

NÚMERO 52

RODOLFO SANSFIELD

The Mordida's Game

How Institutions Incentive Corruption

FEBRERO DE 2011



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Fax: 5727•9800 ext. 6314
Correo electrónico: publicaciones@cide.edu
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Acknowledgements

A first version of this paper was presented at the symposium on "The Rule of Law: Concepts, Measures, and Theory", at Georgia State University, Atlanta, in June 4-5, 2010. I want to thank specially the valuable comments by Julio Ríos-Figueroa. Also, I remain thoroughly grateful for the critical and very useful interventions of Marcelo S. Bergman, Ryan Carlin, Jennifer L. McCoy, Jørgen Møller, Svend-Erik Skaaning, and Jeffrey K. Staton. The usual disclaimers apply. Comments are highly welcome: rodolfo.sarsfield@cide.edu

Abstract

Law, in the sense of a set of formal written document, will be largely irrelevant if the rules are not embedded in an institutional and organizational structure that favors compliance (Rose-Ackerman, 2004). Individuals and societies will develop practice and norm that serve the function take on by law in other countries if law is excessively cost in comparison with other mechanisms to process private-private and public-private interactions. The dominance of the informal rules and corruption over the law-abiding behavior has been seen as a consequence of cultural patterns (Paldam, 2002), versus the calculus of a rational actor that, in front to specific institutional arrangements —typically, the limitation of the law enforcement mechanisms (Becker and Stigler, 1974; Hibbs and Piculescu, 2010)—, he opts by corruption (Becker, 1968; McCarthy, 2002; McKenzie and Tullock, 1984; Opp, 1989). In this paper, I try to model the logic that underlie a case of the well-known corrupt act of “mordida”, that is, the seeking-bribe and offering-bribe in Mexico City when a citizen commits a transit infringement. The first conclusion is that corruption is the equilibrium of the game. The second conclusion is that some specific aspects of the penalty itself is the main factor of the dominance of corruption.

Resumen

Las leyes, en el sentido de un conjunto de reglas formales, serán extensamente irrelevantes si aquellas no están enraizadas en una estructura institucional y organizacional que favorezca su obediencia (Rose-Ackerman, 2004). Los individuos y las sociedades desarrollarán normas y prácticas que desplazarán a las leyes como mecanismo de procesamiento de los conflictos en la interacción entre actores privados y públicos. El predominio de reglas informales y de la corrupción sobre el comportamiento legal ha sido explicado por algunos autores como la consecuencia de patrones culturales (Paldam, 2002), versus el cálculo racional de un actor que, frente a determinados incentivos institucionales —típicamente, la debilidad de los mecanismos de cumplimiento de la ley (Becker y Stigler, 1974; Hibbs y Piculescu, 2010)—, opta por la corrupción (Becker, 1968; McCarthy, 2002; McKenzie y Tullock, 1984; Opp, 1989). En este trabajo intento modelar los pagos del conocido acto de la “mordida”. La primera conclusión es que lo racional es el acto corrupto. La segunda es que este resultado se debe a algunos aspectos de la sanción que se establece para algunas infracciones de tránsito.

Introduction

An increasing consensus exists about corruption represents a major risk to socio-economic progress and development of the nations (Heywood, 2009; Wintour and Leigh, 2005). From the end of the Cold War, corruption has been considered as the most important threat facing not just the developing countries but also the developed world itself. A range of international organizations, including the World Bank, the International Monetary Fund, and the Organization for Economic Co-operation and Development (OECD), as well as the European Union (EU) and many national governments, have begun to considering the problem of corruption as a central impediment to economic growth.

Studies find strong support for the notion that the effects of corruption are negatives, putting to rest many of the functionalist contentions of the 1960s and 1970s (Huntington, 1968; Nye, 1967). As regards the economic consequences, such studies show rather conclusively that corruption discourages productive investment, distorts trade and government spending priorities, worsens poverty and inequality, and, most important, reduces overall level of economic growth (Kaufmann and Wei, 1999; Lambsdorff, 1999; Mauro, 1995, 1997). Politically, the effects are equally pernicious. Research shows corruption erodes popular trust in political institutions, undermines generalized trust in others, distorts political participation, and reduces overall regime legitimacy (Andreson and Tverdova, 2003; Della Porta, 2000; Seligson, 2002, 2006). Together, these robust findings “support the view that corruption threatens or distorts both economic development and democracy” (Morris and Blake, 2009: 9).

In spite of the consensus about “corruption matters”, nevertheless, there is much less agreement about the meaning of this concept. Corruption is a multidimensional, contextual-centered, and complex concept that is not easy to define. From the classical Nye’s (1967) definition and Heidenheimer’s (1970) characterization to the Alatas’s (1990) conceptualization of corruption and its types—and the recent inductive classification of “syndromes of corruption” provided by Johnston (2005)—, there is a considerable literature that has sought to identify the core characteristics of the concept. In the present, the notion of corruption maintains its controversial meaning in the literature (Heywood, 2009).

