the pensioner retired and is readjusted every time that these increase.<sup>4</sup> (González 2004: 192)

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2. Translation by *Apuntes*.

3. Third legal grounds in the case of the judgement emitted in the case of Carlos Maldonado Duarte (record N° 189-2002-AA/TC).

4. Translation by *Apuntes*.

In the following years, through successive laws, exceptions were approved so that more public servants could have access to this pension regime, as well as other advantageous and not very sustainable measures; among these were the calculations of years of professional training counted as additional, even when these studies were carried out at the same time as the individual was a public servant,<sup>5</sup> or the right to a pension for unmarried daughters. In total, in the years between 1984 and 1992, the Congress approved as many as eight laws that permitted the entry of various cohorts or officials from public entities into the 20530 regime – the majority of these measures were approved during the government of Alan García in the years 1989 and 1990 – four laws that improved the conditions of the “*cédula viva*,” in addition to other similar laws approved by the executive branch. At the same time, it was not only the formal institutional space that permitted the approval of additional benefits and the entry of new cohorts through the approval of laws that contributed to the unsustainability of this pension regime – there were also illegal incorporations of individuals made possible by the lack of an efficient register. Such as register was not created until the end of the 1990s, after various years during which many denunciations were made regarding irregular calculations of unfulfilled or fraudulent requisites<sup>6</sup> (Mendoza n.d.: 15–16). In this way, the number of “*cédula viva*” pensioners went from 12,000 in 1984 to almost 300,000 in 2004, the year of the constitutional reform of this regime (Pollarolo 2005: 3; MEF 2004: 9).

Beyond other, more precise details regarding laws and the regime, the issue was the application of a rule of automatic adjustment to the salary received in the last position held, among other privileges, a rule which was accompanied by successive formal exceptions and irregularities that allowed for the incorporation of more public servants into the 20530 pension regime (although the law stated that entry was “closed” for new pensioners). This situation caused serious fiscal harm to the state (MEF 2004). In addition, the administration of pensions by the state was related to irresponsible management toward the end of the 20th century. In this context, the agency in charge of social security, the Peruvian Social Security Institute (Instituto Peruano de Seguridad Social, IPSS), engaged in inefficient financial management and in high levels of patronage, especially during the first government of Alan García when the size of this agency grew to more than 40,000 public servants, many of whom entered the IPSS toward the end of this administration, during the years 1989 and 1990 (Cruz-Saco *et al.* 2014: 3; Arce 2001: 92). This situation is illustrated in the comment by parliamentary deputy Roggero that he sometimes imagined the national football stadium packed with IPSS employees (Roggero 1993, cited in Arce 2001: 94). At the same time,

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5. Law N° 24156, 1985.

6. For example, congressman Xavier Barrón reported in 2003 that a prosecutor accumulated years of service for his pension by validating his years in high school (Bonilla 2013).

during this government, IPSS unions reached an agreement to have a fixed quota of 30% of the budget of the IPSS assigned for salary expenses (Ausejo 1995, cited by Arce 2001: 94).

### **SUCCESSIVE ATTEMPTS TO CLOSE THE DECREE LAW N° 20530 PENSION REGIME (1991–2002)**

In 1991, the government approved a legislative decree whose purpose was, once again, to close off access to illegal incorporations into the regime.<sup>7</sup> Nevertheless, this law was repealed by the congress the following year. In response, the executive branch vetoed the law by repealing the decree. Finally, congress approved the legality of the income despite reservations expressed by the executive branch (Neves 2009: 20; Pollarolo 2005: 3). Also, at the beginning of the 1990s, and in the framework of the new neoliberal orientation in the economic sphere following the inefficient fiscal management of pensions by the public sector through to the end of the 1980s,<sup>8</sup> a process was initiated to create a private market for the administration of pensions with the creation of the Pension Fund Administrators (Administradoras de Fondos de Pensiones, AFP).

After the 1990s and the administrations of Alberto Fujimori, during the government of transition to democracy of President Valentín Paniagua, two commissions headed by the Minister of Labor, Jaime Zavala, were created in order to study and prepare a proposal for the reform of public employment and pensions managed by the government. Both the commission specialized in the study of pensions managed by the government and the one responsible for the study of civil service concluded that entry into the 20530 regime needed to be terminated for good with a view to carrying out a civil service reform that would affect the salaries of public servants (Congreso de la República 2001a and 2001b). Nevertheless, during the last days of the transition government, the Constitutional Tribunal (Tribunal Constitucional, TC) decided that the limits on pensions established by the law approved in 1997<sup>9</sup> were not applicable and, additionally, took away the competencies of the agency in charge of state-administered pensions, the Office of Pension Normalization (Oficina de Normalización Previsional, ONP), in such a way that the administration of pensions became the responsibility of each government agency. The latter modifications captured the attention of the press as a result of Minister Zavala's warning that the measures adopted by the TC would have an impact of US\$ 2.5 billion on the fiscal budget, increasing the inequities among the retirees receiving pensions through the public sector's pension system (*La República* 2001).

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7. Legislative Decree N° 763.

8. During the 1980s, it is estimated that the profitability of the public pension system was -37% (World Bank 2004, cited in Escrivá *et al.* 2010: 14).

9. Law N° 26835.

Similar efforts to reform public employment in 2001 and 2004 also failed to a large extent because it was feared that still greater fiscal harm would result if the 20530 fiscal regime functioned in parallel with the new public employment regime in which the basis for calculating pensionable remuneration as a percentage of the total income was much greater (interview with Pierina Pollarolo).

In fact, starting in the second year of the Alejandro Toledo administration, measures continued to be implemented whose purpose was to contain the fiscal damage caused by Decree Law N° 20530. These efforts to close or reform law 20530 also failed and measures that did become laws<sup>10</sup> were declared unconstitutional. In 2002, the Minister of the Economy, Pedro Pablo Kuczynski, promoted the approval of a law<sup>11</sup> in congress that introduced limitations on "future survivor pensions"<sup>12</sup> (Pollarolo 2005: 4). However, this norm was declared unconstitutional in a ruling by the TC, which even extended the applicability of the 20530 regime (Pollarolo 2005: 4). Despite this, the same ruling stated that the constitutional reform of the Decree Law N° 20530 was a necessary measure for the sake of greater social equity and the viability of the pension system on the national level (interview with Mauricio Gonzales; Pollarolo 2005: 4). The following year, 2003, "the TC issued a ruling that widened the criteria for incorporation into the regime (Medina case)"<sup>13,14</sup> and, as a consequence, various op-eds and press reports were published demanding the reform of the 20530 pension regime (Pollarolo 2005: 4). According to Jorge Danós, head of the Advisory Council of Minister Carlos Ferrero, there was a significant amount of support from the economic press for a reform agenda of this pension regime (interview with Jorge Danós).

