

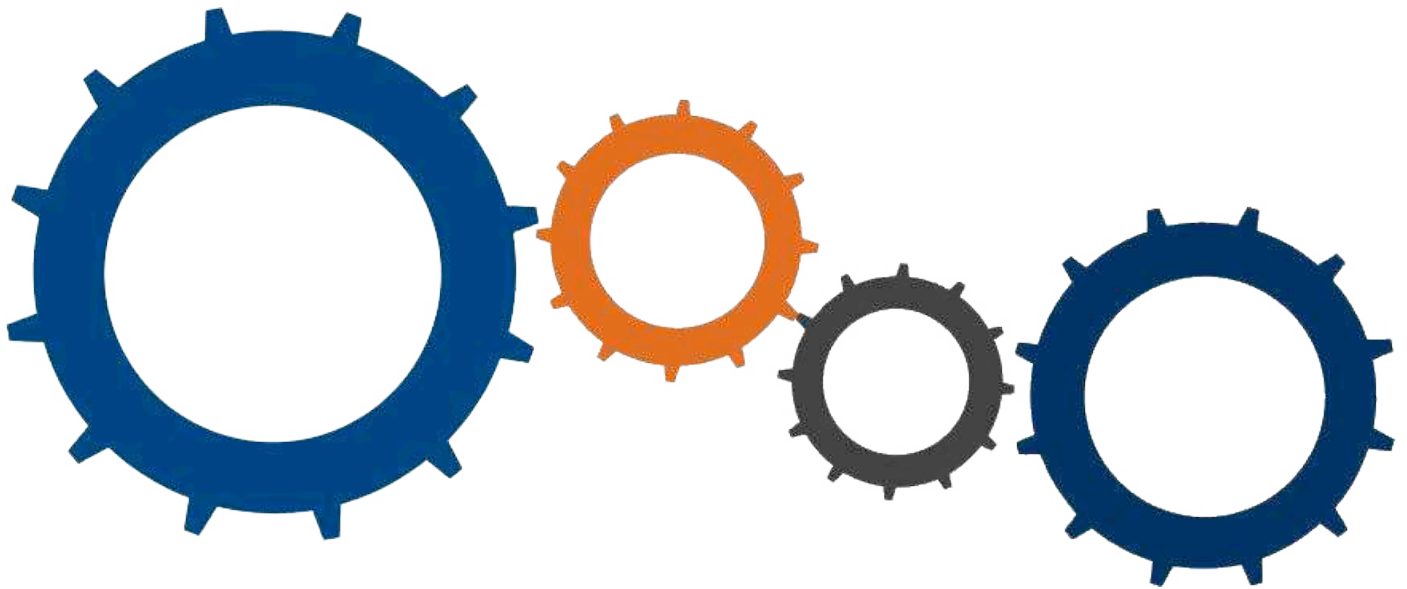
Legislative Candidate Vetting Mechanisms in Latin American Political Parties

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Introduction

Political parties perform a crucial role in democracies by representing citizens and aggregating their concerns through development of public policies and the selection of candidates to compete for public office. Parliaments in turn provide the foundation for democratic governance by creating laws, enacting government budgets and providing oversight of the executive and other state institutions. In Latin America, studies from Latinobarometro show that citizens' confidence in their political parties and parliaments is very low and has not improved over the last 20 years. Many citizens and political leaders in the region identify a pressing need to change the policies and institutions of their democracies in order to bring them closer to citizens through increased transparency, accountability, participation and commitment to ethics and probity.

Around the world, not just in Latin America, citizens have an uncomfortable relationship with political parties. In the 21st century, the cost of politics is increasing and paying for democracy has created a belief among many citizens that political parties are corrupt; a belief that is reinforced by never-ending scandals involving money and politics. No issue causes more grief for political parties, both from an organizational and strategic point of view, and as a public relations management challenge.

Most people will acknowledge that parties are important for democracy, but they lack significant information about parties' objectives or values. Voters are often unable to tell the difference between many political parties that fail to communicate distinguishable programs. When parties do communicate with voters, usually at election time, they often make grandiose promises that voters dismiss as unrealistic. In some countries, the disconnect between parties and citizens has serious implications for the survival of democracy itself.

Political parties in the 21st century face several existential challenges. Parties are increasingly perceived as: elite-driven and unresponsive to the broader citizenry; uncommitted to transparency and accountability; and unwilling to include and empower women and other marginalized communities within their structures. Moreover, issues of corruption, impunity and the influence of organized crime further undermine the public's confidence in political parties, fueling political instability. As citizens around the world demand more transparency and accountability from their political leaders, political parties must renew themselves into 21st-century organizations to meet citizens' needs and expectations. A critical element of party renewal includes strengthening internal candidate vetting mechanisms to identify and select high-quality candidates who can lead the charge on transparency, integrity and service delivery initiatives and, by doing so, help rebuild public confidence in political parties and their democracies. Given the fundamental role parliaments can play in fostering democratic governance, careful selection of legislative candidates needs to be a priority for parties.

However, few comparative studies exist on internal party candidate selection and vetting processes, resulting in a dearth of examples that political parties can draw from to establish and/or strengthen their internal review and selection mechanisms. This study aims to begin to fill this gap. The study provides an extensive literature review and case studies on how parties in Latin America have explored and implemented candidate vetting processes. These sections aim to help readers gain a better understanding of candidate vetting and, in particular, the complexities of the issues addressed. Based on a literature review and case studies, this study puts forth recommendations for political party officials, legislatures and electoral bodies seeking to use internal party candidate vetting mechanisms as an entry point to improve transparency, accountability and public confidence in government. NDI appreciates the support of the National Endowment for Democracy for this effort and is grateful to Dr. Kevin Casas-Zamora and other experts and practitioners who helped bring this study to fruition by assisting with research and providing comments on various drafts.

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Executive Summary

Principal Findings

- With very few exceptions, existing practices and regulations in Latin America for screening prospective legislative nominees and reducing the likelihood of choosing ethically unfit candidates are very inadequate.
- The decline in the credibility of political parties and public representatives, however serious, does not necessarily motivate political parties to establish rigorous background check procedures. On the contrary, in most Latin American countries, parties still generally cling to informal, flexible vetting processes that, in reality, increasingly leave the task of scrutinizing candidates to the press.
- The vast majority of Latin American parties are doing precisely what theory would predict: establishing minimal controls that do not constrain party authorities, that provide flexibility in changing electoral contexts, and that do not exclude potential candidates, at a time when parties are seeking to open up to new social sectors and attract new leaders to their ranks.
- In Latin America there are no legal requirements for parties to insist that prospective candidates provide documentation of their prior ethical conduct, beyond anything needed to satisfy the constitutional or legal requirements for candidacy. A minority of parties do so voluntarily.
- Beyond the national electoral system, other factors, such as party culture, the existence or absence of primary elections, the perception of party corruption as an issue requiring urgent attention, and the existence or absence of external social pressures for transparency, help explain the types of mechanisms parties use to vet prospective candidates. An additional factor is the party's electoral profile, or its willingness to adopt a message of transparency and present itself as a rising alternative. The case of Paraguay's Beloved Fatherland Party (PPQ) and, at times, Costa Rica's Citizens' Action Party (PAC) are suggestive of the importance of this last factor.
- Legislative candidate selection processes in Latin American parties are characterized by diversity. There are no clear models, and moreover, parties allow for the simultaneous use of different candidate selection methods or vary their procedures depending on the election. As an example, Chile's Party for Democracy (PPD) has allowed its centralized nomination mechanisms to coexist with more open member-consultation processes, even including the use of surveys in constituencies with strong internal competition. Yet, leaving aside variations in specific cases, in most of the parties included in this study the selection process tends to be tightly controlled by the party's internal organs. However, the experience of ARENA in El Salvador suggests that opening up nomination and selection processes does not preclude the use of rigorous background checks.
- In addition to party organs and open primaries, presidential candidates play a role in the selection of legislative candidates, particularly in cases where presidential and legislative elections are held simultaneously. Where that occurs, the presidential candidate's views inevitably become a factor in determining nominations, though their importance varies from party to party. Perhaps the most notable regional examples of the formalization of this power can be found in two Costa Rican parties (the National Liberation Party [PLN] and the Citizens' Action Party [PAC]), whose statutes grant their presidential candidate the power to nominate a number of legislative candidates at his or her own discretion.

- Ethical factors—but not factors related to education or professional competence—are indeed relevant, at least in theory, for most Latin American parties when selecting candidates, in a region where distrust of political representation is pervasive. However, that concern is not reflected in the formal and informal processes parties use to vet prospective legislative candidates.
- In most of the cases examined, the process of reviewing a candidate’s background is far from rigorous and even less formalized. Generally, in addition to any constitutional and legal eligibility requirements, the statutes of parties in the region require a minimum level of party involvement and/or length of membership and, occasionally, allegiance to the group’s ideology, fulfillment of the duties of a party member (regular payment of dues, for example), and signature of a code of ethics. The required length of membership varies from party to party, with Chile’s Christian Democratic Party (PDCCh) being the most demanding of those consulted, requiring six years of membership prior to the election date.
- In cases where a party organ (whether local or national) makes candidate endorsement or nomination recommendations, the same body first reviews the person’s fulfillment of some of these requirements and conducts a more general background check. This usually consists of a quick check for possible criminal convictions and a look at the candidate’s record on publicly sensitive issues such as domestic violence. This is usually done through specific searches on platforms available at institutions such as the judiciary, the Ministry of the Interior, and the Comptroller’s Office, or by using private services that aggregate personal information and credit history.
- Outside of Colombia, where screening is legally required, rigorous candidate background checks are a result of parties’ self-regulation and occur only exceptionally. Where rigorous practices do exist, they are often rooted in idiosyncrasies of the particular country, party or leader, making them difficult to replicate.
- The incentive structure, which discourages rigorous background checks, is complemented by the general lack of penalties applicable to party officials or the party itself for nominating a compromised candidate, except in the case of Colombia. In some parties (such as the PAC in Costa Rica or ARENA in El Salvador), party authorities implicitly absolve themselves of any responsibility by requiring sworn declarations from legislative candidates as to the veracity of the information they provide when seeking nomination.
- As emerging parties grow and become viable governing options, with the capacity and desire to appeal to a broader electorate, their conduct is more influenced by the usual incentives in favor of lax processes, minimal vetting, and the assumption of “calculated risks.”

- Party authorities' ability to remove a candidate, whether for providing false information or because significant and damaging information about the candidate's past comes to light, almost always requires the relevant authorities' assessment of the claim to have begun prior to the formal registration of the person's nomination with the electoral authorities. If a claim is made or falsifications are detected after a candidate has been formally registered, parties of the region typically have few options to remove the problematic candidate, beyond asking the candidate to withdraw voluntarily.
- In the absence of any legal requirements, in most cases the most powerful external influence on parties' decisions when making nominations is the scrutiny of the press, which plays an increasingly important role in this area. Though there are exceptions, in almost all the countries of the region the press is today the principal means of investigating the ethical caliber of the candidates presented to the electorate.

Recommendations

For party authorities

- Enact party rules that specify ethical standards for prospective candidates, such as an absence of obvious conflicts of interest that could overshadow the protection of the public interest or a record free of final convictions for serious crimes (as defined by each party).
- State clearly in the party rules what documentation and other information prospective candidates must submit, which may include individual or collective endorsements of the candidate's ethical qualities, as a complement to other core requirements.
- Establish which party organ (whether already existing or created for the purpose, national or local) is responsible for a thorough background check on potential candidates, and define the procedures to follow, which should include a meeting between the prospective candidate and that review body.
- The organ responsible should prepare a report on each candidate, however brief, which should then be sent to the authority responsible for the final nomination decision.
- In short, establish a procedure that will justify stating that in reviewing candidates' ethical records, party authorities not only applied due diligence, but also followed due process.

For legislatures

- Establish parties' legal obligation to require that potential candidates provide background documents and define penalties for providing false information. Each party should determine what documents and information to require from prospective candidates. This legislation should clearly state the legal and electoral penalties applicable to any prospective candidate that provides a party with false information (in the form of public documents or otherwise).
- Create incentives for due diligence by party authorities. Perhaps the only legal rule of this type in the region is the "empty seat" rule in Colombia, whereby, in certain circumstances, when an elected representative is convicted of any of a series of serious criminal acts, the representative's party loses the seat as well as the right to nominate a candidate in that constituency.

- Establish the principle that a party organ should have responsibility for vetting candidates. The clear model is the introduction of party overseers in Colombia, which have been assigned responsibility for vetting as well as other functions. It may not be necessary to require the creation of a similar position. What really matters is establishing parties' legal obligation to clearly assign the task of conducting rigorous background checks to one of their party organs (whether national or local).
- If legislation establishes party authorities' responsibility to exercise due diligence when endorsing and nominating legislative candidates, it is reasonable to expect the state to assist them. It is therefore advisable to create a mechanism similar to the one-stop service desk (*ventanilla única*) in Colombia and Peru, which allows stakeholders to consult information held by the state on the legal, financial and professional records of prospective candidates. Implementation may begin with a basic system that is gradually expanded to include a wider range of information.
- Parties should be required to make a certain minimum of information on the history and background of their legislative candidates easily accessible to voters and the press, which could be done electronically.
- It should be possible to replace legislative candidates, within a specified timeframe, in cases where compromising information comes to light after their nominations have been formally submitted to the electoral authorities, that information concerns particularly serious matters, and the request is grounded in final decisions of the appropriate party bodies. Candidates concerned must be guaranteed due process.
- The adoption of Brazil's "Clean Record" law is not recommended, as it dramatically expands the grounds for ineligibility to include non-final (appealable) convictions by a bench of judges for various offenses against public property, previous conviction of ethics violations by a professional association, and prior resignation from elected public office during the course of proceedings that could lead to the loss of office, among many others. Though the effectiveness of this law in screening legislative representatives has yet to be assessed, there is little doubt regarding its enormous potential to be used as a weapon for disqualifying people from political life and its violation of certain core principles of the rule of law.

For electoral management bodies

In the tumult of a campaign, the requirement to provide due process guarantees in the course of replacing compromised candidates may limit the use of replacement in practice. It would seem reasonable to establish, at minimum, the obligation to grant a candidate whose removal is sought a hearing before the body considering the case and the right to appeal its decision. Whatever the details, it is important for electoral authorities to clearly outline what constitutes sufficient due process to replace a registered candidate, should that become necessary.