Although a systematic discussion of the meaning of corruption would be relevant for the central question in this paper—why and when an individual commits a corrupt act—, I will use the most commonly cited definition developed by the anticorruption non-governmental agency, Transparency International (TI). The TI’s conceptualization states that corruption is “the misuse of entrusted power for private gain”, further differentiated between

“according to the rule” and “against the rule” variants (Transparency International, 2010). The former refers to a situation in which facilitation payments are given to a public official in order to secure preferential treatment in an area where the official is legally entitled to act; the latter involves bribes paid to secure services which the official is not entitled to provide.¹ As we will see below, in this paper I only analyze illegal corruption (against the law variant).

In general terms, the question about why individuals act according to the rule or against the rule has been responded from two different theoretical traditions that they could be termed as cultural-psychological and rational choice-institutional approaches.² From a culturalist point of view, the dominance of corruption (or informal rules) is conceived as the social outcome of idiosyncratic effects. Cultural explanations claim that some cultural patterns, something that could be termed as “a civic culture”, or preexisting social norms (Melhkop and Graeff, 2010) are necessary for the law be obeyed by individuals. This is a twofold claim: 1) law-abiding behavior is dominant only if it is supported by the cultural patterns of a society; and 2) specific culture may or may not be prone to law-abiding behavior.³ It is worthy to mention that an important aspect of this approach is that it seeks to explain individual behavior (obey/not obey the law) with an attribute of societies (civic/not civic culture). Linked with cultural perspective, some scholars have claimed that law-abiding behavior is a consequence of individuals’ normative commitments with law (Tyler, 2006; Tyler and Huo, 2002). This approach affirms that people’s normative commitment with laws involves personal morality or individuals’ sense of the legitimacy of the authorities.⁴

As a second tradition, other scholars –from the rational choice theory and the neo-institutional literature– have argued that the law-abiding behavior is related with incentives and penalties associated with following the law. From this theoretical perspective, corrupt acts are due to a rational actor that, in front to specific institutional arrangements, he calculates that corruption has better payoffs than law-abiding behavior. Obeying the law is the consequence of individual’s judgment about the personal gains and losses resulting from different kinds of behavior (as informal rules, corruption or violence), and the probability of being sanctioned if the law is not obeyed. A derived argument

¹ This definition does not include the dimension of corruption in private sector. Paradoxically, in other report Transparency International points out that “corruption in and by the private sector is of growing concern to the general public” and “the private sector is perceived to be corrupt by half of those interviewed” (2009: 4).

² I put together into two groups that are four different approaches (neo-institutional and rational choice versus cultural and psychological approaches) to highlight the analytic differences between those two very different visions about the theory of action.

³ These arguments follow the ideas that Przeworski (2003: 116) applies to cultural explanations for democracy to endure.

⁴ Morality and legitimacy are two aspects that they are not identical. Personal morality means that an individual obeys a law because he or she feels the law is just. Normative commitment through legitimacy signifies that a citizen obeys a law because he feels that the authority that enforces the law has the right to dictate behavior (Tyler, 2006).

of this approach is that the weakness of law-abiding behavior is due to the absence of law enforcement mechanisms (Becker and Stigler, 1974; Hibbs and Piculescu, 2010), an important institutional aspect.

Using game theory, the aim of this paper is to propose a preliminary theoretical framework about when and why the law fits with the society's dominant way of operating at the "street level" (Rose-Ackerman, 1999). In this sense, this work is based on an economical approach to the obedience of law. The phenomenon of interest in this paper—in a larger project—is the level of the functioning and maintaining of the law in face to *illegal corruption* (the misuse of entrusted power for private gain *against the rule*),⁵ as different mechanisms that delineate and form the interactions and conflicts between citizens, and between citizens and the state. In other words, the question here is when and why the problem of coordination between different interests, different points of view, and/or different identities (Hardin, 1999) is (or not) resolved by laws.

More specifically, this work studies the payoffs for both a transit police *A* and a citizen *B* in a real interaction *X* in Mexico City (*B* commits an infringement *Y*), and in a specific institutional setting *Z*, trying to shed light on the underlying theoretical logic of the law-abiding behavior *versus* the corrupt behavior. To account for the rules of this game, I go outside game theory. This decision follows from two criterions: game-theoretic explanation is incomplete if the rules of the games are taken as given; complete explanations can only be offered reaching beyond game theory, in an additive process, in which non-game theoretic approaches are used to explain the basic inputs of the game (Munck, 2000).

This work affirms the importance of considering not just the law (understanding "law" as a set of formal written rules), but also the obedience of law within the society. The law will be largely irrelevant if the rules don't outline the interactions and conflicts between actors. When societies have developed practices and norms that replace the law (or, at least, function at the same time of the law), the rule of law is threatened.

Analyzing what I call "the mordida's game", I intent to show that the equilibrium of the game is corruption (and not law-abiding behavior). In the first section, I point out the rules of the game, going to the macro level of the game, that is, its institutional setting. In the second section, I analyze the cognitive framework or micro-motives of the actors (*i.e.*, expectations about the behavior of the other people) that influence on their behavior. My argument is that both levels—the institutional setting and the cognitive framework—delineate the actors' payoff of each option. The conclusion is that corruption is the equilibrium of the game.⁶

⁵ I just explore one dimension of the Transparency International's conceptualization of corruption. I don't analyze legal corruption, that is to say, the misuse of entrusted power for private gain *according to the rule*.