### **THE CONSTITUTIONAL REFORM OF THE "CÉDULA VIVA REGIME" BY THE MEF (2003–2004)**

From the beginning of 2003, Marisol Guiulfo, a MEF official, took the initiative to begin a project to reform the 20530 pension regime. Guiulfo had considerable knowledge of the issues concerning this regime due to her management experience, which started in the mid-1990s when she was General Manager of the ONP, the agency charged with administrating government pensions.

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10. For example, Legislative Decree N° 817 and Law N° 26835, which sought to put limits on the pension regime (Pollarolo 2005: 4).

11. Law N° 17617.

12. Translation by *Apuntes*.

13. Translation by *Apuntes*.

14. Case File N° 156-2001-AA/TC.



It is worth recalling that while she was at the ONP, Guiulfo was in charge of the creation of a single register of 20530 pensioners, which made it possible to carry out projections of its impact during the following years<sup>15</sup> (interview with Gonzales). Nevertheless, the proposal for a comprehensive reform of pension systems on which the ONP was working was quickly rejected. It proposed the creation of a single retirement regime, which would unify all the public and private systems and would not include any type of leveling similar to the 20530 regime, which was fiercely challenged by opposition politicians (*La República* 2002c; IPE 2002). For example, Dora Núñez, opposition congressperson of the Frente Independiente Moralizador (FIM) and beneficiary of the 20530 regime, was strongly opposed to the ONP and presented a report prepared by the congress that contained detailed denunciations of delays in processing applications for pensions and questioned the excessive spending on hiring legal firms (*La República* 2002b). Additionally, Núñez encouraged the emission of a legal opinion<sup>16</sup> by the Commission on Social Security of the congress favoring the approval of a law<sup>17</sup> that decentralized the competencies of the ONP in terms of recognition and registry of pensions in the 20530 registry to other government entities. Guiulfo resigned from the ONP in September in 2002 and moved to the MEF, where she worked to persuade the head of the Advisory Council, Cecilia Blume, to carry out the necessary reform of the 20530 regime.<sup>18</sup>

When Guiulfo started at the MEF, she put together a technical team<sup>19</sup> and led a working group or commission in the General Office for Economic and Social Issues (Dirección General de Asuntos Económicos y Sociales, DGAES) of the MEF.<sup>20</sup> This group had support from a consultative committee of experts charged with preparing a strategy for the reform that was primarily made up of prominent labor lawyers and economists (interviews with Javier Neves, Jorge Toyama, Eduardo Morón, and Juan José Martínez). Within this consultative committee, Jorge Toyama suggested that Javier Neves, a well-known labor lawyer and university professor close to union circles, be included in the committee in order to bring

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15. "Legislative Decree N° 817, of 1996, created the "20530 Register" at the ONP." (MEF 2004: 16). Translation by *Apuntes*.

16. Legislative Initiative N° 0634.

17. Law N° 27719.

18. Blume stated that "the idea [to reform 20530] came out of an informal conversation with the former head of the ONP, Marisol Guiulfo, who explained to me that the high pension load that the MEF held was a risk to the public treasury, and impeded balancing of the system. Each sol by which we increased [the salary] of an employee was another sol that we had to increase for the pensioner, the widow, or the children of the pensioner. I had no doubts: the system had to be closed." (León Torres 2010: B24). Translation by *Apuntes*.

19. This team was made up of: Marisol Guiulfo, Javier Neves, Pedro Morales, Pierina Pollarolo, Jorge Toyama, Eduardo Morón, Mauricio Gonzales, Maggie Manrique, Jimdey Yeffimo, and Eduardo Nakazone.

20. See MEF (2004).

more plurality to the formulation of the pension reform (interview with Jorge Toyama). Javier Neves joined the committee soon after and found that the reform proposal that was beginning to be prepared included the closure of the two principal public pension regimes – decree laws N° 19990 and N° 20530. Neves, along with Jorge Toyama, were opposed and persuaded the committee to limit the reform to the closure of the 20530 regime (interview with Neves).<sup>21</sup> This would be, at very least, the second effort to close public pension regimes proposed by the MEF. The previous effort took place under Carlos Boloña, Minister of the Economy at the beginning of the 1990s, in the framework of the creation of the AFP (Ortiz de Zevallos *et al.* 1999: 35).

Once the scope of the reform was decided (it was to be limited to the 20530 regime), the second important discussion was about how this was to be achieved. The initial position of the MEF was to make modifications through the passage of laws, but after discussion an agreement was reached that the most effective way to close the 20530 regime was through a constitutional reform (interviews with Toyama, Neves, and Danós). Thus, the team reached consensus on carrying out such a reform despite the difficulties that this would entail.

The group headed by Guiulfo in the DGAES prepared a legal proposal for constitutional reform together with the consultative committee. The proposal included an analysis that demonstrated the financial imbalance of the scheme governing 20530 and a reconstruction of its history in detail. The document prepared included both a diagnostic and a proposal for reform (interview with Jimdey Yeffimo; Pollarolo 2005: 5). After carrying out economic studies, actuarial estimates, and legal analysis,<sup>22</sup> the team sought to gain the support of the principal government leaders in the Council of Ministers before going on to working for the passage of the reform by the congress. Fernando Zavala, as Vice-Minister of the Economy, promoted the incorporation of this reform process into the decision-making agenda of the Council of Ministers; nevertheless, he encountered opposition (interview with Danós). Inside the MEF there was full support for the reform aimed at closing the 20530 regime (interview with Juan José Martínez). Even the Minister of the Economy, Jaime Quijandría, already had personal experience with this issue since he tried to reform the 20530 regime while he was at Petroperú and ended up being sued by pensioners from this institution (interview with Danós; Pollarolo 2005: 5).

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21. On this subject, Javier Neves noted that “this group not only wanted to eliminate the 20530 but also the 19990 regime. And we opposed this within the group [...] Jorge Toyama, curiously a corporate lawyer, and I, because the constitution states that there should be free choice. And if we abolish the public regime, there will be no free choice. You have only one regime. Thus, we argued that it was unconstitutional. And it was ruled out” (interview with Javier Neves). Translation by *Apuntes*.