Methodology and Sources

This study draws on a review of the existing literature as well as a great deal of primary information. The process included a review of constitutional provisions and ordinary legislation defining eligibility requirements for legislative candidates in 16 countries in the region and beyond, as well as internal rules from a sample of 32 Latin American political parties. These formal legal sources were supplemented by 19 interviews conducted throughout 2017 and 2018 with political actors and political party experts from eight countries in the region, using a semi-open questionnaire, along with a written survey completed by authorities from 24 parties in nine Latin American countries. The interview and survey provided valuable, never-before-collected information on formal and informal processes for legislative candidate vetting used by political parties in Latin America.

Legislative Candidate Vetting Mechanisms in Latin American Political Parties

Introduction

This study undertakes an initial analysis of the mechanisms for screening legislative candidates that exist in law and in the internal rules and practices of Latin American political parties. In this endeavor, it focuses on a specific and little-studied aspect of legislative candidate selection processes: the rules on the vetting of prospective candidates by party bodies. Vetting refers here to the processes of reviewing prospective candidates' legal, educational, and professional histories and inquiring into conflicts of interest that may affect them before they are nominated by their party for legislative office.

There are few systematic studies on legislative candidate selection processes that examine more than one political party in Latin America², and virtually none on vetting processes. The lack of studies on this subject is somewhat surprising in a region that couples a great diversity of party organizations with those same organizations' serious loss of credibility, plagued by widespread perceptions of corruption. A review of the literature reveals important shortcomings in the study of these processes in Latin America and beyond. On the one hand, vetting mechanisms have seldom been theorized in the literature on political parties and are generally included in the candidate-selection phase, which tends to obscure their importance and individual nuances. On the other, as pointed out in recent work³, there is a significant degree of informality in candidate selection processes within parties, which complicates their classification and the evaluation of their effectiveness.

This study attempts to begin filling this gap in the research on political parties in Latin America through a non-exhaustive review of the principal mechanisms that political systems and party organizations in the region have implemented to identify and screen out potential candidates for legislative office with low levels of personal integrity and professional competence. It will show that both theoretically and empirically, even in the presence of growing public demands for political representatives of greater quality and integrity, the lack of formal processes for selecting and vetting legislative candidates is predictable, if not desirable. Given that the main incentive for political parties in selecting legislative candidates is winning elections⁴, for which broadening their candidate pool is instrumental, any attempt to formalize and regulate strict background checks tends to be regarded as exclusionary and, therefore, counter-intuitive. It is shown later that, in the absence of laws mandating otherwise, the incentives of the democratic process tend to lead Latin American party organizations to adopt minimal written and unwritten procedures, allowing them to investigate candidates' backgrounds while simultaneously maintaining a great deal of flexibility to recruit electorally desirable candidates. This incentive structure, adverse to the formalization of vetting processes, makes it advisable for legislative candidate screening to depend on more than party self-regulation and for external legal mechanisms to be enacted.

2 These exceptions include Freidenberg (2003) and Siavelis and Morgenstern (2008). However, there are studies on legislative candidate selection processes in specific countries. See, for example, the studies on Mexico (Love [2006], Bustamante et. al. [2017]), Chile (García and Toro [2008]), Argentina (Simison [2013]), and Costa Rica, Honduras and El Salvador (Martínez [2011]), among others. An interesting example outside the region is Norris (1997).

3 Helmke and Levitsky (2006), Freidenberg and Levitsky (2006).

4 Freidenberg and Alcántara (2001, n.3) and Freidenberg (2003) talk of achieving "power shares."

Encouraging the adoption of more rigorous vetting mechanisms for legislative candidates matters. The weakening credibility of political representation and the perception that corruption is deeply embedded in legislative bodies are almost certainly two of the reasons that lead citizens in many countries to enthusiastically embrace political alternatives that challenge representative democracy and its fundamental institutions, such as political parties⁵. Establishing institutional filters to help improve the ethical caliber and perceived integrity of elected representatives is, ultimately, a way of protecting representative liberal democracy from the onslaught of populist—almost always authoritarian—discourse. In a region such as Latin America, with its long authoritarian political tradition never far from the surface, the urgency of this task should be self-evident.

The following pages are divided into three sections. The second section reviews the literature on political parties' legislative candidate selection processes. It shows how mechanisms for vetting legislative nominees have not been theorized as a special sub-process within the overall process of selecting candidates for legislative office and that the weak incentives political parties have to formalize and toughen these types of mechanisms are little analyzed. The third section explores the existence and implementation—or absence—of these processes in Latin America, and contains the principal findings. This study entailed a review of constitutional provisions and ordinary legislation defining eligibility requirements for legislative candidates in 16 countries in the region and beyond, as well as internal rules from a sample of 32 Latin American political parties (see Appendices 1 and 2). These formal legal sources were supplemented by 19 interviews conducted throughout 2017 and 2018 with political actors and political party experts from eight countries in the region (see Appendix 3), using a semi-open questionnaire, along with a written survey completed by authorities from 24 parties in nine Latin American countries (see Appendix 4). The interview and survey provided valuable, never-before-collected information on formal and informal processes for legislative candidate vetting used by party organizations in Latin America. The fourth section presents the study's principal conclusions and sets forth recommendations for the design and implementation of legal and party mechanisms aimed at facilitating better screening of legislative representatives.

Mechanisms for Legislative Candidate Vetting: An Under-Theorized Process

Most available studies on legislative candidate selection processes are limited to theorizing and exploring two terms: “recruitment” and “selection.”⁶ Recruitment has been defined as one of the main functions of political parties⁷. However, other authors argue that rather than being a function—which would imply a certain degree of structure, regulation, and predictability—recruitment is predominantly a political behavior, which falls within the realm of intra-party discretion and is seldom regulated⁸. Other authors extend the notion of “behavior” to the selection process as a whole, arguing that selection processes “serve political purposes; they are adopted for political purposes and can be changed for political purposes.”⁹ From that perspective, selection processes are a mere reflection of political attitudes, which make them difficult to classify and compare.

5 Agerberg (2017); Eichengreen (2018).

6 Siavelis and Morgenstern (2008, p. vii). See also Norris ed. (1997). According to Siavelis and Morgenstern, recruitment and selection processes are so interwoven that it is useful to analyze them as a single process (2008, p. 8).

7 Wessels (1997, p. 76), cited in Norris (1997).

8 Hazan and Rahat (2010, p. 5).

9 Czudnowski (1975, p. 228), cited in Hazan and Rahat (2010, p. 5).

More recent studies on legislative candidate recruitment and selection processes have taken a less restrictive, more mixed approach, treating selection processes as both a function and a behavior of parties. According to this mixed theoretical approach, recruitment and selection processes are not just rigid functions or institutions, nor are they simply reflections of political ends, but rather their nature is in between the two. This implies that a more dynamic approach should be taken in the study of candidate selection processes, ruling out any explanations based solely on institutional design or formal regulations, such as the rules of the electoral system or provisions governing candidate selection at the constitutional, legal or internal party level. The authors argue that, while formal rules and electoral and institutional design are important, their rigid, unchanging nature means that considering them exclusively leads to an incomplete explanation. In other words, legal frameworks not only place constraints on actors' behavior; they also shape behavior over time¹⁰. Furthermore, informal rules and institutions (customs and practices) combine with formal rules to influence the behavior of political actors, by reinforcing, subverting, and occasionally even surpassing formal rules, procedures, and structures¹¹.

However, existing studies of candidate vetting have focused on identifying the formal requirements for selecting legislative candidates, without engaging in further theoretical development¹². Given the unsystematic and conceptually lacking approach of the existing literature on candidate vetting mechanisms, this study proposes the following preliminary theory:

- Firstly, it defines these mechanisms as sub-processes, i.e., as one stage of many in the ongoing process of selecting candidates for legislative office. Vetting is a sub-process aimed at identifying, evaluating, and deciding on specific aspects of legislative candidates: their educational, professional, and ethical background. In this sense, other considerations come into play in this sub-process that are quite distinct from those widely explored in the literature on candidate selection processes, such as these processes' representativeness, competitiveness, and democratic character¹³.
- Secondly, these sub-processes can occur at any time during the candidate selection process, both before and after the candidate has officially been nominated.
- Thirdly, external actors (the media and the judiciary) play a direct role in these sub-processes and can be determinative in decisions that would otherwise be reached exclusively within parties¹⁴.
- Fourthly, unlike other key aspects of legislative candidate selection (such as rules on representativeness, competitiveness, and the democratic character of the process), which are usually formalized in national regulations or party statutes, the rules governing background checks or ethical screening tend to be ad hoc and informal. The main reason for this is that, since the primary goal of political parties is to win elections, in the absence of legal requirements or overwhelming public pressure they do not find it attractive to establish rigid, inflexible, and exclusionary vetting processes that could limit their potential candidate pool and constrain their capacity to respond to rapidly changing political circumstances. Parties instead tend to prefer flexible requirements and processes, even when that implies assuming a level of risk in candidate selection. This preference naturally leads to:
 - The establishment of minimal formal requirements for candidates to establish their ethical integrity and professional competence;

10 Hilbink and Woods (2009)

11 Helmke and Levitsky (2006, p. 2).

12 One of the most common explanations offered by academics for this is the lack of information on these processes among political parties. Gallagher and Marsh (1988) have labeled these processes "the secret garden of politics" (cited in Hazan and Rahat [2006, p. 110]).

13 See Norris and Lovenduski (1995), Norris (1996, 1997), Hazan and Pennings (2001), Narud et al. (2002), Lundell (2004), Hazan and Rahat (2010).

14 Ware (1996, p. 268) calls this "the need for legitimation" at a time when mass media play a key role in election campaigns: "In many countries candidates must not merely be attractive to electorates, they must be seen as having emerged from political processes that are not obviously unfair or illegitimate."

- The possible—albeit not inevitable—introduction of informal candidate background checks or the establishment of ad hoc committees for that purpose;
- The possibility that party leaders (usually the presidential candidate) may ignore internal committee decisions and instead directly designate or veto a legislative candidate;
- Where there are vetting mechanisms established by law, a significant amount of discretion for parties in their implementation, and a lack of penalties for non-compliance.

The establishment of formal vetting processes for legislative candidates is thus not a part of political parties' DNA. This is not only due to party authorities' desire to maintain a certain degree of freedom in exercising their power. The assumption that candidates or parties caught up in corruption scandals are punished by citizens at the polls is, empirically, far more problematic than it seems and, in any case, depends on many other factors beyond the questionable backgrounds of prospective candidates. The following paragraphs examine this in more detail.

Compared to research examining how citizens punish governments for poor economic performance, there are still few studies of how voters respond to accusations of corruption on the part of incumbent politicians¹⁵. Most studies suggest that, while corruption scandals do have an electoral cost for candidates and their parties, they are not necessarily enough to force candidates to withdraw or to cause a general shift among voters from one party to another¹⁶.

In U.S. congressional races from 1980 to 1992, for example, candidates charged with morals violations were severely punished at the polls, but punishment was less strong for other corruption charges; candidates did receive fewer votes, but only rarely withdrew from the race or retired from politics¹⁷. In the United Kingdom, studies on scandals relating to overspending by Members of Parliament in 2009 show that, while MPs involved in the most serious abuses did resign, the impact of these scandals on the electorate was modest and, in any case, was mediated by other factors such as the performance of the economy¹⁸. In Italy, various authors have provided evidence that parties do nominate candidates involved in corruption scandals, but only after assessing the seriousness of those scandals (those involved in more serious scandals are not nominated)¹⁹. Meanwhile, in Japan, voters' responses to acts of corruption vary from one election to the next, which can be explained by the presence or absence of an attractive and viable political alternative that could replace the candidates and parties accused of corruption.²⁰

From this literature, it follows that electoral accountability and the possibility of punishing candidates and political parties with some degree of effectiveness depend largely on factors such as access to information and the existence of a political alternative to the compromised candidates or parties. Meanwhile, the impact of intra- and inter-party competition—another factor considered crucial in electoral accountability—is ambiguous. For one group of authors competitiveness reduces corruption due to parties' incentive to denounce their opponents' corruption²¹. For others, systems with competition among numerous parties, and the coalitions characteristic of such systems, make it more difficult for voters

15 Eggers and Ficher (2011).

16 O'Donnell (2003), Manzetti and Wilson (2007), Maravall and Sánchez-Cuenca (2008), Esaiasson and Kumlin (2012), Bågenholm (2013b). For a more optimistic analysis, see Barberá et. al. (2012).

17 Welch and Hibbing (1997).

18 Eggers and Ficher (2011), Pattie and Johnston (2012), Van Heerde-Hudson (2014).

19 Asquer (2014).

20 Reed (1999).

21 Della Porta (2004), cited in Schleiter and Voznaya (2014, p. 676); Chang and Golden (2007). Some authors cite evidence from Italy, Japan, and South Africa as cases where, when there is little intra-party competition, corrupt governments can remain in power for long periods of time (Giliomee [1998], Mershon [2002], Scheiner [2005], all cited in Schleiter and Voznaya [2014, p. 676]).

to identify which actors are responsible for the government and for corrupt practices, and to identify an alternative to that government in the next elections. In other words, reducing corruption through effective voter monitoring depends to a large extent on voters being able to clearly identify who, or which party, is in government²².

Once again, the availability of information to voters is a key factor: for some authors, when competitive political party systems increase the availability of information and increase voter choice, there is less room for corruption. However, the likelihood of corruption increases with a high degree of party system fragmentation or governing party dominance, which may reduce the amount of information available to voters, as well as their ability to create alternatives to replace the current government²³. For example, there is evidence that the publication of municipal government audits in Brazil had a significant impact on electoral support for incumbent politicians, and that the impact was more pronounced in municipalities where local radio stations reported on the results²⁴. Similarly, in the case of Italian deputies seeking reelection who were charged with crimes during the prior term, the existence of charges has not been enough for voters to punish corrupt incumbents at the polls; punishment also requires a watchful and free press to inform citizens about these cases²⁵.

The conditions necessary for a political scandal to have an electoral impact at the individual level have been summarized as follows: 1) *awareness* of the scandal; 2) an *evaluation* by the voter of discontent or rejection due to knowledge of the scandal; 3) an assignment of *responsibility* for the matter to some of the candidates or parties competing; 4) *saliency*, in that corruption is important to the voter; 5) the existence of an *alternative* opposition candidate or party to vote for; and 6) *consistency* in acting upon these perceptions at the time of voting²⁶. Furthermore, all of these conditions are affected by the way political elites, the press, and the courts perceive and report on the scandal, the economic and political situation, and cultural patterns.

