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FORSAKEN VIRTUE: AN ANALYSIS OF THE POLITICAL BEHAVIOR OF
PANAMANIAN LEGISLATORS, 1984-1999

A Dissertation

Submitted to the Graduate School
of the University of Notre Dame
In Partial Fulfillment of the Requirements
for the Degree of

Doctor of Philosophy

by

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Abstract

by

Carlos Guevara Mann

The dissertation systematically examines the behavior of the members of Panama's Legislative Assembly between 1984 and 1999, which has heretofore remained unexplored. In this endeavor, the study reveals three fundamental goals of Panamanian legislators and some activities they undertake to attain these objectives. The goals, which supplement an understanding of representatives' behavior that has tended to focus on formal institutional factors, include advancing a political career, getting rich, and enjoying freedom from prosecution. Some mechanisms by which Panamanian legislators procure these objectives, which this study will appraise, are patronage, party switching, and electoral manipulation.

Second, the dissertation underscores the differences between Panamanian legislators' behavior and the predictions of the literature, with a view towards theory enhancement. Although the literature is vast and not wholly homogenous, certain themes recur in most analyses of the behavior of representatives. The quest for reelection or, more generally, political advancement, is an assumption about the behavior of assembly members most

students of the topic adhere to, and patronage distribution frequently emerges as a means representatives employ in their efforts to achieve political advancement. Contrariwise, the few works that mention personal enrichment only do so in passing and most have not addressed members' interest in immunity from prosecution or their recourse to party switching or electoral manipulation as a means to advance their careers.

Third, the dissertation assesses the ways in which this behavior affects the democratic system, especially in informally institutionalized polyarchies. Since the publication of O'Donnell's "Illusions About Consolidation" (1996), the formally-informally institutionalized dichotomy has served as a useful tool to understand major differences in quality and performance between "democratic," or polyarchal regimes. In what directly pertains to the study of representatives, the major implication is that informal institutionalization allows or encourages behaviors not normally exhibited in formally institutionalized polyarchies, and which—for that reason—have not generally been addressed in the literature, until very recently focused on the experience of advanced democratic regimes.

The dissertation's major finding complements the extant literature on legislators' behavior as follows. In informally institutionalized polyarchies, certain institutional traits allow legislators to pursue other ends in addition to reelection—or, more generally, political advancement—and encourage different means towards reelection besides those predicted by students of representatives' behavior. These additional ends and means, in turn have adverse consequences for democratic representation.

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ABBREVIATIONS OF PANAMA'S REGISTERED POLITICAL PARTIES, 1984-1999

- CD Partido Cambio Democrático (right). Political instrument of businessman Ricardo Martinelli, recognized by the Electoral Tribunal in 1997. Participated in the 1999 elections.
- FRAMPO Frente Amplio Opositor (center). Created by the military regime in 1979. Participated in the 1984 elections. Declared extinct in 1984.
- LIBRE Partido Liberal Republicano (right). Created in the early 1990s by members of the Liberal and Republicano parties. Participated in the 1994 elections. Declared extinct in 1994.
- MOLIRENA Movimiento Liberal Republicano Nacionalista (right). Created in 1982 by members of the former Partido Liberal, Partido Republicano, Partido Acción Democrática, and Tercer Partido Nacionalista, operating in the 1960s, under the old regime. Participated in the 1984, 1989, 1994, and 1999 elections.
- MORENA Movimiento de Renovación Nacional (right). Political instrument of businessman Joaquín J. Vallarino III, recognized by the Electoral Tribunal in 1993. Participated in the 1994 and 1999 elections. Declared extinct in 1999, after which many of its members joined Partido Arnulfista.
- MPE Movimiento Papa Egoró (center). Created by pop singer Rubén Blades in 1993, as a platform for his electoral aspirations. Participated in the 1994 and 1999 elections as a PRD ally. Declared extinct in 1999.
- MUN Movimiento de Unidad Nacional (right). Created as a political arm of several evangelical groups. Participated in the 1994 elections. Declared extinct in 1994.
- PA Partido Arnulfista (center). The successor of Arnulfo Arias' Partido Panameñista Auténtico. Created in 1991, under the leadership of Mireya Moscoso, Arias' widow. Participated in the elections of 1994 and 1999.
- PALA Partido Laborista (right). Created in 1983 by members of Partido Laborista Agrario, operating in the 1960s, under the old regime. Appropriated by the military regime, participated in the 1984, 1989, and 1994 elections. Declared extinct in 1994.
- PAN Partido Acción Nacional (right). Created in 1988, supported the military regime in the 1989 elections. Declared extinct in 1990.

- PAPO Partido Acción Popular (center). A Social Democratic party created in 1981, under the leadership of former Deputy Carlos Iván Zúñiga (1964-1968). Participated in the 1984 elections. Declared extinct in 1984.
- PDC Partido Demócrata Cristiano (right). The successor of the old Partido Demócrata Cristiano operating in 1960-1968. Aligned with the Christian Democratic International, the party registered in 1979, under the leadership of Ricardo Arias Calderón. Participated in the 1984, 1989, 1994, and 1999 elections.
- PdP Partido del Pueblo (left). The successor of the old Marxist-Leninist Partido del Pueblo, operating in 1943-1968. Subsequent to the 1968 military coup, the party was allowed to operate after it pledged support to the military regime in 1970. Participated in the 1984 and 1989 elections. Declared extinct in 1990.
- PDT Partido Democrático de los Trabajadores (left). Created in 1988, supported the military regime in the 1989 elections. Declared extinct in 1990.
- PL Partido Liberal (right). The successor of the old Liberal Party operating since the period of union to Colombia (1821-1903). Registered in 1979. Aligned with the military regime in 1984-1989, participated in the 1984, 1989, and 1994 elections. Declared extinct in 1994, after which many of its members joined MOLIRENA.
- PLA Partido Liberal Auténtico (right). A scion of Partido Liberal, led by Legislator Arnulfo Escalona (1989-1994), who opposed the party's alignment with the military regime in 1984. Participated in the 1989 and 1994 elections. Renamed Partido Liberal in 1995. Participated in the 1999 elections. Declared extinct in 1999, after which many of its members joined Partido Arnulfista.
- PLN Partido Liberal Nacional (right). A scion of Partido Liberal, led by former Liberal Deputy Raúl Arango Gasteazoro (1960-1968), who did not join MOLIRENA after PL's extinction in 1994. Registered in 1997, participated in the 1999 elections.
- PNP Partido Nacionalista Popular (center). Created in 1982, under the leadership of student activist Olimpo Sáez. Participated in the 1984 and 1994 elections. Declared extinct in 1994, after which many of its members joined MOLIRENA.
- PP Partido Panameñista (center). Registered in 1981 by two former supporters of Arnulfo Arias, who appropriated the traditional label and symbols of Arias' Partido Panameñista, founded in 1960. Backed the military regime in the 1984 elections. Declared extinct in 1984.

- PPA Partido Panameñista Auténtico (center). Registered in 1983 by Arnulfo Arias, after two former supporters appropriated the traditional label and symbols of the old Partido Panameñista (1960). Previously, Arnulfo Arias, president in 1940-1941, 1949-1941, and briefly in 1968, had led the Coalición Nacional Revolucionaria (CNR, 1934), Partido Nacional Revolucionario (PRN, under Arias' leadership in 1935-1941), Partido Revolucionario Auténtico (PRA, under Arias' leadership in 1948-1951), Partido Revolucionario Independiente (PRI, 1951-1952).
- PPD Partido Panameñista Doctrinario (center). A scion of Arnulfo Arias' Partido Panameñista Auténtico, created by José Salvador Muñoz in 1993. Participated in the 1994 elections. Declared extinct in 1994.
- PPR Partido Panameñista Revolucionario (center). Created in 1988 to back the military regime in the 1989 elections. Declared extinct in 1990.
- PR Partido Republicano (right). The successor of the old Partido Republicano operating in 1960-1968. Registered in 1982 mainly as a political instrument of businessman Eric Arturo Delvalle, puppet president in 1985-1988. Participated in the 1984 and 1989 elections in support of the military regime. Declared extinct in 1990.
- PRC Partido Renovación Civilista (right). Created in 1993. Participated in the 1994 and 1999 elections. Declared extinct in 1999.
- PRD Partido Revolucionario Democrático (center). Created in 1979 as the political arm of the military regime. Participated in the 1984, 1989, 1994, and 1999 elections. It remains, still today, the largest and better organized of Panama's political parties.
- PRT Partido Revolucionario de los Trabajadores (left). Created in 1979. Participated in the 1984 elections. Declared extinct in 1984.
- PSOL Partido Solidaridad (right). Created in 1993 as the political instrument of businessman Samuel Lewis Galindo. Participated in the 1994 and 1999 elections.
- PST Partido Socialista de los Trabajadores (left). Created in 1979. Participated in the 1984 elections. Declared extinct in 1984.
- UDI Unión Democrática Independiente (right). Created in 1993. Participated in the 1994 elections. Declared extinct in 1994.

Sources: Leis, 1984; Electoral Tribunal data.

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CHAPTER 1

INTRODUCTION

This study seeks to systematically examine the behavior of the members of Panama's Legislative Assembly between 1984 and 1999, which has heretofore remained unexplored. In this endeavor, the study reveals three fundamental goals of Panamanian legislators and some activities they undertake to attain these objectives. The goals, which supplement an understanding of representatives' behavior that has tended to focus on formal institutional factors, include advancing a political career, getting rich, and enjoying freedom from prosecution. Some mechanisms by which Panamanian legislators procure these objectives, which this study will appraise, are patronage, party switching, and electoral manipulation.

Second, the study purports to underscore the differences between Panamanian legislators' behavior and the predictions of the literature, with a view towards theory enhancement. Although the literature is vast and not wholly homogenous, certain themes recur in most analyses of the behavior of representatives. The quest for reelection or, more generally, political advancement, is an assumption about the behavior of assembly members most students of the topic adhere to, and patronage distribution frequently emerges as a means representatives employ in their efforts to achieve political advancement. Contrariwise, the few works that mention personal enrichment only do so in passing and most have not addressed members' interest in immunity from prosecution or their recourse to party switching or electoral manipulation as a means to advance their careers.

Third, the study endeavors to assess the ways in which this behavior affects the democratic system, especially in informally institutionalized polyarchies.¹ Since the publication of O'Donnell's "Illusions About Consolidation" (1996), the formally-informally institutionalized dichotomy has served as a useful tool to understand major differences in quality and performance between "democratic," or polyarchal regimes. In what directly pertains to the study of representatives, the major implication is that informal institutionalization allows or encourages behaviors not normally exhibited in formally institutionalized polyarchies, and which—for that reason—have not generally been addressed in the literature, until very recently focused on the experience of advanced democratic regimes.

This study's three objectives are relevant because at least since the adoption of the US Constitution, the question of politicians' personal motivations towards behavior has lain "at the very heart of democratic theory" (Loomis, 1994). More broadly, the activities of representatives have a direct impact on the quality of democratic representation. Since representation is one of the pillars of the democratic system, the ways in which representatives' behavior impacts on representation is an important issue in the analysis of polyarchies and their prospects for further democratization.

¹ The term "polyarchy" is frequently used as a synonym of "democracy." The principal characteristic of "polyarchal" or "democratic" regimes is that the political leadership, including the chief executive and members of the representative assembly, are regularly chosen through popular elections. Following Dahl (1971: 9, fn. 4), however, I prefer the designation "polyarchy" to "democracy" because I think it is fundamental to preserve "the distinction between democracy as an ideal system and the institutional arrangements that have come to be regarded as a kind of imperfect approximation of an ideal." Furthermore, when the same term is used for both the ideal construct (democracy) and the institutional arrangements (polyarchy), "needless confusion and essentially irrelevant semantic arguments get in the way of the analysis." "Informally institutionalized" polyarchies are those polyarchal regimes where political life is guided more by informal institutions, such as particularism, including patrimonialism and clientelism, than by codified democratic precepts, as explained below. In this regard, see O'Donnell, 1996.

The Motivations of Representatives

How well representative assemblies fulfill the important functions assigned by democratic theory, that is to say, deliberation, lawmaking, oversight, political socialization, leader recruitment, information supply, and nation building,² depends—to a significant degree—on the behavior of their members. This behavior is inspired by personal motivations, which are addressed in the literature as assumptions, and shaped towards political action by institutional constraints and incentives. Clearly, some institutional settings encourage behaviors that sustain and promote democracy, while others do not.

Theories of legislators' behavior assume that representatives are motivated by self-interest. Within this framework, the main motivation of members of deliberative chambers is the advancement of their political careers in the short or medium term. The specific objectives that fulfill this motivation vary according to the institutional setting. Where permitted (especially in the United States), reelection is a clear objective (Fenno, 1973; Mayhew 1974; Arnold 1979; Cain, Ferejohn, and Fiorina 1987; McCubbins and Rosenbluth 1995). Where reelection is not permitted or is limited, appointment or election to another political office or promotion within the party ranks constitute the principal goals of representatives (Katz 1980; Carey 1996; Cox 1987; Morgenstern 1998; Samuels 1998; Mainwaring, 1999). Each actor individually calculates the means towards these objectives on the basis of self-interest and the institutional framework within which s/he operates.

Institutions, indeed, shape representatives' behavior. In this regard, students of the topic have incorporated the institutionalist assumption that "Actors' behavior is structured

² Each of these functions is subsequently discussed in the section titled "The Purpose of Representative Assemblies."

by the rules of the game” (Putnam 1993: 7). Relevant institutional features that theorists believe help shape representatives’ behavior include the electoral system, term limits, party discipline, relations between the executive and the representative assembly, the availability of political resources, and the rules for their distribution. Presuming rationality and depending on the institutional framework in which representatives operate, students of the topic predict that representatives will seek reelection or career advancement through advertising, credit claiming, position taking (Mayhew 1974), supporting their parties, distributing patronage, and accommodating the bureaucracy (Arnold 1979; Cain, Ferejohn, and Fiorina 1987; Cox 1987), among other means.

Theories of legislators’ behavior, developed chiefly on the US experience, have proved an effective predictor of representatives’ behavior in formally institutionalized polyarchies (Cain, Ferejohn, Fiorina, 1987; Morgenstern, Nielson, and Swindle, 1998; Samuels, 1998), where the political leadership is regularly selected through free and fair elections and political life is principally guided by the prescriptions of formal (i.e., codified) rules and procedures. According to O’Donnell (1996), three basic features characterize these regimes: an explicit formalization of democratic institutions in constitutions and auxiliary legislation, a close fit between formal rules and actual behavior, and a universalistic orientation to some consensus-based notion of the public good.

But the universe of polyarchy includes more than formally institutionalized cases. Many polyarchies, especially among those recently established, are informally institutionalized. They are polyarchies because they hold regular elections, the archetypal institution of the democratic system. Concurrently, however, in these systems political life is guided by informal norms and practices, such as patrimonialism and clientelism or, in

general, particularism,³ more than by the prescriptions of codified rules. Moreover, in many informally institutionalized polyarchies, certain democratic institutions (such as, for example, the rule of law or fair and equal access to justice) are non-existent or non-functional, and political action is frequently more oriented towards the satisfaction of particular interests than towards some consensus-based notion of the public good.

Because informal institutions contribute to determine the behavior of political actors as much as formal institutions do, representatives in informally institutionalized polyarchies cannot be expected to behave in the same way as do their peers in formally institutionalized settings. Moreover, differences in representatives' behavior produce different effects on the performance of democratic functions, such as representation. Despite these predictable discrepancies, students of representative assemblies in informally institutionalized polyarchies have generally addressed their subject from the perspective of theories built to explain behavior in formally institutionalized settings. In all likelihood, the literature has tended to neglect informal institutional incentives to the behavior of representatives because of the relative difficulty of obtaining pertinent information and the general expectation among researchers that formal structures suffice to explain the actions of politicians.⁴

This study's major finding complements the extant literature on legislators' behavior as follows. In informally institutionalized polyarchies, certain institutional traits allow legislators to pursue other ends in addition to reelection—or, more generally, political

³ "Patrimonialism" refers to "a situation in which political rulers treat the state as if it were their own property." "Clientelism" refers to "patron-client relations that have four defining features: an unequal character, uneven reciprocity, a noninstitutionalized nature, and a face-to-face character" (Mainwaring, 1999: 179, 177). The term "particularism," which refers to behavior by state officials oriented towards the satisfaction of particular needs (rather than some notion of the public good) encompasses patrimonialism, clientelism, and other related phenomena prevalent in informally-institutionalized polyarchies, such as "hierarchical particularistic exchanges, patronage, nepotism, and favors" as well as, more generally, "actions that, under the formal rules of the institutional package of polyarchy, would be considered corrupt" (O'Donnell, 1996).

advancement—and encourage different means towards reelection besides those predicted by students of representatives' behavior. Other ends include personal enrichment and freedom from prosecution. Additional means include switching parties and manipulating elections, besides engaging in patronage in ways not normally foreseen in the literature.

These additional ends and means have adverse consequences for democratic representation. This assertion warrants a broader discussion of role of representative assemblies and representation within the democratic system.

The Nature of Representative Assemblies

Representative assemblies are formally institutionalized meetings of elected representatives from geographically-defined constituencies, who meet to fulfill certain stipulated functions and who base their authority on the claim that they represent the citizens (Loewenberg, 1995; Shugart and Carey, 1992: 3, fn. 2). Members of representative bodies are officially equal to one another because each member is equally a representative, “equal to every other in formal authority and status.” Their authority derives from the claim that they represent their constituents, “rather than on a claim of their own subject expertise” (Loewenberg, 1995).

This description fits the institution that in other works, as well as in day-to-day usage, is interchangeably referred to as *legislature*, *parliament*, or *congress*. Following Mayhew (1974: 8) as well as Shugart and Carey (1992), however, for well-founded reasons the term *representative assembly* is better suited to describe the institution. It is preferable to *legislature* because discussing and enacting legislation is not the only function elected chambers

⁴ I thank Martha Merritt for this insight.

perform in the universe of polyarchy, and also because executives in both parliamentary and presidential regimes have important lawmaking powers. It is superior to *parliament* because the latter term, by connoting a political system where the survival of the government depends upon the confidence of the majority in the representative chamber, is but a genus of representative assemblies. The term *congress*, on the other hand, suggests a regime type where the branches of government have separate origin and survival, a notion that excludes those chambers, generally called *parliaments*, upon whose confidence the government's survival is contingent.

According to Shugart and Carey, therefore, the term *representative assembly* "more accurately reflects a common feature of democratic regimes: the existence of an institution in which elected representatives assemble for whatever constitutional function they may be granted." In cases in which that function is to sustain confidence in a government, the term *parliament* is appropriate. Where executive power is separated from the assembly, as in presidential systems, Shugart and Carey use the term *congress* (Shugart and Carey, 1992: 3, fn. 2).

