

Pre-analysis plan

Transparency and Access to Public Information in Chile, Peru, and Uruguay

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Abstract

This project studies the differences in the implementation and operation of freedom-of-information (FOI) laws in three Latin American countries (Chile, Peru, and Uruguay), each with its own institutional setting. In Chile, there is a strong state agency with high autonomy and the capacity to monitor compliance. In Peru and Uruguay, these agencies have very low levels of autonomy and a weak monitoring capacity. This project seeks to develop two methodological strategies: randomized field experiments and three case studies. A field experiment will assess the effect of the successful use of FOI law on citizens' perceptions of transparency and trust in institutions. In each case study, we analyze the processes of public information exchange in each country. Using a process-tracing approach, we test four main explanations—institutional capacity and legacies, diffusion, political coalitions, and political calculation—of why these three countries developed different right-to-information (RTI) regimes. The inclusion of these three countries in our study helps identify the effect of institutional setting on these processes and also helps increase the external validity of the results of the field experiment.

Introduction

In the last few decades, government transparency has been considered a necessary condition for good governance (Islam 2006) because it contributes to greater levels of government oversight and reduces corruption (Islam 2006, Kaufmann, Mehrez, and Gurgur 2002, Lindstedt and Naurin 2010). Additionally, proponents of transparency note that transparency initiatives lead to demands for more and better public services and a better perception of the government (Djankov et al. 2010). In this context, the introduction of freedom of information (FOI) laws that grant citizens more rights and more opportunities to oversee the government is oftentimes viewed as a significant step forward in terms of democratic quality.

The effect of the introduction of FOI laws, however, depends on institutional design, the levels of compliance of state institutions, and citizens' use of the law. If FOI laws are only used by and work for those who already have more resources or power, these rights, far from improving democratic quality, only reproduce existing inequalities. Scrollini Mendez (2015) argues that FOI laws establish transparency regimes or arenas of transparency. These regimes can be defined as systems of institutions, actors, and practices that govern the flux of information from the state to society. In all regimes there is a permanent conflict between those who want to obtain public records and those who have the power to release (or to not release) official information. The resolution of this conflict depends on the structure of the regime. The operation of these regimes entails three key variables: 1) the lawmaking process of the FOI law; 2) the state capacity and its bureaucracy; and 3) the mechanisms of FOI law enforcement. According to Scrollini

Mendez (2015), the combination of these variables determines the classification of a given right-to-information (RTI) regime as either functional, mixed, or contested.

There has been a wave of FOI laws approved in developed and developing countries. In 1978, only a handful of countries had these regulations. By 2014, one hundred countries had established them (McIntosh 2014). This general tendency is also observed in Latin America (Mendel 2009); sixteen countries in the region have approved FOI laws. Nevertheless, the existence of these laws is not a sufficient condition for guaranteeing effective access to government data (Darch and Underwood 2005, Roberts 2000). There exists little evidence concerning the results of the implementation of FOI laws in the Latin American context. Those studies that have surveyed Latin American cases observed low levels of compliance among state institutions (Institute 2006) and negligible impact on fighting bureaucratic corruption or on transparent budget execution (Bookman and Guerrero Amparán 2009). According to Michener and Worthy (2018), most users of RTI mechanisms are regular citizens with varying motives who are focused on particularistic interests. However, notwithstanding the wave of new laws in different countries, there remains scant evidence concerning the users of these laws, their motivations, and the effects of engagement with FOI mechanisms on citizens' perception of government transparency (Michener and Worthy 2018). Most studies, especially those that have used field experiments, have focused on civil servants' responsiveness and compliance with the law.

Our empirical strategy involves the use of mixed methods for descriptive and causal inference. The following pages describe our theory and the empirical strategy and design. The design of our study comprises three different stages. The first includes a thick description of the design and implementation of FOI laws and their operation in Chile,

Peru, and Uruguay. The second involves the analysis of the causal process that explains the design and implementation of these FOI regimes. The third stage of this study focuses on the effects of the successful use of these laws on citizens' perceptions of government transparency and trust in institutions. The first two stages of the study are important in shedding light on the differences observed across cases in the field experiment conducted in each country. This approach not only helps improve the external validity of our conclusions, by applying the same treatment in different contexts, but also helps explain variation between cases.

Empirical Strategy and Design

Stages 1 & 2

Description:

We will conduct three case studies: Chile, Peru, and Uruguay. The goal of the case studies is to provide thick description and present evidence concerning the causal mechanisms that explain the development of different RTI regimes in the three countries. In each case study, we will collect information to describe the lawmaking process, the institutional design and how the FOI law operates in each country. More specifically, regarding the lawmaking process, we will collect information related to four different possible explanations: institutional capacity and legacies; policy diffusion (the influence of ideas and the international context); the role of political actors and their interests (coalitions

for and against the law); and political calculation—particularly related to political competition.

Observation of the outcome: Regarding the institutional design and the general principles of the law, we will identify the institutions involved in the enforcement of the law (monitoring, sanctions) and their autonomy. In terms of the operation of the law, we will survey: 1) the bureaucratic capacity and professionalism of the institutions involved in the FOI law (e.g., number and expertise of the personnel, budget); 2) the types of requests for information, i.e., who uses the law most often (e.g., journalists, NGOs, companies, politicians, individuals) and the user's goal (private or public); 3) the administration's relationship to the law (e.g., compliance, access to the documents of the oversight institution); 4) the law's relationship to politics (e.g., does it lead the process? Is it indifferent? Does it control the process? Are screening and appointment regulations respected? How do politicians perceive the oversight institution?); and 5) What is the law's relationship to the judicial branch? How does the judicial branch interact with the new right (proactive, reactive)?; Does it incorporate international law?

Theory

The growing literature focusing on the origins of RTI laws worldwide discusses the conditions under which RTI policies are adopted. Only recently have scholars sought to explain not only adoption but also differences in both the design and implementation of these laws.

Studies frequently explain the differences in the development of RTI regimes by pointing to differences in state capacity (Heinrich, 2016). While we believe that state capacity may be useful in explaining variation in RTI developments in Chile, Peru, and Uruguay, we argue that other factors are also relevant in accounting for the differences among these three countries.

Drawing from this literature, we develop four theoretical causal mechanisms to explain different developments in the design and implementation of RTI laws in Chile, Peru, and Uruguay.