The findings of this group of studies on electoral responsibility therefore suggest that the relationship between citizens' aspirations and parties' incentives is not direct: political parties sometimes nominate candidates who are manifestly inept, who are accused of corruption, or who have potential ethical conflicts, and citizens sometimes vote for those candidates despite their track record. That being the case, one might wonder what incentives political parties would have to establish rigorous vetting mechanisms for legislative candidates if voters do not always punish politicians whose integrity is called into question, or if, when they do, there are not always serious consequences for the party and its candidates. Why, in that case, would political parties establish rigorous vetting mechanisms instead of maintaining the flexibility to select candidates that will enable them to win elections?

There are various answers to these questions, often highly context-dependent. As explained later in more detail, where there is a high likelihood of drug trafficking or violence impacting politics, as in the case of Colombia, there have been efforts to introduce legal measures that directly establish internal party mechanisms for investigation of candidates' backgrounds, rather than leaving checks to the discretion of political parties. In other countries, such as in El Salvador, parties' main incentive to establish robust mechanisms for background checks on legislative candidates is their quest for ideological purity in a highly polarized system. There are also examples of rigorous vetting practices being introduced in contexts where new parties emerge under an anti-corruption banner, something seen both in Latin America and in

22 Anderson (2000), Lewis-Beck (1988), Charron (2011), Tavits (2007), all cited in Schleiter and Voznaya (2014, p. 676).

23 Schleiter and Voznaya (2014, p. 684). This is a controlled study of corruption in 70 democracies around the world.

24 Ferraz and Finan (2008).

25 Chang et al. (2010).

26 Jiménez and Cainzos (2006, pp. 195-196).

Central and Eastern Europe²⁷. In other cases, party leaders or presidential candidates have made it a non-negotiable priority to protect their own reputation in the face of potential accusations against their party's legislative candidates, creating pressure to introduce appropriate mechanisms for screening potential nominees. These examples yield interesting lessons and innovative experiences, which, however, may not always be replicable.

In short, despite growing public discontent over corruption, the incentives for parties to design and implement rigorous vetting processes for legislative candidates are generally weak. The existing literature highlights that while political parties do pay an electoral price for corruption scandals, the voters' punishment is not always strong enough to produce any radical change in legislative candidate selection processes. In addition, the electoral impact depends on a host of factors beyond the mere detection of questionable details in a candidate's past. Most important is the existence of mechanisms that enable the relevant information to be widely disseminated among voters. Therefore, the most effective way to ensure the implementation of powerful vetting mechanisms is through legislation, as suggested by the following review of the experiences of various Latin American countries and party organizations. Even in the case of legislation, however, implementation tends to be imperfect, as it ultimately depends on the political parties themselves and, once again, on short-term electoral incentives.

Selection and Vetting of Legislative Candidates in Latin America

The context: Perceptions of parties and legislatures in Latin America

The discussion on legislative candidate selection and vetting mechanisms takes place in a context of deep distrust of political parties and legislatures in Latin America and beyond. A few statistics will suffice to illustrate the gravity of the problem. According to Latinobarómetro data²⁸, during the period 1995–2016, the average share of the population expressing “some” or “a lot of” confidence in political parties did not surpass 22%, the lowest figure of all the institutions included in the survey. In 2016 the figure was 17%, while 25% said the same with regard to Congress, in both cases representing a decline from 2000 (20% and 27%, respectively). Respondents indicate the least confidence in those two institutions out of the eight evaluated by the Latinobarómetro, which include others such as the Church, the government and the judiciary. In Brazil, only 5% of those surveyed in 2016 expressed any trust in political parties. The figures for Latin America are not much different from those found in the countries of the European Union. There, according to Eurobarometer data, on average only 18% of the population tended to trust parties (again, the lowest figure among all the institutions surveyed), while the figure for Parliament was higher, at 35%.²⁹

Such deep-rooted distrust cannot be separated from the widespread perception of Congress as a hotbed of corruption: in 2016, 47.2% of Latin Americans believed that all or almost all legislators were involved in acts of corruption, a higher percentage than for city councilmembers, businessmen, tax agency officials, judges, police officers, religious leaders, civil servants, and the president and presidential officials³⁰. These figures were particularly high in Paraguay (69%), Chile (61%), and Brazil (56%); by contrast, only 20% felt the same in Uruguay. Once again, these perceptions are not unique to the Latin American context. In 2013,

27 Bågenholm (2013a).

28 Latinobarómetro (2016).

29 Eurobarometer (2017). On the loss of credibility and weakening of parties in Western Europe, it is worth reading the lucid analysis of Mair (2013). The figures are considerably higher in the African context. By 2014–15, 46% of the population of 36 African countries expressed confidence in the governing party, 36% in opposition parties, and 48% in Parliament (Afrobarometer [2018]).

30 Latinobarómetro (2016).

Transparency International's Global Corruption Barometer, based on data from 107 countries, found that out of 12 different institutions, political parties suffered from the highest perception of corruption³¹.

In this context, parties might be expected to pay special attention to the composition of their legislative candidate lists and implement robust mechanisms for screening potential nominees. In reality, however, the prolonged and intensifying loss of credibility suffered by the region's political parties has had a limited impact on their internal activities, as will be shown.

Before examining parties' internal operations, it is worth pausing to briefly summarize the role of electoral systems in structuring political parties' internal processes.

31 Transparency International (2013).

Electoral systems and candidate selection mechanisms

Legislative electoral systems in Latin America are no more uniform than are candidate selection mechanisms. There are currently five countries in which parties use only closed lists (Argentina, Costa Rica, Guatemala, Nicaragua, and Paraguay); seven that use different types of open lists (Brazil, Chile, the Dominican Republic, Ecuador, El Salvador, Honduras, and Peru); and six countries that use mixed systems (Bolivia, Colombia, Mexico, Panama, Uruguay, and Venezuela). This last category includes systems that use both multi-member and single-member districts; those which give parties the option to choose between closed or open lists; and those which, as in Uruguay, use what is termed *apparentement* or double simultaneous voting, an intra-party preferential voting system in which voters may choose among multiple closed lists within a party.

As noted earlier, beyond their basic aspects, it is unclear how different electoral systems may affect candidate selection processes. One might think that countries and parties using closed lists tend to have more centralized candidate selection mechanisms, which in turn facilitate centralized mechanisms for the background checks carried out when choosing nominees. However, cases like Guatemala, Costa Rica, and Uruguay, where closed lists coexist with a high level of permissiveness in background check practices, demonstrate the lack of a pattern³². In Paraguay, the formalization of closed lists follows binding primary elections, leaving little opportunity for centralized intervention by party authorities³³.

In other cases, particularly those that use single-member districts, local party organizations almost certainly have a greater say in decision-making and are primarily responsible for any process of investigating candidates' backgrounds, sometimes augmented with additional vetting by the party's national authorities. In the case of preferential voting systems or open lists, although party authorities can theoretically exercise some degree of control over which candidates appear on the lists, the electoral system tends to seriously weaken their influence and shift the focus of electoral competition onto individual candidates. In those cases, responsibility for shaping the composition of the legislature is placed almost entirely in voters' hands. However, even then, party authorities may maintain certain controls over the composition of candidate lists, perhaps due to a strongly hierarchical party culture, as in the case of Salvadoran parties³⁴, or because of legal obligations, as in Colombia, where the endorsement of party authorities is required even when parties use open lists.

Ultimately, beyond the national electoral system, other factors, such as party culture, the existence or absence of primary elections, the perception of party corruption as an issue requiring urgent attention, and the existence or absence of external social pressures for transparency, help explain the types of mechanisms parties use to vet prospective candidates. Added to this is the party's electoral profile, or its willingness to adopt a message of transparency and present itself as an rising alternative to the vices of more consolidated parties. The case of Paraguay's Beloved Fatherland Party (PPQ)³⁵ and, at times, Costa Rica's Citizens' Action Party (PAC) are suggestive of the importance of this last factor is³⁶.

With this background of electoral systems in place, we now examine the rules—both constitutional and legal, as well as those generated by the parties themselves—that establish requirements to seek legislative office and, in some cases, facilitate the screening of representatives.

32 Núñez (2017), Chinchilla (2018), Piza (2018), and Chasqueti (2018).

33 Sannemann (2018). The same is true for Panama's Democratic Revolutionary Party (PRD), whose lists are determined by primary elections (Espino [2018]).

34 Ávila (2018).

35 The list of abbreviations used in the text can be found in Appendix 5.

36 Acha (2018), Bolaños (2018).

Eligibility and vetting rules³⁷

Constitutional and legal requirements

All Latin American countries set constitutional and legal requirements to run for legislative office. This is explicitly permitted under Article 23 of the 1969 American Convention on Human Rights, which recognizes the right of all citizens to be elected to public office in their own country, subject to regulation of the exercise of that right “on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.”³⁸

Constitutions in the region typically define a minimum age (between 18 and 25 years) for election to legislative office, as well as nationality requirements (by birth, or by naturalization in addition to a minimum period of residence)³⁹. Brazil and Chile are the only cases where the constitution includes an educational requirement: in the former, the ability to read and write (Article 14, paragraph 4), and in the latter, having completed secondary education or the equivalent (Article 48).⁴⁰

On the other hand, many countries have directly or indirectly established ethical-legal thresholds. A prior criminal conviction is sufficient grounds for ineligibility under the constitution and/or electoral law in three countries (Colombia, Bolivia, and Paraguay), with slightly varying details and scope. In many other cases (El Salvador, Honduras, Nicaragua, Costa Rica, Panama, Peru, Chile, Argentina, Ecuador, Brazil, and the Dominican Republic), the legal framework allows only individuals exercising full political and civil rights to run for legislative office; individuals found guilty of criminal or administrative offenses may lose those rights. In Colombia, previous removal from legislative office in the past on certain grounds (*pérdida de la investidura*) constitutes another cause of eligibility.

The Brazilian experience has prompted broader reflection on the moral standards that should be demanded

³⁷ This section of the study is based on a large number of Latin American sources of constitutional, legal, and party rules. In order to facilitate the reading of the text, we have generally chosen, in almost all cases, not to cite the specific rules consulted, which are included in the appendices. Similarly, the reconstruction of the internal processes for selecting, vetting, and vetoing legislative candidates in Latin American political parties is based on the 19 interviews carried out by the authors with regional political figures and political party experts, as well as on the answers to the questionnaire sent to numerous party organizations and ultimately completed by 24 of them. The list of interviews and parties that responded to the survey can also be found in the appendices. In some cases, the information provided by the three types of sources (party documents, interviews, and questionnaire) did not match. In those cases, exercising their best judgment, the authors almost always opted to afford greater weight to the information obtained from the party regulations consulted and from the interviews. The questionnaire and the answers provided by the parties are available upon request from the authors at kevin.casas@yahoo.com.

³⁸ American Convention on Human Rights of 11/7/1969, available at: https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm

³⁹ Eligibility requirements for legislative office in Latin America are little different from those in the domestic legislation of developed democracies such as the United Kingdom, Canada, Spain, and Australia, where the minimum age to stand for Parliament is 18. Furthermore, in the case of the United Kingdom, Canada, and Australia, candidates must be subjects of the Queen, be citizens of the country, of a UK territory or of a Commonwealth state, and meet the requirements of any voting citizen of their country. These three countries also have financial requirements for candidates, such as not being bankrupt. In these three countries, as well as in Spain, the law also establishes incompatibilities for legislative candidacy, such as the holding of high state office or high office in the police forces or the army, among others. See Canada Elections Act (2000), s. 65, available at: <https://laws-lois.justice.gc.ca/eng/acts/e-2.01/page-11.html#docCont>; Australian Commonwealth Electoral Act 1918, s. 163, available at: <https://www.legislation.gov.au/Details/C2018C00259>; Australian Constitution (1900), ss. 16, 34, available at: https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Constitution.aspx; Constitution of Spain (1978), Articles 68, 70, available at: <https://www.boe.es/legislacion/documentos/ConstitucionCASTELLANO.pdf>; Organic Law on the General Electoral System (Spain, 1985), Articles 6, 154, available at: <https://www.boe.es/buscar/act.php?id=BOE-A-1985-11672>; Electoral Administration Act (United Kingdom, 2006), ss. 17, 18, available at: <https://www.legislation.gov.uk/ukpga/2006/22/contents>.

⁴⁰ In El Salvador, Article 126 of the Constitution includes as a condition of eligibility for Congress that members be “of recognized honesty and education,” without specifying the content of this requirement.

of those seeking elected office. In 1994, under Constitutional Review Amendment No. 4/94, the original text of Article 14, paragraph 9 was modified, and currently reads:

“A supplementary law will establish other grounds of ineligibility and their duration, in order to protect administrative probity, morality in the exercise of the office considering the candidate’s history, and the normality and legitimacy of elections from economic power or abuse in the exercise of roles, positions or jobs in the direct or indirect administration.” (Emphasis added).

Multiple unsuccessful attempts to enact the necessary implementing legislation ultimately, after a decade and a half, led to a popular initiative with more than 1,300,000 signatures to enact what would become known as the “Clean Record Law” (Supplementary Law 135/2010), passed unanimously in the Brazilian Chamber of Deputies and Senate in 2010. The scope of ineligibility on ethical grounds established under the law is unparalleled in the region. The law makes ineligible anyone convicted by a bench of judges of crimes against the national economy, public trust or public assets, the public administration, private property, the financial system, capital markets; crimes defined by bankruptcy law; and environmental crimes and crimes against public health. Other grounds for ineligibility include the rejection of their account statements relating to the exercise of a public office or a function (as pronounced by an authoritative body, either the legislature or the State Audit Committee), prior removal from office (whether elected or directly appointed), prior resignation from elected public office during the course of proceedings that could potentially lead to removal from office, and prior exclusion from the practice of a legally regulated profession by its professional association for a breach of ethical and professional responsibilities.