Following the US tradition, in most presidential regimes the representative assembly is called *congress*. Countries adhering to the semantic tradition inaugurated by the French Revolution employ the term *national assembly* (Quintero, 1967: 471-72), meant to indicate a corporation that embodies the sovereignty of the whole nation. In a survey of the Inter-Parliamentary Union (IPU) *PARLINE* database conducted in mid-1999, 34 of 179 countries (19 percent) featured a representative chamber called *national assembly*. Together with France, which labels its lower chamber *Assemblée Nationale*, most of these (14) are former French colonies but also several former British colonies (13) use the term. Additionally, most of these are not parliamentary systems but presidential or mixed regimes (i.e., premier-

presidential or president-parliamentary) according to Shugart and Carey's typology (1992: 19-27).⁵ In other words, they feature elected presidents enjoying full or shared executive power and some legislative authority. Presently in Latin America, only Nicaragua and Venezuela, two presidential regimes, calls their congresses *National Assembly*. This designation was also used in Panama during the "old regime," i.e., between the founding of the republic in 1903 and the military coup of 1968. In another six countries, the title used to designate the representative chamber also conveys the French revolutionary idea, such as in Portugal's and Mozambique's *Assembly of the Republic*.

This excursus is significant for two reasons, the first of which is for purposes of conceptual clarity. Following Mayhew as well as Shugart and Carey, at the highest level of generality this study will employ the term *representative assemblies* to refer to popularly-elected institutions that assemble to fulfill certain constitutionally-specified functions. To avoid repetition, and considering that the deliberative function (quintessentially exercised by the assembly) is not only crucial to the maintenance of the democratic regime (Benhabib, 1996) but also constitutes the minimum common denominator among representative assemblies (Loewenberg, 1995), the term will be used interchangeably with *deliberative chamber*.

When the function of the chamber includes sustaining confidence in a government, the institution will be called *parliament*; when the executive and the representative assembly have separate origins and existence, as in presidential regimes, the institution will be called

⁵ For Shugart and Carey (1992: 19, 23, 24), a presidential regime is one in which 1) the chief executive is elected by popular vote; 2) the terms of the chief executive and assembly are fixed, and are not contingent on mutual confidence; 3) the elected executive names and directs the composition of the government; and 4) the chief executive has some constitutionally granted lawmaking authority. In a premier-presidential regime 1) the chief executive is elected by popular vote; 2) the chief executive possesses considerable powers; and 3) there also exist a premier and a cabinet, subject to assembly confidence, who perform executive functions. In a president-parliamentary regime, 1) the chief executive is elected by popular vote; 2) the chief executive appoints and dismisses cabinet ministers; 3) cabinet ministers are subject to parliamentary confidence; and 4) the president has the power to dissolve parliament or legislative powers, or both.

congress. At a lower level of generality, the term *assembly* will be used to refer to the institution in the Panamanian context. More specifically, the designation *National Assembly* will be employed to refer to the institution during the old regime. *Legislative Assembly* will be used to designate the Panamanian deliberative chamber after 1984.

The digression is also significant for symbolic reasons, especially in the Panamanian case. The 1983 constitutional reform that reintroduced a congress ostensibly designed along liberal-democratic lines called the institution *Legislative Assembly*. This represented a break with constitutional tradition—ever since the establishment of the republic in 1903, Panama’s congressional institution had been called *National Assembly* (Quintero, 1989: 72).⁶ This break was clearly in line with attempts by the 1968-1989 military dictatorship to reject the country’s past and institute a “new republic” on the basis of a populist-authoritarian construct, with its own institutions, traditions, and myths.⁷ It also represents an effort by the military to satisfy outward demands for regime liberalization and, at the same time, maintain a close grip on power through strong executive control over the remaining branches of power and civil society. Qualifying the noun *assembly* with the adjective *legislative* instead of *national* does,

⁶ During most of the so-called “federal period” (1855-1885), when Panama was a federal state of the Colombian Union (Estados Unidos de Colombia, after 1863), the representative chamber of the State of Panama was called “Legislative Assembly” (*Asamblea Legislativa*). It was so designated in the state constitutions of 1863, 1865, 1868, 1870, 1873, and 1875. At the beginning of the federal period, pursuant to the 1855 state constitution, the chamber had been called *Asamblea*. It was called *Congreso* in the constitution of 1841, which briefly regulated affairs in the independent State of Panama (1840-1841). In this regard, see Goytia, 1987: 51, 109, 151, 167, 200, 225, 253, 285.

⁷ Through propaganda, institutional change, and, in some cases, state-sponsored violence, the military dictatorship made a conscious effort to disparage the record and values of the old, liberal-democratic regime. In the highly sensitive realm of nationalism, for example, a well-conceived publicity campaign consistently attempted to portray the country’s pre-1968 leadership as pawns of Washington and the military dictators as the initiators of Panama’s struggle for national sovereignty. In institutional terms, the change was widespread, featuring the creation of several new institutions, many of which aimed at strengthening the military’s stronghold. Subsequent chapters (especially Chapter 3) consider the effect of these changes on the structure of the representative assembly (and, consequently, on the behavior of its members). In some cases, in addition to propaganda and institutional change, the dictatorship resorted to violence in its effort to wipe out the achievements of the old regime. See, among other works, Koster and Sánchez, 1990; Phillipps Collazos, 1991; Guevara Mann, 1996.

indeed, imply a restricted role for the deliberative chamber—a restricted role that, although characteristic of the Panamanian constitutional system (Quintero, 1967: 473, 475), intensified after 1983 and, as will be argued, has had an important effect on the behavior of Panama's legislators.

The Purpose of Representative Assemblies

Functional representative assemblies are a basic pillar of the democratic regime. According to democratic theory, assemblies represent the nation—i.e., they act for the collectivity—in the fulfillment of essential political functions. Although these functions vary from one constitutional setting to another, at a minimum, all representative assemblies constitute “an arena of public debate,” as John Stuart Mill (1958 [1861]) viewed them or, as expressed by another student of the institution, “public forums for the discussion of major issues, an important function in democracies” (Loewenberg, 1995). Society charges its members with contributing to the peaceful resolution of conflicts and consensus formation through civilized and altruistic deliberation. Representative assemblies thus provide—in theory—the classic arena for deliberation, a dimension of democracy that plays a fundamental role in sustaining a high quality regime (Benhabib, 1996).

In all polyarchies representative assemblies also engage in the process of elaborating legislation. The magnitude of assembly involvement in lawmaking varies from one country to another, ranging from the United States, where all legislation, including the budget bill, originates in the Congress, to certain presidential regimes such as Panama and other republics (Brazil, Chile, Colombia, Ecuador, Korea, Mexico, Paraguay, Portugal, Uruguay), or most parliamentary regimes, where almost all legislation originates in the executive and

the competence of the assembly in budgetary matters is restricted (Loewenberg, 1995; Shugart and Carey, 1992: 155). But in all polyarchies representative assemblies exercise some lawmaking function, whose origins may be traced to the ancient Roman private law principle of “that which affects everyone should be approved by everyone”, taken into the Canon law of medieval Catholicism and thence extended to the secular world (Finer, 1997: 1030). As the representative of the whole nation, the assembly must, at a minimum, approve the laws to which all the members of the community are subject; so holds this basic principle of fairness that at an early stage became part of the Western understanding of democracy.

Representative assemblies also “watch and control,” another function identified by Mill (1958 [1861]). In other words, they represent the nation in the supervision of other branches of government, especially the executive. This function, generally known as oversight, stems from aged notions of separation and balance of power (as laid out by Plato, Aristotle, and Polybius, among others) that crystallized into modern democratic theory during the 18th century, through the writings of Montesquieu and the US founders, notably Madison (Sabine, 1973: 514; Lakoff, 1996: 78, 79; Madison, *The Federalist*, Nos. 10 and 51). As the lawmaking capacity of representative assemblies in polyarchies progressively dwindles, due to the ever-increasing complexities and technicalities of the legislative process, the oversight function acquires increased importance (Cox, 1987; Loewenberg, 1995). As argued by Max Weber (1968 [1918]), this function is all the more significant in the modern mass bureaucratized state, where administrative supervision by the representative assembly constitutes the only democratic means of safeguarding individual freedoms.

Deliberation, lawmaking and oversight are valuable functions democratic theory assigns representative assemblies. But deliberative chambers perform other tasks as well. In parliamentary regimes, they select and sustain the government, whose members are normally

drawn from the leadership of the dominant parliamentary parties. In all political systems where they exist, representative assemblies “attract public attention to politics.” Furthermore, as explained by Loewenberg (1995), “They recruit and train political leaders. They provide governments with crucial information about what the public wants and what it will accept, and this affects the formulation of public policies and budgets.” Last but hardly least, deliberative chambers help structure and solidify the political community, by “defining the constituencies of the nation, linking these constituencies to the central government, training a political leadership as well as an opposition, and providing a symbol” of the state. This task is particularly significant in newly independent polities or democratizing regimes.

Political Representation and Its Significance for the Democratic Regime

The importance of representative assemblies derives from the significance of representation for the modern democratic regime. The concept of *representation* has been more aptly dealt with by Hannah Pitkin in her 1967 masterwork which dissects and interprets this most slippery (albeit highly useful) political idea. According to Pitkin (1967: 221-22) political representation is “primarily a public, institutionalized arrangement involving many people and groups, and operating in the complex ways of large-scale social arrangements.” It implies a “substantive acting for others” requiring “independent action in the interest of the governed, in a manner at least potentially responsive to them, yet not normally in conflict with their wishes.”

As noted by Dahl (1971: 169-170) the idea of representation or government through representatives, formulated in the 18th century, constitutes the key to the establishment of polyarchy. Before the concept of democratic representation was devised, democracy had

been exercised directly in small political communities, an impossibility in the large nation-states that emerged after the demise of feudalism. By assigning the tasks of government to a small proportion of the political community through democratic elections, however, representation solved the problem of “how to combine democracy with the large state.”

In another major work (1989: 28-30), Dahl provides more insight into one of the most momentous discoveries of the Age of Enlightenment:

In the eighteenth century, writers began to see what the Levellers had seen earlier, that by joining the democratic idea of rule by the people to the non-democratic practice of representation, democracy could take on a wholly new form and dimension (...) Within a few generations of Montesquieu and Rousseau, representation was widely accepted by democrats and republicans as a solution that eliminated the ancient limits on the size of democratic states and transformed democracy from a doctrine suitable only for small and rapidly vanishing city-states to one applicable to the large nation-states of the modern age.

Among the authors that inspire Dahl's reflections on representation is John Stuart Mill, whose celebrated *Considerations on Representative Government* (1958 [1861]) endeavored to persuade the public about the convenience and superiority of government through elected representatives. As one of Mill's commentators has written, in Chapter III of the *Considerations* (“That the Ideally Best Form of Government Is Representative Government”), the English philosopher argues that “The greatest benefits to a people are provided by a form of government where sovereignty is located in the entire community and every citizen performs a public function.” In this sense, “The ultimate aim would be participation by all in the sovereign power. But as a practical matter, self-government is an impossible goal. Hence the ideally best form is representative government,” defined by Mill as a system “where the whole people exercise the sovereign power through their elected deputies” (Shields, 1958: xii).

The belief that democratic representation provided a mechanism to assign the tasks of government to the best and brightest in the polity was yet another reason why the practice

gained acceptance among constitution builders in the 18th and 19th centuries. Foremost among the exponents of this view was John Madison, who viewed representation as a mechanism to improve popular government. Madison's aim, indeed, was to devise and promote a system that would elect "proper guardians of the public weal." "The aim of every political constitution," he wrote, "is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust" (*The Federalist* No. 57, quoted in Epstein, 1984: 154).

For purely logical reasons, representative government was, in Madison's view, the means to democratically achieve the ancient and desirable aristocratic ideal of government by the most virtuous for the benefit of the community. Representative democracy was superior to "pure" or direct democracy because the latter, by requiring the participation of every member of the political community in government, allowed unworthy types that inevitably exist in every society to impose their opinions and contaminate the polity. Representative democracy permitted the filtering of these types through democratic elections; through public debate and the requirements of candidate accountability, virtue would shine and wickedness be exposed. To achieve his purpose Madison not only favored representation but, furthermore, large electoral districts:

As each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free,⁸ will be more likely to centre in men

⁸ Presumably, the suffrages of the people would be "more free" in larger districts because the "vicious arts"—which might include buying votes in various ways—are less practicable on a large scale. One could also suppose that, because in larger constituencies personal attachments through family, friendship, business, or patron-client relationships are less widespread, people are freer to vote their consciences. I thank Martha Merritt for this observation.

who possess the most attractive merit, and the most diffusive and established characters (Madison, *The Federalist* No. 10).

Writing towards the end of World War I, when the shortcomings of bureaucratic authoritarian government first became evident, Max Weber (1968 [1918]) emphasized the republican notion of government by the most talented politicians supported by Madison and the US founders over a century before. Weber advocated the development of a “suitable corps” of politicians, individuals of high political caliber, through the expansion of representative government—particularly through the broadening of the oversight functions of the assembly. He envisioned for Germany a democratic government based on a proactive representative assembly that would ensure transparency in public affairs and preserve individual liberty, while constituting an incentive system that attracted political talent and directed it usefully, for the benefit of the community. “Only a working, not a merely speech-making parliament”—he wrote—“can provide the ground for the growth and selective ascent of genuine leaders, not merely demagogic talents. A working parliament, however, is one which supervises the administration by continuously sharing its work.”

In summary, therefore, representative assemblies are a fundamental institution of the democratic regime because, through the legal fiction known as representation, they allow the participation of the whole community in such important democratic tasks as peacefully sorting out political conflict, lawmaking, overseeing the administration, furnishing information about and attracting attention to politics, incorporating the public into the political debate, training political leaders, and providing a symbol for the nation. Additionally, in parliamentary regimes, representative assemblies select and sustain the government. Through representation, moreover, the tasks of government can theoretically be assigned to the most competent members of the community—at least according to the views of John Madison and Max Weber.

The Members of Representative Assemblies

As indicated at the beginning of this introduction, the performance of representative assemblies is dependent upon the behavior of its members. These are interchangeably called *representatives*, *members of parliament*, or *legislators*, the preferred designation of US theorists. The term *deputy*, one of whose definitions is “a person appointed or elected to act for another,”⁹ is often used as an English translation of the name of members of deliberative chambers in other than English-speaking countries, e.g., the *députés* of Francophone nations or the *diputados* of Spanish-speaking countries.

At this point, a new albeit brief etymological excursus is warranted. In accordance with democratic theory, members of representative assemblies exercise wide-ranging and highly significant functions; designating them *legislators* is inadequate, because at least in etymological terms it confines their activity to making laws. The term *members of parliament*, on the other hand, evokes a parliamentary system of government; it is therefore inappropriate to designate representatives in presidential regimes. *Representative* or *deputy* are better suited for the purpose.

In Panama, the case that illustrates this study, until 1968 representatives were called deputies (*diputados*), the proper Spanish word to designate members of representative assemblies (Quintero, 1967: 472; 1989: 72). *Diputado* is the term used from time immemorial to refer to members of the Castilian Cortes, one of the venerable antecedent bodies of modern-day representative assemblies (Finer, 1996: 1024). According to the Dictionary of

the Royal Spanish Academy (1984), *diputado(a)* means “a person nominated by a body to represent it” as well as “a person appointed by popular election as a representative in a legislative, national, or provincial chamber.”

“Legislator,” as members of the Legislative Assembly have been called after the 1983 constitutional reform, means, in essence, “a law giver; one who frames the laws and polity of a state or kingdom; a member of a national or supreme legislative assembly” (*The New Webster Encyclopedic Dictionary of the English Language*, 1971). Etymologically restricted to the lawmaking realm, the term *legislator* has a technocratic connotation, while *deputy* (or *representative*), is clearly more illustrative of the broader, multi-faceted, universalistic function that democratic theory assigns to members of representative assemblies. In the case of Panama, the use of *legislator* instead of *deputy* is reflective of the diminished role assigned to the assembly in 1983—one that, as mentioned above, has had an impact on the behavior of members of the country’s assembly and will be addressed in Chapter 3.

At the highest level of generality, therefore, in this study members of representative assemblies will be referred to as *representatives*. In keeping with established terminology, however, when reference is made to the literature that purports to explain the behavior of representatives, the term *theories of legislator’s behavior* or *legislators’ behavior theory* will be employed. *Members of parliament*, or *MPs* will be used to refer to representatives in parliamentary systems and *members of congress* will be employed to designate them in presidential regimes. In the Panamanian case, pre-1968 representatives will be referred to as *deputies* and post-1983 members of the Assembly as *legislators*. These definitions, it is hoped, will contribute towards conceptual clarity.

⁹ According to *The New Webster Encyclopedic Dictionary of the English Language* (1971), *deputy* comes from the French *député*. It is defined as “a person appointed or elected to act for another; a representative, delegate,

Why Panama?

This study argues that by taking a close, in-depth look at the dynamics of assembly politics in an informally institutionalized setting, we may broaden our general understanding of the behavior of representatives, the relevance of informal institutions in shaping this behavior, and the consequences of this behavior for the democratic system. Panama provides an appropriate case for an enterprise of this nature. A polyarchy since 1990, it has been classified under the informally institutionalized subtype (O'Donnell 1996). Its assembly politics, which have not been systematically studied, provide a fertile field for data-gathering and comparative analysis for theory enhancement. Historically, clientelism has had a strong impact in determining Panamanian political outcomes (Biesanz and Biesanz, 1955; Janson Pérez, 1993). Clientelism and other informal features have conditioned the behavior of Panamanian politicians, among them the members of the Legislative Assembly, the deliberative chamber in operation since 1984.

Panama's legislators thus exhibit certain behaviors that, while not in line with the predictions of the literature, are nevertheless evident in the reality of many informally institutionalized polyarchies. Panamanian legislators, for example, seek reelection as a means to advance their political careers—as theorized by the literature—but also to get rich and ensure freedom from prosecution. To obtain reelection, they distribute patronage—as theories of legislators' behavior predict they should—but also switch parties and manipulate electoral rules. These behaviors, in turn, have clear consequences for the quality of representation in Panama, because—among other effects—they corrupt the link between

agent, or substitute.”

representatives and their constituents, which is essential for the proper functioning of the democratic system.

Methodology and Sources

This study achieves its objectives—examining the behavior of Panamanian legislators, underscoring the differences between this behavior and the predictions of theory, and assessing the ways in which legislators' actions affect the democratic system—through comparative analysis. It involves comparisons at three levels.¹⁰ At one level, it contrasts the political behavior of individual legislators between 1984 and 1999. This task entails a scrutiny of 188 cases (legislators), representing nearly 30 political parties, over a 15-year period.