22. See MEF (2004).

In December 2003, Carlos Ferrero became president of the Council of Ministers, as a result of which the conditions for reform changed very favorably within the executive branch. The committee met with Ferrero and "he fully committed to the project"<sup>23</sup> (interview with Neves). Ferrero and Neves agreed that the strategy that should be used to promote the reform was to consider it as an issue of social justice or equity, as "a reform that benefits many and harms few. This was a bit like the concept [...] of inequality would be 'a work horse' to sustain the reform"<sup>24</sup> (interview with Toyama). With Ferrero as an ally, the team took the project to the Council of Ministers to present the proposal for the reform of the 20530 regime to President Toledo. Eduardo Morón and Javier Neves were in charge of the presentation, supported by Premier Ferrero. President Alejandro Toledo was not interested in this reform and asked if the specialists were working for him or for the next government (interviews with Morón and Neves; Dargent 2008: 30). In addition, he asked if this reform would have an impact on the pensions of the police, military, and teachers; it was explained that it would not. The president was persuaded by Ferrero, Kuczynski – as the new Minister of the Economy – and Fernando Zavala – who remained as Vice-Minister of the MEF. Thus, after this meeting, Toledo agreed to go ahead with the reform (interviews with Morón, Toyama, and Danós). Soon after, in February 2004, Javier Neves became Minister of Labor on the recommendation of Ferrero. This gave even more weight within the Council of Ministers to the proposed reform of the 20530 regime.

Up until then, the commission's work had been internal, silent, and without public announcements, following an internal agreement to this effect (interview with Toyama). Once the whole executive team was behind the reform, a draft law was sent to congress in the middle of April 2004 and a publicity campaign was begun which introduced a sense of urgency regarding the reform of the 20530 regime using "scandalous" or extreme cases. Among these, the most frequent were those of former officials that had pensions of more than 20,000 new soles, ex-congresspersons with high pensions and current congresspersons who would have them once they retired, as well as anecdotes that illustrated the absurd aspects of the pension regime such as women over 60 years of age who, apparently, did not get married in order to receive the pension for single women (interviews with Toyama, Morón, and Neves).

During 2004, in the congress, the support of the congressional caucus of the Partido Aprista Peruano (APRA) – with the leadership of Alan García and congressperson Jorge Del Castillo – was key to the approval of the constitutional reform in the required two successive

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23. Translation by *Apuntes*.

24. Translation by *Apuntes*.

regular sessions of congress. The reform passed in the first vote in the congress in May 2004, with the strong support of Del Castillo during the discussions in plenary session of the congress. In the second vote, initial vote calculations indicated the measure would not pass (interviews with Danós and Pollarolo) but agreements were struck with opposition congressional caucuses and the constitutional reform was approved.

Below we explain the dynamics of institutional change that characterized this reform through an analysis of the trajectory and strategies adopted, especially by the reformers.

### **A POLICY WITH FISCAL RISKS: SIMILAR REGIMES IN LATIN AMERICA**

During the second half of the 20<sup>th</sup> century, some Latin American countries created pension regimes that posed a fiscal risk for the treasuries of their states (Weyland 2006). Sometimes, a significant part of the fiscal problems caused by the management of particular pension regimes were related to categories or groups of public servants with high levels of negotiating power or more access to decision-making bodies, who were able to create beneficial pension regimes that were highly subsidized by the public treasury or who became beneficiaries (Mesa-Lago 1978, cited by Weyland 2006: 93). In Costa Rica, the special pension schemes for teachers and public servants led to considerable disequilibria at the end of the 1980s (Program Integral de Pensiones 1998, cited in Weyland 2006: 93). Bolivia also had 22 "complementary" pension regimes, some of which were accompanied by large deficits (Mercado 1991, cited in Weyland 2006: 93). In Brazil, there were special regimes for groups of federal and municipal public servants which provided privileges – such as an additional salary and other types of raises – which led to the expenditures on three million public servants in these regimes being equal to the budget for paying the pensions of 18 million people who were part of the general social security regime (Oliveira *et al.* 1998, cited in Weyland 2006: 94). Containing the high costs of the system that provided better conditions to groups of public servants in Brazil required two reforms, the first approved in 2003 and the second in 2012 (Ter-Minassian 2012; IMF 2012).

Indeed, significant reforms of social security systems in Latin America were carried out during the 1990s, including both health and pension systems (Nelson 2011; Weyland 2006; Mesa-Lago 2004). The types of pension reforms varied from complete privatization of the management of pension funds held in individual accounts (the Chilean model initiated in 1980) and mixed public and private pension administration systems, to a variety of governmental public pension schemes (Weyland 2006; Mesa-Lago 2004). The principal objectives of these reforms were oriented towards the transition to fiscally sustainable pension management schemes, increasing pension coverage significantly

and incentivizing local financial markets. The trajectories and levels of success of these reforms varied among countries and coverage was one of the principal deficiencies of pension systems in some Latin American countries (OCDE *et al.* 2015; Mesa-Lago 2004). According to indicators collected in 2010 in Latin America and the Caribbean, the average coverage was 45% (OCDE *et al.* 2015). At the same time, it is important to point out that variation among countries is high: the countries with the lowest levels of pension coverage of their economically active population (EAP) are Bolivia, Honduras, Nicaragua, Peru, and the Dominican Republic, with levels of around 20%, while Costa Rica, Uruguay, Chile, and Brazil have rates of coverage between 60 and 70% (OCDE *et al.* 2015: 16-17; Cruz-Saco *et al.* 2014: 10).

One of the limitations of some reforms lay in the difficulty of eliminating pension regimes with non-sustainable privileged conditions for specific groups of public servants (usually a minority). Such regimes, with different characteristics, existed in 13 Latin America countries during the first decade of the XXI century (Nelson 2011: 232; Mesa-Lago 2007: 74).