In spite of its extraordinary breadth and severity, as well as justified concerns regarding its effect on core principles of the rule of law, such as the presumption of innocence and non-retroactivity, the “Clean Record Law” survived constitutionality review⁴¹ virtually intact and has been applied in electoral processes since 2012, in some cases with an enormous impact⁴². The law’s journey through the constitutional review process generated an important legal debate—with potential implications beyond Brazil—on the advisability of limiting the right to run for elected office on the grounds of “a pressing social need,” which is a valid criterion for restriction according to the jurisprudence of the Inter-American Court of Human Rights⁴³. Considering potential violations by the “Clean Record Law” of the principle of presumption of innocence, the majority of the Brazilian Supreme Court based its opinion in favor of the act on the need to respond to a public angry at the venality of its political class. The Brazilian court affirmed that:

“For the citizen, there is no doubt that probity is an essential condition for good government and, moreover, that corruption and dishonesty are the greatest impediments to the country’s development. The Constitution and, in particular, the interpretation of the presumption of innocence must be read in keeping with the times we are currently living in, at least in the electoral sphere [...]. In other

41 On February 16, 2012, Brazil’s Supreme Federal Court ruled on two declaratory actions of unconstitutionality (ADC 29 and ADC 30) and one direct challenge of unconstitutionality (ADI 4578) concerning the “Clean Record Law,” ruling the ineligibility requirements constitutional by a 7–4 majority. See the analysis of Reis and De Oliveira (2017) on these decisions and their implications.

42 For example, the “Clean Record Law” provided the legal basis for the disqualification of former president Lula da Silva from the 2018 presidential election.

43 The judgment of the Court in *Castañeda Gutman v. Mexico* (2008) accepted that states may enact measures restricting the right to be elected, provided certain requirements are met: the legality of the restrictive measure, its being for any of the purposes permitted under the American Convention on Human Rights, and its overwhelming importance for democracy. See: Inter-American Court of Human Rights, Technical Data – *Castañeda Gutman vs. Mexico*, available at: http://www.corteidh.or.cr/cf/jurisprudencia2/ficha_tecnica.cfm?nld_Ficha=298.

words, either the interpretation of the presumption of innocence, at least in terms of electoral law, is brought into line with the spiritual state of the Brazilian people, or the Constitution is discredited. Not updating the understanding of the principle in question, with the utmost respect, disregards its very historical construction, exposing it to the contempt of critics with short memories [...]. Obviously, the Supreme Court of Justice cannot renounce its role as a court whose purpose is the counter-majoritarian protection of fundamental rights and the democratic system. However, the very legitimacy of the Constitution and of constitutional jurisdiction depends, to some degree, on its capacity to respond to public opinion.”⁴⁴

In other words, the Supreme Court of Brazil believed that widespread social concern regarding the possibility of electing candidates who, based on their past records, are morally unfit to serve as political representatives, justifies restricting the fundamental right to run for elected office in order to protect the legitimacy of the Constitution and the democratic order itself. While it is still too early to say how effective Brazil’s “Clean Record Law” has been, as no systematic evaluations are available, the legal arguments of the Brazilian Court and their anchoring in the jurisprudence of the Inter-American Court of Human Rights provide a powerful justification—not without risk for democracy—for the adoption of similar legislation in the rest of the region, where public anger with political corruption is just as widespread.

Constitutional and legal eligibility requirements, related to the search for probity and competence in legislative officeholders, are complemented by a broader set of political party internal rules and procedures that aim to refine candidate selection processes. The diversity in this regard is considerable, making it difficult to identify clear models. However, as explained below, screening processes for ethical qualities and professional competence generally remain both rare and ineffective in Latin American political parties.

Internal party processes for candidate selection and vetting

Who selects candidates?

Legislative candidate selection processes, like other aspects of Latin American parties, are characterized by diversity. There are no clear models, and moreover, parties allow for the simultaneous use of different candidate selection methods or vary their procedures depending on the election. As an example, Chile’s Party for Democracy (PPD) has allowed its centralized nomination mechanisms to coexist with more open member-consultation processes, even including the use of surveys in constituencies with strong internal competition⁴⁵. Many Colombian parties, which are legally authorized to choose whether to present closed or open lists, provide clear examples. In its first legislative election in 2014, the Democratic Center Party (PCD) chose to use closed lists elaborated through a process tightly controlled by its founder, former President Álvaro Uribe⁴⁶. Four years later, it abandoned that system in favor of preferential voting, like almost all Colombian parties, as well as a less rigid system of elaborating candidate lists.

Yet leaving aside variations in specific cases, in most of the parties included in this study, the selection process tends to be tightly controlled by the party’s internal organs, as shown in Table 1.

44 Cited by Reis and De Oliveira (2017, pp. 32-35).

45 Bitar (2018).

46 Casas Zamora and Falguera (2016).

**Table 1. Procedures for Nominating Legislative Candidates in Latin America
(sample of parties surveyed)**

Country	Party	Who nominates the party's legislative candidates?				Does any party body conduct an assessment of the professional, ethical, and political suitability of potential candidates?			Can the presidential candidate directly nominate or veto legislative candidates? If so, are formal or informal procedures used?		
		Open primaries	Members (closed primary)	Govern- ing body	Exec- utive body	No	Yes	Is the result of this assess- ment binding?	No	Yes	
										Informal	For- mal
Argentina	Generation for a National Encounter (GEN)	x	x			x			x		
Bolivia	National Unity Front	x			x		x	x		x	x
	Christian Democratic Party		x	x	x		x	x			x
Chile	Socialist Party of Chile			x		x				x	
	Social Democrat Radical Party			x	x		x	x		x	
Ecuador	Creating Opportunities Movement (CREO)			x	x		x		x		
	Democratic Left		x				x				
	Christian Social Party		x	x		x			x		

Guatemala	National Change Union				x		x	x			x
	Convergence				x		x	x	x		
	WINAQ		x	x	x		x	x	x		
	Fuerza (“Strength”)			x			x			x	x
	Todos (“All”)			x		x					x
	Commitment, Renewal and Order (CREO)			x	x		x	x		x	
	National Convergence Front			x		x			x		
	Encounter for Guatemala			x			x	x		x	
	National Unity of Hope (UNE)				x		x	x		x	
Honduras	Liberal Party	x				x				x	
	LIBRE (Liberty and Refoundation) Party	x	x	x			x	x	x		
	National Party	x					x			x	
Paraguay	National Republican Association - Colorado Party (ANR)	x				x				x	
Peru	American Popular Revolutionary Alliance (APRA)		x	x			x	x	x		
Uruguay	Socialist Party		x			x				x	
	Independent Party	x	x	x		x				x	
Source: Authors’ elaboration based on survey responses.											

In many cases, it is one of the party’s governing bodies—almost always a national party assembly—that nominates candidates (e.g., in Costa Rica’s National Liberation Party [PLN] and Ecuador’s Creating Opportunities Movement [MCREO]). As described later, often nomination by a national governing body is preceded by a recommendation from another party institution (sometimes binding, sometimes not, though carrying political weight); that second institution is often the national-level executive (e.g., as in Ecuador’s Democratic Left Party [PID] and Guatemala’s Todos (“All”) Party [PTodos]) or, in other cases, the party’s local or regional party organizations (e.g., in Colombia’s Green Alliance Party [PAV] and the Socialist Party of Chile [PSCh]). Sometimes the party’s subnational organizations themselves draw up lists and select candidates (e.g., in Chile’s National Renovation Party [PRNCh] and Costa Rica’s Social Christian Unity Party [PUSC]).

Those experiences contrast with a significant and growing number of cases in which nominations are decided through primary elections with varying degrees of openness, the results of which are binding on

party authorities. As shown in Table 1, Honduran parties regularly use open primary elections, as do almost all their Dominican, Panamanian, and Paraguayan counterparts. By law, so do Argentine political parties. In addition to party organs and open primaries, presidential candidates play a role in the selection of legislative candidates, particularly in cases where presidential and legislative elections are held simultaneously. Where that occurs, the presidential candidate's views inevitably become a factor in determining nominations, though their importance varies from party to party. As shown in Table 1, many parties recognize the presidential candidate's power to directly nominate or veto legislative candidates, a power sometimes formalized in the party's internal rules (in five of the 24 cases listed). Perhaps the most notable regional examples of the formalization of this power can be found in two Costa Rican parties (the PLN and the PAC), whose statutes grant their presidential candidate the power to nominate a number of legislative candidates at his or her own discretion.

The degree of openness in the process of elaborating lists and nominating candidates has visible implications for the use of legislative candidate vetting mechanisms, as previously explained. In principle, primary elections create incentives for party authorities to delegate the task of evaluating candidates to voters and avoid any responsibility for rescinding problematic nominations once candidates have received the voters' blessing. However, those incentives are not irresistible. Some of the parties listed in Table 1 (Bolivia's National Unity Front [FUN] and the Liberty and Refoundation Party [PLIBRE] and National Party [PNH] in Honduras) couple primary elections with the delegation of power to various bodies (ethics tribunals or political commissions) to carry out a prior ethical, political, and professional evaluation of those who register as primary election candidates. As described later, the case of the Nationalist Republican Alliance (ARENA) in El Salvador shows that vetting processes can be surprisingly rigorous even where primary elections are open.

Reasons for selecting nominees

On the surface, the parties of the region seem responsive to the previously described context of social suspicion in which they operate. In a survey of 24 party leaders in nine countries of the region, who were asked to rank ten factors that typically influence candidate nomination decisions in their party⁴⁷, eight ranked the candidate's integrity—understood as the absence of formal criminal complaints or ongoing proceedings, or any criminal, administrative or professional convictions, as well as any conflicts of interest related to state contracts—as one of the top two factors to consider. Eight more ranked the candidate's popularity and recognition among voters equally high. Revealingly, only three parties ranked the candidate's education level or their professional suitability for elected office either first or second. The other factors—from the potential candidate's ability to contribute to the party's campaign to their proven loyalty to the group and identification with its ideology, among others—ranked very low.

This order of priorities was generally echoed by the party figures interviewed in the course of this study. When asked what factors carried the most weight in the process of nominating her party's (PLN) legislative candidates that would run alongside her—a process in which, as the presidential candidate, she played a decisive role—former president of Costa Rica Laura Chinchilla explained that:

“Many things came into play in the nomination. For me, the most important thing was that they were decent human beings. The first impression of the list counts. The second thing was that I had to feel comfortable with them. What is more, we had to unite the party: it was important for me to have other forces within the party represented on the list.”⁴⁸

A number of officials from smaller and/or emerging parties (e.g., Paraguay's PPQ or the Liberal Party of Chile [PLCh]) also stressed the importance of the personal integrity of prospective candidates above any other factors⁴⁹. As described later, the emphasis placed by these parties on candidates' ethical qualities is reflected in their internal background check procedures.

Nevertheless, the interviews revealed greater concern regarding the candidates' ability to win elections, whether perceived or already demonstrated in a primary election process within the party. The president of Chile's PPD put it this way:

“What matters most is electability, that the candidate can win. If the candidate is young, that capacity and their political strength looking forward are considered... Probity is also key and is checked fundamentally through the press. Where there is a movement towards diversity, the tendency is to place less importance on party membership and instead seek out independent leaders. More and more, parties are looking to include people from new social sectors to increase their electoral appeal.”⁵⁰

47 Popularity and recognition of the candidate among voters; financial capacity to contribute to his or her own or the party's campaign; level of education or professional qualifications to hold a representative position; links to powerful groups (the business community, the media); personal integrity (absence of: i) criminal complaints, ongoing legal proceedings or criminal, administrative or professional convictions; ii) conflicts of interest related to public contracts); membership of a group or connection with a locality of special interest to the party; proven activism and loyalty to the party; proximity to the presidential candidate or party leader; identification with the party ideology or platform; other factors.

48 Chinchilla (2018).

49 Acha (2018), Ramos (2018).

50 Piza (2018), Arce (2018), Espino (2018) and Sannemann (2018) expressed similar thoughts on giving priority to the popularity of legislative candidates as a selection criterion. The last two are leaders in parties (Panama's PRD and Paraguay's

This last factor—the leadership and record of the candidate in social sectors of particular interest to the party—was also described as very relevant by interviewees, although generally less so than ethical and electoral factors⁵¹. Only one interviewee stressed the importance of professional qualifications in the nomination, while pointing out that it was becoming less relevant in her party⁵². Other factors were barely mentioned, including candidates’ financial resources, which were only considered highly relevant in the case of the Guatemalan parties.⁵³

In short, the evidence suggests that ethical factors—but not factors related to education or professional competence—are indeed relevant, at least in theory, for most Latin American parties when selecting candidates, in a region where distrust of political representation is pervasive. However, that concern is not reflected in the formal and informal processes parties use to vet prospective legislative candidates. The dissonance between parties’ rhetorical concern about the quality of representation and the practices they actually employ to improve it is perhaps the fundamental issue of this entire discussion.

Background checks: Formal and informal practices

In most of the cases examined, the process of reviewing a candidate’s background is far from rigorous and even less formalized. Generally, in addition to any constitutional and legal eligibility requirements, the statutes of the parties in the region require a minimum level of party involvement and/or length of party membership and, occasionally, allegiance to the group’s ideology, fulfillment of the duties of a party member (regular payment of dues, for example), and signature of a code of ethics. The required length of membership required varies from party to party, with Chile’s Christian Democratic Party (the PDCCCh) being the most demanding of those consulted, requiring six years of membership prior to the election date. That said, the general trend in the region is toward weakening minimum membership requirements. More broadly, in their effort to attract new members and candidates, most Latin American parties are making their candidacy prerequisites more flexible.⁵⁴

In cases where a party organ (whether local or national) makes candidate endorsement or nomination recommendations, the same body first ascertains the person’s fulfillment of some of these requirements and conducts a more general background check. This usually consists of a quick check for possible criminal convictions and a look at the candidate’s record on publicly sensitive issues such as domestic violence. Typically, this is done through specific searches on platforms available at institutions such as the judiciary, the Ministry of the Interior, and the Comptroller’s Office, or by using private services that aggregate personal information and credit history.

In some countries, the tools available for these consultations reach a higher level of sophistication. Colombia and, more recently, Peru have established the “one-stop electoral service desk,” a consolidated mechanism consisting of a point of service for the consultation of information held by public institutions on the personal records of prospective candidates, which is explored in more detail later. In other cases (such as ARENA in El Salvador, the PPQ in Paraguay, the PLCh in Chile, and the National Unity Front [FUN] in Bolivia), the party bodies themselves ask prospective candidates to provide documentation of their clean criminal record and non-involvement in any pending legal proceedings, or to make a sworn declaration to

Authentic Radical Liberal Party [PLRA]) where candidate lists simply reflect the candidates’ success in the internal primaries.