At a second level, the study undertakes historical-institutional analysis, in an effort to determine the effects of changing institutional factors over the behavior of representatives. In the specific period under review, it compares legislators' actions under military rule (1984-1989) and after the restoration of the constitutional regime (1989-1999). Under polyarchy, it contrasts behaviors exhibited during the administrations of Presidents Guillermo Endara (PA, 1989-1994) and Ernesto Pérez Balladares (PRD, 1994-1999). When warranted, it also makes reference to legislators' actions under the administration of President Mireya Moscoso (PA, 1999-).

A third level of analysis engages in cross-national comparisons that contrast the behavior of Panamanian legislators with the actions of representatives elsewhere, in formally

¹⁰ For assistance in designing this three-staged analysis, I am grateful to Andrew Gould.

and informally institutionalized polyarchies. The three levels of analysis are undertaken as required under each major topic addressed throughout the text.

Because of the unexplored nature of the subject, the study relies to a significant extent on the analysis of primary sources, such as government data and newspaper reports. This endeavor was greatly facilitated by access to the Internet editions of *Crítica Libre*, *El Panamá América*, *El Siglo*, *El Universal*, and *La Prensa*, as well as to the websites of the Legislative Assembly, the Electoral Tribunal, and the Ombudsman's Office (*Defensoría del Pueblo de la República de Panamá*). For events occurring between 1960 and 1990, access to the political archive of Panamanian anthropologist Brittmarie Janson Pérez was equally valuable. Whenever possible, an attempt was made to confirm information obtained in one source with supporting data from other sources.

The study also employs evidence provided in personal conversations and correspondence by analysts of Panama's politics, such as Juan Arias Zubieta, Betty Brannan Jaén, Eugenio Morice, Brittmarie Janson Pérez, Sharon Phillipps Collazos, Gloria Rudolf, and Rafael Pérez Jaramillo as well as by Panamanian politicians, among them several former and current legislators. These include Marco Ameglio (originally Partido Liberal Auténtico [PLA], later Movimiento de Renovación Nacional [MORENA], subsequently PA, 1989-), Carlos Arellano Lennox (Partido Demócrata Cristiano [PDC], 1984-1994), Alfredo Arias Grimaldo (PA, 1994-1999), José Blandón Figueroa (PA, 1999-), Guillermo Cochez (PDC, 1984-1994), Ovidio Díaz (PRD, 1984-1989; deputy, Partido Republicano [PR], 1964-1968), Olmedo Guillén (originally Partido Renovación Civilista [PRC], later PA, subsequently PDC, 1994-1999), and Víctor Méndez Fábrega (originally Movimiento Papa Egoró [MPE], later Movimiento Liberal Republicano Nacionalista [MOLIRENA], 1994-1999).

Other former and current Panamanian public officials who provided valuable information include Ricardo Arias Calderón (PDC; Vice-President of Panama and Minister of Government and Justice, 1989-1991), Miguel Antonio Bernal (Presidential Advisor, 1999-2000), Rubén Darío Carles, Jr. (MOLIRENA; Minister of Finance, 1956-1958; Minister of Agriculture and Commerce, 1965-1967, 1968; Comptroller-General, 1989-1993; presidential candidate, 1994); José Chen Barriá (PDC; Comptroller-General, 1993-1994; Administrator-General of the Inter-Oceanic Regional Authority [ARI], 1994); Guillermo Endara (PA; Constitutional Reform Commission Member, 1983; President of Panama, 1989-1994); Mario Galindo Heurtematte (MOLIRENA; Constitutional Reform Commission Member, 1983; Minister of Finance, 1990-1993; Presidential Advisor, 1999-), Francisco Gómez (Director of Accounting, Comptroller-General's Office); Guillermo Márquez Amado (PDC; Director of Consular Affairs, Ministry of Finance, 1989-1990; Electoral Tribunal Magistrate, 1990-1997), the late Gonzalo Menéndez Franco (PA; Director-General of the National Police, 1991; Patrimonial Responsibility Tribunal Magistrate, 1991-1994); César Quintero (Electoral Tribunal Magistrate, 1982-1984; Supreme Court Magistrate, 1989-1992); César Pereira Burgos (PA; Member of the Legislative Council, 1980-1984; Ambassador to the United Nations, 1989-1992; Minister of Agriculture, 1992-1994; Supreme Court Magistrate, 2000-); Eduardo Quirós (PA; Vice-Minister of Finance, 2000-); Humberto E. Ricord (Constitutional Reform Commission Member, 1983); Salvador Sánchez González (Legislative Assembly advisor, 1993-1997; 1999-; Complaints Officer, Ombudsman's Office, 1997-1999); Eduardo Valdés Escoffery (Electoral Tribunal Magistrate, 1990-); and Alvin Weeden (PA, Comptroller-General, 2000-).

Additional information on Panama, especially for the historical-institutional analysis, was obtained through the assistance of Carlos Guevara Céspedes as well as Scott Van Jacob

and Vonda Polega at the Kellogg Information Center, and the Hesburgh Library's Inter-Library Loan Department. At the cross-national level, the study draws substantially on information available at the *PARLINE* database of the Inter-Parliamentary Union (IPU). Rosario Pardo at IPU supplied additional clarifications and Maiju Perala, PhD candidate in Economics at the University of Notre Dame, gave assistance with international currency adjustments. Valuable information for the comparative assessment of representative's behavior was provided by Mark Jones and Aníbal Pérez Liñán (Argentina); Ademar Silveira Sabino, João Eustáquio da Silveira, Scott Mainwaring, and David Samuels (Brazil); Deputy Ignacio Walker (Chile), Gustavo Gallón and Carlo Nasi (Colombia), Anny Córdoba Barrantes and Jorge Vargas Cullel (Costa Rica); Andrés Mejía and Simón Pachano (Ecuador); Clara Escamilla and Carlos Ungo (El Salvador); Martha Merritt (Russia); Gabriela Mossi (Honduras); José Molinas Vega (Paraguay); Carlos Castro Paragulla (Perú); Representative Tim Roemer (United States); David Altman (Uruguay), and Michael Coppedge (Venezuela).

Study Design

On the basis of evidence collected from the Panamanian case, Chapter 2 examines the fundamental assumption of the literature on legislators' behavior: that representatives seek to advance their political careers through reelection. From the institutionalist premise that institutions shape actors' behavior, Chapter 2 also addresses certain informal traits that allow legislators to pursue other ends besides just reelection (or political advancement) and encourage different means towards reelection. These traits are electoral fraud, impunity, and clientelism. The institutional focus continues in Chapter 3, which examines three formal institutional traits that further promote clientelism and, consequently, Panamanian

legislators' alternative means and ends: seat allocation rules, district size, and the balance of power between the executive and the assembly.

Chapters 4, 5, and 6 examine specific motivations of Panamanian legislators that are not generally tackled by the literature—personal enrichment and a desire to remain free from prosecution—and a number of behaviors they trigger. The motivation to get rich produces legal and illegal actions by legislators. Legal attempts at enrichment are examined in Chapter 4, while Chapter 5 inspects illegal actions towards the same objective. Chapter 6 scrutinizes Panamanian legislators' quest to ensure immunity from prosecution.

Chapters 7 and 8 address explicit behaviors Panamanian legislators engage in to achieve reelection. Chapter 7 examines the role of patronage in procuring reelection. Patronage is certainly a device the literature points out as helpful in contributing to the reelection of representatives. In Panama, however, it encompasses dimensions unforeseen by theorists of legislators' behavior. Chapter 8 focuses on party switching and electoral manipulation—strategies that the literature has not usually addressed—as agencies for reelection. The study concludes with Chapter 9, which, in addition to summarizing findings, reflects on the effects of Panamanian legislators' behavior for the quality of democratic representation.

CHAPTER 2

INFORMAL INSTITUTIONS AND THE MOTIVATIONS OF REPRESENTATIVES

Theories of legislators' behavior, built primarily on the US experience, portray representatives as self-interest maximizers whose main goal is to secure reelection (Fenno, 1973; Mayhew, 1974). While Fenno (1973: 1) initially suggested members of the US Congress are motivated by three basic goals (reelection, obtaining influence within the representative assembly, formulating good public policy) and two additional objectives (pursuing higher office, securing private gain), after Mayhew (1974: 5) representatives in the United States have been conceived of primarily as "single-minded seekers of reelection." This assumption holds well for the members of the US Congress. Between 1946 and 1998, an average 92 percent of the House of Representatives sought reelection. During the same period, an average 83 percent of Senate incumbents aspired to retain their seats (Ornstein, Mann, and Malbin, 2000: 57-58).

The literature assumes that members of representative assemblies want reelection because they are interested in pursuing a political career. Within this framework, representatives are generally motivated by what Arthur Schlesinger (1966: 10) has labeled "static ambition," i.e., a desire to build "a long-run career out of a particular office," which theorists view as "a marked goal of many American congressmen and senators."

Satisfying this objective through a Congressional seat has become increasingly possible, as demonstrated by the high reelection rates enjoyed by US congresspersons. On

average, 92 percent of the members of the US House seeking reelection achieved their goal in the 1946-1998 period. For senators, the average in the post-World War II era is 78 percent (Ornstein, Mann, and Malbin, 2000: 57-58). According to Loomis (1998: 63), "over the course of the past 100 years, the Congress has developed into an institution that fosters long careers." By the mid-1990s, approximately 15 percent of the House had served 20 years and the average member had spent ten years in the lower chamber. In the Senate, the average length of service was 11 years, or roughly two terms.

Reelection, therefore, permits the continued exercise of political office and as such is a requirement for representatives motivated by static political ambition. An assembly seat guarantees a place in the public arena, gives representatives a role in decision making as well as in the allocation of resources, and assigns responsibility for policy making and oversight, all of which constitute important activities that contribute to build and maintain political careers. Thus Mayhew's assertion that "successful pursuit of a career requires continual reelection" (1974: 15-16) has become a fundamental premise of the literature on US members' behavior.

This model travels well to formally institutionalized polyarchies where there are no restrictions on the reelection of representatives and where an assembly seat actually provides interesting opportunities for career advancement, such as the United States. Recent studies have examined its applicability to other polyarchies, where reelection is forbidden or uncommon. Authors thus engaged have also started from the premise that representatives everywhere seek political advancement. They have concluded, however, that in countries where reelection is restricted or where more attractive opportunities for career maintenance exist elsewhere, members of representative assemblies seek to advance their careers through

appointment or election to other political offices or promotion within the party bureaucracy (Carey, 1996; Jones, 1998; Morgenstern, 1998; Samuels, 1998; Mainwaring, 1999).

In Costa Rica, for example, where the immediate reelection of deputies is forbidden, representatives endeavor to increase their standing with party leaders (particularly the presidential candidate) and their popularity with constituents in an attempt to maximize their chances of obtaining a political appointment in the ensuing term (Carey, 1996: 94-101). In Argentina and Brazil, where unrestricted reelection is allowed, deputies frequently use their congressional experiences as "springboards" to more politically-gainful employment. After serving their terms in the Congress, Argentine and Brazilian deputies aspire to national- or state-level positions such as minister, senator, governor, state or provincial secretary, state or provincial representative, or mayor (Jones, 1998; Samuels, 1998). As observed by Samuels (1998) in Brazil, representatives in these contexts exhibit "progressive" ambition, i.e., "a desire to build a political career outside of the Chamber of Deputies following election as deputy" as opposed to the "static" ambition revealed by most US members of Congress, who aspire to build a career within the House of Representatives or the Senate.

In Panama, there is no restriction on the reelection of members of the Legislative Assembly. If we apply the assumptions of the literature on the US Congress to the Panamanian case, Panama's legislators should reveal an interest in maintaining their political careers through reelection. Indeed, they have sought reelection, increasingly, since the reintroduction of the Assembly in 1984. At the end of the 1984-1989 term, 54 percent of the chamber, or 36 of a total of 67 legislators, ran for reelection. At the end of the 1989-1994 term, the figure rose to 69 percent, or 46 of 67 legislators. In the 1999 elections, 63 of 72 legislators, or 88 percent of the chamber, campaigned to retain their seats.

In Panama, however, reelection rates are lower than in the United States. In 1989, only 22 percent of those members of the Assembly who sought to continue in office achieved their objective. At that time, a low reelection rate may have been a function of the massive opposition vote against the military dictatorship, which—chiefly through Madison’s “vicious arts”—had succeeded in obtaining a majority of seats in the 1984 elections (Ricord, 1991: 85-86). In effect, only one of 24 incumbents aligned with the military regime who sought reelection accomplished his objective.¹¹ But in 1994—five years after the return to polyarchy—the return rate among members seeking reelection rose only slightly, to 26 percent. More likely than not, this was also the result of generalized disappointment with the performance of the parties that had opposed the dictatorship and the absence of incentives to vote for incumbents (Harrington, 1994; *La Prensa*, op-eds, 12 January 1994, 16 February 1994, 17 May 1994).

A significant rise to 49 percent, however, took place in 1999. This increase can be understood as the result of a considerable increment in the availability and expenditure of constituency funds known as *partidas circuitales*, which Chapter 7 will examine in detail. Because the presidency plays a key role assigning these funds, the executive indirectly contributed to this unprecedented increase in legislators’ reelection rate. Table 2.1 summarizes the results of Panamanian legislators’ electoral aspirations between 1984 and 1999:

¹¹ This was Alberto Alemán Boyd (PRD), legislator between 1984 and 1999.

TABLE 2.1

LEGISLATORS' REELECTION RATES IN PANAMA
1989, 1994, 1999 ELECTIONS

	1989	1994	1999	Average
Percentage of total legislators who sought reelection	54%	69%	88%	70%
Percentage of legislators seeking reelection who succeeded	22%	26%	49%	32%

In sum, evidence from the period under review shows that, on average, seven out of ten Panamanian legislators seek reelection but only three out of ten achieve their goal. According to the logic supporting recent revisions of legislators' behavior theory, if members of Panama's Assembly want to pursue political careers—an assumption in the literature—they should seek appointments or election to other office when they fail to secure reelection. In other words, they should reveal progressive, rather than static, ambition.

The following section examines this supposition on the basis of the available evidence on the career paths of legislators who sought consecutive reelection but failed to achieve it. For this purpose, a search of the electronic archive of *La Prensa*,¹² a main Panamanian daily, was conducted, to trace the career paths of all 188 individuals who served in the Legislative Assembly between 1984 and 1999.¹³ The archive consists of all material published in *La Prensa* in 1980 and 1981 as well as since 1990. Because the first Assembly term during the period under review ended in 1989, an examination of archival material

¹² The archive is available at www.prensa.com/biblioteca/

¹³ From 1984 to 1999, 206 seats were filled in the Assembly: 67 in 1984-1999, 67 in 1989-1994, and 72 in 1994-1999. Eight of the individuals occupying these seats were reelected in 1989 and 12 in 1994, adding up to

from 1990 onwards constitutes a fairly efficient means to discover the activities Panamanian legislators who did not achieve consecutive reelection undertook since their defeat at the polls.

Career Paths and Legislators' Motivations

In Panama, approximately 1,600 positions are up for election every five years.¹⁴ These include those of president and two vice-presidents of the Republic, legislator, mayor, and county representative; beginning in 1999, the position of deputy to the Central American Parliament also became elective. Additionally, there are nearly 1,200 appointments that depend on the president, including those of cabinet minister and vice-minister; Supreme Court magistrate; prosecutor-general and solicitor-general (*Procurador General de la Nación* and *Procurador de la Administración*, respectively); one of three Electoral Tribunal magistrates; electoral prosecutor; directors, managers, and administrators of state agencies; advisors to the executive branch; members of diverse government boards and advisory committees; foreign service personnel, including ambassadors and consuls; middle-level officials at the ministries and state agencies; provincial governors; notaries public; and others (*El Panamá América*, 1 August 1999).

The Assembly selects its own personnel as well as a few key high-level officials, such as the comptroller-general and the assistant comptroller-general; one Electoral Tribunal

20. Subtracting 20 from 206 gives 186, to which sub-total must be added the two alternates who replaced deceased legislators during the period under review. This adds up to 188.

¹⁴ In 1999, the exact number was 1,666, including president (1), vice-presidents (2), Central American deputies (20), Central American deputies' alternates (20), legislators (71), legislators' alternates (142), mayors (74), mayors' substitutes (148), county representatives (594), and county representatives' substitutes (594). A total of 15,784 candidates competed for these positions in 1999. Tribunal Electoral, *Puestos a elegir por provincia*, www.tribunal-electoral.gob.pa/elec/elec01.html.

magistrate; and the ombudsman (*Defensor del Pueblo*). The president also has a say in the selection of these three officials, particularly when the executive enjoys the support of a majority of the chamber. The multiplicity of executive-controlled or influenced appointments provides a large resource base from which to reward loyal supporters.

Of 188 individuals who served in the Legislative Assembly from 1984 to 1999, 94 did not achieve consecutive reelection on one of the occasions in which they sought it. Two of these, César Pardo and Camilo Gozaine—both PRD members during the 1984-1989 term—returned to the Assembly in 1999. Tomás Altamirano Duque, a third PRD activist who held an Assembly seat from 1984 to 1989, not only achieved reelection in 1994 but was concurrently elected as First Vice-President of the Republic in that year.¹⁵ Among the remaining 91 legislators who sought to retain their seats but failed, at least 34 later held other political office, either elected or appointed (but basically the latter).

Of these 34, at least seven (7 percent of the total, or 94) held other government office in two subsequent terms. In 1991, President Guillermo Endara (PA) appointed former Legislator Marco Alarcón (PA, 1984-1989) as Minister of Education. Alarcón held the position until 1994 and in 1999, upon the return of PA to the executive, President Mireya Moscoso designated him ambassador to Cuba. In 1994, President Ernesto Pérez Balladares (PRD) appointed former Legislator José Antonio Sossa (PDC, 1989-1994) as prosecutor-general, for a ten-year term. Prosecutor-General Sossa has succeeded in

¹⁵ The Electoral Tribunal has allowed candidates to run for two different offices. In 1999, Legislator Arturo Vallarino (MOLIRENA, formerly PALA) ran for reelection as well as for First Vice-President, succeeding in both attempts. Upon assuming the Vice-Presidency, Vallarino's alternate, Wigberto Quintero, took his place in the Assembly. In 1994, Vice-President Altamirano Duque's Assembly seat was assumed by his son and alternate, Tomás Altamirano Mantovani. In 1999, Altamirano Mantovani ran for reelection featuring his father, then Vice-President Altamirano Duque, as alternate! Despite charges of widespread fraud in their district, the Electoral Tribunal recognized Altamirano Jr. as legislator and Altamirano Sr. as substitute. On the charges of fraud in their district, see Salas, 1999 as well as República de Panamá, Defensoría del Pueblo, 1999.

remaining in office despite attempts by the Assembly to remove him on charges of negligence (*La Prensa*, 25 January 2000).

