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Abstract

This article contributes to the study of party regulation in contemporary Latin America in two main ways. Firstly, it identifies a so far overlooked process by which four countries (Argentina, Colombia, Mexico and Peru) raised party-formation costs in the past decade, an unprecedented process in third-wave Latin American democracies. Secondly, it offers a tentative answer to the question of why this process took place in this specific set of countries. This answer brings to the fore the issues of political parties' legitimacy and party fragmentation as sources of electoral reform. The article argues that the countries that passed these reforms are those in which the ruling political elites perceived increasing levels of fragmentation as a result of previous reforms that had opened up the political system. These prior reforms were enacted as a response to established parties' loss of legitimacy. The findings support the more general distinction between reforms initiated due to legitimacy crises and reforms resulting from changing balances of power. In this way the article also contributes to the broader debate on the factors that explain different types of electoral reforms in Latin America.

Keywords

Party regulation, electoral reform, party-formation costs, political legitimacy, Latin America

Introduction

The presence of quantitative requirements for ballot access is a common feature of representative democracies. During the late 1980s and early 1990s, a trend towards reducing quantitative requirements dominated in Latin America. However, over the past 10 years, a group of Latin American countries implemented reforms substantially raising party-formation costs.¹ While each of these

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reforms has been broadly discussed and analysed in each of the countries in which they took place, they have so far not been looked at as processes sharing significant common traits.

Although several works have described the presence of ballot access requirements in Latin America, it is difficult to find studies in this field concerned with the comparative development of legislation. An exception to this gap is Fransje Molenaar's recent work, which observes that 'the registration and dissolution of political parties has been an active field of party law reform over the last decade' (2012: 16–18). Molenaar concludes that there is no clear trend in this field, since both a trend opening and a trend closing the party systems are visible. The referred trend of opening up the party systems hinges on the introduction of the right to run elections through non-partisan vehicles, such as political movements or independent candidates. This has been the case of Ecuador (in 1995), Venezuela (in 1999), Bolivia (in 2004) and Mexico (in 2012, although here without precise rules yet). However, it is debatable whether any of these changes implies an actual reduction in ballot access requirements, given that all of these non-partisan candidacies must fulfil quite stringent quantitative requirements that are quite similar to those for political parties.

Conversely, starting from 2003, the four Latin American countries that introduced significant reforms to party-formation costs – Colombia, Peru, Mexico and Argentina – followed the same restrictive line, sharing a similar goal of closing up the party system.

This article aims to contribute to the study of party regulation in contemporary Latin America in two main ways. Firstly, it identifies a process so far overlooked by which four countries raised party-formation costs in the past decade, an unprecedented process in third-wave Latin American democracies. Secondly, it offers a tentative answer to the question of why this process took place in this specific set of countries. This answer brings to the fore the issues of political parties' legitimacy and party fragmentation as sources of electoral reform. The article discusses the conditions that led to these reforms. It argues that the countries that passed these reforms are those in which the ruling political elites perceived increasing levels of fragmentation as a result of previous reforms that had opened up the political system. These prior reforms were enacted as a response to established parties' loss of legitimacy. In doing so, the article contributes to the broader debate on the factors that explain different types of electoral reforms in Latin America.

Explaining the rise of party-formation costs in contemporary Latin America

In addition to highlighting the existence of a trend towards increasing party-formation costs, the central puzzle addressed in this article is why these reforms were adopted in these particular four countries. In this regard, the most obvious explanatory variable is political fragmentation. Certainly, in these four cases the reforms were enacted with the explicit aim of reducing fragmentation. However, although the perception of fragmentation is a necessary condition for raising party-formation costs, it is not a sufficient one. A process-tracing approach helps us identify a set of conditions that account for these reforms. Indeed, the cases analysed in this study share a common sequence, composed by the following five stages.:

- i. A legitimacy crisis of the party system, understood as a profound social discrediting of the established parties and of the rules of the political game as it is being played. This type of crisis entails broad sectors of the society questioning the political elites' legitimacy and the plausibility of the major parties providing legitimate democratic representation. In this context, social demands to open up the political system gain ground, becoming a relevant political issue.

Table 1. Conditions for raising party-formation costs in Latin America.

	i. Party system legitimacy crisis (1988–2005)	ii. Reforms lowering party-formation costs (1991–2002)	iii. Stabilisation of the political system (for those who had legitimacy crisis)	iv. Fragmentation (2002–2012)	v. Reforms raising party-formation costs (2003–2012)
Argentina	Yes	Yes	Yes	Yes	Yes
Bolivia	Yes	No	Yes	No	No
Brazil	Yes	No	Yes	Yes	No
Chile	No	No	—	No	No
Colombia	Yes	Yes	Yes	Yes	Yes
Ecuador	Yes	No	Yes	No	No
Mexico	Yes	Yes	Yes	Yes	Yes
Paraguay	Yes	No	Yes	Yes	No
Perú	Yes	Yes	Yes	Yes	Yes
Uruguay	No	No	—	No	No
Venezuela	Yes	No	Yes	No	No

Note: countries meeting all conditions shown in bold.

- ii. Implementation of inclusive reforms, intended to ‘narrow the gap’ between politicians and the people. The same ruling elites or new ones that arise as a consequence of the crisis promote reforms that open up the channels of political representation as a means to meet or temper the public’s demands. This implies reducing party-formation costs and/or lowering barriers to obtaining legislative seats.
- iii. Proliferation of new parties while the peak of the political crisis is surmounted. Even while the inclusive reforms may have had moderate positive effects on the legitimacy of the party system by allowing the entrance of new actors, political stability results mainly from the widespread economic growth across Latin America in the 2000s (mostly due to the commodity prices boom (see for instance Murillo et al., 2011)). This granted elected leaders, regardless of their ideological profile – and irrespective of the previously implemented reforms – comparatively high levels of approval ratings.
- iv. Under the new circumstances (of a re-legitimised political system), a rise in the number of parties paves the way for a new consensus among political elites and analysts on the negative consequences of the earlier reforms. Even though fragmentation originates in the waning of traditional political identities, the dilution of party brands and the personalisation of electoral processes, the lenient legal framework is blamed.
- v. In this context, the ruling party finds it both convenient and possible to introduce restrictive reforms to reduce political fragmentation. This reform is not justified on the basis of meeting people’s demands and enhancing linkages of political representation. Rather, it is put forward by political elites under the rubric of improving the efficiency and governability of the political system.