51 Acha (2018), Bolaños (2018), Arce (2018), Chasquetti (2018), Piza (2018).

52 Bolaños (2018).

53 Núñez (2017).

54 Bitar (2018).

that effect⁵⁵. Sometimes (as in Uruguay’s Independent Party [PIU], Guatemala’s National Convergence Front [FCN-Nación], and the PLCh), the process also includes a meeting between the prospective candidate and the party body responsible for the review. Javiera Arce, a member of the Political Commission of the Socialist Party of Chile (PSCh), describes the somewhat makeshift and haphazard vetting process used by a considerable number of parties in Latin America:

“Prospective candidates’ backgrounds are investigated informally in terms of domestic violence, corruption scandals or tax fraud. [...] There is no systematic review process. The party doesn’t use any databases. The most they ask for is a police certificate [of no criminal record]. No one goes into any great detail in that regard. There are cases of mayors linked to drug trafficking who, if it weren’t for the press, couldn’t have been expelled from the party.”⁵⁶

Not only is the vetting process rudimentary, in many cases—with the obvious exception of Colombian parties, for reasons explored later—it is not mandatory. In fact, the process is generally initiated due to accusations made by political rivals during the campaign or by the media’s investigative work.⁵⁷ One interviewee even expressed concern that proactive inquiries by party authorities looking for information may lend themselves to the persecution of rivals and “witch hunts.”⁵⁸

Whether or not the process is mandatory, it is almost always limited to ongoing formal legal proceedings, excluding potential conflicts of interest and issues regarding the candidate’s professional suitability for elected office. Generally, as noted previously in the discussion of factors influencing candidate selection, there is a deep-rooted perception that excluding candidates based on their education or professional experience is contrary to the democratic ethos.⁵⁹ Among the parties consulted, only Chile’s PDCCh and Costa Rica’s PAC formally impose an educational requirement.

The informality of the vetting process is heightened in small countries, such as Costa Rica, Chile, Paraguay, and Uruguay, where ties based on family connections, kinship or friendship among the political elite are very close and, as a result, local or national party leaders generally have at least basic familiarity with the backgrounds of prospective candidates. In the course of this study, interviewees repeatedly cited the trust in that “informal” awareness of who’s who in national politics as a resource that works against the excessive formalization of background check processes. This is what former Chilean senator and president of the PPD Sergio Bitar had to say:

“Chile is a small country and people who are interested tend to be well-known. All the same, the party’s political committee usually meets with the prospective candidates. And that is supplemented by the investigative work of the press, which is key.”⁶⁰

At this point, it is worth stopping to compare the requirements and procedures described here with those of parties in other regions around the world. In general, while prospective candidates are required to submit documentary evidence regarding certain aspects of their personal history, in most cases these processes are unstructured. Ashiagbor (2008) found in 2006 that the procedures of the Social

55 Ramos (2018), Deny (2018), Piza (2018).

56 Arce (2018).

57 Piza (2018).

58 Bitar (2018).

59 Chasquetti (2018), Acha (2018).

60 Bitar (2018). In the same vein: Chinchilla (2018), Arce (2018), Gallardo (2018), Piza (2018), Chasquetti (2018), Sannemann (2018).

Democratic Party of Bosnia and Herzegovina (SDP BiH) included broad criteria such as the requirement to “fulfill moral and credibility criteria,”⁶¹ although candidates currently only submit their curriculum vitae.⁶² In 2007, the Liberal Party of Canada (LPC) introduced a requirement that prospective candidates consent to a background check. However, provincial or territorial campaign managers can waive or modify some of the criteria required by the party.⁶³ The Chinese Nationalist Party (Kuomintang) in Taiwan requires prospective candidates to provide professional and personal information that enables the party to investigate their backgrounds, and they are disqualified if they are found to have committed any of a number of crimes, either in Taiwan or elsewhere.⁶⁴ For its part, the African National Congress (ANC) in South Africa requires its candidates to be party members of good standing with a proven record of commitment to the democratic movement; to have experience and expertise that will enable them to make a constructive contribution to the party; to have no criminal record, excluding politically related crimes committed prior to 1994; and have no history of ill-discipline, corruption, involvement in fostering division or breaching the party code of conduct.⁶⁵

For their part, Spanish parties usually have electoral committees or commissions that register and endorse prospective legislative candidates for inclusion in their official candidate lists in parliamentary elections. The Spanish Socialist Workers’ Party (PSOE), for example, asks its candidates to meet the eligibility requirements set out in electoral law; to agree to the party’s ethics pledge; and to be registered members of the federal party organization.⁶⁶ Meanwhile, the People’s Party (PP) requires a declaration of suitability, an income tax return, and a curriculum vitae, as well as proof of competence for the position.⁶⁷

Much more detailed rules are found in the Podemos (“We Can”) Party (PPod), a left-wing group that entered the scene in 2014 with a message strongly critical of the political practices of the traditional Spanish parties, the PSOE and PP. Podemos’s rules require that its candidates be endorsed by at least 1,000 party members or a collective organ at the national or local level, and that they comply with the party’s ethical principles.⁶⁸ The party has a detailed Regulation on Incompatibilities, which applies to its members and, by extension, to its candidates for elected public office.⁶⁹ The regulation includes a long list of fundamental, personal, civil, political, and organizational incompatibilities covering a very broad array of behaviors which entitle the party’s electoral bodies to disqualify prospective candidates: these range from conduct, opinions or activities contrary to the Universal Declaration of Human Rights to acts of corruption or misappropriation for personal gain, as well as having recently displayed chauvinistic, xenophobic or discriminatory attitudes, among many others. Furthermore, when registering their candidacy, candidates must state the number and types of their endorsements (individual or group). Those who endorse candidates are “guaranteeing with their word and signature that candidates comply with the overall principles of Podemos and, in particular, the provisions of the [party’s] ethics, policy, organizational, and equality documents....”⁷⁰ Prospective

61 Ashiagbor (2008, p. 67).

62 Ashiagbor (2008).

63 Ashiagbor (2008, pp. 57-58).

64 Organized crime, including drug trafficking, money laundering, and corruption; violation of public officeholder recall laws, bribery, and inciting the public to violence; sexual harassment or involvement in the child sex trade; or murder, assault, robbery, kidnapping, or fraud (Ashiagbor [2008, p. 48]).

65 Ashiagbor (2008, p. 32).

66 Spanish Socialist Workers’ Party, Rules Regulating Public Offices, Art. 24; available at: <http://web.psoe.es/source-media/000000611500/000000611964.pdf>

67 People’s Party, National Statutes, Art. 13; available at: http://www.pp.es/sites/default/files/documentos/estatutos_definitivos.pdf

68 Podemos, Regulation on Primary Elections for Congress and Senate: https://podemos.info/wp-content/uploads/2018/11/Reglamento_primarias_estatales.pdf

69 Podemos, Regulation on Incompatibilities; available at: <https://files.podemos.info/ufqt9CRI8b.pdf>

70 Podemos, Regulation on Primaries for Congress and Senate, Art. 2; available at: https://podemos.info/wp-content/uploads/2018/11/Reglamento_primarias_estatales.pdf

candidates for Congress of Deputies or Senate who wish to head the party list in a constituency must also provide a short statement describing their political, professional or historical relationship with that constituency.

A vetting process as formalized as that of Podemos would clearly be the exception in Latin America. However, even among Latin American parties there are practices that contrast with the loose and informal background checking processes previously described. The most obvious and significant exception is that of Colombian parties, which—as a result of legal requirements—have the most formalized and rigorous process for background checks of prospective candidates in the region. In 2009, an amendment to Article 107 of the Colombian Constitution⁷¹ established the legal responsibility of parties and their leaders for failure to exercise due care in their endorsements of candidates who are elected to public office, when those candidates have been or are subsequently convicted of crimes related to drug trafficking or links to illegal armed groups, crimes against humanity, or crimes against mechanisms of democratic participation. A party may be sanctioned with fines, the requirement to return state funding, or even the revocation of its legal registration. Crucially, with respect to candidates elected to single-person offices, the party may not nominate a candidate in the following election in the same constituency. If the next election is less than 18 months away, it cannot replace the convicted candidate. This amendment is known as the “Empty Seat Law.”

The 2009 reform clearly pointed to the need to establish candidate filters in a country with a long history of problematic ties between parties and illegal armed groups, the election of Pablo Escobar to the National Congress and the “Parapolitics” scandal being only the most obvious examples.⁷² Its implementation has been possible thanks to other innovations introduced in Colombian law more than two decades ago. The first of these was the creation—under Law 130 of 1994—of the office of party overseer, mandatory for all Colombian parties. This party official has the principal responsibility of conducting background checks on all of the party’s prospective nominees, in addition to responsibilities for disciplining and protecting party members. A background check can result in either the rejection of the prospective candidate or, alternatively, referral to the political body responsible for the nomination, which makes the final determination. In other words, the “endorsement” by the overseer does not guarantee receiving the party’s nomination, but the prospective candidate cannot be nominated without it.⁷³ The second innovation is important for the fulfillment of the overseer’s vetting function: the creation in 2015 of the previously mentioned “one-stop service desk” administered by the Ministry of the Interior, which in a matter of days generates a report listing all the disciplinary, judicial, and tax records and information pertaining to candidates nominated by legally registered political parties and movements as well as those nominated by petition through citizens’ electoral groups.⁷⁴

This combination of rules and practical means has made it possible to screen candidate lists, though their effectiveness is far from perfect and contingent upon factors not easily replicable in other countries. Colombian political actors also recognize that the political autonomy exercised by the overseer varies considerably among parties.⁷⁵ Whereas in the Liberal Party of Colombia (PLC) the overseer derives authority from his or her election at the National Convention—the party’s highest governing body—in other parties overseers are weak figures who can be easily co-opted or removed by party authorities.⁷⁶ In other parties, the oversight function has been relegated to local party bosses (caciques), often the middlemen in

71 Legislative Act 01 of 2009.

72 See: Casas Zamora (2013), Rubio (2013)

73 Llano (2017), Álvarez (2017).

74 Ministry of the Interior of Colombia, Decree No. 513 of 2015, whereby the Permanent Electoral One-Stop Service Desk was created. This decree formalized a system already in use since 2011 (Álvarez [2017]).

75 Martínez (2017).

76 Llano (2017).

patronage networks, which in practice guarantees that the vetting mechanism is used for political ends and does not fulfill the intended purpose of the legislation.⁷⁷ These shortcomings are exacerbated by the well-known problem of the politicization of the National Electoral Council (the CNE), which has long limited the latter's willingness to punish party authorities for almost any type of campaign irregularities⁷⁸. Additionally, while the “one-stop service desk” is an extraordinary vetting mechanism capable of dealing with over 400,000 inquiries on candidates for local elected offices in just a matter of days,⁷⁹ it is not kept up to date and is dependent on the unusual intelligence capabilities developed by the Colombian state, almost certainly unparalleled in Latin America, over many decades of armed conflict and combat against drug trafficking. In fact, the almost simultaneous implementation of the service desk in Peru, starting in 2015, has been less effective.⁸⁰

Outside of Colombia, where screening is legally required, rigorous candidate background checks are a result of parties' self-regulation and occur only exceptionally. Where rigorous practices do exist, they are often rooted in the idiosyncrasies of the particular country, party or leader, which can make them difficult to replicate.

The first group of exceptions includes small, emerging parties with limited chances of governing, which decide to cultivate a more sophisticated electorate for whom the ethical renewal of politics is a fundamental concern. One particularly notable example is Paraguay's PPQ. Despite the lack of a legal requirement, the PPQ's internal regulation on elections outlines a process whereby the party's National Executive Committee (Conducción Nacional) reviews prospective candidates' criminal, legal and financial records and proceeds to issue a ruling, which can entail a prospective candidate's disqualification. Questioned candidates are frequently reinstated on appeal to the national electoral authority based on the principle of *in dubio pro suffragio*, a safeguard that exists in different forms in legislation across the continent and which tends to weaken the reach of parties' internal vetting mechanisms. The PPQ's own authorities recognize that using such a rigorous process sometimes gives the impression that it is an exclusionary group, which consequently has a negative electoral impact.⁸¹

The experience of another small, emerging party founded in 2013, the PLCh, is similar in certain respects to that of the PPQ. Prospective PLCh candidates—who may be either party members or independent citizens, a group the party seeks to attract—must agree from the outset to provide basic background documentation, which is then verified by a kind of ‘overseer’ appointed for that purpose by the party leadership. The ‘overseer’ submits a report that provides the basis for the leadership's recommendation to the party's General Council. It is understood that the background check, which the party takes seriously, also contributes to the image of political renewal that the party hopes to convey to the electorate.⁸²

77 Rodríguez (2017).

78 Casas Zamora and Falguera (2016), Martínez (2017), Rodríguez (2017).

79 Álvarez (2017).

80 In Peru, the one-stop service desk was created by Law No. 30,322 of April 16, 2015. The system is voluntary and available only to legally registered parties, from 10 days before the election is officially called until the deadline for candidate registration. A few weeks before the candidate registration deadline for the October 2018 regional and municipal elections, the system had received inquiries concerning approximately 30% of the candidates. Interestingly, it was the parties with the most candidates nationwide that made the least use of the system. See: “El uso de la Ventanilla Única de Antecedentes en estas elecciones,” *El Comercio* (Peru), 6/29/2018, available at: <https://elcomercio.pe/politica/ventanilla-unica-antecedentes-elecciones-noticia-531617>; “Consulta de antecedentes por Ventanilla Única alcanza solo el 30% señala el JNE,” *CanalN.pe*, 7/5/2018, available at: <https://canaln.pe/actualidad/elecciones-2018-jne-reporto-que-consultas-ventanilla-unica-llega-solo-al-30-n328914>.