The first causal mechanism concerns institutional capacity and legacies. Differences in the models adopted by Chile, Uruguay, and Peru might be related to institutional settings. McClean (2010) argues that corporatist countries—which perform better at articulating shared preferences for administrative secrecy—are less likely to pass RTI laws. By contrast, liberal regimes with more competitive conditions tend to favor the emergence of RTI laws (McClean, 2010). The literature also claims that the existence of previous rules regulating transparency or related matters partially explains why governments choose to promote RTI laws. However, while these studies are useful for understanding the adoption of RTI laws, they fall short in explaining the variety of regimes. Also, human resource shortages, weak professional bureaucracy, lack of a culture of transparency, and lack of technical training and administrative overload are referred to as common causes of failure in implementation (A. Roberts, 2006b; Heinrich, 2016; Greg Michener & Worthy, 2013). Bureaucratic institutions' lack of autonomy and lack of administrative discretion are also relevant for explaining why some governments perform better than others when implementing RTI legislation (Roberts, 2004; Dahlström, Lapuente, & Teorell, 2012a). However, except for Scrollini (2015), existing studies of the region do not adequately

describe the role these issues have had in determining different developments in RTI regimes.

The second causal mechanism we explore is diffusion. Scholars have shown that diffusion plays an essential role in the emergence of RTI laws worldwide (Bennett, 1997; Berliner, 2012; Relly, 2012; Grigorescu, 2003). For example, in an analysis of the adoption of RTI laws in OECD countries, Bennett (1997) showed that there were multiple diffusion channels between early adopters and late adopters of this type of legislation. In the same vein, Berliner (2012) argued that governments are more likely to pass RTI legislation when other countries in their region have already established these laws, suggesting diffusion as an explanation of similarities in RTI laws' designs. International organizations and activists have also been mentioned as increasingly important actors in the adoption and correct implementation of RTI laws (Roberts, 2006; Åström, Karlsson, Linde, & Pirannejad, 2012; Grigorescu, 2003). In some cases, these organizations may even pressure governments to adopt RTI laws as more or less explicit conditions of direct financial aid or as normative thresholds for foreign direct investment (Dorsch, McCann, & McGuirk, 2014).

While this literature has been useful for explaining the adoption of RTI laws, diffusion has not been considered as an explanation of why countries adopt different RTI regimes (Scrollini, 2015). To do so, as Bennett (1997) noted, there is a need for clarification of what diffusion means and how it works in the context of adoption of RTI laws (Bennett, 1997)⁶.

⁶In this paper, we refer to diffusion as the process by which policy decisions in one context can be systematically explained by policy choices and policy ideas in other contexts (Simmons, Dobbin, & Garrett, 2007). Diffusion can be either a process of learning—one government learning from another as well as one government learning from international

The third plausible explanation for the different RTI models adopted and implemented in our three cases refers to the coalitions and actors who supported this type of legislation. There is compelling evidence that RTI laws are usually approved when a variety of strong advocates promotes them. Civil society organizations play an important role in pressuring governments to be transparent as well as in amplifying the public's concerns about transparency. The presence of active civil society groups has been identified as a factor that promotes the passage of RTI laws (Grigorescu, 2003; Gill & Hughes, 2005; Michener, 2010); Ingrams, 2018)⁷. Journalists, media organizations, and institutions of the free press have also been identified as having a pivotal role in the passage of RTI laws (Relly & Cuillier, 2010; Relly & Sabharwal, 2009). Notably, coalitions built around RTI laws can include transnational movements and international organizations that support the adoption of RTI laws (Grigorescu, 2003; Stubbs, 2012). Despite this general hypothesis, these studies focus on why governments adopt RTI laws but do not identify the role different coalitions play in shaping different types of RTI regimes. In the same vein, demands for compliance with RTI laws are also essential in explaining governments'

organizations or other actors—(Shipan & Volden, 2012) or emulation. Learning can refer to the design and content of RTI laws, as well as making choices within bounded rationality (Weyland, 2007) defined by knowledge shortcuts. Learning may imply sometimes receiving advice from policy advocates and entrepreneurs with international experience. For learning to be present, design choices in RTI laws should be taken after considering the knowledge or ideas discussed in other countries or contexts. Emulation, by contrast, refers to 'copying of another government's policies without concern for those policies' effects' or a thorough consideration of the pros, cons, and lessons learned (Shipan & Volden, 2012; Gilardi, 2016).

⁷Conversely, a weak civil society is an obstacle to the adoption of RTI laws (Peekhaus, 2011; Relly & Cuillier, 2010).

success at implementing this type of legislation. When well-organized constituencies or coalitions can articulate complaints, demand for transparency remains strong after the laws are approved, and governments are more likely to enforce RTI laws (Kreimer, 2008; Roberts, 2014). In fact, civil society organizations do play a role in guaranteeing enforcement (Gill & Hughes, 2005); (Fumega & Scrollini, 2017). Also, the pressure imposed by influential media and free press organizations has proven relevant for ensuring adequate implementation.

Finally, the political competition/calculation process could also be relevant for explaining why different RTI models were adopted and implemented in Chile, Peru, and Uruguay. Prior work contends that politicians—who usually prefer secrecy—will try to avoid this type of legislation (Ackerman & Sandoval-Ballesteros, 2006; Banisar, 2006; Hazell & Worthy, 2010; Roberts, 2006), since the laws expose them to the public (Berliner, 2014). However, as Berliner (2014) argues, RTI laws ‘bring not just costs, but also benefits,’ and as a result politicians’ support for RTI laws may vary depending on the degree of political competition. Different studies show that when political competition is high, the passage of transparency legislation and RTI laws becomes more likely (Hollyer, Rosendorff, & Vreeland, 2011; Berliner, 2014). In this scenario, incumbents might be willing to pass an RTI law if they perceive they are not likely to be re-elected and want their right to access government information in the future to be guaranteed (Berliner, 2014; Berliner & Erlich, 2015). They might also be willing to use RTI laws to make promises of greater transparency more credible (Berliner, 2014) and improve their reputation (Busuioc & Lodge, 2016). Sometimes, the latter can be triggered by the need to send signals to voters, especially when there are highly visible government scandals (Grigorescu, 2003).