Table 1 compares the presence of the four sequential conditions (i, ii, iii and iv) and the occurrence (or not) of the outcome (v) in Latin American countries (excluding Central American countries) over the past two decades.

As shown in Table 1, neither a crisis of partisan representation followed by a subsequent re-legitimisation of the political system nor a concern with political fragmentation has necessarily led to

Table 2. Sequence leading to reforming party-formation costs in Colombia, Peru, Mexico and Argentina.

	Colombia	Peru	Mexico	Argentina
Legitimacy crisis	Exclusive two-party system	False democracy	Electoral fraud	Throw everyone out! (¡Que se vayan todos!)
Inclusive reforms	New Constitution (1991) and Statute on Parties (1994): No barriers for electoral competition – multiple lists. Single district with PR and no threshold for Senate	New Constitution (1993): Unicameral Congress in single district with PR and no threshold. Reduction in the number of party members to obtain legal recognition (2001)	Conditional register	Elimination of party dissolution clauses
Negative consequences	Proliferation of parties: Electoral micro-enterprises	Proliferation of parties: Disposable Parties	(Moderate) proliferation of parties: Register for public funding	Proliferation of parties: Rubber stamps
Restrictive reforms	Constitutional Amendments 2003 and 2009.	Party Law 2003 and successive reforms (2005 and 2009)	COFIPE reforms 2003 and 2008	Political Reform 2009

reforms raising party-formation costs. By contrast, the four countries that in the past decade introduced these reforms underwent the aforementioned sequential process. In each of them a severe legitimacy crisis affecting the established party system was a pre-cursor to reforms reducing party-formation costs. Once the crises were surmounted and the political system re-stabilised, the reforms were blamed for bringing about political fragmentation and therefore reversed through restrictive reforms.

These findings support the more general distinction between reforms initiated due to legitimacy crises and reforms resulting from changing balances of power. In his study of constitutional reform in Latin America, Gabriel Negretto (2013) argues that reforms motivated by changes in the party system's balance of power are aimed at maximising political elites' electoral gains, whereas reforms promoted in contexts of political crisis are mostly aimed at restoring the system's legitimacy. More specifically, what this article suggests is that under conditions of legitimacy crisis, politicians tend to promote reforms oriented at bridging the gap between the people and their representatives, which entails a reduction in party-formation costs. Conversely, once a new balance of power emerges, ruling elites are likely to repeal those prior reforms and raise party-formation costs in order to reduce the number of competitors in the name of governability.

Four countries and a common sequence

As shown in Table 2, Colombia, Peru, Mexico and Argentina experienced a common sequential configuration of conditions that accounts for the eventual increase of party-formation costs. This section describes the sequence as it took place in each of the four cases.

Colombia

By the 1980s the Colombian political system, historically dominated by the Liberal and Conservative parties, had turned into a 'restricted democracy' (Bejarano and Pizarro, 2005). Even the growing

levels of political violence were attributed to traditional parties' rigid control of the political system. Hence, during the 1980s a strong consensus emerged that the political system needed refreshing. Liberal President Virgilio Barco (1986–1990) proposed a constitutional reform to deal with this, which was introduced by the next president, César Gaviria. Both Barco and Gaviria promoted institutional reform as a response to the political system legitimacy crisis (Negretto, 2013:174–6).

It is thus not surprising that the enactment of a new Colombian Constitution in 1991 offered opening up the political system as a primary aim. While the constitutional reform was sponsored by leaders of a traditional party in order to respond to the growing demands, the depth of the changes introduced responded to the strong presence of new organisations in the composition of the Constitutional Assembly²

The Constitution virtually abolished entry barriers to democratic competition (Bejarano and Pizarro, 2005: 245). It recognised 'social movements' and 'groups of citizens' as equivalents to parties, requiring 50,000 signatures or 50,000 votes in the preceding election to obtain legal recognition. The Statute on Parties and Movements passed in 1994 went further, determining that anyone could register a candidacy without legal recognition by paying a sum to be refunded if the candidate received 50,000 votes. It was the authorisation of the so-called 'multiple lists' – various lists from the same party were allowed to compete without pooling their votes – that eventually had the greatest effect on party system fragmentation. Lastly, the constitutional reform radically changed the Senate electoral system. In order to weaken local party barons and encourage the election of minor parties' representatives, the Constitution instituted a single national district in place of the election of senators on the basis of multiple departmental districts.

A broad literature stresses that while these reforms effectively opened up the Colombian party system, they did so in such a way that contributed to its atomisation, simultaneously producing enormous disorganisation among parties. Certainly, by the beginning of the 1990s, the traditional Colombian two-party system had already fallen into a profound crisis, with both liberals and conservatives suffering from ruthless factional disputes (Archer, 1995). The new Constitution did not initiate the deinstitutionalisation of a system that would have otherwise remained unchanged. Indeed; the system was already breaking down. However, these reforms did contribute to sharpening the crisis of traditional parties as well as atomising the party system (Dargent and Muñoz, 2011).

In any case, the pattern of party competition was structurally changed in the years that followed the reform. In particular, the option for parties to run multiple lists paved the way for what came to be known as electoral micro-enterprises, meaning candidates with no real linkages to a party, even though they formally ran on a party list (Pizarro, 2006). The single national district for the Senate also furthered fragmentation. As shown in Table 3, the number of lists competing for the Senate and the House of Representatives steadily increased from 1990 to 2002.

By the late 1990s, a solid consensus had cemented amongst experts and politicians on the deleterious consequences of the regulations introduced in 1991 and 1994. By then, the Colombian political crisis was no longer attributed to a restricted institutional design but to precisely the opposite, an extreme level of laxity (Bejarano and Pizarro, 2005: 245–246). When President Ernesto Samper created the 'Commission for the Study of Party Reform' in 1995 the conditions for reform were already visible, and would only get stronger. However, they would only mature during Alvaro Uribe's presidency.