81 Acha (2018).

82 Ramos (2018).

In these cases, the nascent character of the party is important to understanding the rigor of the process. As emerging parties grow and become viable governing options, with the capacity and desire to appeal to a broader electorate, their zeal for rigor tends to give way to the need to recruit more prospective candidates to reach different sectors of the population. In other words, as they become broader organizations, the usual incentives in favor of lax processes, minimal vetting, and the assumption of “calculated risks” begin to affect their behavior. A clear example is the evolution of the PAC in Costa Rica, which began in 2000 as a breakaway from the majority PLN, with a message strongly focused on raising the ethical caliber, level of professionalism, and ideological consistency of political leaders. In their case, the introduction early on of a required political training course⁸³ for all candidates gave way—as the party grew and consolidated (eventually winning the presidency in 2014)—to increasingly loose enforcement of the requirements, which have effectively ceased to be applied. This has happened in part because of the growing difficulty in attracting citizens interested in running for office, as a former party president acknowledged.⁸⁴

The PAC example makes even more striking that of ARENA, a large, highly consolidated conservative party that governed El Salvador for 20 consecutive years until 2009 and which is currently the country’s main opposition party. ARENA illustrates a second type of exception. As in the PPQ, the party’s National Electoral Commission issues instructions explaining the requirements for candidate registration. Requirements include letters of recommendation from the party’s local or sectoral bodies, a sworn statement attesting to the veracity of the information provided to party authorities on the candidate’s background, and a statement of commitment to the party constitution, which includes requirements such as a minimum period of membership, evident education and morals, and a life history generally consistent with the party ideology. With these requirements in mind, the party’s National Electoral Commission, Ethics Committee and National Executive Committee all subject prospective candidates to a rigorous background check. It is up to the National Electoral Commission to make the final decision, which can be appealed to the commission itself, and which once final is binding on other party bodies. This check goes far beyond what is required by law, and not all prospective candidates survive it:

“Compliance with legal requirements is not all that’s checked. The question of whether the prospective candidate has engaged in conduct inconsistent with the principles established in the party constitution is also looked into, namely: believing in God, being pro-life, being pro-free enterprise, believing in the separation of powers, and so on. So, for example, people have been denied the chance to be candidates for having shown support for LGBTI groups, an agenda the party obviously does not advocate.... In other cases, some very articulate people have appeared, very consistent with party doctrine, but who had issues with debt collection and ongoing lawsuits with banks. I remember another case of someone who was involved in very public disputes with their family over an inheritance. In all those cases, the applicants were rejected.”⁸⁵

Perhaps most notable about this example is that this rigorous vetting occurs despite the fact that the party uses internal elections to select its lists and that Salvadoran legislation uses open lists for national elections. ARENA’s experience suggests that opening up nomination and selection processes does not preclude the use of rigorous background checks. In ARENA’s case, the survival of these processes is explained by the party’s rigorously ideological character and its historically hierarchical and disciplined

83 For instance, in the U.K. the Liberal Democrats also run ‘trainings events’ and offers ‘mentoring to support individuals who are in the process of becoming a candidate’. In the ‘approval process’ some competences are assessed as well as conforming ‘to a high standard of personal conduct and behavior.’ See: https://www.libdems.org.uk/become_a_candidate.

84 Bolaños (2018).

85 Ávila (2018).

culture. Incidentally, both conformity to a well-defined ideological profile and centrally exercised control by a party's central authorities are also present—perhaps to an even greater extent—in ARENA's left-wing opponents, the Farabundo Martí National Liberation Front (FMLN). In the Salvadoran case, the armed conflict that ended in 1992 seems to have left a long-lasting impact on the main political parties, with characteristics not easily identified in the region's other large parties. The effects are seen in their extraordinary degree of hierarchy and the reluctance on the part of their central authorities to remove oversight from the candidate nomination process.

A third group of exceptions consists of cases where the party leader decides to make rigorous candidate background checks a priority in the nomination process. This was the case, for example, with former Costa Rican President Laura Chinchilla, as mentioned earlier. Alarmed by the proliferation of public accusations against former legislators from her own party, upon assuming the candidacy of Costa Rica's PLN in 2009, Chinchilla appointed an ad hoc committee composed of her trusted associates, which reviewed the résumés and backgrounds of all those seeking selection as nominees by the party's Plenary Assembly. As a result of the review, Chinchilla forced at least two prospective legislative candidates to renounce their aspirations.⁸⁶

The weakness of parties' self-regulation in this area and the infrequency of rigor in legislative candidate background check processes are also evident in the relative difficulty of imposing penalties on prospective candidates who provide false information to party authorities. This difficulty is reduced when the information is of a legal nature, such as the declarations of assets some parties require from prospective candidates (as in Chile's PPD) or clearance certificates issued by financial oversight bodies regarding candidates' prior use of public funds (as required in Guatemalan parties, for example).⁸⁷ In those cases, falsifying information obviously exposes the prospective candidate to legal sanctions. Otherwise, penalties usually consist of the opening of an internal investigation by the party's (typically very weak) ethics body, which, depending on the gravity of the offense, can penalize the candidate with suspension of membership or expulsion from the party.

Crucially, party authorities' ability to remove a candidate, whether for providing false information or because significant and damaging information about the candidate's past comes to light, almost always requires the relevant authorities' assessment of the claim to have begun prior to the formal registration of the person's nomination with the electoral authorities. In that case, party authorities can usually decide to remove the candidate or at least suspend his or her candidacy until the matter is resolved (for example, in the Liberal Party of Honduras [PLH] or the Socialist Party of Uruguay [PSU]).

The situation is more complicated when a claim is made or falsifications are discovered after a candidate has been formally registered. In those cases, parties in the region typically have few options to remove the problematic candidate, beyond asking the candidate to withdraw voluntarily. Electoral authorities tend to narrowly apply any provision likely to compromise potential candidates' political participation rights. Thus, the Paraguayan electoral courts have determined that, once a candidate is registered, the existence of criminal complaints against a candidate does not enable a party to remove that candidate from its list.⁸⁸ Similarly, the Supreme Electoral Tribunal (TSE) of Costa Rica has ruled that parties cannot

86 Chinchilla (2018). One of the authors (Casas) of this study can attest to the fact that the appointment of an *ad hoc* background check committee by the presidential candidate does not always occur in the PLN. Four years prior to this, the nomination of legislative candidates in the PLN—in which the author was directly involved—passed through the usual channels: the use of informal knowledge of the candidates' family and professional backgrounds, and unsystematic efforts by campaign leadership to confirm those details, usually triggered by allegations received during the nomination process.

87 Bitar (2018), Núñez (2017).

88 Acha (2018).

replace a registered candidate unless they fully guarantee that person due process. This situation arose during the 2014 campaign, when it became known that a candidate on the list of the Broad Front Party (the PFA)—a left-wing group strongly committed to gender equality—had been the subject of a past domestic violence complaint. Faced with the candidate’s refusal to withdraw his already registered candidacy, the party’s National Assembly passed a resolution to annul it. That decision was subsequently itself annulled by the TSE, which cited violations of the candidate’s fundamental rights, among them the principle of non-retroactivity, the prohibition on lifetime punishment, and the absence of due process.⁸⁹ The candidate was eventually elected. Although he was initially excluded from the party’s legislative group, a few months later he returned for the remainder of the legislative term.⁹⁰ However, it is worth noting that in both the 2014 and 2018 electoral cycles, Costa Rican parties did manage to force the withdrawal of legislative candidates in response to various matters brought to light by the press, after applying considerable political and media pressure⁹¹. Given the enormous effort required in these situations, before the 2018 election Costa Rica’s PUSC opted to have all its legislative candidates sign an explicit commitment to withdraw their candidacy or resign from their potential congressional seat if they were implicated in any case of corruption or serious ethical misconduct and found guilty by the group’s Ethics and Discipline Tribunal.⁹²

In these situations the greatest penalty suffered by the candidate is ultimately political in nature. “If the candidate’s deceit becomes known,” warned a leader of Chile’s PPD, “the effect on public opinion can be devastating, but we have no formal process to deal with it.”⁹³ However, as the Costa Rican example shows, the political harm may not always be enough to prevent the election of the controversial candidate, especially in a closed-list system.

The incentive structure, which discourages rigorous background checks, is complemented by the general lack of penalties applicable to party officials or the party itself for nominating a compromised candidate, except in the case of Colombia. Colombia, as already mentioned, has the “empty seat” law, whereby a party can lose its seat and be prohibited from nominating a candidate in the same constituency when one of its elected representatives has been, or is subsequently, convicted of one of a series of criminal acts related to drug trafficking or the activities of illegal armed groups, among others. There is nothing comparable elsewhere in the region, where party authorities run no great legal or political risk when failing to exercise due diligence in approving their party’s candidate lists. In some parties (such as the PAC in Costa Rica or ARENA in El Salvador), party authorities implicitly absolve themselves of any responsibility by requiring sworn declarations from legislative candidates as to the veracity of the information they provide when

89 Supreme Electoral Tribunal of Costa Rica, resolutions 5361-E2-2013 of 12/6/2013 and 5577-E1-2013 of 12/20/2013.

90 See: “Villalta pide renuncia a candidato a diputado, éste se niega,” *Informa-tico.com*, 11/7/2013, available at: <http://www.informa-tico.com/7-11-2013/villalta-pide-renuncia-candidato-diputado-este-se-niega>; “Frente Amplio afirma que seguirá pidiendo a Jorge Arguedas la renuncia,” *Teletica*, 12/7/2013, available at: https://www2.teletica.com/35066_frente-amplio-afirma-que-seguira-pidiendo-a-jorge-arguedas-la-renuncia.

91 See: “Renuncian dos candidatos a diputados del Movimiento Libertario,” *El Financiero*, 1/20/2014, available at: <https://www.elfinancierocr.com/economia-y-politica/renuncian-dos-candidatos-a-diputados-del-movimiento-libertario/RLESBWTDVARVMVHRRGLFGN5BY/story/>; “Restauración Nacional espera renuncia de candidato a diputado acusado por delitos sexuales,” *Radio Monumental*, 1/25/2018, available at: <http://www.monumental.co.cr/2018/01/25/restauracion-nacional-espera-renuncia-de-candidato-diputado-acusado-por-delitos-sexuales/>; “Renuncia candidato a diputado de Restauración,” *La Nación*, 1/29/2018, available at: <https://www.nacion.com/el-pais/politica/renuncia-candidato-a-diputado-de-restauracion/7CIDMH32LZGKVE4ZWGTFU2EQ3Q/story/>; “Victor Hugo Viquez no ha presentado renuncia a candidatura a diputado,” *CRHoy.com*, 10/31/2017, available at: <https://www.crhoy.com/nacionales/victor-hugo-viquez-no-ha-presentado-renuncia-a-candidatura-a-diputado/>; “Victor Hugo Viquez confirma al TSE su renuncia a la candidatura a diputado por el PLN,” *Teletica*, 11/7/2017, available at: https://www.teletica.com/177686_victor-hugo-viquez-confirma-al-tse-su-renuncia-a-la-candidatura-a-diputado-por-el-pln.

92 Piza (2018). See: “Futuros diputados del PUSC deberán renunciar a su curul si son implicados en algún caso de corrupción,” *El Mundo*, 10/17/2017, available at: <https://www.elmundo.cr/futuros-diputados-del-pusc-deberan-renunciar-curul-implicados-algun-caso-corrupcion/>

93 Bitar (2018).

seeking nomination, thus releasing from responsibility the party organs involved if the information is later disproven.⁹⁴

Table 2 summarizes some of the information on procedures for background checks on prospective legislative candidates procedures and the related penalties, which was collected in the survey of party leaders from nine countries in the region.

Box No. 1

Examples of promising legislative candidate vetting experiences

The vetting of legislative candidates is poorly formalized in Latin America (and elsewhere). Moreover, the vetting mechanisms that do exist have not been rigorously evaluated. Nevertheless, there are examples of promising practices, the application of which is worth exploring. Colombian legislation has been particularly pioneering in this area. These examples include the following:

The Party Overseer - Introduced by **Colombian** legislation in 1994, the office of party overseer is mandatory for all Colombian parties. This party official has the principal responsibility of conducting background checks on all of the party's prospective nominees, in addition to responsibilities for disciplining and protecting party members. A background check can result in either the rejection of the prospective candidate or, alternatively, referral to the political body responsible for the nomination, which makes the final determination. It is essentially a mechanism to centralize responsibility for investigating the backgrounds of legislative candidates.

The “Ventanilla Única” One-Stop Service Desk - Created in 2015 in **Colombia** and **Peru**, the “one-stop electoral service desk” is a consolidated mechanism consisting of a point of service for the consultation of information held by public institutions on the personal records of prospective candidates. In Colombia, the “one-stop service desk” operated by the Ministry of the Interior is capable of dealing with over 400,000 inquiries on candidates for local elected offices in just a matter of days. However, the database is not always kept up to date and the resource is not easily adaptable to other contexts, given the unusual intelligence capabilities that have been developed by the Colombian state. Its use in Peru has been less successful.

The “Empty Seat” - In 2009, a constitutional amendment in **Colombia** established the legal responsibility of parties and their leaders for failure to exercise due care in their endorsements of candidates who are elected to public office, when those candidates have been or are subsequently convicted of crimes related to drug trafficking or links to illegal armed groups, crimes against humanity, or crimes against mechanisms of democratic participation. A party may be sanctioned with fines, the requirement to return state funding, or even the revocation of its legal registration. Crucially, with respect to candidates elected to single-person offices, the party may not nominate a candidate in the following election in same constituency. If the next election is less than 18 months away, it cannot replace the convicted candidate.

The “Booklet” - The regulation on elections (known as *el librito* or “the booklet”) of **Paraguay's** Beloved Fatherland Party (the PPQ) formalizes a process whereby the party's National Executive Committee (*Conducción Nacional*) reviews prospective candidates' criminal, legal, and financial records and proceeds to issue a ruling, which can entail a prospective candidate's disqualification.

94 Bolaños (2018); Ávila (2018); Piza (2018).

A similar practice exists in the Nationalist Republican Alliance (ARENA) in **El Salvador**, where the party's National Electoral Commission issues instructions explaining the requirements for candidate registration. Requirements include letters of recommendation from the party's local or sectoral bodies, a sworn statement attesting to the veracity of the information provided on the candidate's background, and a statement of commitment to the party constitution, which includes requirements such as a minimum period of membership, evident education and morals, and a life history generally consistent with the party ideology. With these requirements in mind, the party's National Electoral Commission, Ethics Committee and National Executive Committee all subject candidates to a rigorous background check. These experiences are echoed outside the region in the *Podemos* ("We

Can") Party in **Spain**, which has a detailed Regulation on Incompatibilities, which applies to its members and, by extension, to its candidates for elected public office. The regulation includes a long list of fundamental, personal, civil, political, and organizational incompatibilities covering a very broad array of behaviors which entitle the party's electoral bodies to disqualify prospective candidates: these range from conduct, opinions or activities contrary to the Universal Declaration of Human Rights to acts of corruption or misappropriation for personal gain, as well as having recently displayed chauvinistic, xenophobic or discriminatory attitudes, among many others.