Recent studies add detail to the political competition hypothesis. Ingrams (2018), for example, finds that the absence of political competition might be more conducive to the approval of RTI laws than expected, particularly in transitional democracies. If civil society or international pressures for transparency are strong, governments may be willing to accept that increased transparency serves their interests in the long term (Ingrams, 2018). Michener (2014), for example, argues that the political competition hypothesis works well for single-party and small coalition governments but fails to explain the political dynamics behind the approval of RTI legislation when governments are led by broad multiparty coalitions. In such contexts, leaders support transparency laws as a tool for monitoring their allies in government.

Moreover, Michener illustrates his argument with a study of Latin America. He argues that Chile and Uruguay in 2008—the year both countries approved their RTI laws—support this particular prediction as both cases were multiparty governments with majority control of the parliamentary agenda that pushed for strong transparency measures. The Peruvian case in 2002—a single-party government with a minority of control of the legislative agenda—was only able to establish weak rules concerning transparency.

Although Michener's arguments introduce interesting insights and compelling evidence for the Brazilian case, he not only overlooks the important differences that exist between Chile's and Uruguay's RTI regimes, but also provides little evidence concerning the processes that led the incumbents to approve the laws in order to monitor their allies in government.

Regarding implementation, in line with recent work focused on the political drivers of enforcement in Latin America (Holland, 2017), it could be argued that governments' choices regarding whether or not to adequately implement RTI laws may be driven by

governments' beliefs about whether enforcement would benefit them or, in other words, the costs of complying (or not) with the law. To date, however, no empirical studies have tested any of these hypotheses about the role of politics in the development of different RTI models.

In sum, we hypothesize the following causal mechanisms:

H_1: The differences between RTI models in Chile, Uruguay, and Peru are the result of differences in institutional capacities and legacies. The previously existing institutional context affects—either negatively or positively—the processes of approval and implementation of the law.

H_2: The differences between RTI models in Chile, Uruguay, and Peru are the result of differences in diffusion processes when initially adopting the laws.

H_3: The differences between RTI models in Chile, Uruguay, and Peru result from differences in the coalitions that favor or oppose particular design features and implementation processes.

H_4: The differences between RTI models in Chile, Uruguay, and Peru are the result of different contexts of political competition.

Case Selection

We study the development of FOI regimes in three Latin American countries: Chile, Peru, and Uruguay. According to Scrollini Mendez (2015), Chile is a case of a “mixed regime,” while Uruguay is a case of a contested regime. Following Scrollini Mendez (2015) typology, Perú could also be considered a contested regime. Chile is a mixed regime because it had low levels of civil society participation in the lawmaking process of the FOI law and a bureaucracy with low levels of professionalization, yet it has built an institution with a high degree of autonomy and capacity for oversight of compliance with the FOI law. Uruguay and Peru share low levels of civil society participation in the lawmaking process and the absence of autonomous and capable institutions to enforce compliance (Scrollini Mendez 2015).

In 2008, Chile approved bill 20.285, called the “Ley DI.” The law establishes that all government offices (national, regional, or municipal), the armed forces, the ministries and other administrative offices have to comply with the obligation to provide access to public information. To execute a request for access to public information, citizens need to provide their name and address. The person who makes the request needs to include a description of the required information. Individuals do not need to provide a reason for the request.

In 2002, Peru approved the Transparency and Access to Public Information Law. Under this law, requests can be made by any individual, regardless of any personal attribute. As in Chile, there is no need to provide a justification for the request. Yet, Peru differed from Chile and Uruguay in that the 2002 law did not create an oversight institution; the application of the FOI law was the responsibility of each government agency and the (occasional and non-mandatory) oversight was delegated to the President of the Ministers Council, and, in cases of complaint, to the *Defensoría del Pueblo*. In January

2017 the National Authority of Transparency and Access to Public Information was created by decree (#1353). This institution is part of the Ministry of Justice and Human Rights.

Uruguay has had a Law of Access to Public Information since 2008 (Law 18,381). Research that has surveyed the effects of the law have found unnecessary delays, limited access, and unclear procedures (Lanza, Scrollini and Funega 2010). Also, CAinfo and UCU (2013) show that government bodies have made only limited progress in complying with the basic obligations set forth by the law in terms of active transparency. The most recent research on the effects of the law in Uruguay come from Piñeiro Rodríguez and Rossel (2018), Scrollini Mendez (2015), and Fumega and Scrollini (2017), and they also show low levels of bureaucratic compliance with requests for information.

Method

We carry out process-tracing to make inferences regarding the causal mechanisms that led Chile, Uruguay, and Peru to adopt and implement three different RTI regimes. We use deductive logic (Bayesian) to test our four explanations based on casual process observations (CPOs) (Brady & Collier, 2010) that refer to the specific processes that led to the adoption and implementation of RTI laws in each country. To do this, we define ex-ante the evidence that would allow us to empirically confirm or disconfirm the existence of each mechanism, including what kind of Bayesian test each piece of evidence represents for our theoretical explanations. We also define, in advance, the sources where we expect to find the evidence (see the following tables).

Although we start by testing each of our four explanations in each case, we alternate between theories and evidence with the aim of building a sufficient causal explanation for

each case. In this sense, we use a set of stylized theories to build a sufficient theory (theory-building) for each case. Since our objective is to unpack the causal mechanism(s) that led each country to a specific RTI regime, our inferences are made within each country.