The 2002 presidential elections exposed some of the main symptoms of the dissolution of the Colombian two-party system, but simultaneously engendered the conditions to reform the rules that had led to the atomisation of the political system. These elections were symptomatic because both parties that had dominated Colombian politics for 150 years were relegated by Alvaro Uribe who, running as an independent candidate, denounced the spurious *politiquería* of traditional parties and obtained a landslide victory with 53% of the vote.³

Table 3. Colombia. Number of lists in legislative elections, 1991–2006.

Election	Lists for Senate	Lists for House of Representatives
1990	213	351
1994	251	628
1998	319	692
2002	321	883
2006	20	204

Source: Pizarro (2006: 84) and Roll and Pérez (2010).

However, these elections were also the turning point that would lead to political reform. Uribe – as other presidential candidates before him – had committed to electoral reform. However, unlike his predecessors, Uribe managed to make use of his high approval ratings as well as of the decomposition of traditional parties to pass his agenda through Congress (Milanese, 2008).⁴ Leaders of legislative groups did not want to be seen as confronting a popular president, especially by rejecting an electoral reform explicitly aimed at bringing order into the chaos that by then characterised Colombian electoral competition (Shugart et al., 2007). Hence, in July 2003, Uribe obtained the support of conservatives, liberals, and part of the leftist Democratic Pole to advance a reform that sought to limit the party system's fragmentation, as well as parties' personalisation and internal disorder (Hernández Becerra, 2006: 337).

The Legislative Act 1 of 2003 established that in order to maintain legal recognition, a party had to obtain at least 2% of the votes cast for the Senate or the House of Representatives (which in the 2006 legislative elections implied around 110,000 votes); failure to reach this threshold resulted in the party's de-registration. The reform also fixed a threshold of 2% of the vote for the Senate and 50% of the quotient for the House of Representatives. Aiming to stop the proliferation of lists and to make parties more cohesive, the new legal framework eliminated parties' ability to nominate multiple lists.

As shown in Table 3, the new rules had immediate effects on the number of competing lists. However, they were less successful in lowering the effective number of parties and limiting the extreme personalisation of the political process (Albarracín and Milanese, 2012). So, experts and politicians agreed that achieving the reform's goals would require stricter requirements for party recognition. Hence, it was not surprising that in 2009 the threshold to elect a representative and to retain legal recognition was raised from 2% to 3%. This allowed the main parties to adopt the closing up of the party system as a public policy.

Peru

In Peru, the end of the 1980s witnessed the discrediting of those parties that had dominated the political scene during the democratic transition. The standing of *Acción Popular* and the *Partido Popular Cristiano* had been severely hurt by the poor performance of President Fernando Belaúnde (1980–1985), whom both parties had supported. Similarly, the historically popular APRA fell into bankruptcy following Alan García's disappointing presidency (1985–1990). Lastly, *Izquierda Unida* crumbled from factional struggles (Cotler, 1995). The 1990 presidential campaign made the breakdown of the party system apparent. The main contenders, Mario Vargas Llosa and Alberto Fujimori, both outsiders to the party system, embodied personalised candidacies sponsored by brand-new labels. Fujimori won power running for an ad-hoc party, *Cambio 90* (Change 90), espousing a political discourse hostile to traditional party politics. Once in office, Fujimori closed Congress and called a Constitutional Assembly supposedly destined to put an end to what he called

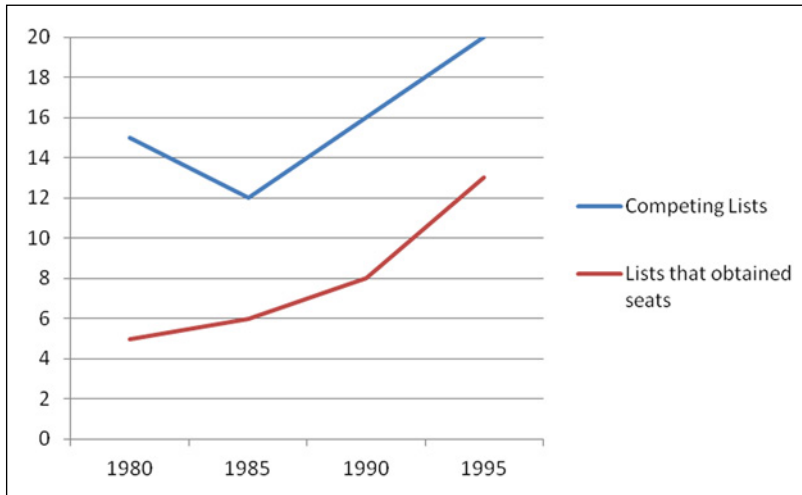


Figure 1. Number of lists competing and obtaining seats in Peruvian Congress, 1980–1995.

Source: Own elaboration on the basis of data provided by Jurado Nacional de Elecciones (Peru).

false democracy that had so far dominated Peru. The new Constitution downgraded political parties, including them among a set of political organisations (such as movements and alliances), all of which were allowed to participate in elections. The constitution also replaced the previous bicameral Congress with departmental districts with low and medium magnitude, with a unicameral legislature formed by 120 members elected from a single district, and with no threshold for election (Tanaka, 2005).

This was expected to benefit Fujimori, since the simultaneity between presidential and legislative elections would produce strong coat-tail effects, freeing the president from the need to negotiate with local bosses. However, at the same time, the huge district magnitude without threshold made it possible to win seats with less than 0.8% of the votes. As expected, this stimulated the fragmentation and personalisation already existing in the opposition field (Tuesta Soldevilla, 2008: 840). With no chances of winning the presidency, the low amount of votes required to obtain a seat worked as a new factor for atomisation. For opposition politicians, heading a personal list became the most reasonable option for winning a seat in Congress. Rather than consolidating the political system, the reform triggered its fragmentation (Tanaka, 2005: 96–108).