⁶ The validity of this theoretical conclusion requires, obviously, further economic experiments.

Institutional setting and corrupt behavior

It seems to have a general consensus in the political science about political institutions (or institutional setting) matter to explain the level of corruption (Bailey, 2009; Morris, 2009; Nye, 1967; Rose-Ackerman, 1999 and 2006; Thacker, 2009). "Political institutions" include a wide variety of dimensions and aspects. I focus my attention to four dimensions that have been highlighted by corruption studies. These dimensions have been the kind of institutional arrangement, the level of political institutionalization, the strength of law enforcement mechanisms, and the quality of democracy. Institutional arrangement includes "electoral systems, constitutional provision governing relations between legislative and executive branches, and degree of decentralization" (Colomer, 1995: 74). Many authors attribute the resilience of corruption to the presence or absence of a specific type of institutional arrangement. These studies indicate as critical factors influencing on the level of corruption, the design of party and electoral systems (Geddes and Neto, 1998), the institutional framework of presidential systems and federalism (Bailey, 2009), and/or degree of decentralization of policy (López-Cáliz, Alcázar and Seligson, 2009).

Likewise, it has been affirmed that the degree of political institutionalization influences on the level of corruption. Weak political institutionalizations will incentive corruption. Although political institutionalization is difficult to define, there seems to be agreement that procedures in a well-institutionalized polity should be functionally differentiated, regularized (and hence predictable), professionalized (including meritocratic methods of recruitment and promotion), rationalized (explicable, rule based, and non-arbitrary), and infused with value (Huntington, 1968). If "institutions don't provide regular, predictable, rational, rule-based procedures, actors face tremendous uncertainty over the final outcomes of their interactions with other actors and public officials". In particular, a weak political institutionalization "shortens actor's time horizons and increases their discount rates, potentially increasing the expected utility of corruption" (Thacker, 2009: 32).

Other scholars have stressed the role of law enforcement in the maintenance of law-abiding behavior and, consequently, in the construction of the rule of law. The existence of legal limits and strong mechanisms that can enforce law is a necessary condition to individuals obeys the law. Weak law enforcements, by definition, cannot deliver adequate protection to laws. Law as written rules does not have the effective rule in order to be imposed if there are not successful law enforcement mechanisms (Bergman, 2009). The generation of vigorous law enforcement is a foundational and critical component of the capacity to construct the rule of law and the type of social

equilibrium that it produces (Rotberg, 2004), that is to say, the state of the world in which all individuals obey the law.

Two crucial institutions of law enforcement are the judicial system and the police (Blake, 2009). The judicial system constitutes the institutional framework and functioning agencies within which citizens can translate their abstract right into practical action. Most important, the “courts are crucial for the rule of law as the ‘meta-institution’ in the sense of applying the rules to other institutions and actors”. If the courts do not work, “there’s little hope for the rest of the system” (Bailey, 2009: 71). At the same time, and as armed agent authorized to use lethal force and operating generally out of public view, police officers are the law in a real sense, in effect, “the state on the streets” (Hinton, 2006). Police engage in many different types of activities linked with rule implementation and rule adjudication. If police does not work, many aspects of social order will suffer the consequences.

Rothstein and Uslaner (2005) make a convincing argument about why law enforcement and judiciary are critical to the rule of law in terms of linkages of perceptions. They suggest a strong connection between law enforcement and social trust, a crucial element of democratic governability. In effect, police and judiciary have the critical task of tracking down and punishing those who have broken the rules. If they perform that task effectively and fairly, the broader community will more likely believe that offenders cannot get away with criminal activity. Thus, interpersonal and institutional trust increases and the basis for abiding-law behavior are reinforced.

Finally, for years scholars have held that democracy—and its quality—reduces the likelihood of corruption (*i.e.*, Johnston, 2005; Rose-Ackerman, 1999; Morris, 2009). If it is right, democratization should contribute with the observance of the rule of law. Indeed, elections give voters a means to hold public officials accountable and thus the ability to punish with their votes those individuals found to be abusing the public’s trust by engaging on corruption.⁷ From a rational choice perspective, electoral competition alters the fundamental incentives for those competing for public office. For those on the outside, competition provides incentives to expose the corruption of the incumbent in order to enhance their prospect of winning. Additionally, the civil liberties accompanying democracy tend to make government more open and transparent. Such freedoms foster a more independent press and a more active civil society, both of which help expose official wrongdoing and channel demands for accountability, strengthening these important mechanisms of vertical accountability (Rose-Ackerman, 1999). Political institutions’ thesis seems to be becoming a new conventional wisdom in corruption studies.⁸

⁷ It is worthy to note that this affirmation is correct only if citizens evaluate corruption as a non-desirable act.