As we saw above, in Peru this occurred with the so-called reform of the 20530 pension regime, which was just such a special regime that favored a reduced number of high level government officials. This regime inflicted severe fiscal harm on the Peruvian state until 2004, when it was reformed. Until then, this regime was an important obstacle to the approval of civil service reforms. In 2003, 85% of the payment of the pensions of former public servants in the *cédula viva* regime required a government subsidy and the total cost of the pensions was equivalent to double the government budget (MEF 2004: 13-14). At the same time, some draft laws for the reform of public employment were not passed, in part due to the need for a definitive end to this pension regime (Alza 2012; Congreso de la República and PRODES 2005). In addition, at that time the reform of the 20530 pension regime was especially difficult because a number high officials and ex-officials of the government were elite beneficiaries of this pension regime, including 20 congresspersons,<sup>25</sup> who could have to vote on the reform.

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25. Walter Alejos (not in any caucus), Ernesto Aranda (Perú Posible), Mercedes Cabanillas (Partido Aprista Peruano), José Carrasco (Partido Aprista Peruano), Enith Chuquival (Perú Posible), Judith de la Mata (Partido Aprista Peruano), Elvira De La Puente (Partido Aprista Peruano), Luis Flores (Perú Posible), Gloria Helfer (Perú Posible), Luis Heysen (Partido Aprista Peruano), Martha Hildebrandt (not in any caucus), Arnulfo Jiménez (GPDI [Grupo Parlamentario Democrático Independiente]), Luis Negreiros (Partido Aprista Peruano), Dora Núñez (FIM), Eittel Ramos (Perú Posible), Carlos Ramos, (GPD), Glodomiro Sánchez (Perú Posible), Doris Sánchez (Perú Posible), Luis Santa María (Partido Aprista Peruano), and Emma Vargas (Unidad Nacional).

However, if we compare Peru with the Brazilian case, we can identify some conditions that favored the process of reforming the Peruvian 20530 pension regime. In Peru, there was no commitment or effective pressure on the part of social groups (whether unions or various guilds) or by political-institutional groups (for example, by well-organized opposition caucuses or the governing political party with a specific platform) aimed at the government in power. On the other hand, high government officials – such as judges, congresspersons, and directors of public enterprises, among others – who were elite beneficiaries of this pension system either quietly made sure only gradual changes were made or engaged in formal or informal sabotage of reform initiatives away from public eyes.

The Brazilian case was different. At the beginning of the government of Lula, in 2003, a project to reform the special public pension system (Regimes Próprios de Previdência Social, RPPS) was initiated. It benefited a large sector of public servants and had similar characteristics to the 20530 regime – automatic leveling, high deficits, and internal inequities with a few very high pensions (Medici 2004). The RPPS regime covered around a million beneficiaries represented by unions that were close to the Workers' Party (Partido de Trabalhadores, PT), the then governing party. In order to confront this complicated situation, Lula led a reform process that also required a constitutional reform, opting to exclude members of the armed forces and police from the measure, and proposing much more gradual consequences in comparison to the Peruvian case. Lula introduced the reform proposal by arguing that it was necessary to achieve social justice and fiscal responsibility (Medici 2004: 16). The constitutional reform was approved during his first year in government. Nevertheless, the measures approved were not sufficiently severe to eliminate the deficits resulting from the RPPS pension regime, so a new reform of this regime had to be introduced in 2012; even so, it is predicted that the regime will run a deficit starting in 2030 (IMF 2012).

In Brazil, groups representing public servants that would be adversely affected had evident lobbying power vis à vis their leader and the party in power. In contrast, in Peru, the reform of the 20530 system did not require the then president Alejandro Toledo to speak out and publicly defend the need for and the benefits of the reform. The Peruvian reform was approved more quickly and was more effective.

## A STRATEGY OF SABOTAGE FROM WITHIN THE STATE: GRADUAL INSTITUTIONAL CHANGE

As we have seen, the 20530 pension regime, or *cédula viva*, created as a closed regime, was "denaturalized" by the approval of successive "exceptional" laws that provided for the incorporation of various groups of public servants. In addition, over the decades, irregular affiliations proliferated while there was tolerance within the state itself regarding its role in controlling the fiscal impact of such expansion of the regime.

The most striking strategy revealed in studies on the civil service reforms is discrete sabotage from within the state itself by multiple influential agencies and officials (Grindle 2012). In congress, unions of public servants, judges, and the TC acted systematically by demanding or approving measures that counteracted the efforts of the executive branch to contain the high fiscal costs of the 20530 pension regime. These activities and various measures – although official and approved by public laws – were not accompanied by public debate or publicized by the media, but rather were characterized by their discretion. Eduardo Morón comments:

Remember that this was secret; that is, one didn't have information about anything. So, simply a sum was paid and nobody knew anything [...]. Twenty-five thousand soles pensions at that time were invisible to the population.<sup>26</sup>  
(Interview with Morón)

This sabotage strategy within the state was successfully dealt with by the reform team at the MEF, which used the media to prioritize cases that caused the biggest public outcry, i.e., the extremely high pensions of government officials. Thus, the most effective strategy, in terms of open communication, was emphasizing the sense of urgency of reform. Another key aspect of the strategy implemented by Guiulfo's team was gaining the support of the main opposition political leaders with representatives in congress by showing them how this reform could help them, should their party come to power.

The major element in the "sabotage from within" strategy was the use of the principle of acquired rights, only applicable in the case of the pensions of public servants according to the 1993 Constitution, which raised the institutional barrier for any legal modification of the conditions or benefits of the pension regimes (interview with Neves). This principle had as its goal to make it difficult or impossible to approve any cut in the benefits of pensioners in these pension regimes. Lourdes Flores Nano, one of the foremost leaders

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26. Translation by *Apuntes*.

of the opposition who promoted the creation of this "padlock" on the Constitution for 20530 pensions, stated in the Constituent Democratic Congress (Congreso Constituyente Democrático, CCD) in 1993:

We maintain that the state should guarantee compliance for public and private pensioners and the workers that continue within the scope of decree laws numbers 19990 or 20530, respecting acquired rights. We do not have any problem with future changes but we think it is important to respect the rights acquired by pensioners.<sup>27</sup> (CCD 1993: t. V, 2610)

In this way, the CCD was able to make it more costly or difficult to diminish the benefits provided to pensioners belonging to the 20530 regime. It should be noted that various CCD congresspersons, as well as their fellow party members who previously had been congresspersons, were beneficiaries of this regime (*El Comercio* 2009).