As in the case of Colombia and its 1991 Constitution, Fujimori's institutional reforms did not spawn the atomisation of the Peruvian party system. However, also as in Colombia, these reforms *did* hasten this process, which brought about the disintegration of party structures (Meléndez Guerreo, 2006). From then on, the Peruvian political system revolved around personalities, with a proliferation of what Steven Levitsky and Maxwell Cameron called *disposable parties*, created for a politician's personal devices to run an election. 'Somos Perú' (We are Peru), 'Perú Posible' (Possible Peru), 'Perú Ahora' (Peru Now) and 'Perú 2000' were but some among the many labels created to promote a specific candidate in one election, with no real expectations of becoming an enduring organisation (Levitsky and Cameron, 2003: 10–14).

The number of lists competing in national legislative elections had already grown from 12 in 1985 to 16 in 1990, but for the first national elections held under the new Constitution in 1995 this number climbed to 20 (Meléndez Guerrero, 2006: 55). Yet, fragmentation turned more visible in the number of lists winning seats. As shown in Figure 1, while only six lists obtained

legislative representation in 1985 and eight in 1990, the 1995 elections saw representatives elected from 13 lists.

Once Fujimori's government came to an abrupt end amid corruption scandals, the new political elites faced the task of legitimising the emergent political system after a decade of what Levitsky and Way (2010) characterise as a competitive authoritarianism. Accordingly, in the name of democratisation, they decided to reduce entry barriers. In that line, the number of signatures required to form a new party was drastically lowered from 4% of the electoral register to 1%. As expected, this favoured the proliferation of many new parties (Tanaka, 2005: 108).

Hence, in Peru the second step of the sequence was completed in two stages: initially, by Fujimori, who advanced a constitutional reform including a new Congressional composition and a new electoral system, and then by the political elites who succeeded Fujimori and reduced party registration requirements. However, soon after the collapse of *Fujimorismo*, experts and politicians pointed out the need for a political reform that reduced parties' weakness and party system fragmentation. Shortly after the 2001 elections, the Peruvian Congress created a sub-committee to draft a party law. National and international non-governmental organisations (NGOs), along with scholars and politicians, debated the bill, which led to a law passed with a broad multi-party consensus (International IDEA, 2004).

Martín Tanaka reviews the combination of factors that contributed to the approval of the first Peruvian party law in 2003. According to Tanaka, the bill expressed 'a common sense held by the academic community, the NGOs and cooperation agencies' of setting more stringent requirements for party recognition. However, Tanaka follows, the law was passed as a result of 'the main parties' calculus on the need to establish some order that enables the most consolidated parties to remove from the electoral arena those spontaneous candidates that in a lucky strike in the midst of an electoral campaign could compete in an effective manner with them' (2005: 122).

The party law was decisively oriented to reduce the number of parties and to strengthen those (presumably few) that could meet the new requirements. The law re-established the partisan monopoly on running in elections for national positions (which had been eliminated by the 1979 and 1993 Constitutions). It also introduced the requirement for new parties to constitute the party members' committees with no less than 50 members each in at least one third of the country provinces, including no less than two thirds of the country departments, a stringent spatial registration requirement that sought to ensure that parties had a real national character (Tuesta Soldevilla, 2006: 778). The law also created a party-member public register aimed at avoiding apocryphal support. The reform also fixed comparatively strict conditions on retaining the register: parties should obtain 5% of the valid vote in national elections or have at least one representative elected.

In spite of the party law's aim, by September 2005 the 24 political organisations in existence when the law was approved had fulfilled the requirements, as had five new parties (Tuesta Soldevilla, 2006: 779). Major pundits on Peruvian politics then agreed that the party law should have established stricter requirements for creating parties. In the meantime, consistent economic growth improved the standing of political elites and helped the political system to gain stability and legitimacy.

In this context, in July 2005 President Alejandro Toledo announced a bill aimed at restraining party fragmentation. Three months later the major groups in Congress – the ruling Perú Posible along with Unidad Nacional and APRA – provided the necessary votes to reform the electoral and party laws. While the original party law required 5% of the vote or the election of one representative to retain registration, the reform maintained the vote threshold of 5% but raised the number of elected representatives to six. Simultaneously, Congress introduced a previously non-existent threshold for the allocation of seats, which would be 5% of the national vote as of the 2010 elections (Tuesta Soldevilla, 2006).

The 2006 elections proved that the reform had been effective in reducing the number of parliamentary parties (seven lists won seats, down from 11 in 2001), but not in reducing the number of registered parties. The persistence of fragmentation led experts to insist on increasing party-formation costs (Meléndez Guerrero, 2006: 48; Tanaka, 2009). On the basis of these evaluations, in December 2009 Congress amended the party law by raising the number of party members required to obtain legal recognition from 1% to 3% of the previous election turnout.⁵

The 2005 and 2009 reforms responded to the experts calling for stricter requirements for party registration, while at the same time advancing the interest of the more established political groups in excluding potential challengers.

Mexico

The 1988 elections implied a turning point in Mexican politics. The emergence of the Democratic National Front – later the Party of the Democratic Revolution (PRD) – produced the first truly competitive presidential election in Mexican history. Even though the ruling Institutional Revolutionary Party (PRI) might have actually won more votes, few doubted it had perpetrated massive fraud (Magaloni, 2006: 5). This fraud scandal resulted in a huge legitimacy crisis for the hegemonic party regime (Craig and Cornelius, 1995).

As a consequence of this crisis, and hoping to recover lost legitimacy, elected president Carlos Salinas implemented a political reform guaranteeing a fairer electoral field and easing the entrance of new actors into the political system (Flores Andrade, 2005: 140; Magaloni, 2006). Two measures stand out in this regard. Firstly, the reform introduced the conditional register, a mechanism that enabled new parties to run in elections without meeting the requirements for obtaining permanent registration and also receive half of the public funding established for registered parties. Secondly, it established public funding categories, which led to progressively increased state funding for parties. This new legal framework stimulated a surge of new political organisations, many of which were suspected of being oriented towards the capture of public funding. For the 1991 legislative elections, the first following the reform, 12 organisations requested conditional registration. While the Federal Electoral Institute (IFE) rejected most of the requests, 10 parties were able to run in these elections, by then the highest number in Mexican electoral history. The formation of new parties with conditional registration became a common practice in successive elections (Langston, 2007: 245). This led to the conditional register's elimination in 1996, but at the same time the requirements for permanent registration were changed to make them more flexible. This reform reduced the number of citizens' assemblies (from 16 state assemblies or 150 district assemblies, to 10 and 100, respectively) and modified the requirements regarding party members, from a total of 65,000 to a minimum of 3000 in 10 states or 300 in 100 districts, which had to make up at least 0.13% of the national electoral register. Simultaneously, the reform consolidated the dominant role of public funding in electoral campaigns, setting an annual increase to be defined by the IFE (Andrade Sánchez, 1997).