To test our causal explanations, we rely on different types of evidence, including press and legislative records, experts' surveys, documents from civil society, media and international organizations, and in-depth interviews with key actors in the design and implementation process of RTI laws in each country

Table A1. H_1: Institutional capacity and legacies

Hypothesis	Evidence	Source	Test type
H_1: The differences between RTI models in Chile, Uruguay and Peru are the result of differences in institutional capacity and legacies. The previous institutional context affects—either negatively or positively—the processes of approval and implementation of the law.	Judicial or constitutional opinions enshrining the right to information based on previous regulations determine the way RTI laws are designed and implemented.	Rulings from the Judicial/Constitutional power regarding right to information. Reports from supervisory institutions. Reports from judicial experts (attendance to commissions).	‘Straw in the wind.’ Presence of evidence does not confirm the hypothesis because decisions regarding design or implementation might not necessarily consider these rulings, but it does strengthen it.
	Constitutional norms impact the design of RTI laws.	Previous constitutional norms shape RTI laws.	‘Straw in the wind.’ Constitutional norms directly shape governments’ options regarding the design—and eventually also the implementation—of the RTI laws. We believe that finding this evidence is likely. However, if policymakers make explicit references to how constitutional norms shape their choices—for example, by constraining them—it could be considered a ‘smoking gun’ test of our hypothesis.
	The RTI law resembles the design of previous policies.	Official documents.	‘Straw in the wind.’ Similarities in the design of RTI laws compared to previous legislation is indicative of the impact of the influence of previous institutional arrangements on the RTI laws approved.
	Policy makers (politicians, legislators, government officials) talk about previous policies or institutional or policy antecedents that were considered within the context of the approval of RTI laws.	Interviews with key officials and experts. Legislative records (in plenary sessions and commissions). Motivations and introductory arguments about the RTI bills or projects. Press articles.	‘Smoking gun.’ If our hypothesis is true, we should find policymakers to have considered institutional or policy legacies when defining both the design of the law and implementation decisions after the law was approved. Government officials declaring this would support our hypothesis.

Hypothesis	Evidence	Source	Test type
	Human resource shortages, weak professional bureaucracy, lack of a culture of transparency, lack of technical training and administrative overload are mentioned by policymakers to justify decisions regarding both the design and implementation of RTI laws.	Interviews with key officials and experts. Administrative records. Press articles.	‘Smoking gun.’ If our hypothesis is true, we should find explicit references made by policymakers to institutional capacity issues as a key explanation of both design and implementation choices for RTI laws. The existence of capacity weaknesses alone is not enough to attribute causality. It could be considered a ‘Straw in the wind’ test of our explanation.
	Lack of autonomy of bureaucratic institutions and the space given to administrative discretion is mentioned as an important factor influencing both design and implementation decisions.	Interviews with key officials and experts. Administrative records. Press articles.	‘Smoking gun.’ If our hypothesis is true, we should find explicit references made by policymakers to lack of bureaucratic autonomy and administrative discretion to justify both design and implementation choices for RTI laws. Lack of autonomy and administrative discretion is not enough to attribute causality. It could be considered a ‘Straw in the wind’ test of our explanation.

Table A2. H_2: Diffusion

Hypothesis	Evidence	Source	Test type
H_2: The differences between RTI models in Chile, Uruguay and Peru are the result of differences in diffusion processes when initially adopting the laws. Policy designs were influenced by the diffusion of ideas or international conditions.	Policy makers (politicians, legislators, government officials) talk about the existence of other cases that could be used as models for the design of the law. References to studies or international conditions that need to be considered within the context of the approval of RTI laws should be present.	Interviews with key officials and experts. Legislative records (in plenary sessions and commissions). Motivations for and introductory arguments to the RTI bills or projects. Press articles.	‘Smoking gun’ If our hypothesis is true, we should find policymakers making explicit references to international experiences that could be used as models for the design of the law. Government officials declaring this would confirm our hypothesis.
	Missions/Reports from international organizations and NGOs about the issue of RTI in the country.	Interviews with key officials and experts. Reports from organizations such as Fundación Terram, UNDP, IADB, WB, OSF, Centro Carter, OECD, Transparency international, KAS y FES.	‘Straw in the wind’ The existence of missions/reports from international organizations is indicative of some potential influence in the domestic policymaking process. However, its existence is not enough to confirm a diffusion process.
	Technical cooperation (previous or concurrent to the approval of the law) in the field of RTI.	Technical or financial cooperation reports or documents.	‘Smoking gun’ The existence of technical cooperation (previous or concurrent to the approval of the law) would be highly indicative of potential influence in the domestic policymaking process. Not finding it does not mean that there was not a diffusion process related to the design or implementation choices around RTI.
	International rulings and/or international norms regarding RTI that conditions domestic decisions on the issue at the	Records from international courts (OAS, special reports on free speech and access to information,	‘Straw in the wind’ Presence of evidence does not confirm the hypothesis, because decisions regarding design or implementation might not necessarily

Hypothesis	Evidence	Source	Test type
	country level.	Interamerican court of Human Rights.	consider these rulings, but it does strengthen it.
	International experts participate in the design of the RTI law or as advisors during its implementation.	Press articles. Interviews with key officials and experts. Reports from organizations such as Fundación Terram, UNDP, IADB, WB, OSF, Centro Carter, OECD, Transparency international, KAS y FES.	‘Smoking gun’ Presence of international experts in the design of the RTI law or as advisors during its implementation would be highly indicative of potential influence in the domestic policymaking process. Not finding it does not mean that there was not a diffusion process related to the design or implementation choices around RTI.
	Seminars organized by international organizations about RTI and transparency prior to the approval of the law or during its implementation.	Reports from organizations such as Fundación Terram, UNDP, IADB, WB, OSF, Centro Carter, OECD, Transparency international, KAS y FES.	‘Straw in the wind’ Seminars organized by international organizations about RTI and transparency prior to the approval of the law or during its implementation would be indicative of some potential influence in the domestic policymaking process. However, its existence is not enough to confirm a diffusion process.

Table A3. H_3: Political coalitions

Hypothesis	Evidence	Source	Test type
H_3: The differences between RTI models in Chile, Uruguay and Peru respond to differences in the coalitions that favor or oppose particular design features and implementation processes.	Strong public (convergent) positions of different actors (political parties, civil society organizations, state actors, journalists) concerning RTI, including different aspects of the RTI law in the context of approval of the law as well as in the implementation process.	<p>Reports / declarations of authorities about the future impact of the law.</p> <p>Proposed RTI law sponsored by social and political actors.</p> <p>Campaigns in favor of the RTI law.</p> <p>Interviews with state actors.</p> <p>Records from parliamentary debates (in plenary and commissions).</p> <p>Motivations and introductory arguments to the RTI bills or projects.</p> <p>Press articles.</p> <p>Documents of social organizations and attendance at parliamentary commissions.</p>	‘Hoop’ For our hypothesis to be true, the existence of strong, broad coalitions including political parties, civil society organizations, state actors, and journalists should be highly indicative of a causal link between these broad coalitions and their choices that drive a strong design of the RTI regimes as well as strong processes of implementation.
	Weak public (divergent) positions of different actors (political parties, civil society organizations, state actors, journalists) on RTI, including different aspects of the RTI law in the context of approval of the law as well as in the implementation process.	<p>Reports / declarations of authorities about the future impact of the law.</p> <p>Proposed RTI law sponsored by social and political actors.</p> <p>Campaigns in favor of the RTI law.</p> <p>Interviews with state actors.</p> <p>Records from parliamentary debates (in plenary and commissions).</p> <p>Motivations and introductory arguments to the RTI bills or projects</p> <p>Press articles</p> <p>Documents of social organizations and attendance at parliamentary commissions.</p>	‘Hoop’ For our hypothesis to be true, the absence of strong, broad coalitions including political parties, civil society organizations, state actors, journalists - and the existence of divergent positions- should be highly indicative of a causal link between these broad coalitions and their choices that drive a weak design of the RTI regimes as well as weak processes of implementation.