⁸ In spite of this rather simple formula, however, the theoretical relationship between democracy and corruption is not as clear or sharp as it has been suggested. Geddes (1994), who employ game theory to illustrate the

Despite extensive theoretical arguments linking institutional setting as independent variable to corruption as dependent variable, empirical research shows a rather ambiguous linking the two (Rose-Ackerman, 1999). The multiple cross-national studies fail to offer consistently conclusive results regarding the institutional determinants of corruption. Analyzing four states of Mexico, Cleary and Stoke (2006) find the more democratic the state, the higher the level of institutional trust and respect for the rule of law, and the lower the level of trust in politicians and reliance on clientelism, and personal favors. Beer (2003) finds evidence that increasing electoral competition strengthens representative institutions in ways that decentralize power away from the national executive and improve the separation of the power and therefore has significant consequences for accountability and the rule of law. However, Morris (2009: 172) finds that there is no relationship between “greater respect for the rule of law and institutional trust on perceived and/or real levels of corruption”. On the other hand, in the years following the return to democracy of the 1980s, corruption in Latin America has increased or has failed to fall appreciably (Weyland, 1998; Geddes and Neto, 1998; Morris and Blake, 2009).

Cross-nationally, at least, contemporary democracy and current level of political freedoms seem very weakly related to the level of corruption (Sandholtz and Koetzle, 2000). As a general criticism to neo-institutionalism program, it has been suggested that we should “thin somewhat the ranks of phenomena” which we expect “can be explained by formal institutions” (Alexander, 2001: 250). Should we include corruption as one of these phenomena that it cannot be explained by political institutions? Theoretical evidence indicates the contrary. The question, then, is: why, despite the theoretical expectations according to which specific political institutions should reduce the levels of corruption, does the empirical findings suggest otherwise?

One answer to that question has been that it seems that only a longer exposure to democracy tends to be lower the level of corruption over time (Blake and Martin, 2006; Gerring and Thacker, 2004; Lambsdorff, 1999; Thacker, 2009; Treisman, 2000). The role of democracy as a check on corruption seems to center on its ability to foster a network of governmental and nongovernmental accountability mechanisms that take time to develop.⁹

institutional conditions that forge the dilemma helping to foment a form of political corruption in Brazil, shows that though the whole society may benefit from an end to patronage, “no individual politicians or political party has an incentive to unilaterally institute a merit system since it would translate into losing votes” (Morris, 2009: 171). On this aspect, see also Geddes and Neto (1992).

⁹ Other hindrance for the expected effects of democracy on corruption might be at the individual level. Beyond the specific link between politicians (or parties) and citizens that democracy introduces, there are no incentives, from an individual perspective, to introduce the fair option of the law-abiding behavior *if* the dominant option is corruption. The different nature of the private goods and public goods contributes to this paradox. In this sense, the concentrated nature of the private good, coupled with the diffuse nature of the public good, presents difficult

Likewise, the efficacy of law enforcement mechanisms seems to depend on a similar patron: only a longer exposure to law enforcement mechanisms tends to be lower the level of corruption over time.

A second answer for the discrepancy between theoretical argument and empirical finding might come from the microfoundations of corruption. Empirical literature about the determinants of corruption has concentrated its efforts in identifying correlations between different independent variables and corruption at aggregate level, while paying considerably less attention to the mechanisms that link these phenomena to corruption. Path dependence theory might help us to explain those mixed findings. When the starting point of democratization is that the majority of people do not comply with laws, then a hindrance for political institutionalization will emerge. Under a vicious noncompliance circle—such as it occurs in Mexico (and most other Latin American countries)—, the people's incentives are placed in a repeated violation of rules, which further feeds a spiral of normative disobedience. Under this equilibrium corrupt behavior becomes perfectly rational, forcing all players to behave as this perverse equilibrium dictates (Bergman, 2009).

The study of the microfoundations of the functioning and maintaining of the law is a deficit in the literature. Most of the explanations presented to elucidate the functioning of the rule of law uses properties of countries, such as wealth (Barro, 2000; Joireman, 2004), the ethnic fragmentation (Hayo and Voigt, 2005; Hansson and Olsson, 2006), religion (Barro, 2000; Hayo and Voigt, 2005) or the Communist past (Hoff and Stiglitz, 2004; Sandholz and Taagapera, 2005). While some scholars have suggested and provided insights into the mechanisms that link those independent variables with the rule of law as a dependent variable, a systematic development of the micro-motivations of the rule of law is absent.¹⁰

Bearing in mind that for the explanation of a social phenomenon (prevalence/no prevalence of law-abiding behavior) is a necessary condition to propose “a plausible hypothesis or a set of plausible hypotheses” in “terms of the interaction between individuals, or between an individual and a social aggregate” (Schelling, 1998: 32-33), research about the microfoundations of the corruption constitutes a central enterprise. Finding the motivations of individuals to disobey the law—which aggregated as individual decisions produce the result of the absence of the rule of law at the macro level—is a necessary condition for the explanation.

The notion of the social mechanism plays a crucial role in a good explanation. When are compared mechanisms with theories, laws,

collective action and free-rider problems that translate into incentives that augur poorly for the protection of the public interest.