The revision of party-formation costs was mostly motivated by the abuses that resulted from the combination of relatively lax entry barriers, abundant public funding and low exit costs.⁶ While new parties were also formed before these reforms, from 1990 on, there was a clear pattern of new parties that lost registration after their first electoral experience. Overall, between 1991 and 2003, 18 new parties were formed, 11 of these from 1997 to 2003, responding to the large increase of public funding (Flores Andrade, 2005). Most of these parties never achieved significant electoral support; only four since 1991 managed to maintain registration, usually resorting to forming coalitions with bigger parties. The majority, by contrast (as shown in Table 4), failed to retain registration as they did not reach the vote threshold.

Table 4. Number of new parties and new parties that failed to retain registration, Mexico 1982–2003.

1982	1985	1988	1991	1994	1997	2000	2003
3 – 1	2 – 0	2 – 0	4 – 4	3 – 2	2 – 2	6 – 3	3 – 3

Source: Flores Andrade (2005).

Opposition to the distribution of public funding for these parties had already grown when a particular event reinforced it. In May 2003 the IFE fined the Nationalist Society Party (PSN), which had competed for the first time in the 2000 elections, 140 million pesos (13.3 million US dollars) for large-scale fraud in its use of public funds.⁷ Most Mexican parties, including the three major parties (PRI, PRD and the National Action Party (PAN)) had been fined previously for irregular use of public funds. However, the PSN affair demonstrated how new parties were formed just for profit (Flores Andrade, 2005). In this context, in December 2003 the two biggest parties in Congress – PAN and PRI – endorsed a bill to reform the Federal Code of Electoral Processes and Institutions (COFIPE), raising party-formation costs substantially.

Firstly, the reform raised party-formation requirements: instead of 3000 members in 10 states or 300 members in 100 single-member districts, and a total of 0.13% of the national electoral register – as it was prior to the reform – the amendment required 3000 members in 20 states or 300 members in 200 single-member districts, which otherwise would amount to 0.26% of the national register. The reform also raised the requirement for party members' assemblies by the same rate as party members (from 10 state assemblies or 100 district assemblies, to 20 state or 200 district assemblies). In addition, it imposed stricter control over these assemblies in order to ascertain the veracity and date of the memberships to avoid 'last minute memberships, as used to be the case' (Flores Andrade, 2007: 480).⁸ Yet, the most demanding revision was the one prohibiting new parties from forming electoral alliances during their first election. This measure aimed to prevent new parties from reaching the 2% threshold by making electoral alliances, as had happened with three parties in the 2000 elections (Flores Andrade, 2005).⁹

In the words of PAN deputy Yolanda Valladares, the reform crystallised a 'social demand to close the doors to parties living off the public budget'.¹⁰ The bill was approved by a landslide majority in both chambers of Congress, where only some minor parties, along with a few PRD legislators, opposed it. As in Colombia and Peru, restricting party registration obviously benefited the major Mexican parties – PAN, PRI and PRD – and even more so when this measure coincided with public opinion demands.

Argentina

In December 2001, Argentina suffered a dramatic social revolt that brought into question the legitimacy of its major political parties. Two parties dominated Argentine politics during the 20th century: the Radical Civic Union (UCR) and the Peronist or Justicialista Party (PJ). In the 1990s, the strong political identities developed around these two parties showed clear signs of erosion (Torre, 2003). The rupture in party–society linkages became manifest in all its intensity during the last quarter of 2001. In the October legislative elections, almost 50% of citizens opted for what the media called an 'anger vote', casting blank and null votes. In the context of a severe economic crisis, social and political tension continued to rise, finally exploding in December into a civil rebellion against the political class, using the explicit slogan 'Que se vayan todos!' (Throw everyone out!). Protests and demonstrations set the scene for a profound political crisis, leading to the

resignation of President Fernando De la Rúa. The new president designated by Congress also resigned a few days later, to be replaced by Peronist leader, Eduardo Duhalde (Levitsky and Murillo, 2003).

Unlike in other Latin American countries, the Argentine political crisis did not result in political outsiders stepping in. Rather, it was the well-established PJ that supplied the leaders and the political structure that would be in charge of providing a resolution to the crisis (Torre, 2003). The new Peronist government, however, felt it needed to respond to the claim for political reform.

While in the main squares of the country people still demonstrated, inspired by the 'Que se vayan todos!', President Duhalde announced a 'Federal Deal for Political Reform', which purported to meet the proposals put forward by dozens of civil society organisations. Overall, these proposals sought to open up the political system and often included reducing party-formation costs. Eventually Congress, 'responding to the pots' noise' (Dalla Vía, 2010: 35),¹¹ passed a reform package that eliminated the requirement for parties to reach 2% of the vote in any district within two successive elections to retain registration. This elimination of post-election quantitative requirements helped accelerate the fragmentation of the Argentine party system.

Argentine party law allows parties to run candidates for the federal congress by having legal recognition in a single electoral district. Legal recognition at the national level (necessary to run a presidential candidate) required the previous formation of five district parties. A party's legal recognition would be cancelled if it did not reach 2% of the vote in two successive elections in any district of the country. This clause, which had become effective in 1989, served as justification for cancelling more than 179 parties between 1990 and 2000, and was thereby the main cause of party cancellations during this period (Dalla Vía, 2010: 33). Certainly, this clause had not prevented the number of parties from growing, which was mainly motivated by the deinstitutionalisation of the Argentine party system and the dilution of parties' brands (Leiras, 2007; Lupu, 2013). However, this latest reform, passed in parallel with a law that granted public funding, sped up the fragmentation process (Mustapic, 2013).¹² As illustrated by Table 5, the number of parties remained relatively stable during the 1990s, growing in the election (odd) years and shrinking in the non-election (even) years, mostly due to the 2% cancellation clause. Since 2002, however, the formation of new parties has increased dramatically.