Table A4. H_4: Political calculation

Hypothesis	Evidence	Source	Test type
H_4: The differences between RTI models in Chile, Uruguay and Peru are the result of different contexts of political competition.	Governments pass strong RTI regulations if they perceive they are not likely to be elected and want their right to access government information in the future to be guaranteed.	Interviews with actors. Records from parliamentary debates (in plenary and commissions). Press articles.	‘Smoking gun’ If our hypothesis is true, governments should perceive that their possibility of being reelected is threatened and this influences their decisions because they want their right to access government information in the future to be guaranteed. Not finding this does not necessarily mean that this mechanism plays no role.
	Governments use RTI laws to make promises of greater transparency more credible and improve their reputation in a context of electoral competition.	Interviews with actors. Records from parliamentary debates (in plenary and commissions). Press articles.	‘Smoking gun’ If our hypothesis is true, governments should make promises of greater transparency more credible and improve their reputation in a context of electoral competition. Not finding this does not necessarily mean that this mechanism plays no role.
	Governments pass RTI laws because they need to send signals to voters, especially when there are highly visible government scandals.	Interviews with actors. Records from parliamentary debates (in plenary and commissions). Press articles.	‘Smoking gun’ Evidence of governments using RTI laws to promise greater transparency in contexts of highly visible scandals (or risks of them) would be highly indicative of political calculation regarding RTI legislation. Not finding it does not mean that political calculation was not present.
	Relatively strong RTI measures are established when multiparty governments with majority control of the parliament want to monitor their allies. Weak RTI measures are passed when single party governments with minority control of the parliament are in charge.	Interviews with actors. Records from parliamentary debates (in plenary and commissions). Press articles.	‘Hoop’ For our hypothesis to be true, multiparty governments with majority control of the parliament should establish strong RTI measures because they want to control their allies in government. Absence of evidence would disconfirm this particular mechanism. ‘Hoop’ For our hypothesis to be true, single party governments with minority control of the parliament should establish weak RTI measures or no measures at all. Absence of evidence would disconfirm this particular mechanism.

Stage 3: Field Experiment

Different countries throughout the world enacted transparency reforms, especially oriented towards opening access to public information. While there have been very thorough studies of the impact of such reforms, no study to date has surveyed the effect of successful use of this right as a trigger for trust and legitimacy. How does the successful exercise of a right impact general trust in political institutions and, especially, trust in and the perceived legitimacy of the institution that provides the good, service, or requested information?

Conventional wisdom and the political discourse that supported the enactment of access to public information reforms emphasized their impact on the openness and transparency of state institutions with the expectation that they would bring less corruption, better governance, and increased institutional trust. This is observed in Bentham's idea of transparent management, a *sine qua non* condition to deter corruption (Hood 2010). Worthy (2014) describes the optimism of FOI law promoters, who expected that this institutional setting would trigger the emergence of "an army of armchair auditors," in the words of British politician and former Prime Minister, David Cameron. Scharpf (1999) hypothesized that transparency enhanced citizens' trust in government by improving the government's policy outputs ("output legitimacy"). However, the evidence on the effects of FOI laws is more mixed.

The main problem in evaluating the impact of FOI laws is the conflation of two contradictory effects: the reduction of corruption and, at the same time, the increased probability of detection (Cordis and Warren 2014). Notwithstanding the difficulties of

assessing the causal effects of transparency and FOI laws, most studies present at best a mixed perspective concerning their effects on levels of corruption, transparency, legitimacy, and trust in institutions. Even though politicians, different international organizations, and NGOs have promoted transparency and laws granting access to public information, empirical evidence calls into question whether these laws have had much effect on different dimensions of expected outcomes, most notably on democracy.

The right-to-information law and how to use it are not well known among the citizenry. Different studies describe FOI law users as composing essentially a small group of journalists or politicized groups (Hazell and Worthy 2010, Meijer, 't Hart, and Worthy 2018, Worthy 2013). Therefore, FOI laws have had a negligible impact among the citizenry in general, except for the indirect impact of press reports of corruption scandals, which the press uncovered using FOI requests.

The evidence shows that these reforms did little to increase levels of trust and participation (Worthy 2010, Worthy and Hazell 2017), though they did make governments more transparent and accountable. James and Moseley (2014), for example, analyze whether information concerning recycling records increases the activation of collective voice. Using an experimental research design, they find no evidence of an increase in individuals' willingness to participate in a collective consultation.

Transparency seems to negatively affect perceived legitimacy in contexts where individuals cannot act to punish wrongdoing. De Fine Licht et al. (2014) state that the effect of FOI laws is highly dependent on citizens' perception of officials' impunity. Bauhr and Grimes (2013) also make the same point: in contexts of high corruption, increasing transparency leads to resignation rather than indignation, thus reducing participation. In this vein, Lindstedt and Naurin (2010), Worthy (2013), and Bauhr and Grimes (2013) agree that

the effects of transparency are highly dependent on the institutional and contextual condition (e.g., prior levels of corruption, free press, active civil society). Lindstedt and Naurin (2010) conclude that, “Transparency will be a less effective medicine against corruption when it is not accompanied by institutional and other circumstances favorable to achieving publicity and accountability” (305). Worthy (2013) states that: “As FOI is shaped by its environment, there is no single impact on trust in local government: it is dependent on how or if the local media use it and the visibility and performance of the authority.” (405).