¹⁰ In this paper, I do not intend to evaluate empirically such correlations. As it is well known, correlations are just one of the two dimensions of a causal inference. In this sense, I aim to propose some theoretical hypothesis about other of the dimension of a *good* causal inference: the mechanisms that underlying the relationship between variables.

correlations, and black boxes, “there is near consensus on a hierarchy that has ‘mere’ correlations at the bottom, with laws higher up” (Schelling, 1998: 32). It exists laws that have black boxes (*i.e.*, opaque as they how to work), such as the law of gravity. Although the law of gravity is fully reliable in predictive terms, it is less helpful in explicative terms. It is not clear until now why and how the objects attract ones to another. On the other hand, theories have less status than laws if the laws are well established and the theories not.

A pervasive idea for the political science—at least into the methodological individualism—is that social phenomena should be explained from the notion that the unit of analysis is a rational, or at least a motives-oriented, individual. This conception has derived on a second idea: if an explanation E of a social phenomenon S cannot be reduced to the behavior of individuals, E is an unsatisfactory explanation of S . Any social phenomena must be reduced to choices of individual. If not, there is a black box problem. There is some notion that what is inside a black box must be a social mechanism, or several social mechanisms.

Following these prescriptions about a good explanation, I propose a set of mechanisms to elucidate the rule of law, defined as a social outcome: the prevalence of law-abiding behavior. In the first place, I suggest a macro-micro mechanism: the institutional arrangement and its performance. Institutions (at macro level) produce a specific benefit/cost for individuals (at micro level). If this utility is less important than the utility of corruption, it will be less probably that individual abide the law.

The second mechanism that I propose is a micro-micro one: the expectations of an individual A about the behavior of other individuals influence the behavior of A . If a citizen A belief that their counterparts are corrupt in an X level—being $X > C$, and C the critical mass—is less likely that A abide the law. This mechanism follows from “a law of behavior of the kind that might be recognized in social theory”, such as “when the average speed on the Autobahn increase, most driver will drive a little faster” (Schelling, 1998: 40).

Although I will not develop this argument here, the third mechanism that I want to suggest is micro-macro and it follows the ideas of Thomas Schelling (1978) about the relationship between the behavior characteristics of the individuals who comprise some social aggregate, and the characteristics of the aggregate. Shelling (1998) wants to call attention about a kind of law that he calls “accounting identities”. Schelling (1998: 43-44) says: “consider two first-order differential equations involving X and Y , each growing or declining as a function of both of their current values (X' denotes the current rate of change of the values of X):

$$X' = A + BX + CY \tag{1}$$

$$Y' = a + bY + cX \quad (2)$$

Differentiating 1, we get:

$$X'' = BX' + CY' \quad (3)$$

Substituting 2 into 3, we get:

$$X'' = BX' + Ca + CbY + CcX \quad (4)$$

If we multiply 1 by b and substrate it from both sides, we eliminate the term Y , and get:

$$X'' = (Ca - bA) + (B + b)X' + (Cc - Bb)X \quad (5)$$

The same may be done for Y'' ; the resulting equation in term of Y' and Y will have corresponding coefficient (from the symmetry of the coefficient in 5).

If we 'solve' this equation, we find five possible modes of behavior:

1. If either of the two coefficient, $(B + b)$ or $(Cc - Bb)$, is positive, X and Y will monotonically grow exponentially.
2. If both are negative, and $(B + b)^2/4 > -(Cc - Bb)$, X and Y will converge monotonically on equilibrium values.
3. If $(Cc - Bb)$ is negative, but $(B + b)^2/4 < -(Cc - Bb)$, X and Y will cyclically (sinusoidally) converge on equilibrium values if $(B + b)$ is negative.
4. Will cyclically (sinusoidally) diverge exponentially if $(B + b)$ is positive, and
5. Will display a uniform sine curve if $(B + b)$ is zero."

Cognitive framework and corrupt behavior

An aspect that explains behavior against the rule I wish to emphasize in this paper is the underlying logic of corruption. I understand this concept as the beliefs, motives or reasons for which an actor commits or not a corrupt act, somewhat that I want to call the "cognitive framework" of corrupt behavior. My argument is that expectations about the behavior of the other people facing the law delineate the actors' payoff of each option and influence on their behavior. If a citizen A believes that the majority of citizens are corrupts

is more likely that *A* accept the corruption and, consequently, he acts in a corrupt way. The reasoning of *A*—assuming that *A* is an actor with utilitarian-oriented rationality— would be: if the most of citizens are corrupt, the law-abiding behavior would be expensive (and stupid).

I would also underline the importance of perception on what happens with politicians or economic firms involved in “grand corruption” or the “high-level corruption” (Bailey, 2009). Behavior by legislator who accepts bribes and by the business firms that offer them has a crucial influence on individuals’ attitudes toward the law. Thus, where a circle of impunity is perceived within the government, citizens find it harder to maintain an outright rejection of corruption because such a position seems like foolishness. People evaluations of the likelihood of enforcement—via detection, investigation, and adjudication— form crucial influence on their own behavior about corruption.

While many government agencies play a role in the dynamics of accountability, when citizens consider government probity regarding bribe-taking and other issues they are perhaps most likely to think about the enforcement mechanisms closest to the people—the police. Contact with the police constitutes “many citizens only experience with government officials charged with the enforcing of the rule of law” (Blake, 2009: 97). When the police seem inept or corrupt, this hampers the ability of citizens to maintain high levels of confidence in the rule of law. “Police officers are the state made flesh. As law enforcers and problem solvers they are the most direct representatives of the state for citizens given their visible, uniformed, 24-hour presence on the streets and their crucial involvement in social intervention and law enforcement. If they are corrupt, and if citizens lose confidence in them, then this undermines the legitimacy of the state. More than any other officials their integrity is a vital barometer of a healthy society.