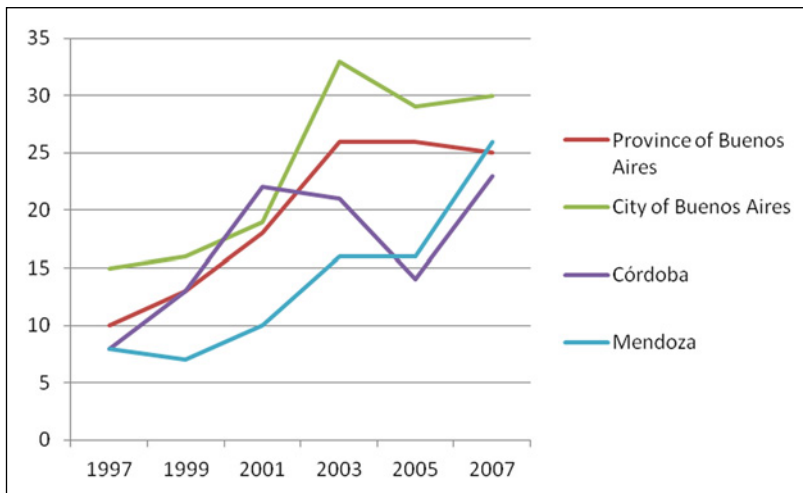
While the number of parties – counting both district and national parties – rose by 9.46% in the 12 years from 1990 to 2002 (from 539 to 590), there was a 21.35% growth between 2002 and 2007 (from 590 to 716). At the same time – as shown in Figure 2 – the increase in the number of parties was accompanied by a proliferation of competing lists in some of the most populated districts.

The government, led by President Néstor Kirchner since May 2003, had initiated a new political cycle restoring presidential legitimacy (Cherny et al., 2010). In a context marked by consistent and extraordinary rates of economic growth, demands to open up the political system lost intensity and were eventually confined to the margins of the public scene. Instead, experts began to point to the ease of party registration as a problem. Rather than promoting new political options coming from civil society, the lax legal framework favoured party defection and the formation of what were known as *rubber stamps*, tiny parties often oriented towards the capture of public funding. The party law's flexibility was blamed for contributing to downgrading the value of party labels, conspiring against party cohesiveness, and encouraging a rise in the number of competing parties, which introduced confusion into the electoral process (Leiras, 2007: 104–107; Mustapic, 2013). President Cristina Fernández de Kirchner adopted these same arguments in 2009 to promote reform. The ruling party's (Front for Victory-PJ, hereinafter FPV-PJ)

Table 5. Number of district and national parties. Argentina 1990–2007.

Year	District parties	National parties	Total (district and national)
1990	504	35	539
1991	522	35	557
1992	462	35	497
1993	473	35	508
1994	446	34	480
1995	480	37	517
1996	447	37	484
1997	480	37	517
1998	473	38	511
1999	513	41	554
2000	496	41	537
2001	542	41	583
2002	548	42	590
2003	669	46	715
2004	621	45	666
2005	668	43	711
2006	644	43	686
2007	674	42	716

Source: Mustapic (2013).

**Figure 2.** Competing lists in legislative elections in four major Argentine provinces, 1997–2007.

Source: Own elaboration on the basis of data provided by Dirección Nacional Electoral (Argentina).

most senior political figures involved in this reform repeatedly stated that the amendments pursued stabilising a party system that had become inchoate.¹³ Conditions for reform matured after the June 2009 legislative elections, when the ruling FPV-PJ was defeated in the key

province of Buenos Aires by a coalition led by a defector Peronist. Hence, one of the reform's main goals was to make it more difficult to compete through new parties or to use existing parties as rubber stamps (Scherlis, 2011).

To achieve this goal, the reform raised the requirements for obtaining and retaining legal recognition. In addition, it disentangled this legal recognition from the right to run in general elections by setting primary elections with a threshold as a qualifying round.

With regard to legal recognition, the reform replaced the requirement of a percentage of signatures with one for a percentage of party members. This apparently subtle distinction is nonetheless crucial. The signatures required by law could belong to any citizen – including those not affiliated with any party, or even those affiliated with other parties – and the same citizen was allowed to support as many parties as he/she wanted. According to the new regulation, parties must demonstrate that their members made up at least 0.4% of the district's total registered voters. The reform also revised the causes for party cancellation. Previously, national parties kept their status by obtaining at least 2% of the vote in any one of the country's 24 provinces, in at least every second legislative election. The new legal framework determines that in at least every second election parties must obtain 2% of the vote in *every* district where they wish to maintain registration.

In addition, the reform established a system of open, compulsory and simultaneous primaries, which function both as a mechanism to select candidates and as a qualifying round for parties, which must reach a threshold of 1.5% of the vote to run in general elections. The bill was sponsored and passed by the ruling party (FPV-PJ), with the support of some minor allies. Meanwhile the UCR, the main opposition group in Congress, agreed on the need to fix stricter requirements for party formation, but opposed the reform so as not to be seen by the public as a government supporter.¹⁴

In sum, starting from 2003, Colombia, Peru, Mexico and Argentina reformed their institutional designs so as to increase party-formation costs. Table 6 summarises the way in which these reforms made party-formation conditions stricter.

These reforms were steered by the ruling parties and directed against party fragmentation. However, as seen from the process-tracing analysis, they were passed only when fragmentation was attributable to previous reforms, which had opened up the political system as a response to crises of partisan representation.

Conclusion

In the period between 1988 and 2001, Argentina, Colombia, Mexico and Peru went through pronounced crises of political representation. In these four cases, the crises led to reforms lowering party-formation costs, allegedly to strengthen the linkage between political representatives and society. Once the parties' legitimacy crises were overcome, the previous reforms were held responsible for party system fragmentation. Political elites and experts progressively agreed on the existence of a problem, which they attributed to the legal regulation of parties and elections. Then, ruling parties found it both convenient and possible to propose reforms raising party-formation costs.