In the face of these infringements of the rules of the closed regime and the increase in fiscal risks, starting in the 1990s, strategies began to be developed to contain the impact of the *cédula viva* pensions.<sup>28</sup> Thus, at the start of that decade, the AFP pension regime, originally created and implemented in Chile, was adopted almost in its entirety (Weyland 2006). This was made easier by the fact that the executive branch possessed broad legislative faculties as a result of the autogolpe (self-coup) carried out by then President Alberto Fujimori, which allowed him to close the congress and convoke a CCD to approve a new constitution. The initial design of this reform included the complete privatization of pensions, without the option of a public system – which workers in the public and private sectors could opt for – which would have meant the end of all public pension regimes including Decree Law N° 20530 (Weyland 2006: 120; Ortiz de Zevallos *et al.* 1999: 35). Nevertheless, the president of the IPSS since Fujimori was elected in 1990, Luis Castañeda, strongly and successfully opposed the total privatization of pensions. His success was based on the high levels of influence he had gained in the government due to the significant improvements he achieved in the IPSS in a short period of time (Weyland 2006: 120). Finally, Fujimori opted for the creation of an AFP system based on the Chilean model but without complete privatization, maintaining the public pension regimes as an alternative option (Weyland 2006: 120) and including the 20530 regime. In 1993, the CCD approved the new constitution that included the above-mentioned "padlock" (of "acquired rights"), applicable only for the public pensions in the 20530 and 19990 regimes (Congreso de la República 2004a; interview with Neves).

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27. Translation by *Apuntes*.

28. These responses are similar to the dynamic sketched by Holland (2014) regarding the incentive for greater enforcement or adherence to the law.



However, during the 1990s, the executive branch did propose a series of important laws whose purpose was to contain the fiscal impact of the benefits of the 20530 regime, but these were each rejected by the congress<sup>29</sup> as well as by the Constitutional Tribunal (Neves 2009: 20-23; Mendoza n.d.: 15-16). The court cases questioning the constitutionality of such measures were brought by groups of public servants that benefited from the 20530 regime, demonstrating their effectiveness in sabotaging efforts by the executive branch to reform this pension system.

In [almost] all the cases presented to the Constitutional Tribunal [...], the plaintiffs were groups of workers and pensioners from the Decree Law 20530 pension regime, who gathered the five thousand signatures required by the constitution, which makes clear their effective work as an action group.<sup>30</sup> (Neves 2009: 23)

### **A CHANGE IN STRATEGY: FROM INTEGRAL REFORM IN THE ONP TO THE REFORM ADOPTED IN THE MEF**

The reform carried out by the MEF in 2004 relied on the leadership of policy entrepreneurs in the framework of an agency with the capacity to sustain its momentum. Initially, Marisol Guiulfo was the chief proponent of the reform at the ONP, without much success. In effect, Guiulfo promoted the approval of laws with more costly effects. In 2001, after the TC ruling that the ONP no longer had the power to decide on admission and registry in the 20530 regime, this agency was left weakened in terms of the scope of its competency. Between 2001 and 2002, the same entity, with Marisol Guiulfo as its main spokesperson, tried not only to contain the economic impacts of the 20530 regime but also to bring this issue and the idea of an integral reform of the pension system to the media. In fact, the first strategy was to generate an impact in the media. The media delved into the issue in articles in the press and labor experts, such as Mario Pasco (interview with Gonzales) and Jorge Toyama (who would later work on the design of the reform with Guiulfo in the MEF), spoke out in favor of reform of the 20530 regime (*La República* 2002a).

All the modifications that were intended or all the legal opinions that we start to issue [from the ONP] were changed whether by Congress or by the Constitutional Tribunal, even by judges. I remember a case when a judge had himself incorporated into the 20530, including his period [...] the period when he was a police officer [with a different pension regime, the Caja Militar-Policia].

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29. One exception was Law N° 26835 passed by the congress in 1997, whose purpose was to contain the impact of the excessive costs of the 20530 regime by setting a ceiling on the highest pensions.

30. Translation by *Apuntes*.

A judge in Pucallpa [...] incorporated him. Thus, it is true that this was a difficult reform to attempt. We posed the issue in legal terms, but it was very difficult. Thus, what she did in this case, Marisol Guiulfo, was to start to inform the population about the problems.<sup>31</sup> (Interview with Gonzales)

When the Guiulfo entered the MEF, she and her team evaluated other action strategies to initiate the reform. In this context, the MEF decided against a broader reform that would have included the privatization of pensions in order to achieve viability for an important reform that entailed severe fiscal risks. In the implementation of this approach, a key factor was the evaluation of the interpretations of the law by the actors involved (Mahoney and Thelen 2010), especially the TC. Within the MEF advisory team, two well-known labor experts estimated that if all public pension regimes were eliminated, the path would be open to a possible interpretation of unconstitutionality (interviews with Neves and Toyama). Thus, it was decided to stretch to the maximum the levels of ambiguity in the interpretation in order to increase the cost of making changes to the proposed reform, and a definitive resolution was sought through an institutional arrangement that entailed the least uncertainty, even at the cost of ceding part of the initial project. Employing the same logic – of achieving an institutional solution that was as irreversible as possible – it was decided to choose the path of achieving a constitutional reform.

In some way, it was an anti-populist measure. A reform that would affect many unknown people but also well-known people, because ex-managers, ex-public servants, ex-congresspersons, some ministers [who were in the 20530 pension regime]... Thus, a difficult reform to carry out. And even more when the commission... [we understood that] for this reform to be viable, we would have to amend the constitution [...] and only for this issue, [...] but, in such a way that this debate did not lead to the derogation of the 1993 Constitution and a return to that of 1979, which was also not desirable.<sup>32</sup> (Interview with Toyama)

Once the most effective scope for the reform was decided, the strategy for its approval was developed. It was important to estimate the resources possessed by the actors involved, and, consequently, the alliances that were necessary (Mahoney and Thelen 2010) for the success of the reform. All the information regarding the implications of the pension reform was prepared and the Guiulfo team decided to win the support of all the main national daily newspapers and, to this end, organized working breakfasts with their editors. The editors were provided with figures and, using simple language supported by data, the dimensions of the problem were explained to them and they were persuaded to promote the reform

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31. Translation by *Apuntes*.

32. Translation by *Apuntes*.

(interview with Pollarolo). Since the 1990s, there had already been interest among the liberal economic press in the reform of the 20530 pension system (interview with Danós). The team was able to win over this sector of the press and gave them detailed information to argue for the reform. As a result of this successful groundwork with the newspapers, they began to give substantial coverage (some front pages and several articles) to the issue of the 20530 regime. Articles sometimes included photographs of the faces of the congresspersons that were included in the 20530 pension regime, underlining that their opposition to this reform was because of personal interests. "It became a sin to have the 20530"<sup>33</sup> (interview with Pollarolo).