Levels of trust do not vary significantly as a function of the change in the institutions’ performance in terms of transparency (Cook, Jacobs, and Kim 2010). Variations in level of trust are associated more with entrenched perceptions of institutions’ performance and also with the special attention given by the media to political scandals and reporting that generalizes the behavior of the entire government—i.e. without pointing to the performance of specific agencies or programs (Cook, Jacobs, and Kim 2010). The impact of FOI on trust in government is apparently mediated by a more general conflict between media and government that fosters an activation of the press as a watchdog (Worthy 2010). The study of the US Congress, conducted by Hibbing and Theiss-Morse (2002), and a study by Kimball and Patterson (1997) show that more information raises individuals’ expectations of ethical conduct and, in turn, increases disenchantment. Delli Carpini and Keeter (1996), conversely, do not find a relationship between knowledge (about government activity) and trust.

The existence of the right to access public information and transparency laws facilitates the disclosure of government performance and processes, the detection of officials’ wrongdoing, and the communication of mismanagement and corruption. Thus,

transparency laws and FOI make available more information about officials' wrongdoing (Worthy 2014, Worthy and Hazell 2017). From this perspective, greater knowledge about corruption undermines legitimacy and trust in institutions in general: "Small errors or flaws can be exaggerated by "moral entrepreneurs" to frame government as incompetent or unresponsive to the needs of citizens. A focus on minor mistakes on the basis of 'neutral information' may result in misrepresentations of corrupt politicians and self-righteous elites." (Meijer, 't Hart, and Worthy 2018, 505). In a similar vein, Costa (2012) finds that countries that adopted FOI laws showed an increase in the perception of corruption. Vadlamannati and Cooray (2017) also find that adopting FOI laws is associated with an increase in the perception of the government's corruption (related to an increase in the detection of corruption). The increase is more pronounced, they add, in countries that combine high levels of press freedom, presence of NGOs, and political competition.

Even though various studies have challenged the initial optimism of the promoters of FOI laws, there remains more to learn about the mechanisms that link open government reforms and transparency on the one hand, and legitimacy and trust on the other. In this study we analyze how using the right to access public information affects perceptions of transparency and institutional trust. Our contribution is not focused on how transparency in general affects trust in institutions, legitimacy, or *voice*, but, rather, on the effects of exercising a right that grants transparency. This is relevant because trust in institutions is based on two dimensions: one that is associated with the informational environment concerning the government's or state institutions' performance, and another that is associated with the individual's experience with fair treatment. There is little evidence concerning how the exercise of the right to access information through requests influences an individual's perception of transparency and legitimacy and the individual's trust in

institutions. As mentioned above, this outcome is relevant because institutions, politicians, and agents decide to set these norms with the expectation that doing so will increase citizens' trust and institutions' perceived legitimacy.

Theory

There are various studies that question the positive effects of FOI laws on trust and legitimacy, especially their effect on changing the general assessment of institutions. While these laws foster transparency, they also disclose governments' wrongdoing, affecting the general trust in government. From this perspective, improving transparency could also breed less trust in political institutions.

According to Bruno (2017), distrust and trust have a dialectic relationship; they are two sides of the same coin. The author claims that the literature overstates how distrust is a symptom of problems of democracy. According to Bruno (2017), one problem of the literature that seeks to analyze the effect of transparency laws on citizens' trust is that authors assume a trade-off between distrust and trust. This results from a misreading of Bentham's idea of the citizens' distrust as a driver of transparency.

From Bentham's perspective, general distrust breeds two attitudes among citizens: one that stimulates institutional changes to control politicians and bureaucrats and another that promotes permanent vigilance over governments' actions (Bruno 2017). Thus, in Bentham's view, this general distrust does not preclude, and in fact stimulates, trust in specific institutions, politicians, and bureaucrats who continuously comply with the rules. This is the type of citizens' trust that one should expect in democracies. This normative and ontological perspective on the relationship between citizens' trust and distrust in

government calls into question the conventional wisdom about how governments and institutions can affect levels of trust—and accounts for the unexpected or contradictory empirical effects of FOI laws on citizens' trust.

Trust is thus engendered by a combination of the existence, or citizens' knowledge of the existence of safeguards (norms) and the knowledge of specific government institutions that comply with those norms. The setting of credible safeguards is associated with the assessment of how such safeguards work, which in turn affects the link between trust and transparency. In this vein, trust is based on practical judgments that citizens' develop regarding institutional safeguards that promote government responsiveness (Bruno 2017). This is also a product of the perception that a given government agency performs according to the rules.

In the case of FOI, the existence of safeguards does not ensure the general citizenry will know about such safeguards (Worthy and Hazell 2017). Thus, there is no reason to expect a boost in trust in government by the mere enactment of FOI laws. However, knowledge of the existence of the right to access public information is also insufficient to improve levels of general trust. Moreover, as illustrated in different studies (see above), knowledge of the existence of the right and the disclosure of government wrongdoing by journalists' use of this right, can boost citizens' distrust. Also, knowledge of the existence of the right and the knowledge of institutions' low levels of compliance should induce greater levels of distrust. Therefore, it is the knowledge of the existence of the right *and its successful exercise* that increases levels of trust, especially in the institution involved in the citizen's experience with the right to access information.

The dialectical relationship between distrust and trust and the crucial role citizens' experience with institutions plays in engendering trust yield three substantive implications

concerning the relationship between RTI laws and trust in political institutions. First, only under very specific conditions will this kind of law increase individuals' trust in institutions. Second, the development of trust associated with RTI laws might differ greatly between citizens. For example, development of trust can be shaped not only by one's general perceptions of government, but also by one's particular experiences of interacting with government institutions (Grimmelikhuijsen and Meijer 2012). Third, citizens can develop different levels of trust in different government institutions depending on the degree to which a given institution complies with RTI laws. Therefore, contradictory or null effects result from neglecting the complex relationship between trust and RTI (or between trust and transparency laws in general).

In modern societies, individuals' relationship with political institutions is impersonal (Fukuyama 2014). Moreover, political trust, embedded in a principal-agent relationship (Ross 1973, Mitnick 1975), implies the development of impersonal trust (Shapiro 1987). To understand how transparency laws in general, and RTI laws in particular, impact trust, it is necessary to unpack how trust is generated. These RTI laws are part of what Shapiro (1987) labels a "framework of procedural norms, organizational forms...which institutionalizes distrust" (635).