These findings contribute to the broader discussion of electoral reform in Latin America. In particular, analysis of reforms to party-formation costs provides further evidence that concerns over democratic representation are more influential in the context of a crisis of political legitimacy. In contrast, short-term partisan interests tend to prevail when reforms are aimed to adapt electoral institutions to a new balance of political power.

Table 6. Major changes in party-formation costs in the four countries, 2003–2009.

	Before the reforms	After the reforms
Colombia	50,000 votes or the election of one representative to obtain and retain legal recognition No threshold for the distribution of seats	3% of national vote to obtain and retain legal recognition 3% threshold for the distribution of seats
Peru	Parties allowed to run multiple lists Candidates allowed to run elections through different political organisations 1% of supporters to obtain legal recognition No spatial distribution of membership required No vote threshold to retain legal recognition No vote threshold for the allocation of seats	Ban on multiple lists Partisan monopoly to run national elections 3% of supporters to obtain legal recognition Members' committees in 17 of the 25 departments and 65 of the 195 provinces 5% threshold or 6 elected representatives to retain legal recognition 5% threshold for the allocation of seats
Mexico	3000 members in 10 states or 300 members in 100 SMDs, and 0.13% of the national register to obtain legal recognition Parties allowed to reach the 2% threshold to retain legal recognition through coalitions	3000 members in 20 states or 300 members in 200 SMDs, and 0.26% of the national register to obtain legal recognition Parties must reach the 2% threshold to retain legal recognition running their own ticket
Argentina	0.4% signatures in five provinces to obtain legal recognition Every registered party is allowed to run in general elections	0.4% party members in five provinces to obtain legal recognition 1.5% vote threshold in primaries to run in general elections

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Notes

1. The concept of 'party-formation costs' is adopted from Hug (2001) and Birnir (2004), and refers to quantitative pre- and post-election requirements for obtaining and retaining the legal recognition allowing political organisations to run for elections. Instead, ballot access requirements refer, in the strict sense, to pre-election requirements only. Yet, in this article the two terms are used interchangeably, even when party-formation costs is preferred as being more accurate.

2. Although the Liberal Party was the most-voted list, it only reached 25 representatives out of a total of 77, while the Conservative Party had only five. Instead, a myriad of third forces won 44 seats in the Assembly (Negretto, 2013:177).
3. Uribe, who had defected from the Liberal Party, was supported by a myriad of groups under the label 'Primer Colombia' (Colombia First).
4. During Uribe's first term, 67% of senators and 40% of deputies switched parties, most frequently to join Uribistas' groups (Roll and Pérez, 2010: 12).
5. On the basis of the 2011 presidential elections this requirement entailed a growth from 164,664 to 493,992 signatures. See 'JNE eleva cantidad de firmas para registrar partido político', *El Comercio*, 9 December 2011.
6. Low exit costs refer to the lack of mechanisms to recover the money from parties that do not reach the register (Flores Andrade, 2007: 475–476).
7. The party had used public funds to hire two companies linked to a party leader.
8. The translation from Spanish to English in this case, as in the rest of the article, belongs to the author.
9. This norm was amended once again in 2008, but in such a way that the practical consequences remained the same. New parties were allowed to form electoral coalitions, but the reform required every member of the coalition to appear separately on the ballot; while all votes cast for the parties are given to the coalition, each party's votes determine whether it has reached the required percentage to maintain legal recognition.
10. 'Diputados endurecen requisitos para formar nuevos partidos políticos', *La Jornada*, 28 December 2003.
11. Pots' noise refers to the pot-banging demonstrations (*cacerolazos*) of 2001–2002.
12. The Electoral Court of Appeals held that 'the elimination of the cancellation clause decided by law 25611 as to all those parties that do not reach two percent of the electoral register in any district in two successive elections, rather than fostering political pluralism actually led to the fragmentation of the system, maintaining the recognition of parties with no electoral support, which in some cases are but structures deprived of any content'. 'Partido Socialdemócrata Distrito Capital', 27 May 2008.
13. For the chief of ministerial cabinet Juan Manuel Abal Medina, 'the core of the project lies in ... consolidating a consistent and well-structured party system' (Abal Medina, 2010: 51).
14. UCR president, Gerardo Morales, stressed: 'We believe that it is necessary to reorganise the political system; it does not make any sense to have 700 parties in the country... We should seek rules which create some level of responsibility on parties as organisations'. *Revista Parlamentario*, 7 November 2009.

References

- Abal Medina, Juan Manuel (2010) *Conferencia Sobre la Reforma Política*. Buenos Aires: Dirección Nacional Electoral.
- Albarracín, Juan and Juan Pablo Milanese (2012) The impact of electoral reform in Colombian congressional and sub-national elections. In: *2012 LASA congress*, San Francisco, 23–26 May 2012.
- Andrade Sánchez, Eduardo (1997) *La Reforma Política de 1996 en México*. Mexico DF: Instituto de Investigaciones Jurídicas de la UNAM.
- Archer, Ronald (1995) Party strength and weakness in Colombia's besieged democracy. In: Scott Mainwaring and Timothy Scully (eds) *Party Systems in Latin America*. Stanford, CA: Stanford University Press, pp.164–199.
- Bejarano, Ana María and Eduardo Pizarro (2005) From 'restricted' to 'besieged': The changing nature of the limits to democracy in Colombia. In: Frances Hagopian and Scott Mainwaring (eds) *The Third Wave of Democratization in Latin America*. Cambridge: Cambridge University Press, pp.235–260.
- Birmir, Jóhanna (2004) Stabilizing party systems and excluding segments of society?: The effects of formation costs on representation in Latin America. *Studies in Comparative International Development* 39(3): 3–27.
- Cherny, Nicolás, Germán Feierherd and Marcos Novaro (2010) El presidencialismo argentino: De la crisis a la recomposición del poder (2003–2007). *América Latina Hoy* 54: 15–41.