Because the police play such a critical role in shaping public opinion about the rule of law—and about government more generally— public attitudes toward police can have a powerful relationship on one’s thinking about corruption. If citizens perceive the police as protecting certain criminals or as eliciting bribes themselves, it becomes harder to develop and retain a consistent rejection of corruption. If those seen as central to law enforcement are corrupt, “why should one reject corrupt activity?” (Blake, 2009: 98).¹¹

According to rational choice theory, unlawful behavior is the consequence of rational actor’s active decision concerning costs and benefits (Becker, 1968; McCarthy, 2002; McKenzie and Tullock, 1984; Opp, 1989). In other

¹¹ Using data from World Values Survey, Blake finds that Latin American respondents express the lowest level of confidence in the police and a somewhat below-average rejection of bribe-taking, and the residents of Post-Soviet and East European countries manifest the most tolerance of corruption and a similarity low level of confidence in the police. There is not a firmly consistent pattern in these regional data, but these data suggest that the confidence in the police is worthy of further study as a potential determinant of individuals’ attitudes toward corruption.

words, rational choice theory posits that the behavior M of each individual facing the law depends on how effective he/she creates is M as a mean for a desired end E , given your preferences P , and assuming that individuals, typically, maximize their utilities. Individuals that commit a crime try to maximize their advantages such as physical well-being or social recognition through criminal acts, while at the same time avoiding adverse consequences. In this respect, illegal behavior does not differ logically from legal behavior (Voss and Abraham, 2000: 72). The family of rational choice theory is capable of explaining and empirically describing any social and everyday behavior (Esser, 1999).

In this sense, a person commits a fault if the subjectively expected benefit is greater than the benefit that could be realized by spending the same time and other resources to pursue other activities (Becker, 1968). Then, individual do not become "criminals" because they differ from other people in terms of their basic motivations; they commit crimes because of their different costs and benefits. Thus, an actor chooses legal or illegal actions that he subjectively expects to increase his benefits (Cornish and Clarke, 1987: 933). Besides the *benefit* that a person expects of his offense, both the expected subjectively of being caught, or *probability* (p), and the costs (C) associated with the expected subjectively level of penalty have to be considered in a person's decision to commit a crime. According to Becker, the expected utility (EU) for the offense (S) can be defined as follows:

$$EU(S) = B - pC$$

A crime is more likely to be committed if the expected utility $EU(S)$ is positive, that is, $B > pC$.

The probability p is not commonly known but instead a subjective expectation is held by individuals. That is, the general public can do little more than guess at how likely it is that a person who commits a particular offense will be caught. That subjective probability will differ depending on, among other factors, the personal experience of the individual and of those with whom the individual associates. Differing assessments among actors can also be explained in part by differences in knowledge of how many arrests and convictions are made relative to the number of crimes committed. That knowledge is determined by exposure to both criminals to the environment and to the workings to the law enforcement system, including police and judiciary.

It is assumed the greater the penalty associated with a crime, the less likely it will occur. However, severe penalties per se do not appear to fully act as a deterrent. Some societies punish certain crimes with capital punishment, and that does not always reduce the likelihood of their occurrence. As argued above, the perceived probability of having to pay

penalties also matters.¹² When considering carrying out a specific offence, an important factor that this individual considers is his or her probability of success (whether he or she is capable of carrying out the offence). The probability of success is simply the opposite to the probability of being detected, $1 - p$. Some individuals will believe that their intentions are more likely than average to be successful, for a variety of reasons, and some individuals may believe that they are more likely than others to be caught. These subjective probabilities may differ depending on a person's socioeconomic class.¹³ These arguments imply that it is reasonable to assume that the subjective expected probability of success is somewhat independent of the objective probability of being sanctioned.

The subjective expected of being sanctioned also is the result of the individual's beliefs about law enforcement. A person's belief about the efficacy of law enforcement is a product of the individual history and the experiences of other persons close to him with institutions that enforce the law. On the other hand, the level of exposition to scandals without punishment in the media conform other source of information that form his beliefs about the subjective expected of being sanctioned. Additionally, the behavior of others in face to social norms and rules can be other information that influences in his perception about the impunity.

In general terms, theoretical hypotheses are:

1. The behavior of individuals facing the law is a result of the comparative benefit/cost of law-abiding behavior *versus* corrupt behavior. This benefit/cost includes:
 - 1.1 Expectations about the behavior of others.
 - 1.2 The individual's beliefs about law enforcement.
2. If the benefit to obey the law for an actor *A* is less than the benefit to disobey the law, it will be more likely that *A* disobey the law. Consequently, the predominance of the law-abiding behavior *versus* the predominance of corruption as a social outcome will depend on the difference between their benefit: if this difference is higher than a crucial point, corruption will tend to dominate the interaction and resolution of conflict between individuals.