During the 1994-1999 period, Legislators Jilmer González (PA, 1989-1994) and José Hill (PDC, 1989-1994) served their respective communities as municipal officers. In the 1999 elections, both secured seats as Central American deputies. Bertilo Mejía, a PDC legislator from 1984 to 1989, was appointed National Director of Education at the Ministry of Education in 1990. He remained in that position into the ensuing term until President Pérez Balladares sacked him in 1995.

Before leaving office, President Endara appointed Legislators Jorge Rubén Rosas (MOLIRENA, 1984-1994) and Gloria Moreno (1989-1994; originally, PDC, then MORENA, subsequently PA,) as observers before the Central American Parliament (PARLACEN). At that time (1994) Panama had just ratified the treaty establishing the regional assembly and had agreed to appoint observers until popularly-chosen deputies could assume office after the next scheduled elections (1999). An agreement in the outgoing (Endara) and incoming (Pérez Balladares) Administrations indicated that each chief executive would appoint ten observers.

Shortly after his inauguration, however, President Pérez Balladares rejected the arrangement and dismissed most of President Endara's appointees. Both former legislators returned to public office after President Mireya Moscoso (PA) won the 1999 elections. Gloria Moreno, a physician, acted briefly as director of Panama City's principal public hospital (Hospital Santo Tomás) between September 1999 and July 2000. Jorge Rubén Rosas, a MOLIRENA party leader who served two terms in both the National Assembly (1960-1968) and the Legislative Assembly (1984-1994), in addition to performing as Labor

Minister concurrently during his second legislative period (1989-1994), was appointed as member of the National Foreign Relations Council, an ad honorem position.

At least 27 legislators who failed in their immediate reelection attempts held other political office in one subsequent term. This figure represents 29 percent of the total set of 94 legislators. Examples include David Arce, a Partido Panameñista Auténtico (PPA) legislator from 1984 to 1989, who later switched to Partido Solidaridad (PSOL) and served as General Director of Property Records at the Ministry of Finance during the 1994-1999 term; Franklin Rivera (PRD, 1989-1994), director-general of the National Finance Corporation (COFINA) from 1994 to 1996 and thereafter Assembly advisor until 1999; Alfredo Arias Grimaldo (PA, 1994-1999), appointed as administrator-general of the Inter-Oceanic Regional Authority (ARI) in 2000; and Bolívar Pariente (PA, 1994-1999), designated general manager of the National Bank (*Banco Nacional de Panamá*) in 1999.

During the 1994-1999 term, President Pérez Balladares appointed two former Assembly members as observers before the Central American Parliament. One of these, Emiliano Aguilar (PPA, 1984-1989) followed former legislator Arce into PSOL, which entered the government coalition in 1994. The president dismissed him in 1997 after Aguilar was accused of misconduct (*La Prensa*, 30 May 1997). Another observer, Celso Carrizo, was a PRD legislator from 1984 to 1989.

President Pérez Balladares also retained two of President Endara's appointees, former Legislators Alfredo Ehlers and Eric Santamaría, both of whom served in the Assembly as PDC members between 1989 and 1994. As the political cauldron heated up in 1998 with President Pérez Balladares' attempt to secure passage of his proposed constitutional amendment allowing immediate presidential reelection, the chief executive withdrew former Legislator Santamaría's observer status before the PARLACEN (*La Prensa*,

22 May 1998). To avoid experiencing the same fate, former Legislator Ehlers quickly dropped the opposition PDC label and joined Partido Liberal Nacional (PLN), then (as now) a party in the governing coalition (*La Prensa*, 10 January 1998).

At least five former legislators who failed in their reelection attempts obtained appointment to the foreign service in 1999. President Moscoso sent former MOLIRENA legislators Olimpo Sáez and Raymundo Hurtado (1989-1994) as ambassadors to Brazil and Paraguay, respectively.¹⁶ Gisela Chung (MOLIRENA, 1989-1994) secured appointment as commercial representative in Beijing, a position similar to that of ambassador (because Panama does not maintain diplomatic relations with the People's Republic of China). The president designated at least two other former members of the Legislative Assembly as consuls-general. Héctor Crespo (MOLIRENA, 1989-1994) obtained the highly lucrative consulate in Kobe, Japan.¹⁷ Otilio Miranda (PALA, 1984-1989), a close collaborator of former dictator Manuel Noriega, who in 1999 stood as legislative candidate for Partido Cambio Democrático (CD, now as before in government), was designated consul-general in Santo Domingo (Dominican Republic). Chapter 5 describes the case of former Legislator Miranda in depth.

This survey of legislators' trajectories provides interesting information regarding Panamanian representatives' career objectives. Between 1984 and 1999, 94 legislators sought immediate reelection but did not succeed. Of these 94 individuals, at least 37 (39 percent)

¹⁶ Although a member of MOLIRENA, Hurtado sought reelection in 1999 as a candidate for Partido Cambio Democrático (CD).

¹⁷ According to Panamanian law, as an incentive to promote maritime business, certain consuls are entitled to appropriate 8 percent of the consulate's revenues. The Consulate in Kobe, Japan, which reported revenues of approximately US\$100,000 per month in 1999, is one of these (*El Panamá América*, 29 February 2000; Republic of Panama, Ministry of Foreign Affairs, Consular Revenue Reports, 1999, 2000). In addition to indicating an interest in political advancement, a desire to secure appointment to one of these consulates may

show up in the electronic archive of *La Prensa* as holding government employment in a later period. Three of these (3 percent) returned to the Assembly at a later date and at least 34 (36 percent) held other public office. For the remaining 57 (61 percent), no information about public employment shows up. It is highly likely that at least some of these 57 legislators obtained subsequent public employment, but no record of their officeholding showed up in *La Prensa's* archive at the time of the search (April 2000).

Of the 34 legislators who held other public office after the expiration of their terms, no less than 27 obtained public employment during one subsequent term. At least seven served in other official capacity in two subsequent periods. These results are summarized in Table 2.2:

TABLE 2.2
FREQUENCY OF OFFICE-HOLDING BY LEGISLATORS WHO SOUGHT
REELECTION FROM 1984 TO 1999 BUT DID NOT SUCCEED

Former Legislators Who:	N	Percentage
Were reelected to the Assembly after one or two terms	3	3% ^a
Held other public office in two subsequent terms	7	7%
Held other public office in one subsequent term	27	29%
Did not hold subsequent office/no information available	57	61%
	94	100%

In sum, most Panamanian legislators run for office again. Many who don't attain consecutive reelection—at least 39 percent—hold other government office after failing at the polls. This figure is slightly lower than the number of Costa Rican deputies who between 1949 and 1986 succeeded in obtaining appointments after their Assembly terms

also suggest a rent-seeking motivation. Chapters 4 and 5 will examine rent-seeking behavior by legislators in in

subsided. In this neighboring country, where the constitution forbids the immediate reelection of Legislative Assembly members, a similar study of career paths found that an estimated 45 percent of deputies in the 1949-1986 period received appointments to the state bureaucracy after serving as deputies (Carey, 1996: 97). The Costa Rican study, however, was conducted over a longer time span (1949-1986), an impossibility for Panama, where the Legislative Assembly only dates back to 1984. With time, Panama's rate is likely to increase: while only four ex legislators received appointments in 1989-1994, the figure increased to at least 13 in 1994-1999 and no less than 23 in 1999.

Moreover, many former Panamanian legislators have run as candidates for an Assembly seat or other office in subsequent elections. Additionally, several have remained active in party politics at the national or local level. Therefore, this modest survey reveals that, in accordance with a basic assumption of the literature on legislators' behavior, members of Panama's Assembly seek to advance their political careers through reelection, election to other positions, or appointment to a public office.

But a careful revision of Panamanian legislators' actions between 1984 and 1999 also discloses that pursuing a political career is not the only goal Assembly members seek. Clearly, at least some are motivated by a desire to increase their personal wealth and/or obtain immunity from prosecution. Evidence further indicates that to achieve reelection for career advancement, personal enrichment, and/or immunity from prosecution, Panamanian legislators distribute patronage in much broader ways than the literature predicts, switch parties, and manipulate elections.

The existing literature on the behavior of representatives has not generally approached these additional objectives and activities. Although recent contributions have

further depth.

addressed the actions of members of deliberative chambers in informally institutionalized polyarchies, most studies have focused on representatives' behavior in formally institutionalized settings, where these additional behaviors are uncommon. But, as was previously indicated, O'Donnell (1996) has suggested that different types of institutionalization are likely to produce different behaviors by political actors. In Panama, three basic informal traits help shape politicians' actions: electoral fraud, impunity, and clientelism. These are not the only informal institutions in place, but they are fundamental in understanding politicians' behavior. The following pages discuss these traits in historical perspective.

The Behavioral Effect of Informal Institutions

O'Donnell (1994) defines institutions as "regularized patterns of interaction that are known, practiced, and regularly accepted (if not normatively approved) by given social agents who, by virtue of those characteristics, expect to continue interacting under the rules and norms formally or informally embodied in those patterns." Clearly, institutions do not require formal codification to be considered as such. Informal practices that guide action and create expectations—such as electoral fraud, impunity, and clientelism—are institutions just as much as are written rules and procedures.

As distinct manifestations of the phenomenon of informal institutionalization, electoral fraud, impunity, and clientelism share similarities. All three, for instance, contradict democratic expectations and constitute violations of the legal-rational norm that actions by state officials should be impartial and universalistic (Weber, 1978 [1922]: 217-26). Vote-rigging, exemption from justice, and the assignment of particularistic benefits in exchange

for political support effectively create privileges in favor of certain individuals or groups, to the detriment of the notion of political equality. They are also complementary in the sense that impunity provides protection from legal action against those who commit fraudulent and particularistic actions that are illegal according to the letter of the law. Above all, in what concerns this study, the expectation of fraud, impunity, and clientelism encourages certain behaviors by Panamanian political actors in general and, specifically, by legislators. These behaviors would not normally be tolerated in formally institutionalized polyarchies—at least not to the extent exhibited in the Panamanian case.

Electoral Fraud

In informally institutionalized polyarchies—such as Panama—electoral outcomes do not result entirely from procedures established in codified rules (O'Donnell, 1998a). Informal practices, such as vote-rigging, also have a say in determining who assumes office. Electoral fraud is a traditional feature of Panamanian politics. John Biesanz and Mavis Hiltunen Biesanz, two Columbia University sociologists who conducted a broad study of Isthmian society in the early 1950s, begin their section on electoral politics by indicating that to “assure the outcome of an election and achieve the tantalizing prizes of political office, candidates employ all the old Tammany devices.” At the time of their writing, they claim, mechanisms for election-rigging had “only slightly refined since Colombian days, when many voters approached the booths time after time and some districts ran up a vote two or three times the number of its voters” (Biesanz and Biesanz, 1955: 149).

In Panama, as in Colombia and elsewhere, the maxim *Quien escruta, elige* (“he who counts, elects”) has long been in vogue. During the old regime, it was common for

members of the National Vote Counting Board to discard whole blocks of votes on various pretexts. What is perhaps the most notorious instance of electoral fraud prior to the military regime occurred in 1948. Biesanz and Biesanz (1955: 150-51) provide a colorful description of the events surrounding the presidential election of that year:

It is generally conceded that Arnulfo Arias, then at the peak of his popularity, had polled a plurality of votes. But the government had backed Domingo Díaz, in spite of numerous sanctimonious vows that *this time* there would be no "official" candidate. They dragged out the count through the summer, playing a waiting game to see if they could get away with throwing out district after district of Arnulfista votes on the grounds of fraud. They finally decided they could and declared the septuagenarian Díaz, who had wanted the office all his adult life, President of Panama. Then in November, 1949, when Police Chief Remón fell out with the administration and in a vengeful spirit put Arnulfo Arias back into power, the elections board amiably announced within an hour that they had made a mistake in the count, and Arnulfo had really been the popular choice. Thus are revolutions "constitutionalized."

Twenty years later, during the last elections held under the old regime and with Arnulfo Arias again as a principal protagonist, the government of President Marco Robles, the coalition of parties supporting the official candidate, and the National Guard attempted to thwart Arias' return to power in the general election of 12 May. As documented by Brittmarié Janson Pérez (1993: 32-33), in addition to setting up the electoral machinery to favor the government's choice,

their tactics included intimidation and violence. In the attacks staged by paramilitary contingents against Arias' supporters, two persons were killed. Voters were prevented from casting their ballots. After the votes were cast, ballot boxes in areas where Arias was known to be strong, were destroyed. The vote count was delayed for days, presumably to engineer a last minute fraud.

In May 1968, however, civil society pressures produced a change in the attitude of the National Guard, which ultimately resulted in the recognition of Arnulfo Arias' victory and his short-lived third administration. He was deposed by the military ten days after assuming office on 1 October 1968. For the next two decades the country lived under

military rule, which did not end until invading US forces overthrew the Noriega dictatorship on 20 December 1989.

Under the old regime as well as afterwards, fraud not only affected elections to the presidency, but to other offices as well. After the proclamation of Arias' triumph in 1968, the Robles Administration concentrated its attention on the election to the Assembly, maneuvering to control the provincial election boards and delay the vote count. Arnulfo Arias responded by exerting pressure on the electoral authorities, with the aim of engineering a majority in the National Assembly and the municipal councils. Results for the Assembly were not reported until the eve of inauguration day (1 October), by which time it became evident that President Arias had deprived a number of opposition deputies of their seats (Janson Pérez, 33-34).

During the military period, recourse to vote-rigging escalated to heights unexplored by the *caciques* of the old regime, particularly as a result of the application of electronic devices to fraudulent purposes (Arias de Para, 1984). The regime's tactic of purporting to generate international legitimacy on the basis of elections made vote fraud an important element in the dictatorship's attempts to remain in power against the will of the majority of the population. At that time the Electoral Tribunal, the military, and the PRD as well as the other parties supporting the dictatorship, assisted by individual candidates to office, engaged in widespread vote rigging with the purpose of fabricating electoral victories for the military regime. Janson Pérez (1993: 168-69) provides a telling account of the events surrounding the general election of 1984, which once again featured Arnulfo Arias as the opposition presidential candidate:

As soon as Arnulfo Arias' victory at the polls became apparent, in a two-pronged strategy which it would repeat in the presidential elections of 1989, the military-controlled government delayed the vote count and used violence.

On 7 May 1984, the day after the elections, a PRD paramilitary squad reportedly organized by former Vice-President Gerardo González Vernaza¹⁸ and Humberto López Tirone fired upon a crowd of opposition demonstrators who were pressuring the National Vote Counting Board to speed up the counting process. Two men died and about 40 persons were wounded (...)

By 7 May in the morning the Electoral Tribunal knew that Arnulfo Arias had won by 13,000 votes, and the scramble started (...)

Two years later, highly placed sources in the White House admitted to Seymour M. Hersh of *The New York Times* that there was never any doubt that the elections had been fraudulent. The CIA had complete reports to that effect, and the night of the elections the embassy knew that Noriega had stopped the vote count to prepare the fraud. Nevertheless, the Reagan administration did nothing because it felt that Noriega would not have responded to US pressure to recognize Arias' victory.

The military's scheme not only resulted in the fraudulent election of PRD presidential nominee Nicolás Ardito Barletta, but also in the improper assignment of legislative seats to several pro-dictatorship legislative candidates: Rafael Abrego (PRD), Pedro Brín Martínez (PRD), Ebén Chi (PRD), Santiago Curabo (PRD), Hugo Giraud (PRD), Anselmo Guaynora (PRD), Harmodio Icaza (Partido Laborista [PALA]), Guillermo Jiménez (PRD), Rigoberto Paredes (PRD), Hugo Torrijos (PRD), and perhaps others as well. In this manner, these candidates assumed legislative office and the regime ensured a majority in the Assembly that enabled it to pass laws and take action in accordance with "democratic" principles. (*La Prensa*, 21 May 1984, 30 July 1984, 6 August 1984, 23 August 1984, 10 September 1984, 10 June 1987, 7 June 1990; *El Siglo*, 10 June 1987; Janson Pérez, 1998c, 1998c; Cochez, 1999b).

The dictatorship and its supporting parties, led by the PRD, attempted similar actions during the 1989 elections. Because the opposition vote was massive, however, not even the ingenious artifices of the military-controlled Electoral Tribunal and the PRD leaders were capable of overturning the victory of the opposition slate, led by Guillermo

¹⁸ González Vernaza was a PRD legislator from 1989 to 1999 and Assembly president from 1997 to 1999.

Endara (PA), a follower of Arnulfo Arias.¹⁹ In the face of these developments, the regime opted for annulling the elections and de facto prolonging its rule (Ricord, 1991: 97-108; *El Siglo*, 28 April, 29 April 1999).

Blatant, overt fraud as described here has not been an issue in the 1994 and 1999 elections as it was during the previous decade. After the reestablishment of polyarchy in 1990, the abolition of the army, the restoration of constitutional rule, and the acquisition of a greater measure of autonomy by the Electoral Tribunal all contributed towards overcoming the most vicious features of electoral politics under military control. Electoral irregularities, however, continue to occur, revealing the endurance of vote fraud as an informal institution in Panamanian politics. As reported in the US State Department's most recent *Country Reports for Human Rights Practices*, "Domestic and international observers characterized the [1999] elections as generally free and fair; however, several local contests were marred by reports of vote buying and in extreme cases, voter intimidation. Legislative District 9-3, in Veraguas province, was criticized widely for such electoral interference."²⁰ Chapter 8 will examine how a tradition of electoral fraud encourages electoral manipulation as a device legislators resort to in an effort to procure their reelection.

¹⁹ Arnulfo Arias had died the previous year (1988).

²⁰ The government candidate in legislative district 9-3, Pedro Miguel González, a son of PRD and Assembly President Gerardo González Vernaza, was accused by the US government of the killing of a US serviceman. The irregularities that characterized the election of Pedro Miguel González as legislator are described in Chapters 6 and 8.

Impunity

As noted by O'Donnell (1996), "In many countries of the global East and South, there is an old and deep split between the *pays réel* and the *pays légal*." This split reflects in such features as a denial of justice for marginalized sectors and impunity for those who have influence to escape law enforcement. Despite what the law may prescribe, justice is not fulfilled because in an expression of informal institutionalization, some members of the political community—particularly those with resources to manipulate the judicial process—succeed in remaining free from prosecution (O'Donnell, 1998a).

Panama is one of these cases. As indicated in the US State Department's 1999 *Country Reports on Human Rights Practices: Panama*, "Although the Constitution provides for an independent judiciary, the judicial system is subject to corruption and political manipulation." This has consequences for the behavior of political actors—among them legislators—especially those with more clout. In formally institutionalized polyarchies, the certainty—or near certainty—that transgressions of the law, if discovered, will be punished, significantly contributes to keep illegal behavior under control. Where this certainty does not exist, as in Panama, political actors are free to operate with lesser constraints on their behavior.