Requirement to Provide Documentation or Endorsements - In the Liberal Party of **Chile**, prospective candidates are required from the outset to provide basic background documentation, which is then verified by an 'overseer' appointed for that purpose by the party leadership. The 'overseer' submits a report that provides the basis for the leadership's recommendation to the party's General Council. In the case of ARENA in **El Salvador**, the registration of a legislative candidate also requires letters of reference from local or sectoral party bodies. In **Spain's** *Podemos* party, candidates must be endorsed by a municipal, regional or national secretariat. According to the current rules, those who endorse prospective *Podemos* candidates are "guaranteeing with their word and signature that the candidates comply with the overall principles of *Podemos* and, in particular, the provisions of the [party's] ethics, policy, organizational, and equality documents....". Prospective candidates for the Congress of Deputies or Senate who wish to head the party list in a constituency must also provide a short statement describing their political, professional or historical relationship with that constituency.

Commitment to Resign - In **Costa Rica's** Social Christian Unity Party (PUSC), legislative candidates sign an explicit commitment to withdraw their candidacy or resign from their potential congressional seat if they are implicated in any case of corruption or serious ethical misconduct and found guilty by the group's Ethics and Discipline Tribunal.

Mandatory Political Training Courses - In **Costa Rica's** Citizens' Action Party (PAC), prior to their nomination by the party's National Assembly, prospective candidates are required to participate in a political training course that culminates in an evaluation, which is taken into account in the nomination decision.

Table 2. Mechanisms and penalties for addressing formal accusations and conflicts of interest involving legislative candidates in Latin America (sample of parties surveyed)

Country	Party	Does the party have mechanisms to deal with formal accusations, ongoing proceedings or convictions (whether criminal, administrative or in professional practice)?		Does the party have mechanisms to deal with conflicts of interest related to public contracts?		Does the party use public or private institutions to verify the existence of any formal accusations, ongoing proceedings, convictions or disqualifications?	Does the party have sanctions for candidates who fail to inform the party of any formal accusations, ongoing proceedings, convictions or conflicts of interest related to public contracts?	Are penalties provided for the party or its authorities if it is determined that its candidates, once elected, are the subject of formal accusations, ongoing proceedings, convictions or conflicts of interest related to public contracts?
		Formal mechanisms	Informal mechanisms	Formal mechanisms	Informal mechanisms			
Argentina	Generation for a National Encounter (GEN)	No	No	No	No	No	No	No
Bolivia	National Unity Front	Yes	No	Yes	No	Yes	Yes	No
	Christian Democratic Party	No	No	No	No	No	Yes	No
Chile	Socialist Party of Chile	No	No	No	No	Yes	Yes	No
	Social Democrat Radical Party	No	Yes	No	Yes	Yes	No	Yes
Ecuador	Creating Opportunities Movement (CREO)	No	Yes	No	Yes	Yes	Yes	No
	Democratic Left	No	No	No	No	Yes	Yes	Yes
	Christian Social Party	Yes	Yes	No	No	Yes	No	Yes

Guatemala	National Change Union	No	No	No	No	Yes	Yes	Yes
	Convergence	No	No	No	Yes	Yes	Yes	No
	WINAQ	Yes	No	No	No	No	Yes	No
	Fuerza ("Strength")	Yes	Yes	Yes	Yes	Yes	Yes	No
	Todos ("All")	No	Yes	No	No	No	No	No
	Commitment, Renewal and Order (CREO)	Yes	Yes	No	No	Yes	Yes	No
	National Convergence Front	Yes	Yes	No	Yes	Yes	No	No
	Encounter for Guatemala	No	Yes	Yes	Yes	Yes	Yes	Yes
	National Unity of Hope (UNE)	Yes	Yes	No	No	Yes	Yes	No
Honduras	Liberal Party	No	No	No	No	No	Yes	No
	LIBRE (Liberty and Refoundation) Party	Yes	No	Yes	No	Yes	Yes	Yes
	National Party	Yes	Yes	No	No	Yes	No	No
Paraguay	National Republican Association - Colorado Party (ANR)	Yes	Yes	No	No	Yes	Yes	No
Peru	American Popular Revolutionary Alliance (APRA)	No	No	No	No	Yes	No	No
Uruguay	Socialist Party	No	No	No	No	No	Yes	No
	Independent Party	Yes	Yes	No	No	Yes	Yes	Yes

Source: Authors' elaboration based on responses to questionnaire.

The vast majority of party authorities and experts consulted in the course of this investigation are aware of and acknowledge the erratic and unreliable nature of candidate vetting mechanisms.⁹⁵ When asked if the mechanisms employed by Paraguayan parties to refine their candidate lists were, in general, adequate, former Authentic Radical Liberal Party (PLRA) congressman Martín Sannemann responded in very strong terms: “No, not at all: politics is riddled with narcos.”⁹⁶ Others expressed their relative confidence in the ability of their party’s processes to identify prospective candidates’ ethical problems, but not to ensure an adequate level of professional competence, a factor that generally appears to be a less important concern for almost all the parties in the region.⁹⁷

Although many party authorities expressed interest in introducing new, stricter rules in this area, in a clear majority of cases that interest is not followed by concrete proposals for changes to party rules.⁹⁸ Referring to the situation in Guatemalan parties, which are notoriously poorly institutionalized and devoid of credibility, one interviewee expressed his cautious hope that political parties will become more demanding than at present:

“There’s no clear reason to believe that established parties in Guatemala have any concrete plans in this regard. But I think they’re going to have to change because the political climate, particularly in urban areas, has changed a lot, especially since the resignation of President Otto Pérez in 2015 (in the face of corruption charges). It is a possibility. Emerging parties, such as Somos (“We Are”) and Semilla (“Seed”), are going to incorporate better and stricter practices. But they are just starting out.”⁹⁹

If that lack of concrete proposals is noticeable in places like Guatemala, it is even more logical to expect it where the perception of corruption in parties and in parliament is far less widespread, such as Uruguay or Costa Rica. Particularly in Uruguay, the prevailing notion is that, in the absence of scandals involving parliamentary corruption, there is currently no reason to more strictly regulate these aspects of party activities.¹⁰⁰

The evidence suggests that although Latin American parties are beleaguered by public opinion, with few exceptions they do not appear to have real interest in proactively screening their legislative candidate lists. In the absence of regulations like those in Colombia or Brazil, or any strong incentives—such as legal penalties—to exercise due diligence, most party authorities in Latin America act precisely as electoral theory would lead us to suppose: they do nothing or the bare minimum in terms of background checks on legislative candidates and prefer to preserve the flexibility of their internal selection processes, take risks as needed, and react, in some cases harshly, if external controls identify issues with their candidate lists. When selecting party lists, candidates’ ethical conduct and, to an even greater extent, professional suitability are regarded as important but not essential. The wait for parties to transform them into indispensable criteria for the selection process through self-regulation could be a long one. Box 1 details a

95 In this regard: Arce (2018), Bitar (2018), Deny (2018), Espino (2018), Martínez (2017), Núñez (2017), Piza (2018), Ramos (2018), Sannemann (2018), as well as 17 of the 24 parties consulted via a written survey.

96 Sannemann (2018). Another Paraguayan interviewee from the PPQ—a group whose self-regulation in this area is, as already described, rather exceptional—expressed confidence in the effectiveness of his party’s procedures, but deep skepticism about the thoroughness of the screening of national elected representatives generally (Acha [2018]).

97 Bitar (2018)

98 Among the parties consulted, only the GEN Party in Argentina and the PSCh in Chile indicated that they were in the process of introducing changes aimed at making their vetting processes more rigorous, through the reform of the party statutes and ethics rules, respectively.

99 Núñez (2017).

100 Chasquetti (2018).

number of promising vetting practices in the region that have been successfully formalized.

In the absence of legal requirements, in most cases the most powerful external influence on parties' decisions when making nominations is the scrutiny of the press, which plays an increasingly important role in this area. Almost all respondents agreed that journalistic investigations into candidates' histories have become a constant and growing presence in campaigns. The situation in Costa Rica would suggest this is true: in the months leading up to the 2014 election, a series of reports entitled #Novotoaciegas [*"Don't vote blind"*] was published in the newspaper *La Nación*, revealing that at least 12 legislative candidates from various political parties were currently facing criminal investigations or accusations¹⁰¹. These and other accusations—including cases of domestic violence, sex crimes, and influence peddling, among others—led to the withdrawal of at least five legislative candidates during the last two election cycles. Often, the cases exposed by the press are not simply the product of journalistic acuity, but result from tip-offs by political rivals, whose monitoring efforts are perhaps the sharpest of all.¹⁰² In Guatemala, public scrutiny has also increased dramatically, and not just for those seeking legislative office:

*"In 2015, the media did much more work inquiring into candidates' histories, and they're going to be far more thorough in 2019. This is also happening with those seeking judicial office. It's very incisive monitoring, especially by print and online media, which are doing very aggressive investigative journalism. There is also the role of civil society organizations, which play an oversight role, particularly with respect to applicants for judicial office. Now they'll do the same with candidates for Congress."*¹⁰³

Only in a few cases did respondents downplay the growing power of the press in candidate vetting. Interviewees in Panama and Uruguay suggested that press scrutiny tends to focus almost exclusively on presidential candidates or, at most, on candidates heading party lists, but no further.¹⁰⁴ Perhaps more interesting was an observation by a Paraguayan party figure:

*"There are selective investigations by the press, but not many. The media are very careful during the campaign season because there is a lot of money at play. So, in many cases, they play dumb. They prefer to really lay into politicians that have problems once they have been elected."*¹⁰⁵

Though there are exceptions, in most of the region today the press is the principal means of investigating the ethical caliber of the candidates presented to the electorate. Former senator Sergio Bitar of Chile's PPD pointed this out forcefully: "There is no formal mechanism for checking a candidate's background that is as powerful as an open press."¹⁰⁶ Moreover, the irresistible social pressure for greater transparency in public life and the increasing role of social media in revealing corruption in Latin America make it foreseeable that, in the near future, scrutiny of parties' nominees from the media and other civil society organizations will grow even more intense. If combined with electoral systems that promote the accountability of candidates and elected representatives, this more intense public scrutiny may eventually create a powerful incentive for parties to adopt internal regulations or enact constitutional or legal provisions aimed at better screening legislative candidates.

101 "Otros 15 figuran bajo investigación de Fiscalía," *La Nación*, 1/19/2014, available at: <https://www.nacion.com/el-pais/otros-15-figuran-bajo-investigacion-de-fiscalia/KVY2N2CDEBGCZIGLCF5U674J54/story/>.

102 Piza (2018), Deny (2018).

103 Núñez (2017).

104 Espino (2018), Chasquetti (2018).

105 Acha (2018).

106 Bitar (2018).

Conclusions and Recommendations

The previous sections demonstrate that, with very few exceptions, existing practices and regulations in Latin America for screening prospective legislative nominees and reducing the likelihood of choosing ethically unfit candidates are very inadequate. Moreover, the evidence suggests that the decline in the credibility of political parties and public representatives, however serious, does not necessarily motivate political parties to establish rigorous background check procedures. On the contrary, in most Latin American¹⁰⁷ countries, parties still generally cling to informal, flexible vetting processes that, in reality, increasingly leave the task of scrutinizing candidates to the press. The press is now the most powerful mechanism in the region for investigating the claims made by legislative candidates; it is, however, an imperfect one. It does not usually scrutinize all the candidates—whether due to limited resources or due to political bias—and often arrives too late, when candidates are already registered and their removal from the ballot would be very complicated.

In seeking to strengthen existing procedures for vetting legislative candidates, appealing to parties' goodwill and self-regulation may not prove very fruitful. After all, the vast majority of Latin American parties are doing precisely what theory would predict: establishing minimal controls that do not constrain party authorities, that provide flexibility in changing electoral contexts, and that do not exclude potential candidates, at a time when parties are seeking to open up to new social sectors and attract new leaders to their ranks. If the mechanisms used to screen legislative representatives are to be strengthened, parties need new tools to enable them to improve their procedures. Above all, the prevailing incentive structure for parties needs to change. This is achieved by activating external pressures, such the electorate, the press and, most importantly, the law.

This is an urgent task: the deteriorating impression of political representation is almost certainly one of the factors contributing to the growing success of populist discourses that openly question the merits of representative democracy. These discourses advocate at best for plebiscitary and personalist democratic systems, and at worst for replacing democracy with authoritarian forms of government.

However, in addition to a sense of urgency, a dose of humility and a certain spirit of experimentation are also needed. The truth is that little to nothing is known about the vetting processes of political parties in Latin America (and beyond). There are few existing legal and formal vetting mechanisms and those that do exist have, without exception, not been systematically evaluated. The recommendations made here are based on little more than common sense and intuition, since empirical evidence has yet to be collected and systematized. This study is merely the beginning. Therefore, the first recommendation is to encourage new research into the effects of some of the rules examined in this study, such as Brazil's "Clean Record" law or Peru's "one-stop service desk", or the "empty seat" law and the position of party overseer in Colombia. These instruments, along with others established by party rules, may at first glance give a good or bad impression, but the fact is that we have no clear understanding of their effects. More research is needed.

It is worth noting that the recommendations made here focus more on strengthening the capacity of political systems and parties to protect the integrity of political representation than on enhancing their ability to increase representatives' educational or professional qualifications. The goal of "raising the level of representation"—frequently mentioned in this type of discussion—is complex and not immune from legitimate objections. This investigation has not only found very few laws and rules requiring a certain educational or professional standard of political representatives in the region, but also valid and repeated arguments against the idea that more educational or professional selectivity is better from a democratic

107 See: Casas Zamora and Carter (2017).

perspective. As several interviewees pointed out, that notion embodies an elitist view of democracy that is, to say the least, at variance with the democratic goal of a Congress that is the most faithful possible rendering of the electorate. In the context of Latin America, where the average length of schooling is five years, there tends to be a great deal of resistance to the introduction of educational or professional prerequisites to run for office. This is understandable at a time when parties in the region—questioned by the public and, in most cases, severely weakened—feel obliged to make an effort to attract new members and leaders. The issue of educational or professional standards is therefore a controversial one. For now, it would seem more productive to focus attention on trying to improve the ethical quality of those seeking and elected to legislative office, the need for which is much more accepted in the region.

Three types of recommendations are appropriate, directed at three distinct stakeholders: party authorities, legislatures, and election management bodies.