¹² Such as Mehlkop and Graeff (2010) suggested, a murdered does not care about the severity of a sanction if he or she is convinced that the crime will not be punished (because he or she is not caught).

¹³ Heckhausen and Schulz (1993: 216) have suggested that individuals vary in their "control expectations" and "control beliefs". Actors with internal control expect to influence events by their actions. Actors with external control beliefs think that the result depends on factors not controllable for the actors themselves. Finally, control beliefs emerge as a result of the individual learning history. Actors with internal control are more likely to commit an infringement than actors with external control in the extent of which control beliefs are a proxy of the expected probability of being sanctioned.

3. As consequence of 1 and 2, in countries in which an X part of citizen disobey the law —being X the point of critical mass—, it will be more likely that a citizen A disobeys the law.
4. The expected benefit of an offence is weighted with the probability of success. Then, the following decision condition is derived:

$$SEU [S] = qB - pC, \text{ being } q = 1 - p$$

Where $SEU [S]$ is the subjectively expected utility from the offence S , q the subjective probability of successfully carrying out the offence, B the subjective value of the benefit, p the subjective probability of being caught, and C the subjective value of the degree of penalty. A offense is more likely to be committed if $SEU[S]$ is positive; that is, if $qB > pC$.¹⁴

The mordida's game

Speaking in roughly terms, the law is more expensive individually if selective incentives do not exist (content of law), or they do not apply (law performance). Under such conditions, it is probable that rule of law becomes more expensive than corruption and, therefore, for actor the rational will be disobeying the law. It is worthy to keep in mind that individual behavior depends on expectations about what others do. A well-known example is what happens in meetings when “there is no convention or clear standard on whether it is courteous to applaud at the end of the Conference or the Parliament of honor”. Thus, “if only one or two persons begin to beat palms, it is very possible that they stay alone in its action, and they made the ridiculous”. But if “from the outset, a slightly larger group do it, it almost certainly that it will be a unanimous standing ovation” (Colomer, 1995: 46). Unlike this example, in the case of a transit bribe, citizen C “does not know” what others would do in the same context. Something similar happens with the transit police T . In both cases, the behavior depends on the beliefs about others.

A *cognitive* incentive that helps feed corruption is that C believes that transit police T would break the law (incentive I). The same logic applies to the transit police: if T thinks that C will disobey the law, therefore T has a cognitive incentive J for a corrupt behavior. A similar logic applies to what citizen C (and police transit T) believes about the other people. If C believes that most of citizens would disobey the law in the same situation, it will be

¹⁴ Then, four variables are identified to explain criminal behavior. Differences in criminal behavior among individual are the result of different assessments of these four variables. The value of p can vary between 0 (the person is certain of not being caught) and 1 (the person believes that he or she definitely will be caught).

more likely that C does not obey the law (incentive I'). An equivalent argument applies to transit police T (incentive J').

For the case of "mordida" analyzed here, specific theoretical hypotheses are:

1. If a citizen C thinks that offer the bribe to a transit police T will be effective to minimize the cost of an infringement of transit, then he/she will more likely do it.
2. Behavior of C also depends on the likelihood of suffering reprisals or sanctions. If C believes that the probability of a punishment for the bribe is low, then it is more likely that C offer it. The same reasoning can be applied to the transit police T . Differential in utility D among law enforcement (application of punishment) and the violation of the law (the bribe) will be:

$$D = C \text{ Law} - C \text{ No-law}$$

Where:

$C \text{ Law}$: cost of law-abiding behavior (to pay the penalty).

$C \text{ No-law}$: cost of corruption (to pay the bribe).

If D is positive, it is more likely that C and T choose to violate the law. To the extent that D is greatest, this probability will increase.

3. The behavior of C and T facing the law will be a result of the comparative benefit/cost of law-abiding behavior *versus* corrupt behavior. This benefit/cost includes: 1.1 Expectations about the behavior of others. 1.2 The individual's beliefs about law enforcement.

Here, it is important to consider the main costs of this game. Costs for C to law-abiding behavior are the penalty, **plus** the time that C lost, and **plus** transaction's costs. The transaction's costs (and time's cost) are associated with the police procedure in the cases of some kind of trivial infractions in Mexico City: the car is moved to (insecure) "*corralón*" (*police parking*). On the other hand, costs of T to law-abiding behavior are "the bribe charge" that the transit police do not receive, **plus** the time that T lost (T might have "invested" this time in other citizen).

Paradoxically, costs for C for corrupt behavior are much more "encouraging". They are composed by a "cheap" "bribe charge" for the transit police. For the transit police T , this behavior is also more favorable

that law-abiding behavior: the "mordida" or "bribe charge" that he will obtain it.

Below, I show the total payoffs of both actors:

	PAYOFFS OF C, T
Paying the penalty (law-abiding behavior).	$-10 - [tr + t1], 10 + t2$
Paying "mordida" (paying the bribe: corrupt behavior)	$-10, 10$

Payoffs to law-abiding behavior

Payoffs Citizen $C = -10 + t1 + t2$: - 10, paying the penalty; plus $t1$, time lost; plus $t2$, transaction's costs: the car is moved to (insecure) "corralón" (police parking).¹⁵

Payoffs Transit Police $T = - 2$: - 10, the exchange of bribe-seeking and bribe-offering did not work; plus $t3$, time lost (T might have invested this time in other citizen).