Some degree of impunity was prevalent in Panama prior to 1968, as expected in a setting where social networks and patron-client relationships are the basic units of political interaction (Janson Pérez, 1993: 12-13). In their study of life in the old regime, Biesanz and Biesanz (1955: 145) remark that while the press occasionally accused officials of graft, "arrest or punishment for misappropriation of public funds" was uncommon. Perhaps the most notorious instance of impunity during the old regime occurred in 1955, when the dominant

political sectors succeeded in covering up the assassination of President José Antonio Remón (1952-1955). On this occasion, political maneuvering not only resulted in the obstruction of justice, but also in the removal and infamous conviction of First Vice-President José Ramón Guizado, who was unjustly charged with the killing's intellectual authorship (Pippin, 1964; Zúñiga, 1980).

Despite the old regime's inadequacies in ensuring justice and fairness, it was the military dictatorship that provided the most significant impulse for Panama's present state of impunity. Especially in its latter phase, under the leadership of Manuel Noriega (1983-1989), the military regime that ruled Panama between 1968 and 1989 approximated the ideal construct of "sultanism," as defined by Chehabi and Linz. Sultanism, originally identified as a regime type by Weber (1968 [1922]), is a system of domination "based on personal rulership." Loyalty to the ruler, however, "is motivated not by his embodying or articulating an ideology, nor by a unique personal mission, nor by any charismatic qualities, but by a mixture of fear and rewards to his collaborators." A sultanistic ruler exercises power "without restraint, at his own discretion and above all unencumbered by rules or by any commitment to an ideology or value system." Under sultanism, the rule of law is "constantly subverted by arbitrary personal decisions of the ruler, which he does not feel constrained to justify in ideological terms. As a result corruption reigns supreme at all levels of society" (Chehabi and Linz, 1998b: 7-8).

Sultanistic regimes include Haiti under the Duvaliers, Cuba under Batista, the Dominican Republic under Trujillo, Nicaragua under the Somozas, Reza Pahlevi's rule in Iran, and Marcos' dictatorship in the Philippines. Chehabi and Linz (1998c: 45, 47) posit that the powerful legacy of sultanism, especially in terms of "the corruption of society and the illegitimacy of individuals and institutions," leaves deep scars in a nation's polity that

prevent the development of democracy's institutions, notably the rule of law. Reflecting on the Panamanian case, a recent editorial in *El Panamá América* (11 April 2000) concurs with this view:

A culture of concealment, cover-ups, indifference, and disregard has developed in our country in the recent decades, even with respect to flagrant violations of the Constitution and laws supposedly in force (...) The authorities discover a container full of several million dollars, a worker falls from a scaffold as a result of inappropriate security measures, a repugnant homicide is committed, money custody agencies are robbed, government checks are falsified, abuses of power or bribery occur, and the community finds out through the media, which covers the events for a few days, after which everything falls into a black hole in the community's conscience and the mind of the authorities.

Without a doubt, this decay in the rule of law gained strength and became consolidated during the 21 years of military preeminence. At that time, family or friendship relations or simply money, allowed military officers to discontinue an investigation, bend the will of a jury, or arrange with a prosecutor, judge, or prison warden the removal of penalties or the silencing of the media.

Unfortunately, the reestablishment of democracy has not produced much improvement. We can even say that in some aspects, things have deteriorated in the last years. It is high time for civil society to become more watchful and militant in demanding the prosecution and punishment of crimes and transgressions of the law.

As suggested by the editorial, the military dictatorships of Omar Torrijos (1969-1981) and Manuel Noriega (1983-1989) secured loyalty through a system of graft and corruption that included extensive participation in the international arms and narcotics trade. The scheme was based on a military monopoly of these activities, including drugs transshipment and money laundering (Ropp, 1992). Institutionalized illegality financed the flamboyant lifestyle of the dictators and their staff and strengthened their firm grip on power.

The process of placing the state at the service of National Guard's interests began with the 1968 military coup. When in that year President Arnulfo Arias' restructuring of the Guard appeared to threaten the officer corps' active participation in corruption—including the drugs trafficking, prostitution, and gambling activities in which the Guard had been

involved since the 1940s—the armed force overthrew President Arias and inaugurated an era of direct rule by the military (Pedreschi, 1979: 40-41, cited in Bernal, 1986: 36). In its unchecked exercise of power, the Guard broadened its criminal involvement and subjected the institutions of the state to its rent-seeking interests.

Upon assuming power in 1968, the Guard “suspended” several provisions of the 1946 Constitution, notably the guarantees of individual rights contained in the charter (Comisión Interamericana, 1978: 12-13). Pursuant to its “Provisional Government Statute,” which acquired supremacy over the Constitution, the armed force appointed a military junta and a cabinet, assumed the exercise of legislative authority, and nominated compliant individuals to the Supreme Court and the Prosecutor-General’s Office (Bernal, 1986: 46, 21-22, 82-83). Predictably, police, investigative, and intelligence operations remained strictly dependent upon the National Guard commandant.

To replace the 1946 Charter, the dictatorship put through its own constitution, which entered into force on 11 October 1972, the fourth anniversary of the military coup. Article 2 provided for the exercise of public power by the executive, legislative, and judicial branches, acting in “harmonic collaboration” with the “public force,” i.e., the military. Article 277 recognized the leadership of Omar Torrijos—who consolidated his position as commander of the armed force and the country’s de facto ruler in 1969—and confirmed his sweeping authority over national affairs, including the power to appoint Supreme Court justices, the prosecutor-general, and the officers of the National Guard (Fábrega and Boyd, 1982: 7, 96-97). Although the clause was rescinded in 1978, in actuality these nominations remained the monopoly of the Guard’s commandant throughout the history of the regime. The fact that at each level the staff of the judicial branch and the Prosecutor-General’s Office were appointed by their hierarchical superiors effectively placed the nomination of

the entire law-enforcement personnel in the hands of the military dictator (Comisión Interamericana, 1978: 15, 69).

The policy of removing the criminal activities of the military dictatorship from the judicial sphere had crippling effects for Panama's law-enforcing institutions. Indeed, to date the Panamanian judicial authorities have failed to successfully prosecute the vast majority of the incidents of embezzlement, contraband, and corruption that occurred from 1968 to 1989. Moreover, throughout the regime, the judiciary served to grant pseudo-legal validity to the arbitrary actions of the dictatorship. Thus, in early 1976, after a suit was presented against the exiling of a number of prominent opponents to the dictatorship, the Supreme Court dismissed the plea, even though the 1972 Constitution expressly forbade exile (Comisión Interamericana, 1978: 99-100).

In 1977, the Inter-American Commission on Human Rights reported the dictatorship's highly arbitrary exercise of power and its numerous interferences with the judicial process. The organization also recommended that the government take measures to assure the effective independence of the judiciary and order all officials of the executive branch—including officers of the National Guard—to comply with judicial decisions (Comisión Interamericana, 1978: 110-11). The dictatorship, however, not only ignored these recommendations, but stepped up its brutality and illegality, especially after Manuel Noriega assumed command of the Panamanian Defense Forces (PDF) in 1983.²¹

Active military engagement in illicit activities such as embezzlement, administrative corruption, contraband, and narcotics and arms trafficking undermined the moral basis of

²¹ In 1983, the National Guard (Guardia Nacional) was renamed Panamanian Defense Forces (*Fuerzas de Defensa de Panamá*). On the transformation of Panama's armed force, see Guevara Mann, 1996.

the law and promoted these manifestations of criminal behavior as a practicable way of life.²² For National Guard officers, PRD leaders, government officials, and—in general—supporters of the military regime, illegality provided a viable means of acquiring wealth quickly, rising in economic status, and achieving a measure of social advancement. State-fostered illegality became, in effect, the trademark of military-controlled Panama. So was intrusion by the armed forces in public affairs, which promoted the Isthmian variant of militarism, combining corruption, violence, and a disregard for human rights, as a viable *modus vivendi*. These traits, which operated in sharp contradiction with the letter and spirit of the law, characterized the structure of Panamanian society under military rule.

Subordination of the state to the private enrichment interests of the military clique and its civilian supporters caused, among other features, the loss of independence and sense of purpose of the law-enforcing institutions. By subjecting these agencies to its objectives, the dictatorship corrupted their mission of upholding the rule of law. This translated into impunity for all who had connections with the military or could buy it from them, regardless of the seriousness of the crimes they might commit (Bernal, 1986: 47-50, 62-63; 82-84).

In June 1987, a retired chief of staff of the armed force publicly admitted the involvement of Noriega and the military in narcotics trafficking, electoral fraud, political murders, corruption, and mismanagement (Velásquez, 1993: 151). Open admission of the military's illegal activities by one of its members sparked an unprecedented wave of popular protest against the regime, which the dictator confronted with fierce repression. Noriega's harsh handling of the crisis strengthened the culture of impunity. The dictator incorporated common criminal types into the regime's repressive apparatus and unleashed them on

²² For eloquent treatments of corruption during the military regime see Dinges, 1990; Koster and Sánchez, 1990; Ricord, 1991; Ropp, 1992; Velásquez, 1993; and Zimbalist and Weeks, 1991.

protesters with viciousness. In the dictatorship's prisons, these and other "custodians" subjected demonstrators to untold abuses (Koster and Sánchez, 1990: 331, 338, 343, 345-46; Velásquez, 1993: 155-57).

In early 1988, Noriega organized a number of outlaws, PRD supporters, government employees, and unemployed individuals into the so-called "dignity battalions." This paramilitary group, which at its peak contained approximately five thousand members, had the mission of terrorizing the opposition and, ostensibly, defending the country against a feared US invasion. For this purpose, the dictator provided the "battalions" with weaponry and license to commit all sorts of illegalities (Ricord, 1991: 73, 58, 588).

The creation of this and other paramilitary groups further inclined Noriega's adeptness towards lawlessness. In the days following the invasion, before the US army restored order, the "dignity battalions" harassed and murdered many civilians and initiated the generalized looting which broke out in Panama City and Colón (Koster and Sánchez, 297, 362-63, 374; Ricord, 1991: 61, 445). Indeed, in the furtherance of its rent-seeking objectives, the dictatorship's recourse to criminality was limitless.

Panama, therefore, returned to polyarchy in December 1989 burdened by the trauma of the US invasion and contaminated by a culture of violence, impunity, and corruption. Although the invasion crushed the PDF and put an end to its control of the state, it represented no solution for the country's acute structural crisis. Addressing these issues was the responsibility of Panama's civilian rulers who, however, proved unequal to the task.

Contrary to public expectations, which called for a complete overhaul of the constitutional, judicial, and administrative systems, the civilian government of President Guillermo Endara (PA, 1989-1994) decided to abide by the military regime's legal framework, including the 1972 Constitution, as amended in 1983. On 21 December 1989,

the new government issued a "Statute of Immediate Return to Constitutional Order" (*Estatuto de retorno inmediato a la plenitud del orden constitucional*) that purported to safeguard the integrity of the 1972 Charter. Observers criticized this initial decision of the new civilian administration not only as a monument to juridical incoherence but, additionally, as a serious mistake by a government expected to discard an illegitimate constitution and call the election of a constituent convention to renew the institutional foundations of the state according to democratic form and substance (Ricord, 1991: 520-26; Mata Kelly, 1992).

Apparently opposed to the reduction of its term in office, the government, however, refused to consider holding elections for a constituent assembly. Instead, it suggested effecting a few amendments to the 1972 Charter through one of the reform procedures contained in Article 308 of the Constitution, whereby the proposal is initially discussed in the Legislative Assembly and later submitted to referendum. This formula was rejected in favor of a constituent convention by those who questioned the representativeness of the chamber as a result of the dubious electoral review process conducted to constitute the Assembly (*La Prensa*, 2 March 1990, 7 March 1990, 11 January 1991).²³

The fledgling civilian administration, however, snubbed these demands. In an interview with the German Deutsche Presse agency (DPA), First Vice-President Ricardo

²³ Upon assuming power on 20 December 1989, the new government entrusted the Electoral Tribunal with the legislative vote count. The Tribunal, composed at the time by the same personnel that had manipulated the elections in 1984 and 1989, appointed a committee of representatives of political parties to conduct the vote count, based on the incomplete tally sheets of the 1989 elections. These tally sheets featured numerous irregularities that were never cleared. Additionally, most of the parties that participated in the 1989 elections and were convoked to conduct the count had obtained their registries through illegal means. Furthermore, many potential candidates had been prevented from freely participating in the 1989 elections through intimidation or violence. Despite these serious issues, the new government decided to constitute the chamber on these spurious bases, instead of holding new and transparent elections for a constituent assembly. After accepting the evaluating committee's report, on 23 February 1990 the Electoral Tribunal proclaimed the election of 58 legislators and determined to hold new elections to fill the remaining 9 seats, representing districts that had returned insufficient electoral information. Thus constituted, the new Assembly met for the first time on 1 March 1990. Ricord, 1991: 565-68.

Arias Calderón (PDC), who also served as minister of Government and Justice until May 1991, stated the new government's policy in stark terms: "We were elected by the Panamanian people under a constitution that is not perfect, but the amendment of which is not the country's basic problem." He added: "I do not believe the country will tolerate any questioning of legitimacy and legality" of the government (FBIS, 2 January 1990, p. 42).

On 21 March 1991, Vice-President Arias Calderón (PDC) submitted a brief, four-article constitutional reform proposal to the Assembly. In essence, this initiative was limited to modifying the Constitution's preamble to delete references to the "revolution" (i.e., the military dictatorship), banning the establishment of an army, and recognizing the Electoral Tribunal's autonomy (*La Prensa*, 21 March 1991). An editorial in *La Prensa* (25 March 1991) criticized the government's intention of forcing the legitimation of the 1972 Constitution through a process culminating in a referendum that presented voters with no real democratic choice. In effect, the public would be required to choose between two artificial options, both of which signified acceptance of the charter introduced by the military regime: one with slight amendments, the other with none.

In accordance with Article 308 of the Constitution, the constitutional amendment required two approval rounds by the Assembly, the first of which was achieved in June 1991. In the ensuing session period, however, a new, broader reform proposal was introduced and approved. This new initiative's second approval round was ensured in June 1992.

In its final form, the constitutional amendment bill contained 58 articles. Among other changes, it reformed the Charter's preamble, ruled out the establishment of an army, granted autonomy and legislative initiative to the Electoral Tribunal, recognized right to information without censure, created the office of the ombudsman, expanded the Assembly's capacity for censuring appointed officers, and eliminated the requirement of

prior authorization for expenditures by the Comptroller-General's Office (*La Prensa*, 7 June 1991, 14 June 1991, 15 June 1991, 17 June 1991, 28 June 1991, 18 July 1991, 2 September 1991, 6 June 1992, 18 June 1992, 30 September 1992, 10 November 1992, 14 November 1992).

Less than half of the electorate went to the polls when the bill was finally submitted to referendum, on 15 November 1992, at which time the proposal was flatly rejected. Most voters who showed up interpreted the referendum as an opportunity to punish the Endara Administration as well as the civilian parties that supported the constitutional reform and had opposed the military dictatorship (PDC, MOLIRENA, PLA, PA). By that time, the government and the anti-dictatorship parties had lost much credibility (*La Prensa*, 16 December 1992).

Minor constitutional amendments—which ruled out the establishment of an armed force and incorporated a chapter on the administration of the Panama Canal, in addition to changing the text of the preamble—were, however, approved in 1994, through the second reform procedure allowed by Article 308 of the 1972 Constitution. This alternate mechanism requires approval of a constitutional reform bill by two successively elected Assemblies (Bernal, 1995; 7,141-49).

In addition to failing to democratize the institutional structures of the Panamanian state and adhering to the dictatorship's Constitution, the new government also entrusted highly sensitive security and judicial functions to individuals with close links to the military regime. Prominent among these was Rogelio Cruz, the government's choice for prosecutor-general, who served as secretary to puppet president Ricardo de La Espriella (PRD, 1982-1983) and legal counsel to a bank set up by the Colombian drug cartels. He was eventually

dismissed, in 1992, after critics implicated him in money laundering activities (Furlong, 1993).

President Endara's ill-advised appointments, along with official tolerance for corruption and the government's perceived lack of direction, alienated support for the administration and rendered effective governance all the more difficult. Particularly demoralizing for the public was the apathy of judicial authorities in seeking indictments against those accused of the numerous illegal acts committed during the military regime (Furlong, 1993). Moreover, in June 1994, a few weeks before the expiration of his term—and, presumably, at the request of President-Elect Ernesto Pérez Balladares (PRD)—President Endara exercised the executive's constitutional prerogative of granting pardons for political offenses, contained in Article 179 of the charter, in favor of 542 civilian collaborators of former dictator Manuel Noriega (Bernal, 1995: 81-82; *La Prensa*, 7 June 1994).

In addition to the sultanistic legacy of the military regime, therefore, a weak commitment to the universalistic foundations of democracy as well as to the rule of law by Panama's civilian political leaders has further contributed to erode the cause of justice and legality. The erosion intensified during the most recent tenure of the military-engendered PRD, under President Pérez Balladares (1994-1999). Throughout his term in office, President Pérez Balladares employed the constitutional provision of presidential pardon for political offenses in highly particularistic fashion, manipulating it to free PRD supporters and associates from prosecution or conviction for criminal cases.

Reflecting on the chief executive's abuse of power for particularistic purposes, an editorial in *El Panamá América* (31 August 1999) disapproved of President Pérez Balladares' "shameful" practice of "abusing, denaturalizing, and prostituting" the institution of

presidential pardon, which he had used “to release common criminals.” “In five years of government by the PRD,” continued the editorial, “more than a thousand criminals have been exonerated and set free.” According to the daily, the list included “looters of the public treasury,” “coward assassins,” “embezzlers of the worst breed,” “torturers,” and “rapists,” among other types.

A survey of the last PRD administration reveals President Pérez Balladares’ proclivity to use the executive’s constitutional prerogatives in particularistic ways, to the detriment of the rule of law. Shortly after assuming office, the president pardoned 216 conspicuous collaborators of the Noriega dictatorship, whose offenses he labeled “political.” Among those exonerated from criminal responsibility were several former PDF officers accused of gross human rights violations and notorious appropriators of public resources, as well as the head and many members of the infamous “dignity battalions” (Rohter, 1995; *La Prensa*, 24 September 1994).