When the reform of the 20530 regime was firmly placed on the agenda of the congress from the beginning of 2004, the MEF team found it necessary, as one of its strategies, to emphasize the inequity that existed even within the *cédula viva* regime itself (see Table 1), pointing to the high percentage of pensioners who received low pensions (interviews with Neves, Toyama, and Morón). For these pensioners, it was decided to stress that the reform would not be to their detriment and would even benefit them economically, albeit to a limited degree (interviews with Morón and Pollarolo).

**Table 1**  
**Decree Law N° 20530 pensioners by size of monthly pensions, 2003**

Range of pensions (in new soles)	Number of pensioners	Percentage	Percentage accumulated
0 a 460	18,337	6	12
461 a 800	59,877	20	26
801 a 1,500	148,782	50	77
1.501 a 3,100	57,490	19	96
3.101 a 5,000	7,630	3	98.9
5.001 a 8,000	2,712	0.90	99.8
8.001 a 10,000	245	0.08	99.99
10,001 y más	258	0.09	100
Total	295,331	100	

Source: Zavala (2004).

At the same time, all the different arguments (legal, economic, and political) against the reform from the leading actors directly related to the reform (opposition congresspersons, political leaders, and pensioners' associations) were gathered and organized. In a series of working papers, the MEF team prepared answers to each of the positions that were critical

33. Translation by *Apuntes*.

of the reform, basing these answers on economic and legal studies (interviews with Danós and Pollarolo; MEF 2004). Those in charge of replying to the criticisms were primarily high government officials who were very familiar with the details of the reform, such as the Prime Minister, Carlos Ferrero; the new Minister of the Economy, Pedro Pablo Kuczynski; the Vice-Minister of the Economy, Fernando Zavala; the Minister of Labor, Javier Neves; and the head of the MEF Advisory Council, Cecilia Blume. In addition, numerous meetings were held with congresspersons from various parties, opinion leaders, and pensioners' associations, in order to try to persuade each of them of the need to reform the pension regime.

The campaign was effective in creating a sense of urgency regarding reform, and opposition congresspersons who were in the 20530 regime evaded public discussion of the issue, considering themselves to be in a weak position. During the debate on the first vote to approve the reform – votes in two successive regular sessions of congress with two-thirds majorities are necessary to change to the constitution – Enith Chuquival, a congressperson from the party in government, condemned mistreatment by the media:

Mr. President [speaking to Henry Pease, president of the congress], how is it possible that in different media outlets we are pointed out as being part of the 20530 regime and such and such political group, as if we are criminals?<sup>34</sup> (Congreso de la República 2004b)

Guiulfo and Morón participated in several meetings with leaders of caucuses and the principal opposition parties, primarily with Alan García (interviews with Morón and an ex-advisor of the MEF). Among their principal messages was to underline that this was a reform that would provide the next government (in which they might be in power, as Alan García managed to achieve in 2006) with a larger fiscal margin to implement policies or investments (interview with Morón). Convincing opposition parties that approving the measure would be a "profitable business" for the principal opposition parties was a key element in gaining their cooperation. The caucus with the greatest veto power, the Partido Aprista Peruano (APRA) was convinced of this argument (interviews with Morón and an ex-advisor of the MEF). Thus, this was the second alliance forged and one that was necessary to pass the reform (the first was with the press specialized in the economy). It is also worth noting that the support of the governing party's caucus required the specialized leadership of Ferrero and follow-up by Guiulfo and the MEF advisors (interviews with Morón, Jaimes, and Martínez). Jaimes, a former congressperson who represented the governing party, had tried to promote the reform from the beginning of the Toledo administration but did not find any support in this caucus nor among the leaders of the governing party, Perú

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34. Translation by *Apuntes*.

Posible (interview with Jaimes), although later his proposal was taken into consideration by someone in the MEF when preparing the draft of the reform. One example of the lack of commitment by the governing party caucus is the fact that Ferrero had to "pursue" congresspersons on the days the vote was taken with the support of MEF advisors (interviews with Morón, Jaimes, and Martínez), so that they would not be absent on these key days. Employing a strategy of silent opposition, various congresspersons opted not to make public statements regarding the reform while also sabotaging votes by not attending sessions of the congress, having been excused from attending at the last minute (*El Comercio* 2004a, 2004b; *Expreso* 2004a, 2004b). Thus, discussion of the constitutional amendment had to be suspended on more than one occasion due to this strategy of absences until the President of the Congress, Henry Pease, agreed that the congressional leadership would not grant anyone permission to be absent so as to meet the quorum for the first of the two votes required (*El Comercio* 2004b).

Additionally, various congresspersons conditioned their support for the constitutional amendment on certain requirements: that, in parallel, a draft law to reform 20530 would be ready and the executive branch would not have ample discretionality and would not drastically reduce the rights of 20530 pensioners (Congreso de la República 2004b).

At the same time, the concerns of the 20530 pensioners were not ignored and simple written publications were prepared for them, explaining that they would not be affected. A webpage for the reform was also built, in which pensioners in this regime could input their data and receive an estimate of exactly how their pension would be affected after the reform was approved (interviews with Morón, Jeffimo, and Pollarolo).

Finally, by yielding in some areas of the negotiations with the congresspersons, which did not substantially affect the proposal (for example, increasing the cut off level of the 20530 pension from 1 Tax Revenue Unit (Unidad Impositiva Tributaria [UIT] to 2 UIT),<sup>35</sup> it was assured that in the second successive regular session, these congresspersons approved the constitutional reform of the 20530 regime in November 2004.