Payoffs with corruption behavior

Payoffs Citizen $C = - 1$: being - 1, payment of bribe to the transit police.

Payoffs Transit Police $T = 1$: being 1, "mordida" or "bribe charge".

Where:

1. $tr, t2$ and $t1$ are negative values (costs).
2. $t1 > t2$.
3. tr increases when the citizen's C socio-economic level is higher.

The respective payoffs produce that the dominant strategy will be the bribe-seeking and bribe-offering. A paradox is that the implementation of

¹⁵ The cost of 10 for the penalty is calculated with the ratio between its price (20 days of Mexican minimum wage: approximately, 1000 Mexican pesos) and the cost of *mordida* (a "standard bribe" costs: 1000 Mexican pesos). Thereon, the seventh article of the Metropolitan Regulation on Transit stipulates that car that "failure to comply with the provisions of this article shall be punished on the basis of the following table: 20 days of current minimum wage in the Federal District and the vehicle will be carry to the police depot".

institutions, whose main effect should be the reduction of the transaction's costs (North 1996, 2000), actually they increase them.

Applying the general formula of SEU to this case, $SEU [S] = qB - pC$, where $SEU [S]$ is the subjectively expected utility from the offence S , q the subjective probability of successfully carrying out the offence, B the subjective value of the benefit, p the subjective probability of being caught, and C the subjective value of the degree of penalty, we have:

$$\text{Citizen C: } SEU [Mordida] = qB[Mordida] - pC[Mordida]$$

$$(q = 1 - p)$$

$p < q$ (low probability of being caught); p is closed to 0; q is closed to 1

$$SEU [Mordida] = q(-10 + tr + t1) - p(-10)$$

$$[q(-10 + tr + t1)] > [p(-10)]$$

Then, $SEU [Mordida]$ for C will be positive.

$$\text{Police T: } SEU [Mordida] = qB[Mordida] - pC[Mordida]$$

$$(q = 1 - p)$$

$p < q$ (low probability of being caught); p is closed to 0; q is closed to 1

$$SEU [Mordida] = q(10) - p(-10)$$

$$[q(10)] > [p(-10)]$$

Then, $SEU [Mordida]$ for T will be positive.

Since an offense is more likely to be committed if $SEU[S]$ is positive; that is, if $qB > pC$, the dominant strategy will be corrupt behavior. It is important to note that the most part of the cost for a no-corrupt behavior is not paying the penalty but also the transaction's costs and time costs for the citizen C . The procedure which states that the vehicle will be carry to the police depot introduces from the point of view of citizen C a high uncertainty. The car will be carry to an unknown point of the city in which the citizen C has any assurance. In a group of eighteen interviews to citizens that they lived this context, all affirmed that transit polices talked about and "insecure place", a "dangerous part of the city", specially "at the night", when they referred to police depot. Cars won't be secure in this place. The transit polices' discourse "obtains" as consequence—in a context of asymmetric information—shortens actor's time horizons. Consequently, transit police incentives corrupt behavior using the fear of citizens and increasing their discount rates of an (uncertainty) future.

Conclusions

In brief: the paper has tried to show the effect on the individuals' behavior of different utilities that provides the law-abiding behavior compared to the corruption. Such utilities include benefits and costs of various kinds. An important incentive is the probability that the individual believes that he can be punished if he violates the law.

On the other hand –and it has been widely noted for collective action problems (Colomer, 1995)–, in the extent of which an individual has the expectation that others will not obey law, the likelihood that he does not obey it increases. The importance of these expectations may be marginal until a certain threshold, in terms of the amount or percentage of individuals who, according to beliefs of a citizen C, disobey the law. This threshold is the point of critical mass.

If the state is weak to set legal limits on private interactions (private lawlessness) and/or if the state is weak to impose limits to political regime (public impunity), private actors have incentives to seek ways to function despite the state weakness. As Rose-Ackerman has pointed out it, “benign cooperative arrangements between neighbors or small businesses might arise to overcome the lack of legal background norms” or, alternatively, “criminal gangs may take over the protection function and skim off the profit of legitimate business activity at the same time as they operate illegal business” (Rose-Ackerman, 2004: 182-83). These practices can create a group of actors opposed to the rule of law because they benefit from the status quo.

This work has proposed a preliminary theoretical framework to explain the practice of the “mordida” in Mexico City. The respective payoffs produce that the dominant strategy will be the bribe-seeking and bribe-offering. A paradox is that the implementation of institutions, whose main effect should be the reduction of the transaction's costs (North, 1996, 2000), actually they increase them.

Part of that obedience to the law is not obvious and it needs explanation. Here, I tried to discuss some theoretical expectations on the relationship between several dimensions of individuals' motivations to law-abiding behavior. Assumptions suggested in this paper are tentative and they require a later refinement. It is also necessary to complete them. If the theoretical framework outlined here works (or not) is an empirical issue. A subsequent step of this work will be to test some of the hypothesis suggested in this paper.

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