Similar types were absolved in a second round of presidential pardons—139 on this occasion—that followed in September 1995. This time, the presidential largesse extended to Noriega’s second-in-command, who served a prison term for seizing several million dollars in public funds; a former air force chief accused of incorporating hundreds of hectares of a national forest into his personal fiefdom; and the architect of the 1984 fraud and the annulment of the 1989 elections (*El Panamá América*, 8 September 1995; *La Prensa*, 8 September 1995; *Latin American Weekly Report*, 28 September 1995). Concurrently, PRD Legislator Alberto Alemán Boyd (1984–1999) introduced an amnesty bill in the Legislative Assembly. The measure purported to benefit an estimated 1,000 defendants in a wide array of judicial processes for offenses committed during the military regime (*El Panamá América*,

14 November 1995). Widespread criticism at the national and international level forced the Assembly to shelve the bill.

The practice of relieving associates and party loyalists from their responsibility before the law through presidential pardons continued throughout the 1994-1999 term and was upheld by the Supreme Court. Two days before leaving office, President Pérez Balladares pardoned 35 more PRD sympathizers for common crimes that included homicide, embezzlement, theft, and falsification. Responding to public indignation at this last-hour attempt to manipulate the judicial process, in the days following her ascent to power President Mireya Moscoso (PA, 1999-) issued a decree rescinding the last round of pardons (US Department of State, 2000; *El Panamá América*, 28 August 1999, 30 August 1999, 31 August 1999, 1 September 1999, 3 September 1999, 5 September 1999, 5 September 1999).

Before President Moscoso's order was promulgated, however, several beneficiaries of the former chief executive's decree were set free. Furthermore, because Prosecutor-General José Antonio Sossa also sued President Pérez Balladares' decree before the Supreme Court, this tribunal is due to decide the validity of the ex president's last pardon. At this writing, the Court has ruled that convicts released before the promulgation of President Moscoso's decree must remain free. In other individual cases, the judiciary has decided in favor of three recipients of Pérez Balladares' pardon and against a fourth beneficiary, an ex military officer condemned in absentia for homicide (*El Panamá América*, 6 September 1999, 7 September 1999, 8 September 1999, 9 September 1999, 12 September 1999, 15 September 1999, 17 December 2000; *La Prensa*, 13 April 2000; 21 December 2000).

The generalized climate of impunity described in this section conditions the behavior of Panama's political actors, including members of the Legislative Assembly. Politicians inclined towards illicit behavior are likely to participate in illegalities if they know that with

appropriate connections or for the right fee they can get away with unlawful activities. In the case of Panama's legislators, a long, five-year mandate, coupled with the non-existence of citizen initiatives such as recall and referenda, serve to further promote impunity. Only parties, which are for the most part controlled by closed cliques, possess recall mechanisms. Citizens are able to hold legislators accountable only at election time, once every five years. Additionally, members of the Assembly enjoy a broad "legislative" immunity—the topic of Chapter 6—that they have transmuted into an institution protecting them from prosecution in nearly all cases. Indeed, as long as legislators follow the party line, they are guaranteed a free hand in personal enrichment and other particularistic activities during incumbency.

Clientelism

Clientelism is a form of particularism. According to Mainwaring (1999: 178), "Clientelistic relationships are not based on codified rules or universal criteria. Instead, the exchange is personalized and individualized, based on bargaining (implicit or explicit) between the two sides." Clientelism involves the assignment of public goods

as though they were personal favors to clientele in return for supporting their political patron. Political criteria (allegiance to a person or party) and personal connections prevail over other possible modes of selection of beneficiaries (universal entitlement, random selection, meritocracy, efficiency, etc.).

Although some clientelistic practices may involve illegal acts, clientelism and corruption are not synonymous. As pointed out by Mainwaring (1999: 180), "some forms of clientelism constitute legitimate political practices." There is no doubt, however, that clientelism undermines the quality of democratic representation. Its private, particularistic nature contradicts the public essence of representation, as defined by Pitkin (1967: 221-22). Its hierarchical character countervails the principle of political equality that is at the root of

the democratic system and reduces possibilities for the exercise of democratic accountability. Constituents “bought” by politicians through clientelistic favors are unlikely to hold them accountable when they fail to act in the public interest. Moreover, where the democratic system requires civic engagement and active involvement in public affairs, clientelism breeds passivity and conformism. As observed by O’Donnell (1996), clientelism may coexist with polyarchy. However, it reduces the possibilities for advancing toward a deeper democratization that, according to an optimistic reading of Dahl (1971), should be the goal of all polyarchies.

Panamanian politics have traditionally exhibited a strong clientelistic component, a characteristic noted by students of Isthmian society and political culture. Janson Pérez, for example, has emphasized the “face-to-face” nature of social, economic, political, and religious interactions, which she explains on the basis of a historically low population density. “In terms of social organization,” she adds,

the social network and patron/client relationships became the basic units above the level of the family (...) In asymmetrical relations, the patron/client relationship—called *compadrazgo* and *padrinazgo* in the Panamanian political scenario—prevailed as the basic relation for survival and upward mobility (Janson Pérez, 1993: 12-13).

In Janson Pérez’s view, clientelism was reinforced by the gradual erosion of ideology experienced after Panama’s secession from Colombia in 1903. “Personalism, reliance on networks, and pragmatism tended to stunt the growth of parties based on principles over personalities.” Furthermore,

In a society where pragmatism reigned, principled leaders were discouraged, removed, or isolated. Defense of principles was anathema in a culture which relied on personal relationships to obtain desired goods and ends.

Financed by special interests, larger political parties were but higher-level structures built upon personalism, family, network, and patron/client relationships for the purpose of enhancing and protecting these interests.

Thus, the concept of the political party as an instrument of political patronage was entrenched. Voting behavior in terms of supporting a party in the expectation that, when in power the party would provide jobs, was generalized. Individuals put enormous pressure upon government officials to provide jobs and special favors. Conversely, it was not only politically but socially disastrous for an office holder to fail to meet his network obligations, or for a party to neglect its own while in power (Janson Pérez, 1993: 23-26).

Biesanz and Biesanz (1955: 144) concur with Janson Pérez's notions about the lack of ideology and the pervasiveness of clientelism in the old regime that, they argue, conforms to "the Latin American pattern." In their view, party labels meant little:

The party is not, however, a group of like-thinking citizens advocating a certain platform to be fulfilled by a certain candidate. It is a personalized affair, a feudal system in miniature in which the candidate is the "Gran señor," and his vassals support him with the expectation of receiving protection and favors in return.

According to a practice already well established at the time of Biesanz and Biesanz's writing, party leaders would "court the local caciques, or chiefs (also called *gamonales*)."

These "ward heelers" of Panama—landowners or merchants who frequently held public office as provincial deputies, governors, or mayors—"control blocks of votes, and no party leader dares ignore them. They are the foundation stones of party organization, particularly in the rural districts." Panamanian intellectual Gil Blas Tejeira,²⁴ cited by Biesanz and Biesanz, explains the dynamics of a political system deeply permeated by clientelism:

Many are the *gamonales* who owe their power and influence to the fact that they always have their purses open to take care of a need which they know exists and to their willingness always to help a friend in an administrative matter. Naturally when election day draws near (...) the farmer (...) prefers to go to the cacique for advice, offering his vote. For the only thing which really interests him is to be able to go on counting on the aid and protection of the *gamonal*, with the money in his pocketbook when necessary, and with the letter for the governor or the assemblyman or the high functionary so they will give heed to his requests.

The *campesino* and even the city man who has no considerable wealth nor independent position is accustomed to depend on the influential friend in order to have his rights respected, tranquility to keep the things he possesses and even to

²⁴ Gil Blas Tejeira, incidentally, served as deputy in the 1945-1948 Assembly.

secure those little favors which are denied to those who do not have such relationship (Biesanz and Biesanz, 1955: 151-52).

Anthropologist Gloria Rudolf offers yet another depiction of clientelism in the old regime. In her study of a small highland community in central Panama, one character reminisces about the dynamics of client-patron relationships that constituted the basis of rural politics prior to 1968. Although the account employs fictitious names to protect confidentiality, it is nevertheless illustrative not only of the support-buying mentality of politicians but also of voters' expectations of candidates and deputies wishing to retain their Assembly seats:

I remember when Lelo Conte ran for Deputy in the old National Assembly. When he started he was rich, when he ended he was richer. At election time he came to Copé and sent word up to us that there would be food. We all climbed down to get some, but there wasn't even much to eat. My mother didn't get any. Later, after the election, she saw him once and asked him for something in return for her vote. He said, "No," mentioning that he had already given much. He did nothing for us. A little later Choncho Sosa campaigned in Copé and he got us to vote with the promise of meat (...). By the time I got there it was all gone, but we collected big sacks of sugar. After the vote we never saw Sosa again. Then there was Juan Arango who distributed money (Rudolf, 1999: 129).

Janson Pérez, Biesanz and Biesanz, and Rudolf agree that electoral results in old regime Panama were highly determined by asymmetrical patron-client relationships. As exercised by National Assembly aspirants or deputies seeking reelection, clientelism constituted a highly visible informal institution—in the sense that it guided political life more effectively than codified rules—as theorized by O'Donnell (1996). But, because in their quest for political gain candidates relied mostly on private resources rather than on public goods, the practice was not entirely coterminous with patronage, or "the use or distribution of state resources on a nonmeritocratic basis for political gain" (Mainwaring, 1999: 177).

This characteristic would change with the significant growth in state activity in the 1960s, particularly after the 1968 military coup, as well as with the military regime's heavy

reliance on state resources to buy political support. Beginning with the US Alliance for Progress initiative and, later, with the expansion in the availability of international finance and development capital, the Panamanian state became eligible for—and made use of—large amounts of funding (Koster and Sánchez, 1990: 122, 138, 147). A strong legacy of clientelism, in addition to the authoritarian, particularistic, and venal nature of the military regime as well as the relaxed lending criteria applied by international donors and financiers, naturally resulted in a heightened channeling of state funds towards the cultivation of clientele by the political leadership. As expressed by Janson Pérez (1993: 357):

The funds obtained from outside sources by the military-controlled governments were detoured into the pockets of office-holders, no doubt. They were also employed to accentuate paternalism and patron/client relationships.

Instead of being converted into goods and services in the form of “rights” or entitlements, the military controlled government converted these inputs into “gifts.” Already existing paternalism and patron/client relations systems of political adaptation were thus strengthened.

Predictably, the military regime’s efforts to build political clientele targeted low-income urban dwellers and the peasantry. Outside funding allowed the creation of Banco Hipotecario Nacional, a state mortgage bank, in 1973, which provided an opportunity for assigning housing loans through political intermediaries, as personal favors of Omar Torrijos, military dictator from 1969 to 1981. Drivers’ unions aligned with the regime gained access to fuel subsidies and student leaders responsive to the regime obtained scholarships, as did poor families who pledged support to the dictatorship. The expansion of the state allowed the use of the public payroll to favor political clients through government jobs in a manner that far surpassed the tradition of the old regime, under which the practice was customary (Biesanz and Biesanz, 1955: 145-46; Pereira, 1979: 136, 176-77; Priestley, 1986:129; Vásquez, 1989: 215, 317).

Responsive rural communities, which were easier to manipulate than the more informed and populated urban districts, also received benefits during the military period (Koster and Sánchez, 1990: 214). Torrijos would frequently carry out what he called “domestic patrolling,” tours of the countryside during which he personally supplied the needs of the local population—through immediate cash handouts, when required—and order improvements for the benefit of receptive communities (Wong, 2001). In exchange for political support, the regime created and sponsored dozens of agricultural cooperatives and provided its leaders with easy access to credit. In this way, the military regime channeled large amounts of public funding toward the rural cooperatives. Their directing boards, most of whose members also drew salaries from the state, mismanaged a considerable proportion of these funds (Koster and Sánchez, 1990: 151-52; Pereira, 1979:136-37; Priestley, 1986: 60). Rudolf (1999:131) illustrates the dynamics of the new, state-financed clientelism as they affected a remote rural community in Coclé Province:

To gain support of the peasantry, but keep control centralized in his office, Torrijos designed top-down, authoritarian, and male controlled operations. He built them on patron-client relationships that reinforced existing economic, political, and gender inequalities. This meant that important decisions made at the political top in Panama City flowed downward through a system of patronage. Eventually, they would get to the level of military men like Fernando García who, in turn, selected a few local people as his client-allies (...)

García tapped these men and their wives and families sometimes for economic assistance (...). He also turned to some of them for dependable political support. Carlos Rocha, for example, who had wide political networks in the region due to his years of work as a *regidor*,²⁵ acted often as García’s political eyes, ears and mouth in the region. García groomed him as a candidate for municipal representative in the national elections of August of 1972, a position that Carlos won.

As expected in a country with acute income inequality—and as a result, strong, stable demand for public goods—clientelism succeeded in generating some support for the military

²⁵ The unpaid assistant of a *corregidor*, or county magistrate, in an isolated locality.

regime.²⁶ At the polls, the regime's party, the PRD, normally receives between one fourth and one third of the vote; for legislative elections from 1984 to 1999, the average was 25 percent.²⁷ More significantly, widespread, state-sponsored clientelism became pervasive in Panama's political system. This feature falls in line with Chehabi and Linz's prediction that if a sultanistic regime is replaced by polyarchy, "chances are that this new democracy will display strong clientelistic tendencies, with the democratically elected leaders using the resources of their office to build nationwide patron-client relationships" (1998c: 45). Indeed, as regards the behavior of Panamanian legislators, this strong legacy of clientelism has encouraged the design and use of *partidas circuntales*, large constituency funds directly administered by members of the Assembly, as a principal element in their reelection aspirations. Chapter 7 will address this topic in detail.

Summary

This chapter began by reviewing the main arguments of the literature on the behavior of members of the US Congress, which assumes that most of them are motivated by static political ambition, i.e., a desire to advance their political careers by retaining their seats in the representative assembly. For this reason, reelection is their main immediate goal.

²⁶ A recent government report states that income distribution in Panama "is characterized by a degree of inequality that features among the highest in Latin America and the world." According to the study, the Gini coefficient of inequality for 1997 was estimated at 0.60, which places Panama, together with Brazil, at the top of the income maldistribution list in Latin America. The report further indicates that although Panama's average per capita income is above the Latin American average, the high degree of inequality rendered poverty prevalent among 42 percent of the population in 1997 (República de Panamá, Ministerio de Economía y Finanzas, 2000).

²⁷ This calculation, of course, is based on official figures and does not take electoral fraud into account. Electoral data come from the Electoral Tribunal's website (www.tribunal-electoral.gob.pa/elec/elec13-01.html) and Comité de Apoyo, 1989.

In Panama, a majority of legislators seeks reelection, but most do not succeed, although a significant rise in the reelection rate took place in 1999. Chapter 7 will examine this particular development at length.

Recent additions to the literature on legislators' behavior suggest that in those countries where reelection is not a possible or attractive goal, progressive ambition motivates representatives towards the search for alternative political office. In Panama, where immediate reelection is allowed, most members of the Legislative Assembly seek reelection or election or appointment to other public employment, a characteristic that coincides with the general theoretical expectations. Additionally, Panamanian legislators pursue other objectives, such as getting rich and/or obtaining immunity from prosecution.

At least three informal institutions prevalent in Panama allow legislators to seek other ends besides reelection (or political advancement) and encourage the use of reelection devices seldom dealt with by analysts of assembly politics. A strong historical legacy of electoral fraud, impunity, and clientelism, which received added impetus during the 1968-1989 military regime, fosters actions that, while not generally addressed in the literature, are central to understanding the behavior of representatives in informally institutionalized polyarchies and the undemocratic performance of deliberative chambers in many of these settings. Indeed, assemblies constituted on the basis of vote-rigging, impunity, and clientelism can hardly produce democratic effects, because these informal traits violate the very essence of the democratic system.

By illegitimately depriving part of the community from exercising free voting rights (fraud), exempting certain individuals from justice (impunity), and manipulating voters through the particularistic assignment of public goods (clientelism), and all three traits contradict the notions of political equality and universalism that are central to the idea of

democracy. They also undermine the democratic requisites of the rule of law, transparency and accountability, according to which the actions of government officials should unfold in compliance with the provisions of the law and the public has a right to dismiss those officers who do not act correspondingly.

These traits also distort the notion of democratic representation, a legal fiction whereby the whole community participates in the fulfillment of such basic democratic functions as deliberation, lawmaking, and oversight and which additionally aims at assigning the functions of government to the most competent members of the community. Members of deliberative chambers who obtain their seats through fraud or clientelism hardly enjoy the necessary credentials to act substantively in the interest of the governed, because these informal institutions pollute the link between constituents and their representatives.

Democratic representation requires a free, fluid connection between representatives and constituents, a connection obstructed by the informal traits that condition the selection of Panama's legislators. As regards impunity, individuals who manipulate the political system to remain free from prosecution are hardly fit to act as anticipated by Madison, i.e., as "proper guardians of the public weal." Last but not least, fraud, clientelism, and impunity prevent the members of the political community from participating in the process of discussing, elaborating, and enacting measures that affect all, yet another key element of the democratic system.

In Panama, clientelism—one of the three informal institutions examined in this chapter—is reinforced by at least other three, formal institutional traits: seat allocation formulas, district size, and the balance of power between the executive and the assembly. These features are, to a large extent, legacies of the military regime, especially of the constitutional design adopted in 1972 and modified in 1983. Chapter 3 provides evidence in

this regard, in addition to comprehensively describing these formal institutional traits and examining their relationship to Panama's informal institutionalization to produce behaviors that theories of legislators' behavior have not fully addressed.

CHAPTER 3

FORMAL INSTITUTIONS AND INCENTIVES TO CLIENTELISM

As was pointed out in Chapter 1, formal institutions also help shape the behavior of political actors. The literature on legislators' behavior posits that members of deliberative chambers calculate and pursue the appropriate means to achieve their objectives—essentially career advancement—on the basis of self-interest and the institutional framework within which representatives operate. According to Katz (1980: 13), the institutional environment in which assembly members function consists of two basic elements: the electoral system and the distribution of politically mobilizable resources. Other authors identify additional elements outside the electoral environment, such as the party system and relations between the executive and the assembly, as influential in determining the behavior of representatives (Mainwaring, 1999; Shugart and Carey, 1992).

Although several institutional characteristics may provide incentives for representatives' actions, this chapter focuses on traits that, in the Panamanian context, clearly exercise a primary stimulus in promoting clientelism. Two are part of the electoral system: seat allocation formulas and district size. Other electoral features, such as term limits as well as rules governing candidate nomination and campaign finance, can also be expected to have an impact in furthering clientelism and related political phenomena. However, in identifying incentives to clientelism—the purpose of this chapter—Katz's suggestion of selecting “those aspects of electoral law that are of the greatest importance” (1980: 20) is valid. In Panama's

case, allotment rules and district size are the principal electoral features that promote clientelistic behavior by legislators. This chapter also examines a third institutional element, outside the electoral system, that provides a clientelistic connection: the balance of power between the executive and the assembly.