## **THE STATE'S CAPACITY FOR AGENCY AND INSTITUTIONAL CHANGE IN THE REFORM PROCESS**

According to Carpenter (2001), ministers and various state agencies in the executive branch, as organizations, can develop policy preferences and be successful (or not) in implementing

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35. Approximately, from 3,300 to 6,000 new soles (from one thousand to two thousand dollars).

them. It is therefore worth inquiring into the factors that influence whether some are able to promote their preferences both within the executive branch and in negotiations with other branches of government. Certainly, the formal competency that is provided by a law in relation to a particular issue is not sufficient to assure adherence to it, nor its continuity (Levitsky and Murillo 2009). Sometimes government entities are closed in the framework of a reform process and are replaced by others that inherit part or all of the competencies of their predecessors (adding and/or removing particular functions).<sup>36</sup> At the same time, there are state agencies with stewardship over specific issues but which do not hold a predominant position in the formulation or modification of policies.<sup>37</sup>

A prestigious and technically proficient area may also require bureaucratic leadership or policy entrepreneurs in order to carry out or halt a reform, depending upon the preferences of the organization in question (Carpenter 2001; Alza 2014). The case described here analyzes a reform that was on the radar of the government – and, in particular, the MEF – since at least the beginning of the 1990s, and was the subject of unsuccessful attempts in this direction until a more aggressive reform project was implemented under the leadership of Marisol Guiulfo, who acted as a policy entrepreneur from within the state. Here, we follow the conceptualization discussed by Roberts and King (1991) regarding policy entrepreneurs, in the sense that we understand that the work of an entrepreneur is defined in terms of leadership with the capacity to: i) articulate actors in favor of a reform; and ii) carry out innovative work, in the sense of achieving a new institutional arrangement by adapting previous circumstances that could make reform difficult.

In the context of the successful implementation of a particular reform, we have explored aspects of the related political economy: what strategies were used, under what assumptions, and what impacts they had in the framework of general conditions created by a labor market that was primarily informal and a government administration that was very fragile. The strategy that is chosen for a reform is key not only because it is related to good or bad decisions that are taken to determine its success, but also because it can condition and reduce (or not) the reach of the reform, as well as defining the more or less

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36. Examples for the Peruvian case include: the National Superintendency for University Education (Superintendencia Nacional de Educación Universitaria, SUNEDU) replaced the National Assembly of Rectors (Asamblea Nacional de Rectores, ANR), the ONP and Health Social Security (Seguro Social de Salud, EsSalud) replaced the Peruvian Institute for Social Security (Instituto Peruano de Seguridad Social, IPSS), the Ministry of Culture replaced the National Institute of Culture (Instituto Nacional de Cultura, INC).

37. For example, for this case study, the ONP, which is still the entity responsible for public pensions, did not participate in the design of the reform.

plural character of the processes concerning its preparation and approval (Graham *et al.* 1999). In relation to this, a not unimportant issue is the finding that many important reforms are achieved in a silent manner. Nevertheless, one would expect these silent reforms to be those that are highly complicated and "distant" from the average voter, while others that are "closer" to voters – such as those related to the payment of taxes and pensions – would be of more interest to them and the politicians who represent them; consequently, they are a matter for public debate or scrutiny by the media (Culpepper 2011: 5). Nevertheless, the case analyzed here demonstrates that the reform of pensions stayed "in the shadows" for a long time and was difficult to politicize. This opportunity was taken advantage of by reformers to expound their views according to their preferences, without facing serious opposition.

In this case, starting with the antecedents of the reform approved in 2004 regarding the 20530 regime or *cédula viva*, it is evident that there are some approximations to the perspective of gradual institutional change, understood as changes in the rules of the game, whether formal or informal, not in a static but rather in a continuous manner and affected by political arrangements and promoted in this case by specialists or experts in the executive branch.

At the same time, using this analysis, we can provide a brief approximation of efforts to achieve greater enforcement in relation to the application of the rule to convert this regime into one that is really closed. According to Holland (2014: 18-19), higher levels of offenses or violations of a law are commonly associated with increasingly greater efforts to enforce this law and reductions in levels of tolerance of violations.<sup>38</sup> Thus, an increase in violations, through illegal incorporations into the 20530 regime for example, caused a reaction that was manifested in an effort to achieve higher levels of efficacy of the law.

Additionally, starting with a detailed analysis of the 2003-2004 reform, we explored the factors that allowed for the promotion of the norm and its implementation. To this end, we used some elements of the conceptual framework proposed by Mahoney and Thelen (2010) in relation to institutional change, specifically: i) the distribution of resources in terms of winners and losers in the existing scheme – at the time of the reform – and with the proposed change; and ii) the interpretation of the actors regarding the existing rules of the game. The first aspect, the distribution of resources, is key for the definition of the reformers' strategies. Who benefited from the existing system and who was interested in

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38. The term used by Holland (2014) to describe authorities' deliberate tolerance of violation of laws is "forbearance."

changing it? What was the relative power of these actors? Did they have veto power? Given this evaluation, what alliances needed to be forged in order to achieve a new institutional agreement? (Mahoney and Thelen 2010: 29). As to the second aspect, the levels of ambiguity in the rules of the game can determine or promote different behaviors on the part of the actors as well as the strategy formulated by the reformers.

We consider that this case is relevant in the framework of efforts toward institutional reforms in Latin America because it describes strategies at various levels or agendas (executive branch, legislative branch, interest groups) that a state agency uses in the context of a reform that requires the direct participation of stakeholders within the state itself, which is in charge of taking decisions on an issue in which their beneficiaries are at play. In this specific dynamic of reforms that involve the improvement or reduction of benefits for segments of the civil service, the dynamics of "sabotage" from within the state - without the need for and avoiding public debate - are counter-reform strategies (Grindle 2012). In this sense, our purpose in this study is to contribute to an understanding of how successful reforms in Latin America are achieved in contexts in which those who are direct beneficiaries are also decision-makers.

In this review of the trajectory of the 20530 pension regime and the process through which it was successfully reformed in 2004, we found that the MEF, from the beginning of the 1990s, acted as a state agency with clear political preferences and the capacity to promote them. These preferences were oriented toward fiscal conscientiousness or responsibility and the incentive to close public pension regimes through attempts to systematically diminish their more attractive conditions. When Marisol Guiulfo sought to promote a similar reform from within the ONP, she rapidly found herself in a weak position since she was proposing a reform from within an agency whose efficacy was highly questioned, especially when it came to meeting the demands for pensions - a complex subject in a labor market as informal as Peru's. The MEF had tried to promote the total privatization of public pensions at the beginning of the 1990s and tried again through this reform, maintaining this preference. However, this was within the confines of the closure of the 20530 regime, which implied a viability calculation between approval and failure of the reform. At the same time, within the MEF, Marisol Guiulfo had at her disposal high quality technical teams, both through the Advisory Council and within her taskforce in DGAES. The MEF operated as a technically solid and politically able institution. In this reform process, it was this MEF official and not a more political consultant or actor such as a minister, who was the principal policy entrepreneur who brought together a team of experts and created a strategic team to put the reform on the agenda and pursue its discussion. In this sense, the high quality of the legal and economic studies prepared turned out to be important to counter arguments against the reform.