Agency problems between citizens and politicians or bureaucrats are different than those observed in the economy, essentially because there are multiple agents and principals and there are diverging or conflicting interests among principals or even among agents (Shapiro 2005). Therefore, trust cannot depend on the structure of incentives that align the interests of principals and agents, as in the economic realm. In politics, trust is based on citizens' capacity to monitor agents' behavior (vertical accountability) and on mutual control among agents (horizontal accountability).

Citizens' trust in political institutions results from the existence of norms regarding procedures and compliance with them. This trust is supported by citizens' capacity to monitor politicians and bureaucrats, the latter's disposition to be monitored and by compliance with the norms. Access to public information laws operates on citizens' perception of the administration's willingness to be monitored. Thus, citizens' perceptions of non-compliance with RTI mechanisms (e.g. not responding to requests for information or providing poor quality information through active transparency) signal low institutional commitment to be monitored. Conversely, when citizens know their right to access public information and perceive that the administration responds to that right, or when they directly exercise the right, they develop trust in institutions.⁸

Research design

Hypothesis 1: Successful use of the FOI law does not increase the level of trust in institutions in general.

Hypothesis 2: Successful use of the FOI law increases the level of trust in the specific institution that responds to a given request.

Hypothesis 3: Successful use of the FOI law does not increase the perception of transparency in the public sector in general.

⁸ This is even more important for those institutions that do not provide services or whose services are less clearly evaluable by citizens because they are not individualized services (national defense, foreign relations, etc.) or because those services are provided to a specific population and not to the population at large.

Hypothesis 4: Successful use of the FOI law increases the perception of transparency in the specific institution that responds to a given request.

We will test these hypotheses using a field experiment with an encouragement design. The main goal of the intervention is to randomly encourage people to make a request using the FOI law. We use this encouragement as an instrument to compare the effect of a successful request for information. This will allow us to identify the causal effect of the use of the FOI law on trust and on the perception of transparency.

We will publish an ad on Facebook and Instagram inviting users to answer a survey about transparency. In this survey, respondents will be offered the opportunity to request information using the FOI law. A random sample of respondents will receive a prefilled request, and they will simply need to submit it. The rest will merely be given information about how to make a FOI request. To test our theoretical argument, we need to estimate the effect of successful use of the FOI law, not the effect of merely submitting a FOI request. One of the main problems with the use of FOI laws in these countries is that institutions usually fail to comply with requests as required by law (Piñeiro Rodríguez and Rossel 2018). Therefore, to assess the effect of successful use, we will ensure that the institutions answer all requests promptly. To that end, we have secured agreements with one government institution in each country (Chile, Peru, and Uruguay) that they will reply to the prefilled requests.⁹ We will determine the effect of the successful use of the FOI law by

⁹ We have worked with oversight institutions to identify relevant issues and to design the ads—which will display the institutional logo and follow their communications’ design policies. In each country we have selected a set of three issues. In Chile, Agencia de la Calidad de la Educación (Education Quality Agency). In Peru, Ministerio de Educación

comparing survey responses of those who will receive the encouragement to those who will not receive it. Survey respondents will be informed that they are taking part in a research study and each will be asked to provide their email address and cell phone number for a follow-up survey. This second wave of surveys will allow us to measure the outcome variable of interest once the requests are answered. The survey with the randomized invitation to submit a request under the FOI law will be available for a month. Each respondent will receive the follow-up survey a month after completing the first survey. By law, state institutions have twenty working days to answer the request (this applies to all three countries). Therefore, the second survey will be administered a week after the end of the response time window.

Treatment:

The treatment is the successful request for information under FOI law. As we cannot directly manipulate the successful use of the law, we randomly encourage its use. This encouragement, the prefilled request form, is an instrument of successful use. The placebo control is the information provided about how to make a FOI request.

Outcome measure:

We will measure trust in a given institution with the following question: On a scale from 1 to 7, where 1 is *no trust at all* and 7 is *complete trust*, to what degree do you trust

(Ministry of Education). Finally, in Uruguay, Banco Central del Uruguay (Uruguayan Central Bank).

the [NAME OF THE INSTITUTION]? The outcome measure of interest is the change in how much individuals trust a given institution. We will measure it as the average difference between respondents' pre- and post-treatment answers to the question about trust (see above).

We will measure the perception of a given institution's transparency with the following question: On a scale from 1 to 7, where 1 is *complete lack of transparency* and 7 is *complete transparency*, how transparent do you think [NAME OF THE INSTITUTIONS] is? The outcome measure of interest is the change in a given institution's perceived transparency. We will measure it as the average difference between respondents' pre- and post-treatment answers to the question about the perceived transparency of a specific institution.

Finally, to measure the change in individuals' level of trust in institutions in general and in their perception of government transparency in general, we will pose similar questions asking about "government institutions in general," instead of naming a specific institution.

Analysis

To estimate the effect of successful requests on trust and perception of transparency, we will calculate the local average treatment effect (LATE) with a two-stage least squares estimation to address the problem of those who do not comply with treatment—those who receive the prefilled form but do not submit the request and those who receive the empty form but submit a request. We will also consider those who do not receive the prefilled form to make a request, yet they do make a request (always takers).

$$X_i = \alpha_1 + \gamma T_i + v_i \text{ (first stage)}$$

X_i is a dummy variable that takes the value of 1 if the respondent i makes a request, and 0 otherwise. T_i is a dummy variable that takes the value 1 if the respondent i is assigned to treatment (i.e. receives a prefilled request).

$$Y_i = \delta + \beta \hat{X}_i + \varepsilon_i \text{ (second stage)}$$

In the second stage, \hat{X}_i is the predicted value of X_i in the first-stage equation. The outcome Y_i is a change score equal to $Y_{i, \text{endline}} - Y_{i, \text{baseline}}$.