Seat Allocation Formulas

Panama's seat allocation formulas clearly promote the personal vote, an important incentive to clientelism (Katz, 1980; Mainwaring, 1999; McCubbins and Rosenbluth, 1995). Addressing this connection first requires an examination of the Legislative Assembly's electoral design. The unicameral chamber is currently composed of 71 legislators (*legisladores*) from 26 single-member and 14 multi-member constituencies electing between two and six legislators each for a five-year term.²⁸ Legislators are chosen concurrently with all other elected offices, including the president and two vice-presidents, 20 deputies to the Central American Parliament, 74 municipal mayors, and 594 county representatives. The latest general election was held in May 1999. The next election is scheduled for May 2004.

According to Article 141 of the 1972 Constitution, for the purpose of electing legislators, each municipal district within the country's nine provinces having more than 40,000 inhabitants comprises one constituency. Each constituency elects one representative for every 30,000 inhabitants and an additional one for every fraction over 10,000. Additionally, the San Blas (Kuna Yala) Indian reservation is divided into two constituencies,

²⁸ Presently, seven constituencies elect 2 members; one, 3 members; three, 4 members; two, 5 members; and one, 6 members, for a total of 45 legislators elected in multi-member constituencies, called *circuitos "plurinominales."* Given the rise in population reported in the 2000 census, unless the electoral legislation is amended, the total number of legislators will increase to 82. *El Panamá América*, 2 December 2000.

each of which elects one legislator; Darién Province, along the border with Colombia, is also constitutionally divided into two single-member electoral districts.

Single-member districts employ the majoritarian or plurality system to identify winning candidates. In these constituencies, the candidate who garners the largest vote is declared the winner; s/he does not require an absolute majority, only a plurality of ballots. In multi-member districts, representatives are elected in accordance with a preferential party-list system of proportional representation, with seats allotted initially according to a double quotient system. The first allocation uses a simple electoral quotient. During this round, seats are allocated to parties that obtain a number of votes equivalent to at least the electoral quotient. In other words, if 100,000 votes are cast in a constituency electing five members, each party attaining at least the full quota of 20,000 votes ($100,000 \div 5$) is allotted one seat. The identity of the legislator is determined on the basis of the preferences received by candidates on each party list.

At the subsequent allocation stage, unassigned seats are distributed to parties obtaining at least as many votes as half the electoral quotient (i.e., 10,000 votes in the example). Remaining seats go to individual candidates receiving the highest preferences in each constituency, without regard to the share of the vote received by each party. To provide for vacancies in the legislature, two alternates or substitutes are elected concurrently with each legislator (Bernal, 1995: 51-54 [Articles 140, 141]; IPU, *PARLINE* database; República de Panamá, Tribunal Electoral, 1996; Morice, 2000b). Except for the rule governing the allocation of remainders in multi-member districts (approved in 1993), the institutional arrangement dates back to 1983, when the military dictatorship reformed the 1972 constitution to allow the election of a representative assembly, seemingly drawn along liberal-democratic lines.

Various authors have examined the behavioral implications of seat allocation formulas. In his distinction between campaigning under proportional representation (PR) and plurality systems, Katz (1980: 24-28) holds that PR generally encourages an ideological campaign approach while the plurality system— used in Panama's single member districts, which elected 37 percent of the Assembly's membership in 1999—promotes personalistic, localistic candidatures. Katz (1980: 28) explains the rationale behind this prediction as follows:

In PR systems, voters choose parties rather than individuals. Because candidates are obliged to say "Vote for my party" rather than "Vote for me," it is more difficult for candidates of the same party to take different political lines. The importance of the corporate identity of the party is increased, and particularly the importance of the sense that its issue stands represent a unified program rather than a number of isolated proposals of individual candidates. Correspondingly, the general organizing principles underlying specific proposal, that is the ideology, become more important.

Conversely, plurality electoral schemes encourage personalistic or localistic campaigning. Since the choice of voters is for candidates rather than for parties, candidates may attempt to minimize or even ignore their party affiliation, and the commitment to a specific platform that this implies. This naturally increases the relative importance of personality. Because local candidates are encouraged, localistic consideration will be of particular importance to some candidates (facing a local party challenge) and of some importance to most candidates (hoping to prevent such a challenge in the future).

Katz and other authors also note the differences in campaign styles depending on the type of PR used to allocate seats. In closed-list systems, voters may only cast a vote at the party level, without expressing any preference about the candidates listed on the ballot. In other words, "the division of the seats awarded to a party is left entirely to that party's discretion, although that discretion generally must be exercised before the election takes place." The party normally submits a candidate list "under the provision that its share of the constituency's seats will be awarded to candidates in the order in which their names appear on the list" (Katz, 1980: 31). Because voters cast their ballots for parties, not individuals,

the expectation is that candidates in closed-list PR systems will campaign on the basis of party label and ideology.

Another type of proportional representation, open-list PR, allows voters to “to decide among a party’s several candidates in a multimember plurality system” (Katz, 1980: 31). In Panama, voters may mark the names of their preferred candidates on a party list; if the party receives an amount of votes equal to the quota or half-quota required for a seat, the seat is assigned to the candidate receiving more preferences on the list. Furthermore, as noted above, remainders are allotted to those residual candidates featuring higher preference votes.

Carey and Shugart (1995) predict that one of the effects of an open-list electoral system such as is used in Panama’s multi-member districts is to encourage legislative campaigning based on personal reputations (the quality of “being personally well known and liked by voters”). According to these authors, an emphasis on personal popularity is a valuable campaign tool where candidates compete not only against aspirants in other party lists but also with copartisans appearing on the same party ballot. This prediction is significant for Panama, where most legislators (45, or 63 percent of the chamber in 1999) are elected in small multi-member districts and where, additionally, remaining seats are assigned to individual candidates receiving the highest preferences, regardless of the proportion of the vote received by parties.

Panama’s seat allocation rules thus give personalism a definitive premium over party label as an effective campaign device. Authors studying the electoral politics of informally institutionalized polyarchies have explored the link between personalism and clientelism. Where the electoral system undermines appeals based on party ideology, the demand for public goods is strong, relatively stable, and district-specific (Ames, 1995), and policy issues

attract little attention (Mainwaring, 1999: 188), candidates—including assembly incumbents seeking reelection—frequently build up personal reputations as providers of state resources to specific localities. In these settings, developing distinct profiles based on delivery of public goods to communities constitutes a convenient (albeit expensive) means of procuring electoral victories (Carey and Shugart, 1995; Mainwaring, 1999: 187-90).

The case of Brazil, which shares certain institutional and structural similitudes with Panama—among them, open-list PR, a strong demand for public resources, and indifference for policy issues among broad sectors of the population—is illustrative of the effects on campaign behavior of an electoral system that fosters personalism. In Brazil, few candidates seek votes along ideological lines. As reported by Ames (1995), office-seeking politicians cultivate single-issue niches and spend lavishly in their constituencies, and rational voters back candidates based on their potential for patronage distribution. This campaign style contributes to hinder voter control over Brazilian deputies, increases incentives for clientelism, and undermines party programs and discipline.

For Ames (1995), however, open-list PR “is not a sufficient condition for weak parties” and, consequently, for personalistic politics. Pre-dictatorship Chile, he explains, featured open-list PR with highly ideological parties, as does Finland, where the system is currently applied (IPU, *PARLINE* database). But, in combination with three other Brazilian electoral traits—large multimember districts, candidate selection at the state level, and the possibility of immediate reelection—open-list PR works in Brazil to produce “parties without programs, parties sheltering an enormous range of interests and preferences” and, thus, stimulates the tendency among politicians to build personal reputations as providers of clientelistic benefits.

Panama differs with Brazil as regards district size and localized candidate selection. However, it shares with its larger South American neighbor not only open-list PR and the absence of term limits, but also—as described in Chapter 2—such structural characteristics as a greatly skewed income distribution that creates a strong, stable, and localized demand for public goods. A politics with a generally low ideological content is another commonality. Following Ames' (1995) and Mainwaring's (1999) analysis of Brazilian politics, these features constitute incentives to clientelism.

District Size

Upon assuming power in a 1968 coup, Panama's military dictatorship closed the 42-member National Assembly, which had exercised legislative authority since the foundation of the republic six decades earlier.²⁹ The power to legislate remained in the hands of the military-controlled executive until 1972, when a new constitution, providing for a 505-

²⁹ There was a brief interruption in the existence of the National Assembly between 1944 and 1946. As a solution to the political crisis facing the country in late 1944, on 29 December of that year de facto President Ricardo Adolfo de La Guardia issued a decree revoking the Constitution of 1941, dissolving the National Assembly, and convoking the election of a Constituent Convention. I thank Ricardo Arias Calderón for directing my attention towards this incident. Elections to the Constituent Assembly were held in May 1945 and the convention began its activities on 15 June. A major flaw in the election of this Constituent Convention was the exclusion of the political sectors that remained faithful to Arnulfo Arias, deposed in 1941. Following President Arias' removal, his de facto successor, President de La Guardia, assumed the leadership of the PNR. After the 1945 Assembly enacted a new constitution, on 1 March 1946, the Convention rescinded its constituent powers and transformed itself into a National Assembly exercising normal legislative authority in accordance with the Constitution of 1946. In July 1948, this same Assembly resolved to transform itself back into a Constituent Convention, assuming broad powers and rejecting the results of the elections held the previous May, which Arnulfo Arias had won (see Chapter 2). This Assembly coup attempt, however, was frustrated when the Supreme Court declared the chamber had abused its authority and revoked its July 1948 resolution. A new National Assembly, elected in May, was inaugurated on 1 October 1948. See Moscoso, Cabezas, and Aguilera, 1945: 13-17; República de Panama, Asamblea Nacional de Panamá, 1948; and Pizzurno and Araúz, 1996: 314-17, 321-24, 343. Yet another attempt, albeit unsuccessful, to close the National Assembly occurred in May of 1951, when President Arnulfo Arias issued a decree replacing the Constitution of 1946 with the 1941 Charter and dissolving the National Assembly. The public outcry generated by the decree forced the president to repeal his decision two days later. The Assembly then voted to impeach President Arias

member "Assembly of County Representatives," was introduced. In Panama, counties (*corregimientos*) constitute the smallest political division, below municipal districts and provinces. Prior to 1968, municipal councils, composed of councilors (*concejales*) elected at large, operated in each district. When municipal councils were reinstated in 1972, the proportional representation formula was replaced with the plurality system, with each county electing one representative. This individual served in several capacities, as the chair of his/her county's community board and a member of the revamped municipal council, the newly-created provincial council, and the National Assembly of County Representatives.

A significant feature of the new system was the drastic reduction in the size of each electoral district, in terms of the number of voters in each new constituency. An overwhelming majority of the new electoral districts had fewer inhabitants than the old regime's constituencies; most had as few as 1,000 voters and in some, the number of electors barely surpassed 100 (Koster and Sánchez, 1990: 214). Though the change was publicized by the regime as representing "popular power" and justified in terms of placing lawmaking authority in the hands of "the most representative community leaders" (Labrut, 1982: 156), this system obviously violated basic political equality tenets (Still, 1981). In an opinion piece published in *La Estrella de Panamá* (6 October 1978), former Deputy Francisco José Linares illustrated this gross inequality by comparing the small, 32-voter community of Playa Chiquita, in Colón province, to the Panama City working class *corregimiento* of Calidonia, with 21,595 constituents, both of which had equal representation in the Assembly of County Representatives.³⁰

for violating the constitution. He was suspended from office, tried, and definitively dismissed on 25 May 1951. See Fábrega and Boyd Galindo, 1981: 340-45; Pizzurno and Araúz, 1996: 369-73.

³⁰ Editorial obtained through Brittmarie Janson Pérez. Francisco José Linares was a deputy for the Province of Panama in the 1940-1944, 1952-1956, and 1964-1968 Assemblies. In each term he represented the

Despite the regime's rhetoric regarding devolution of lawmaking power to "the people," the sphere of legislative activity of the new Assembly was highly constrained. From 1972 to 1984, when the system was in operation, representatives met annually for only one month. They were empowered to 1) elect the president and vice-president of the republic once every six years;³¹ 2) approve or reject international treaties negotiated by the executive;³² 3) declare war or establish peace; 4) approve or reject reforms in the country's political subdivisions as proposed by the executive; 5) grant amnesty to political prisoners; and 6) write the assembly's own rules of procedure. Actual responsibility for issuing laws was vested in the executive-appointed Legislative Council, whose members were designated by dictator Torrijos, in accordance with Article 277 of the 1972 Constitution (Fábrega and Boyd, 1981: 7-97; Labrut, 1982: 154; Priestley, 1986: 76).³³ For the present purposes, therefore, the Assembly of County Representatives does not qualify as a democratic deliberative chamber as defined in Chapter 1.

But, if county representatives were given little actual lawmaking power at the national level, they were assigned broader responsibilities—and provided budgetary allocations—at

party led at the time by his brother-in-law, Arnulfo Arias, i.e. Partido Nacional Revolucionario (PNR, 1940-1944) and Partido Panameñista (PP, 1952-1956 and 1964-1968).

³¹ The County Representatives' Assembly never exercised this power autonomously, however. On the two occasions when it met to elect the president and vice-president, it simply rubber-stamped dictator Torrijos' choice for the office: Demetrio Lakas in 1972 and Aristides Royo in 1978 (Koster and Sánchez, 215-16, 223; *El Matutino*, 2 September 1978, text obtained through Brittnarie Janson Pérez).

³² Ironically, on the sole occasion in which the County Representatives' Assembly attempted to reject a treaty negotiated by the military-controlled executive, the National Guard occupied the chamber and forced its members to approve the agreement. This occurred in November 1980, when the Assembly was engaged in the discussion of the so-called "Treaty of Montería," which grants Colombian warships exemption from payment of Panama Canal tolls (Azcárate, 2000; *La Prensa*, 13 November 1980, 13 May 1981).

³³ Article 277 "recognized" Torrijos as "maximum leader of the Panamanian revolution" and granted him authority to coordinate all public administration tasks; appoint and dismiss cabinet ministers, members of the Legislative Council, and all other executive-appointed officers of the state; negotiate contracts and loans; direct the country's foreign affairs; and attend the meetings of the cabinet, the Legislative Council, the Assembly of

the local level (Fábrega and Boyd, 1981: 39-44, 71, 73-77; Labrut, 1982: 154; Priestley, 1986: 76). Funding for “community projects” at the county, municipal, and provincial levels was now made available to members of the military dictatorship’s Assembly, inaugurating a tradition whereby the county representative assumed responsibility for building streets, distributing sports gear, giving out toys for Christmas, obtaining scholarships, and paying for funerals, all from the coffers of the state (Cochez, 1996). In sum, the Assembly of County Representatives was endowed with minimal lawmaking authority. Its only real power lay in budgetary allocations for expenditures at the local level, which promoted clientelistic relations between county representatives and their constituents.

The dictatorship’s strategy to downsize the country’s electoral districts and emasculate the legislative branch had deleterious effects on Panama’s democratic development. Between 1972 and 1984, the military Constitution prevented members of the dictatorship’s Assembly from fully exercising such basic democratic functions as lawmaking and oversight. The low intellectual ability of most members severely restricted the chamber’s capacity for performing other basic representative tasks such as deliberation, political socialization, leader recruitment, information supply, and nation building. This latter aspect was a direct result of an electoral arrangement based on a proliferation of small, mostly rural, impoverished single-member constituencies. Owing to the structural characteristics of these new, small electoral districts—a majority of which were located in marginalized rural areas—most of the Assembly’s membership exhibited very low educational levels (Janson Pérez, 2000f).

Apart from precluding the exercise of democratic representation, the County Representatives scheme promoted clientelism as a social control mechanism. The strategy

County Representatives, the provincial councils, and the local community boards (Fábrega and Boyd, 1981: 96-

operated at two levels. At the constituency level, in the effort to buy support for the regime, the county representative served as the dictatorship's local agent in the particularistic distribution of public goods. At the Assembly level, county representatives provided a crude veneer of legitimacy to a regime that endeavored to transform its image into that of a "dictatorship with love" (*dictadura con cariño*).

Representatives rubber-stamped decisions made by the military-controlled executive, frequently in exchange for personal benefits. An example occurred in 1978, when Aristides Royo, Omar Torrijos' candidate for president of the Republic during the 1978-1984 term, secured a majority of the Assembly's votes through promises of lifetime medical assistance, disability subsidies, pensions, and state-paid funerals for all 505 members. To further generate goodwill among the county representatives, Royo promised the 374 members who had not secured reelection (but still had to vote him into office) that his government would continue paying their salaries until they found employment in the public sector (*Crítica*, 7 October 1978, obtained through Brittmarie Janson Pérez). As regards the Panamanian Assembly, therefore, the most lasting legacy of the military regime was a constitutional design based on small districts and a constrained sphere of action for the representative chamber. In the Panamanian context, both features operated to further promote clientelistic politics.

District Size under the 1983 Regime

The image of the assembly member as a local distributor of patronage in exchange for political support had already become firmly entrenched by the time the military

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undertook a limited process of political reform between 1978 and 1983. Subsequent to the approval of a constitutional amendment through a referendum held in 1983, the Assembly of County Representatives and the Legislative Council were replaced with the Legislative Assembly. Introduced under military rule, the new chamber has remained Panama's legislative branch until the present.

After 1983, district size increased vis à vis the 1972 county representatives system, for the 1983 constitutional reform stipulated the design of electoral constituencies along the borders of the country's municipal districts, one level above the previous system in terms of political division and population. Still, on average, district size remains small in comparison to the pre-1968 regime, which was based on provincial boundaries.

While some authors argue that small constituencies favor tighter accountability and a closer connection to the voters, others maintain that reduced district size encourages clientelism. This latter hypothesis traces its lineage back to James Madison who, as it will be recalled, claims that it is easier to practice the "vicious arts by which elections are too often carried" in the small than in the large republic (*The Federalist* No. 10, quoted in Chapter 1). According to this reasoning, lower district size should foster electoral manipulation and render less free the "suffrages of the people," particularly in a heavily clientelistic environment, such as Panama, also characterized by a strong demand for public goods triggered by skewed income distribution and a high concentration of resources (including educational and professional opportunities) in the main urban areas (see Chapter 2). Such "vicious arts" should be less viable in larger constituencies, where maintaining electorally successful personal or patron-client relationships is more costly (and, consequently, less feasible), and better-informed voters are more numerous. This view is shared by Katz (1980: 30):

In districts with relatively few voters, the likelihood that a candidate will be known personally by a significant proportion of his constituents is naturally greater than in districts with many voters. Meeting large numbers of voters and appealing to them on the basis of personal acquaintance only becomes a viable strategy when the district population is reasonably small. Under these circumstances, appeal to locality also may be expected. As an empirical matter, these trends ought to be most common in rural and traditionally oriented areas, where localism and personalism are likely to be embedded in the political culture. On the other hand, as the population of a district grows, the proportion of the voters that can be known by a single candidate must shrink, and so this type of appeal must be supplemented with less direct appeals.