On the other hand, the contingent factor of the advantageous positioning of the team's actors in high positions in the government (for example, Jorge Danós in the presidency of the Council of Ministers [PCM]) as chief of the Advisory Council in this sector, and Javier Neves as Minister of Labor) also played an important role in gaining political leadership and thus achieving approval for taking on the process of reform in the Council of Ministers. In relation to the MEF's capacity and leadership role in the reform of the 20530 regime, it can also be said that we found cases of limited innovation in the sense that the reform was oriented at containing and not developing a solution to the larger problem of pensions (the greatest being coverage). In fact, taking a more long-term view, pension coverage shrank from 37% of the EAP in 1980 to about 20% in 2010 (OCDE *et al.* 2015: 15; Cruz-Saco *et al.* 2014: 10).

## CONCLUSIONS

This case provides evidence on the institutional capacity deployed by a public entity to achieve "a reform that no one wanted to carry out." The reform of the Law N° 20530 pension regime, also known as the *cédula viva*, illustrates factors that were linked, on the one hand, with an international trend toward reforms whose goals were to reduce fiscal expenditures, improve services, and reduce state intervention; and, on the other hand, with leadership, policy entrepreneurship, and changes in strategies. It was also found that some elements in the existing situation generated difficulties and others supported the viability of the reform.

In addition, this case study also reveals many efforts at sabotage from within the state itself by multiple actors. Media coverage, taking advantage of the damaged reputation of some actors, turned out to be effective in countering this sabotage.

Through investigation of the public pension reform, we found that the MEF behaved as an agency with sufficient capacity (in terms of Carpenter 2001) to maintain a preference for various years and to be capable of promoting it. At the same time, this capacity had to be accompanied with a strategic outlook and leadership in order to achieve a new institutional arrangement in terms of fiscal responsibility and to avoid another reversal of the reform. With this approach, the initial desired scope of the reform was preserved, while also reducing ambiguities in its interpretation and taking into account the alliances that were necessary to approve the reform in consideration of the distribution of existing resources. From a comparative perspective, nevertheless, some additional conditions can be identified that favored the process of reform of the 20530 pension regime in Peru. While high government officials – such as judges, congresspersons, and directors of public enterprises,

among others – were elite beneficiaries of this pension system and important pressure groups, and at the same time large groups of tenured teachers were within the same regime (although with fewer possibilities of receiving high pensions), in our analysis of this case we did not find a commitment or effective organized pressure on the part of unions or the various organizations that represent them on the governing party and the head of state.

This contrasts with the case of Brazil where, at the beginning of Lula's first administration, a project was undertaken to reform the special pension regime called the RPPS that benefited a large number of public servants with characteristics similar to the 20530 regime (Medici 2004). Under the RPPS regime, there were around a million beneficiaries represented by unions that were close to the Worker's Party (the party in power). In order to confront this complicated scenario, Lula led the reform process, which also required a change in the constitution. He opted to exclude members of the armed forces and the police from the reform, and proposed much more gradual changes in comparison to the Peruvian case. Lula took a lead in initiating the reform, presenting it as necessary in order to achieve social justice and keep the public finances in balance (Medici 2004: 16). The required constitutional reform was approved during the first year of the Lula government. Nevertheless, the measures decreed were not sufficiently severe to stop the deficits resulting from the RPPS regime, so a new reform of the regime had to be introduced in 2012. However, even with these changes, it is estimated that the regime will continue to run a deficit until 2030 (IMF 2012).

The clear contrasts in the Peruvian case are related to the differences in the lobbying power of groups of public servants that would be affected negatively vis à vis the party in power and its leader. The much higher levels of pressure on the government in Brazil may be related to the structure of the labor market in that country, which is much more formal than in Peru, with more than 60% of the population having access to a pension regime - three times higher than the coverage in Peru (OCDE *et al.* 2015: 14; Cruz-Saco *et al.* 2014). These levels of coverage could be related to greater interest among political groups in engaging with and fulfilling promises in the area of social security, since these will receive public scrutiny. In the case of the 20530 regime, ex-president Toledo did not need to make public statements defending the need and advantages of the reform. At the same time, he was able to have a more effective reform approved quickly.

Given the above, we suggest for discussion the following possible dynamics of pension reform in Latin America. One can expect highly diverse behavior in relation to proposals and interactions related to pension reform according to: i) the levels of coverage (or more labor formalization); and ii) higher levels of professionalization and prestige of the agency responsible for social security in the area of pensions. In respect to the first point, even

if the pension reform in question covers the public sector, there could be a "rebound" of formalization in the private sector if this coverage includes incentives for politicians to gain expertise in social security. It is worth testing these interpretative frameworks, contextualizing them according to the dynamics characterizing the region in relation to the approval and application of development policies in democratic regimes (Luna *et al.* 2014: 7), as occurs with the increase in social security coverage in the context of labor markets with large informal sectors.

From another perspective, though it goes beyond what is discussed in this article, the weakness of civil society organizations and political parties relegates the social security agenda to the short-term measures of political-institutional actors (for example, party caucuses in the congress<sup>39</sup> or the agenda of technocrats<sup>40</sup>). In such a scenario, without a demand or political promise by the incumbent, a social security agenda related to the coverage of pensions seems likely to be nonexistent. On the other hand, in the case of compromise or an effort at reform by the incumbent, one would expect this offer to be rigorously negotiated with the MEF. Thus, it would seem that if there was an effort to forge a serious social security policy, if it were promoted by the ONP or another governmental entity, one would expect a veto or a redesign by informal circles of technocrats and high level bureaucrats, rather than by political-institutional entities such as the congress or civil society actors such as unions and social movements.

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39. Such as the recent approval of a law permitting the withdrawal of 95.5% of funds from the AFP, a measure that only affects a small percentage of the population and whose effectiveness is questioned because it works against pension security, but produces very rapid results.

40. According to Vergara and Encinas (2016), in Peru, a neoliberal regime of market and society has been embedded, in which informal circles of powerful technocrats and bureaucrats are the conservators of the model. When faced with changes that result from campaign promises, they can admit the implementation of such new measures, but shape them by keeping them within margins that are coherent with their interests.

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