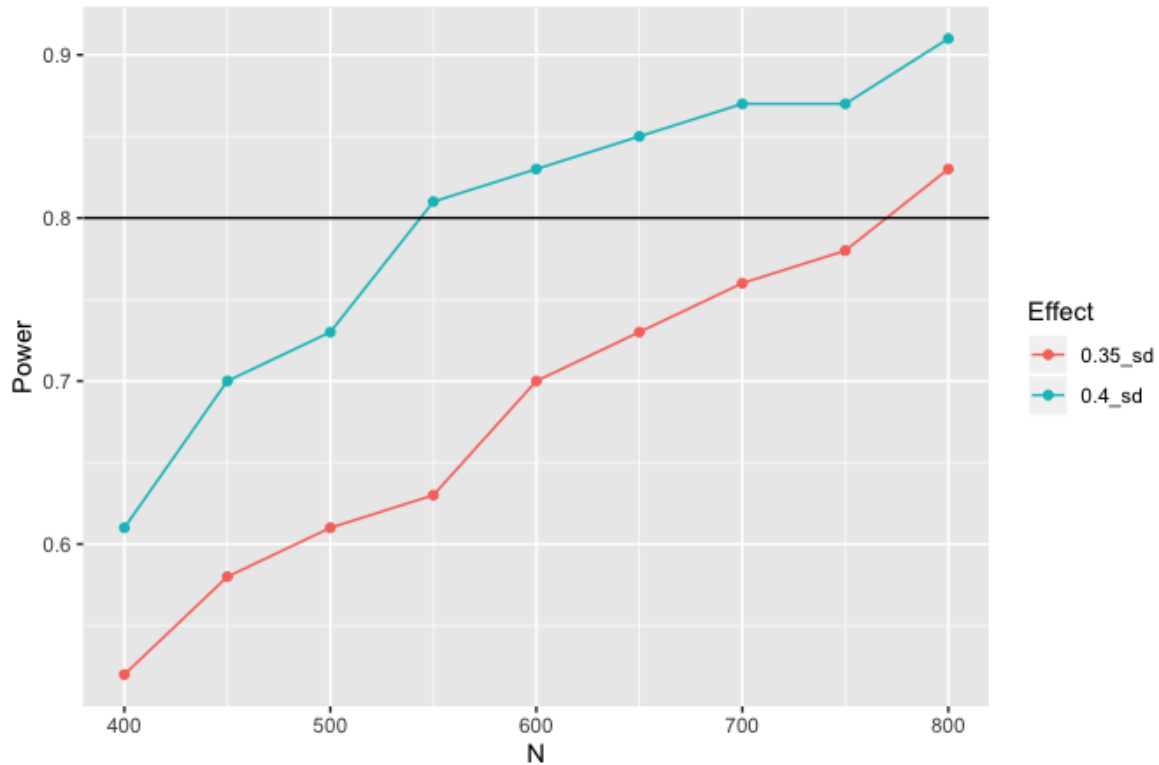
We will use HC2 standard errors. Even though we expect the treatment group to exhibit higher levels of trust in institutions and greater perceptions of transparency, we cannot rule out a negative effect on trust and transparency. Therefore, we will use a two-tailed test. We will set $\alpha_1 = 0.05$ and will reject the null hypothesis when the p-value is less than 0.05. We will use the Benjamini-Hochberg procedure to adjust for multiple comparisons.

We will try to minimize attrition between the first and second survey by asking respondents to provide their email address and mobile phone number. Respondents with missing outcome data will be dropped from the analysis.

To conduct our power analysis, we used the *binary instrumental variable design* function in the software package DeclareDesign (Blair et al. 2019). We assumed that our study group will comprise 5 percent always takers, 25 percent never takers, 65 percent

compliers, and 5 percent defiers. We set the probability of being assigned to treatment at 0.5 for each of these four types. In Figure 1, we present the power calculation for an effect size of 0.35 standard deviations and 0.4 standard deviations for different sample sizes. For the former, the design achieves a statistical power of 0.8 with a sample size of over 750 respondents. For the latter, larger effect size, the design achieves a statistical power of 0.8 with a sample size of approximately 550 respondents. The design does not violate the exclusion restriction neither in the first nor in the second stage. That is, the value of X_i in pre-treatment is independent to the assignment to treatment in the second stage. Also, the temporal evolution of Y_i and X_i is independent to assignment to treatment. Under these assumptions and given the relevance of the instrument for the experimental treatment, the estimates are unbiased (results are not reported here).

Figure 1. Power Calculation



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Appendix

Script Statistical Power

```
library("DeclareDesign")

N <- 400
type_probs <- c(.05, .25, .65, .05)
assignment_probs <- c(.5, .5, .5, .5)
outcome_sd <- 1
a <- c(1, 0, 0, 0)
b <- c(.4, .4, .4, .4)
d <- c(0, 0, 0, 0)

population <- declare_population(N = N, type = sample(1:4,
  N, replace = TRUE, prob = type_probs), type_label = c("Always",
  "Never", "Complier", "Defier")[type], u_Z = runif(N),
  u_Y = rnorm(N) * outcome_sd, Z = (u_Z < assignment_probs[type]),
  X = (type == 1) + (type == 3) * Z + (type == 4) * (1 - Z))

potential_outcomes <- declare_potential_outcomes(Y ~ a[type] +
  b[type] * X + d[type] * Z + u_Y, assignment_variables = "X")
reveal <- declare_reveal(outcome_variables = Y, assignment_variables = "X")
estimand <- declare_estimand(first_stage = mean((type ==
  3) - (type == 4)), ate = mean(Y_X_1 - Y_X_0), late = mean(Y_X_1[type ==
  3] - Y_X_0[type == 3]), late_het = (mean(type == 3) *
  mean(Y_X_1[type == 3] - Y_X_0[type == 3]) - mean(type == 4) *
  mean(Y_X_1[type == 4] - Y_X_0[type == 4])) / (mean(type == 3)
  - mean(type == 4)))
estimator_1 <- declare_estimator(X ~ Z, estimand = "first_stage",
  label = "d-i-m")
estimator_2 <- declare_estimator(Y ~ X, estimand = c("ate",
  "late", "late_het"), model = lm_robust, label = "lm_robust")
estimator_3 <- declare_estimator(Y ~ X | Z, estimand = c("ate",
  "late", "late_het"), model = iv_robust, label = "iv_robust")
binary_iv_design_X <- population + potential_outcomes + reveal +
  estimand + estimator_1 + estimator_2 + estimator_3

diagnoses_X <- diagnose_designs(binary_iv_design_X)

diagnoses_X
```