For party authorities

Experience suggests that parties which, for various reasons, have made ethical renewal in politics a central component of their platform, such as Paraguay's PPQ or Spain's PPod, tend to have more formalized and rigorous background check processes. This not only demonstrates the party's commitment to ethics, but also allows prospective candidates to know what to expect during the selection process. This entails:

- a. Enacting party rules that specify ethical standards for prospective candidates, such as an absence of obvious conflicts of interest that could overshadow the protection of the public interest or a record free of final convictions for serious crimes (as defined by each party).
- b. Stating clearly in the party rules what documentation and other information prospective candidates must submit, which should include, as in the PPod in Spain, individual or collective endorsements of the candidate's ethical qualities.
- c. Establishing which party organ (whether already existing or created for the purpose, national, local, or a combination of both) is responsible for a thorough background check on potential candidates, and defining the procedures to follow, which should include a meeting between the prospective candidate and that review body, as occurs in the PLCh and the PIU;
- d. Requiring the organ responsible to prepare a report on each candidate, however brief, which should then be sent to the authority responsible for the final nomination decision.

The overall idea should be to establish a procedure that will justify stating that in reviewing candidates' ethical records, party authorities not only applied due diligence, but also followed due process.

For legislatures

As has been stated throughout this study, legislation is essential in incentivizing parties to create adequate vetting mechanisms. Before outlining this group of legal recommendations, it might be useful to explain why the list does not include the suggestion to adopt one of the few existing mechanisms in the region for disqualifying legislative candidates, Brazil's so-called "Clean Record Law."

As indicated above, the "Clean Record Law" dramatically expands the grounds for ineligibility to include non-final (appealable) convictions by a bench of judges for various offenses against public property, in addition to previous conviction by a professional association of ethics violations, and prior resignation from elected public office during the course of proceedings that could lead to the loss of office, among

many others. Though the effectiveness of this law in screening legislative representatives has yet to be assessed, there is little doubt regarding its enormous potential to be used as a weapon for disqualifying people from political life and its violation of certain principles considered fundamental in many countries, such as the prohibition of lifelong penalties. If any political system in the region considers adopting a similar rule, its scope should be limited to a very short list of exceptionally serious types of criminal conduct and it should only apply to individuals whose convictions are final. Otherwise, irrespective of its impact on improving candidate lists, the rule may cause considerable harm to the core principles of the rule of law and democracy.

Rather than introducing “clean record”-type rules, it would be better to legislate as follows:

Establish parties’ legal obligation to require that potential candidates provide background documents and define penalties for providing false information. In Latin America there are no legal requirements for parties to insist that prospective candidates provide documentation of their prior ethical conduct, beyond anything needed to satisfy the constitutional or legal requirements for candidacy. A minority of parties do so voluntarily. Each party should determine what documents and information to require from prospective candidates, but the principle that parties must demand information on candidates’ prior ethical conduct should be explicitly included in legislation. In addition, legislation should clearly state the legal and electoral penalties applicable to any prospective candidate that provides a party with false information (in the form of public documents or otherwise) during the process of seeking nomination. Currently, only when public documents or an affidavit are required—which is only in exceptional cases—is it possible to legally sanction candidates who lie about their record or background.

Create incentives for due diligence by party authorities. One of the most serious gaps detected in the course of this study was a lack of legal requirements obligating party authorities to rigorously undertake the task of screening out ethically problematic candidates. Perhaps the only legal rule of this type in the region is Colombia’s “empty seat” rule, whereby in certain circumstances, when an elected representative is convicted of any of a series of serious criminal acts, the representative’s party loses the seat as well as the right to nominate a candidate in that constituency. This is a powerful rule, which should be reinforced by penalties for the members of any party organs that endorsed or selected seriously compromised candidates where it is demonstrated that efforts were not made to exercise due diligence. Given the severity of the penalties entailed, this type of rule should only apply to conduct and offenses of exceptional gravity, as defined in each country.

Establish the principle that a party organ should have responsibility for vetting candidates. The clear model is the introduction of party overseers in Colombia, which have been assigned responsibility for vetting as well as other functions. As described earlier, their effectiveness varies across parties. It may not be necessary to require the creation of a similar position. What really matters is establishing parties’ legal obligation to clearly assign the task of conducting rigorous candidate background checks to one of their party organs (whether national or local).

Introduce a system similar to the “one-stop service desk” through legislation. If the law establishes party authorities’ responsibility to exercise due diligence when endorsing and nominating legislative candidates, it is reasonable to expect the state to assist them. It is therefore advisable to create a mechanism similar to the one-stop service desk (*ventanilla única*) in Colombia and Peru, which allows stakeholders to consult information held by the state on the legal, financial and professional records of prospective candidates. It is clear that replicating the kind of system that exists in Colombia is not an easy task, as much as digital technologies make it much easier today than in the past. However, implementation may begin with a

basic system that is gradually expanded to include a wider range of information. What is crucial is that the system only contain information of genuine public interest (narrowly defined), only permit queries from genuine stakeholders (party officials duly authorized to request the records of candidates from their own party), and be capable of providing timely responses—in a matter of days or weeks, at most.

Introduce a requirement for parties to make information on their candidates publicly available. As mentioned earlier, ultimately, with or without a candidate vetting system, voter demand for accountability depends critically on the diffusion of information on candidates and parties. Therefore, parties should be required to make a certain minimum of information on the history and background of their legislative candidates easily accessible to voters and the press, including information on their income sources, declaration of interests, business ownership and donors, which could be done electronically. Once again, this requirement should only include information that is of genuine public interest.

Allow the replacement of compromised candidates during the campaign. Replacing legislative candidates when compromising information emerges during the campaign is highly problematic if the nomination has already been formally submitted to the electoral authorities. In most of these situations, regardless of the gravity of the accusations, parties have no recourse but to ask the candidate to withdraw voluntarily. It should be possible to replace them, within a specified timeframe, if the grounds are particularly serious and provided the competent party bodies have issued a definitive decision in this regard. In addition, a compromised candidate should be afforded certain guarantees. The solution offered by the Costa Rican electoral authority seems reasonable: the candidate can be replaced, provided the replacement is carried out in a manner that guarantees due process.

For electoral management bodies

Establish guidelines for due process in replacing registered candidates. In the tumult of a campaign, the requirement to provide due process guarantees in the course of replacing compromised candidates may limit the use of replacement in practice. It would seem reasonable to establish, at minimum, the obligation to grant a candidate whose removal is sought a hearing before the body considering the case and the right to appeal its decision. Whatever the details, it is important for electoral authorities to clearly outline what constitutes sufficient due process to replace a registered candidate, should that become necessary.

The adoption of some or all of these recommendations would provide a reasonable level of protection—far greater than that provided by the unreliable vetting practices currently in place—for democracies increasingly beleaguered by the widespread ethical shortcomings of their representatives and by their inevitable consequence, the loss of political credibility.

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Appendices

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Appendix 2 - List of Parties Whose Internal Rules Were Studied

Country		Party
1	Argentina	Radical Civic Union Party
2	Bolivia	Movement for Socialism
3	Chile	Christian Democratic Party
4	Chile	National Renewal Party
5	Chile	Socialist Party of Chile
6	Chile	Independent Democratic Union Party
7	Colombia	Green Alliance Party
8	Colombia	Democratic Center Party
9	Colombia	Colombian Conservative Party
10	Colombia	Colombian Liberal Party
11	Costa Rica	Citizens' Action Party
12	Costa Rica	National Liberation Party
13	Costa Rica	Social Christian Unity Party
14	Dominican Republic	Dominican Liberation Party
15	Dominican Republic	Dominican Revolutionary Party
16	Ecuador	CREO (Creating Opportunities) Movement
17	Ecuador	Democratic Left Party
18	El Salvador	Nationalist Republican Alliance Party
19	El Salvador	Farabundo Martí National Liberation Front
20	Honduras	Liberal Party of Honduras
21	Honduras	National Party of Honduras
22	Honduras	LIBRE (Liberty and Refoundation) Party
23	Mexico	National Regeneration Movement
24	Mexico	National Action Party
25	Mexico	Institutional Revolutionary Party
26	Nicaragua	Sandinista National Liberation Front
27	Panama	Democratic Change Party
28	Panama	Panameñista Party
29	Paraguay	Nationalist Republican Alliance (ARENA) Party
30	Paraguay	Authentic Radical Liberal Party
31	Peru	Peruvian APRISTA (American Popular Revolutionary Alliance) Party
32	Uruguay	Broad Front Party

Appendix 3 - List of Interviews

	Country	Name	Position	Party or Institution	Date	Location
1	Chile	Javiera Arce	Member of the Political Commission and candidate selection committee	Socialist Party	3/19/2018	Telephone interview
2	Chile	Sergio Bitar	Party chair and former senator	Party for Democracy	4/4/2018	Telephone interview
3	Chile	Cristian Jara	National Organization and Control Secretary	Social Democrat Radical Party	3/29/2018	Email interview
4	Chile	Luis Felipe Ramos	Party chair	Liberal Party		Telephone interview
5	Colombia	Berta Álvarez	Responsible for the Ventanilla Única One-Stop Service Desk	Ministry of the Interior	8/10/2017	Bogotá, Colombia
6	Colombia	Rodrigo Llano-Isaza	National overseer and member advocate	Colombian Liberal Party	8/9/2017	Bogotá, Colombia
7	Colombia	Sandra Martínez	Expert on political parties	Transparency for Colombia	8/9/2017	Bogotá, Colombia
8	Colombia	Clara Rodríguez	Researcher	Institute of Political Studies and International Relations of the National University of Colombia	8/9/2017	Bogotá, Colombia
9	Costa Rica	Margarita Bolaños	Former chair and general secretary	Citizens' Action Party	8/21/2018	San José, Costa Rica
10	Costa Rica	Laura Chinchilla	Former president of the Republic and member of Congress	National Liberation Party	9/20/2018	San José, Costa Rica
11	Costa Rica	Roberto Gallardo	University professor and former deputy campaign manager	School of Political Sciences of the University of Costa Rica; National Liberation Party	4/23/2018	San José, Costa Rica
12	Costa Rica	Rodolfo Piza	Former presidential candidate	Social Christian Unity Party	8/20/2018	San José, Costa Rica
13	El Salvador	Rodrigo Ávila	Former party chair and presidential candidate	Nationalist Republican Alliance	5/15/2018	Telephone interview
14	El Salvador	Celina Deny	Former party vice chair and member of the Political Commission	Nationalist Republican Alliance	5/15/2018	Telephone interview
15	Guatemala	Eduardo Núñez	NDI representative in Guatemala, expert on political parties	National Democratic Institute	11/1/2017	Telephone interview

16	Panama	Darinel Espino	Former party general secretary, current party representative on the Council of Political Parties	Democratic Revolutionary Party	5/19/2018	Telephone interview
17	Paraguay	Sebastián Acha	Party chair and former member of Congress	Beloved Fatherland Party	9/17/2018	Telephone interview
18	Paraguay	Martín Sannemann	Former member of Congress	Authentic Radical Liberal Party	9/17/2018	Telephone interview
19	Uruguay	Daniel Chasquetti	Researcher	Institute of Political Sciences of the University of the Republic	9/17/2018	Telephone interview

Appendix 4 - List of Questionnaires Received

	Country	Party	Party official who completed the questionnaire
1	Argentina	Generation for a National Encounter Party (GEN)	President of the National Congress
2	Bolivia	National Unity Front	National Executive Secretary
3	Bolivia	Christian Democratic Party	Executive Secretary
4	Chile	Socialist Party of Chile	Member of the Political Commission
5	Chile	Social Democrat Radical Party	National Organization and Control Secretary
6	Ecuador	CREO (Creating Opportunities) Movement	National Chair
7	Ecuador	Democratic Left Party	National Chair
8	Ecuador	Social Christian Party of Ecuador	Executive Director
9	Guatemala	National Change Union	Deputy General Secretary
10	Guatemala	Convergence Party	Member 2 of the Governing Body
11	Guatemala	WINAQ Party	General Secretary
12	Guatemala	Fuerza (“Strength”) Party	Parliamentary Group Member
13	Guatemala	Todos (“All”) Party	Member of the National Executive Committee, Regular Member 5
14	Guatemala	Commitment, Renewal and Order Party (CREO)	National Secretary of Institutional Development
14	Guatemala	National Convergence Front	Member IV, National Executive Committee
16	Guatemala	Encounter for Guatemala	Recording Secretary, National Executive Committee
17	Guatemala	National Unity of Hope	General Secretary
18	Honduras	Liberal Party of Honduras	Member of Congress
19	Honduras	Liberty and Refoundation Party (LIBRE)	Electoral Secretary
20	Honduras	National Party	Executive Secretary and Member of the National Congress
21	Paraguay	National Republican Association (Colorado Party)	National Senator
22	Peru	Peruvian APRISTA Party (APRA)	Chair of the Parliamentary Bloc
23	Uruguay	Socialist Party	General Secretary and Senator
24	Uruguay	Independent Party	Chair

Appendix 5 – List of Abbreviations

Abbreviation	Party or Institution	Country
ANR	National Republican Association (Colorado Party)	Paraguay
ANC	African National Congress	South Africa
ARENA	Nationalist Republican Alliance	El Salvador
CNE	National Electoral Council	Colombia
FCN-Nación	National Convergence Front	Guatemala
FMLN	Farabundo Martí National Liberation Front	El Salvador
FUN	National Unity Front	Bolivia
GEN	Generation for a National Encounter Party	Argentina
LPC	Liberal Party of Canada	Canada
MCREO	CREO (Creating Opportunities) Movement	Ecuador
PAC	Citizens' Action Party	Costa Rica
PAV	Green Alliance Party	Colombia
PCD	Democratic Center Party	Colombia
PDCCh	Christian Democratic Party	Chile
PFA	Broad Front Party	Costa Rica
PID	Democratic Left Party	Ecuador
PIU	Independent Party	Uruguay
PLC	Colombian Liberal Party	Colombia
PLCh	Liberal Party of Chile	Chile
PLH	Liberal Party of Honduras	Honduras
PLIBRE	Liberty and Refoundation Party	Honduras
PLN	National Liberation Party	Costa Rica
PLRA	Authentic Radical Liberal Party	Paraguay
PNH	National Party of Honduras	Honduras
PP	People's Party	Spain
PPD	Party for Democracy	Chile
PPod	Podemos ("We Can") Party	Spain
PPQ	Beloved Fatherland Party	Paraguay
PRD	Democratic Revolutionary Party	Panama
PRN	National Restoration Party	Costa Rica
PRNCh	National Renewal Party	Chile
PSCh	Socialist Party of Chile	Chile
PSOE	Spanish Socialist Workers' Party	Spain
PSU	Socialist Party of Uruguay	Uruguay
PUSC	Social Christian Unity Party	Costa Rica
SDP BiH	Social Democrat Party	Bosnia and Herzegovina
TSE	Supreme Electoral Tribunal	Costa Rica
UNE	National Unity of Hope	Guatemala