- Cotler, Julio (1995) Political parties and the problems of democratic consolidation in Peru. In: Scott Mainwaring and Timothy Scully (eds) *Party Systems in Latin America*. Stanford, CA: Stanford University Press, pp.323–353.
- Craig, Ann and Wayne Cornelius (1995) Houses divided: Parties and political reform in Mexico. In: Scott Mainwaring and Timothy Scully (eds) *Party Systems in Latin America*. Stanford, CA: Stanford University Press, pp.249–297.
- Dalla Via, Alberto (2010) *La Competencia Política en el Federalismo Argentino*. Buenos Aires: Eudeba.
- Dargent, Eduardo and Paula Muñoz (2011) Democracy against parties? Party system de-institutionalization in Colombia. *Journal of Politics in Latin America* 3(2): 43–71.
- Flores Andrade, Anselmo (2005) Democracia y dinero. Partidos nuevos y asociaciones políticas nacionales en México. *Reflexión Política* 7(13): 134–153.
- Flores Andrade, Anselmo (2007) Las nuevas disposiciones electorales para los partidos nuevos y las agrupaciones políticas nacionales en México. *Cuestiones Constitucionales* 16: 473–498.
- Hernández Becerra, Augusto (2006) Regulación jurídica de los partidos políticos en Colombia. In: Daniel Zovatto (ed.) *Regulación Jurídica de los Partidos Políticos en América Latina*. México DF: UNAM, pp.331–364.
- Hug, Simon (2001) *Altering Party Systems: Strategic Behavior and the Emergence of New Political Parties in Western Democracies*. Ann Arbor, MI: Michigan University Press.
- International IDEA (2004) *Ley de Partidos Políticos: La Construcción de un Consenso*. Lima: International Idea.
- Langston, Joy (2007) Strong parties in a struggling party system: Mexico in the democratic era. In: Paul Webb and Stephen White (eds) *Party Politics in New Democracies*. Oxford: Oxford University Press, pp.243–273.
- Leiras, Marcelo (2007) *Todos los Caballos Del Rey*. Buenos Aires: Prometeo.
- Levitsky, Steven and Maxwell Cameron (2003) Democracy without parties?: Political parties and regime change in Fujimori's Peru. *Latin American Politics and Society* 45(3): 1–33.
- Levitsky, Steven and María Victoria Murillo (2003) Argentina weathers the storm. *Journal of Democracy* 14(4): 152–166.
- Levitsky, Steven and Lucan Way (2010) *Competitive Authoritarianism: Hybrid Regimes after the Cold War*. Cambridge: Cambridge University Press.
- Lupu, Noam (2013) Party brands and partisanship: Theory with evidence from a survey experiment in Argentina. *American Journal of Political Science* 57(1): 49–64.
- Magaloni, Beatriz (2006) *Voting for Autocracy: Hegemonic Party Survival and its Demise in Mexico*. Cambridge: Cambridge University Press.
- Meléndez Guerrero, Carlos (2006) Perú: partidos y outsiders. *Revista Desafíos* 14: 40–68.
- Milanese, Juan Pablo (2008) *Relaciones ejecutivo-legislativo en la actual coyuntura política colombiana*. Policy Paper 2-2008. Cali: Observatorio de Políticas Públicas (POLIS).
- Molenaar, Fransje (2012) *Latin American regulation of political parties: Continuing trends and breaks with the past*. Working Paper Series on the Legal Regulation of Political Parties N 17, Leiden University.
- Murillo, María V., Virginia Oliveros and Milan Vaishnav (2011) Economic constraints and presidential agency. In: Steven Levitsky and Kenneth Roberts (eds) *The Resurgence of the Latin American Left*. Baltimore, MD: John Hopkins University Press, pp.52–70.
- Mustapic, Ana María (2013) Los partidos políticos en la Argentina: Condiciones y oportunidades de su fragmentación. In: Carlos Acuña (ed.) *¿Cuánto Importan las Instituciones? Gobierno, Estado y Actores en la Política Argentina*. Buenos Aires: Siglo XXI.
- Negretto, Gabriel (2013) *Making Constitutions: Presidents, Parties, and Institutional Choice in Latin America*. New York: Cambridge University Press.
- Pizarro, Eduardo (2006) Giants with feet of clay: Political parties in Colombia. In: Scott Mainwaring, Ana M Bejarano and Eduardo Pizarro (eds) *The Crisis of Democratic Representation in the Andes*. Stanford, CA: Stanford University Press, pp.78–99.
- Roll, David and Nadia Pérez (2010) El sistema de partidos colombiano hoy. Transformaciones, continuidades y perspectivas tras dos reformas políticas. In: *IV seminario nacional de ciencia política*, Porto Alegre.

- Scherlis, Gerardo (2011) El kirchnerismo y las reglas de la competencia electoral. In: Andrés Malamud and Miguel De Luca (eds) *La Política en los años de los Kirchner*. Buenos Aires: Eudeba, pp.205–215.
- Shugart, Matthew, Erika Moreno and Luis Fajardo (2007) Deepening democracy by renovating political practices: The struggle for electoral reform in Colombia. In Christopher Welna and Gustavo Gallón (eds) *Peace, Democracy, and Human Rights in Colombia*. Notre Dame: Notre Dame University Press, pp.202–265.
- Tanaka, Martín (2005) *Democracia sin Partidos: Perú, 2000-2005*. Lima: Instituto de Estudios Peruanos.
- Tanaka, Martín (2009) *¿Por qué falló la ley de partidos y qué debe hacerse al respecto?* Lima: Idea International.
- Torre, Juan Carlos (2003) Los huérfanos de la política de partidos: Sobre los alcances y naturaleza de la crisis de representación partidaria. *Desarrollo Económico* 42(168):647–665.
- Tuesta Soldevilla, Fernando (2006) La regulación jurídica de los partidos políticos en Perú. In: Daniel Zovatto (ed.) *Regulación Jurídica de los Partidos Políticos en América Latina*. México DF: UNAM, pp.767–801.
- Tuesta Soldevilla, Fernando (2008) Reforma política en Perú. In: Daniel Zovatto and Jesús Orozco Henríquez (eds) *Reforma Política y Electoral en América Latina, 1978-2007*. México DF: UNAM, pp.821–864.

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