Given the historical legacies and the structural characteristics prevalent in Panama, reduced district size is likely to reinforce the clientelistic tradition. If voters in lightly populated constituencies can be manipulated to select their representatives not on policy or programmatic foundations but rather on the basis of patron-client relationships, members are freer to pursue their own interests or advance the agenda of their own patrons—the executive, party leaders, business sponsors. They can easily detach from their constituents except as regards the continued provision of clientelistic benefits, for they know that the issue at stake at reelection time is not policy but the assignment of public goods on a particularistic basis. Thus, in the Panamanian context, reduced district size contributes to perpetuate clientelism and undermine the notion of democratic representation, a public arrangement requiring accountability and responsiveness to the interests of the constituency.

District Size and Members' Qualifications

Lower district size also reduces parties' incentives to nominate better-qualified candidates who appeal to broader segments of society. A comparison between the 1945 and 1999 Assemblies, the results of which are summarized below, points in this direction. This exercise reveals that members of the 1945 Assembly, elected in larger districts, featured

broader professional and educational backgrounds than their 1999 peers. Most of the latter are career politicians, who began their professional lives as government officials during the military regime, or products of an educational system whose standards have dropped considerably since the military dictatorship because of the drastic revisions effected following the October 1968 coup, to secure the loyalty of both faculty and students (Koster, 2000; Pereira, 1979: 123-24, 136; *El Panamá América*, 17 December 2000).

In larger districts, a party's chances of success are likely to increase with the nomination of candidates better known among a broader population. At a larger level, where local ties are rarely sufficient to ensure election (Katz, 1980: 30) and engaging in the "vicious arts" is less practicable, positive views of candidates are more likely to be policy-based than in smaller districts, which are easier to manipulate and where patron-client relationships may suffice to establish a successful electoral connection. Members with broader reputations based on policy stances are more likely to qualify as democratic representatives than are individuals whose appeal rests on local and frequently clientelistic achievements.

Ensuring that the electoral system fosters the entry of competent individuals into public service is a desirable goal in all polyarchies, particularly given the complex situations that the modern democratic state is challenged with. Fit characters are more likely to fulfill the intricate duties of democratic representation as defined by Pitkin (1967)—a substantive acting for others, requiring independent action in the interest of constituents and responsiveness to them—than are their less competent peers. Taking Madison's argument one step further, in a country such as Panama—featuring a small population, skewed income distribution, and a high concentration of resources in the urban areas—low district size and over-representation of marginalized rural areas, as stipulated by Article 141 of the 1972

Constitution (described at the beginning of the previous section), is likely to reduce the chances of a representative assembly formed by fit individuals.

This is one of the explanations observers of the Legislative Assembly have offered for what is consistently referred to as the inadequacy of most of the chamber's members (Galindo Heurtematte, 1999; Ricord, 1999). In terms of intellectual capacity, there is no doubt that the National Assembly was more successful than the Legislative Assembly in attracting qualified individuals to its ranks. An examination of the Assembly's rosters from 1904 to 1968 reveals that many of Panama's leading minds also held deputy seats at some point in their careers.³⁴

Several of these later went on to serve as cabinet ministers, ambassadors, Supreme Court magistrates, and chief executives. Of Panama's 26 presidents between 1904 and 1968, nine served previously as deputies to the National Assembly. At least four others—Manuel Amador Guerrero, José Domingo de Obaldía, Carlos A. Mendoza, and Belisario Porras—served as members of a local or national representative chamber during the Colombian regime (1821-1903). In total, at least half of Panama's presidents up to 1968 had acquired prior political experience as elected representatives. In contrast, none of the three individuals who have served as presidents after the return to polyarchy in 1989 ever held

³⁴ Some of these include Guillermo Andreve, Francisco Arias Paredes, Harmodio Arias Madrid, Aristides Arjona, Maximiliano Arosemena, Pablo Arosemena, Abel Bravo, Eduardo Chiari, Roberto F. Chiari, Héctor Conte Bermúdez, José Daniel Crespo, José Isaac Fábrega, Julio J. Fábrega, Octavio Fábrega, Francisco Filós, Juan de Arco Galindo, Mario Galindo Toral, Bernardino González Ruiz, Sergio González Ruiz, Aurelio Guardia, Víctor Florencio Goytía, Enrique A. Jiménez, Thelma King, Samuel Lewis Arango, Guillermo Méndez Pereira, Eusebio A. Morales, Esther Neira, Mario J. de Obaldía, José Pezet, Demetrio Porras, Aníbal Ríos, Diógenes de La Rosa, Acracia Sarasqueta, Juan B. Sosa, Sebastián Sucre, Carlos Sucre Calvo, Gil Blas Tejeira, Domingo H. Turner, Nicolás Victoria Jaén, and Carlos Iván Zúñiga. The "vicious arts" characteristic of Panama's electoral politics, however, excluded other figures of stature from serving Assembly terms. José de la Cruz Herrera and Gregorio Miró, two of Panama's principal Conservative intellectuals, are cases in point. In the 1920s, electoral manipulation prevented both from obtaining a deputy's seat (Cedeño Cenci, DATE: 11; Miró, 1995: 134).

Assembly seats prior to their election as chief executives. Table 3.1 summarizes these findings:

TABLE 3.1
PREVIOUS ASSEMBLY EXPERIENCE OF PANAMA'S PRESIDENTS
1904-1968; 1989-1999

President	Held presidential office in	Served as representative during
1. Manuel Amador Guerrero	1904-1908	Colombian regime
2. José Domingo de Obaldía	1908-1910	Colombian regime
3. Carlos A. Mendoza	1910	Colombian regime
4. Pablo Arosemena	1910-1912	Colombian regime; 1906-1910
5. Belisario Porras	1912-1916; 1918-1920; 1920-1924	Colombian regime; 1918
6. Ramón Maximiliano Valdés	1916-1918	
7. Ciro Luis Urriola	1918	1904-1906; 1910-1918
8. Ernesto T. Lefevre	1920	
9. Rodolfo Chiari	1924-1928	1904-1906
10. Florencio H. Arosemena	1928-1931	
11. Ricardo J. Alfaro	1931-1932	
12. Harmodio Arias Madrid	1932-1936	1924-1928
13. Juan Demóstenes Arosemena	1936-1939	
14. Augusto Samuel Boyd	1939-1940	1914-1918
15. Arnulfo Arias Madrid	1940-1941; 1949-1951; 1968	
16. Ricardo Adolfo de La Guardia	1941-1945	
17. Enrique A. Jiménez	1945-1948	1918-1928
18. Domingo Díaz Arosemena	1948-1949	1932-1936
19. Daniel Chanis	1949	
20. Alcibíades Arosemena	1951-1952	
21. José Antonio Remón	1952-1955	
22. José Ramón Guizado	1955	
23. Ricardo Arias Espinosa	1955-1956	
24. Ernesto de La Guardia	1956-1960	
25. Roberto F. Chiari	1960-1964	1940-1944
26. Marco A. Robles	1964-1968	1948-1952
27. Guillermo Endara	1989-1994	
28. Ernesto Pérez Balladares	1994-1999	
29. Mireya Moscoso	1999-	

Source: Berguido Guizado, 1987.

A constitutional design based on larger district size and more significant involvement in the tasks of government (as will be explained in the following chapter section) allowed the

National Assembly to fulfil the task of recruiting and training political leaders more efficiently than the Legislative Assembly. Political recruitment and training is an assembly function to which Max Weber (1978 [1918]) assigned particular importance. As was underscored in Chapter 1, Weber believed that preserving individual freedom in the modern mass state required placing ultimate responsibility for government in the hands of talented politicians (as opposed to bureaucrats or technocrats) and holding them accountable to the representative assembly.

Weber advocated a constitutional design that attracted capable individuals to the representative assembly, where they would obtain training in the tasks of democratic decision making and supervision. Political experience thus acquired would prepare the most competent politicians in the chamber to assume leadership positions in the executive branch. Weber's formula for achieving this objective—making the representative assembly a “working” organ of government—will be dealt with later in the chapter. For the time being—and in the light of Weber's contentions—suffice it to restate this section's argument. Where patron-client relations are prevalent and demand for public goods is strong, small electoral districts are likely to return representatives with localistic and particularistic outlooks. Representatives elected in small, marginalized districts, with restricted backgrounds based on patron-client relationships, are less likely to be fit to exercise the functions of democratic representation than are members chosen in larger districts. In constituencies with larger populations, to secure enough support for election candidates must supplement constituency and service responsiveness with broader, policy concerns.

A comparison of the professional profiles of Assembly members in 1945 and 1999 provides further evidence in favor of the view that smaller districts are more likely to return representatives with more restricted backgrounds than are larger districts. As a theoretical

framework for this exercise, the typology of politicians developed by Weber in "Politics as a Vocation," published in 1919, is decidedly useful. In this essay, Weber distinguishes between politicians who live "for" politics and those who live "off" politics. "He who strives to make politics a permanent *source of income* lives 'off' politics as a vocation, whereas he who does not do this lives 'for' politics" (emphasis in original).

The politician who lives "for" politics does not place "his ability and thinking entirely, or at least by far predominantly, at the service of economic acquisition." In other words, earning an income is not a main concern, either because the politician has independent means or acquiring personal wealth is not a major motivation; thus, the politician is more free (and more likely to) devote to the *res publica*. Contrariwise, "he who strives to make politics a permanent *source of income* lives 'off' politics as a vocation" (emphasis in original). This type of politician is first and foremost concerned with earning a living from political activity:

The professional politician who lives "off" politics may be a pure "prebendary" or a salaried "official." Then the politician receives either income from fees and perquisites for specific services—tips and bribes are only an irregular and formally illegal variant of this category of income—or a fixed income in kind, a money salary, or both. He may assume the character of an "entrepreneur," like the *condottiere* or the holder of a farmed-out or purchased office, or like the American boss who considers his costs a capital investment which he brings to fruition through exploitation of his influence. Again, he may receive a fixed wage, like a journalist, a party secretary, a modern cabinet minister, or a political official (...). For loyal services today, party leaders give offices of all sorts—in parties, newspapers, co-operative societies, health insurance, municipalities, as well as in the state (Weber, 1946 [1919]: 86-87).

Weber's categories are pure types, ideal versions of social reality developed for analytic purposes. An examination of the backgrounds of Assembly members reveals that the archetypal Assembly member in 1945—elected in a national or provincial constituency—approximated Weber's "living for politics" type. In that year, the typical deputy was a 45-year old male whose main activity was private business, either as a tradesman, merchant,

farmer, industrialist, or administrator. He also had experience in public service and in the exercise of a liberal profession. Although public service was not a main activity for most—only 18 percent reported government service as a principal occupation—a sizable majority of deputies (61 percent) had previously served in government, either as appointed or elected officers. Moreover, a substantial portion (also 61 percent) held prior employment in a liberal profession such as law, education, medicine, writing, or engineering. Typically, most reported having engaged in more than two professional activities during their careers.

Slightly under one third of the Assembly (31 percent) had prior experience as professors or schoolteachers. The two who reported education as their main activity, both women—Esther Neira and Gumersinda Páez—had distinguished careers in the that field. Approximately one quarter (24 percent) had studied abroad, in Anglo-American universities; three at Georgetown, two at Columbia, one at Tulane, and another at Cambridge, England. One of the Georgetown graduates, Harmodio Arosemena Forte, son of former Deputy and President Pablo Arosemena, was a prominent attorney and a gifted orator. Three members reported writing as their main activity. Two of these, Diógenes de La Rosa and Gil Blas Tejeira, were among Panama's finest essayists and political commentators. At least two were members of prestigious intellectual societies: Deputies de La Rosa (*Academia Panameña de la Historia*) and José Isaac Fábrega, yet another renowned lawyer (*Academia Panameña de la Lengua*) (Moscoso, Cabezas, and Aguilera, 1945).

In contrast, in 1999 the archetypal legislator—elected at the municipal level—approximated Weber's "living off politics" type. In that year, the typical Assembly member was a 47 year-old male professional politician. Public officeholding was the main activity engaging 61 percent of the Assembly at the time of election (or reelection). This was doubtless a consequence of the swelling of the public sector during the military years (1968-

1989), a feature accompanied by a significant drop in the quality of government services (Koster and Sánchez, 138, 248; Priestley, 110, 129). Prior experience in the public sector was, however, scarce (12 percent), an indicator of professional “specialization” and more restricted backgrounds.

Business and liberal professions were a main occupation for only 12 and 24 percent, respectively, of the Assembly. Previous experience in business was characteristic of only 25 percent of the chamber. A smaller proportion (43 percent) reported prior experience in the liberal professions than in 1945 (61 percent) and the 1999 Assembly featured no writers or members of intellectual societies. For the most part, these professionals were the product of the state educational system and, particularly, the University of Panama, whose standards have also dropped progressively since the military coup of 1968 (Koster, 2000). On average, most legislators reported having engaged in two professional activities during their careers, down from 2.4 in 1945.

Slightly under one fifth of the Assembly (18 percent) had prior experience as professors or schoolteachers, down from 31 percent in 1945. One third of the 1999 Assembly, compared to 24 percent in 1945, reported university studies abroad. The majority, however, had studied at Ibero-American universities; most common occurrences were Instituto Centroamericano de Estudios Avanzados (INCAE) in San José, Costa Rica, and Universidad Nacional Autónoma de México (UNAM). These findings are summarized in Table 3.2, which provides statistics of the backgrounds of members of the 1945 and 1999 Assemblies and, for the latter chamber, distinguishes between members elected in single- and multi-member districts. In general, the backgrounds of legislators elected in the smaller, single-member districts in 1999 are even more restricted than those of their peers representing multi-member constituencies, as shown below:

TABLE 3.2
COMPARISON OF REPRESENTATIVES' PROFESSIONAL PROFILES
PANAMA, 1945, 1999

	1945	1999		
	All districts	All districts	Single-member districts	Multi-member districts
Average age at assuming office	45	47	45	48
Average professional activities reported by each	2.4	2.0	1.9	2.0
Main activity: public sector	18%	61%	64%	60%
Main activity: business (*)	51%	12%	8%	14%
Main activity: liberal profession (**)	31%	24%	28%	21%
Prior public service experience	61%	12%	20%	7%
Prior business experience	12%	25%	28%	24%
Prior experience in a liberal profession	61%	43%	36%	48%
Main activity: writing	6%	0%	0%	0%
Main activity: education	4%	3%	8%	0%
Prior experience in education	31%	18%	12%	21%
Membership in intellectual societies	6%	0%	0%	0%
University studies abroad	24%	33%	36%	31%
Studies in Anglo-American universities	24%	13%	16%	12%
Studies in Ibero-American universities	0%	19%	20%	19%
Average district magnitude (***)	6.8	1.8	1	3.2
N (****)	51	67	25	42

Sources: Moscoso, Cabezas, and Aguilera, 1945; legislators' resumé in the Legislative Assembly website (<http://www.asamblea.gob.pa/>). I am grateful to Marcela Endara for collecting the resumes from the website.

(*) Accountants, business executives/administrators/owners, farmers, industrialists, large landowners, merchants, tradesmen.

(**) Attorneys, civic/union leaders, educators, engineers, physicians, writers.

(***) Because Panama's larger districts elect more members, district magnitude serves as an indicator for district size.

(****) The Assembly elected in 1999 has 71 members, 67 of which had provided personal background information in the Assembly website at the time of this writing. No information was available for Legislators Pedro Miguel González (PRD), José Muñoz (PA), Jacobo Salas (PA), and Gloria Young (PA).

In 1945, a deputy was likely to have begun his career as a schoolteacher and then obtained qualification for entry in a liberal profession, engaged in private business, and/or served in government. In this sense the career of Nicolás Sagel can be considered

prototypical. After obtaining a high school degree at the National Institute, he initially served as schoolteacher, school principal, and education inspector.³⁵ Active participation in Liberal Party politics led to later appointments as port captain, police captain, and governor of his native Chiriquí Province. His main income, however, derived from cattle-raising, an activity to which he successfully devoted for a substantial part of his adult life and to which he returned after his Assembly term ended (Moscoso, Cabezas, and Aguilera, 1945: 144).

In 1999, a legislator was likely to have begun his career as a government clerk, as was the case of Manuel de La Hoz (PRD). After receiving a degree in public administration from the University of Panama, he obtained a job in the Comptroller General's Office, where he worked throughout the dictatorship. As a result of the government change in 1989, the future legislator was briefly employed as an administrator at modest retail store while remaining active in local PRD party politics in the low-income Río Abajo sector of Panama City. He obtained a legislator's seat in 1994 and secured reelection five years later (República de Panamá, Legislative Assembly website).

There is no doubt that the members of the Assembly exhibited broader, more humanistic backgrounds in 1945 than in 1999. This feature, added to the fact that the 1945 membership approximates Weber's "living for politics" type, provided them with better qualifications to exercise their representative duties. Indeed, reflecting on the likely consequences of his categories in the "Parliament and Government" essay, Weber wrote: "The professional politician may live merely *from* politics and its hustle and bustle, or he may live *for* politics. Only in the latter case can he become a politician of great calibre" (1978 [1918], emphasis in original).

³⁵ Because a teacher's diploma was one of the few professional degrees that could be obtained in Panama at the beginning of the century, many leading figures began their careers as schoolteachers. In this sense, a

The 1945 Assembly, which initially met as a Constituent Convention, approved the 1946 Charter, widely regarded as the better of Panama's constitutions; additionally, it enacted advanced legislation in other fields, including a progressive Labor Code. While these accomplishments do not eclipse its shortcomings—such as the exclusion of the sectors loyal to Arnulfo Arias and the 1948 coup attempt (see footnote 28, above)—the 1945 chamber undoubtedly ranks better than the post-1983 assemblies as regards representation, accountability, responsiveness, and transparency, not to mention intellectual ability (Sánchez Borbón, 1993).

Comparing the Assemblies of 1945 and 1999 contributes to illustrate the effect of district size on the competence of representatives. The 1945 Assembly was elected on a much broader basis than any other Panamanian Assembly, for the electoral formula employed combined provincial constituencies with a national electoral district. Consequently, for the nine national seats, the parties competing in the election made an effort to nominate figures enjoying solid national reputations, men and women who lived “for” politics, such as José Isaac Fábrega, Esther Neira, and Diógenes de La Rosa, among others (Sánchez Borbón, 1993). One level below, in provincial constituencies, most successful candidates had to enjoy reputations throughout their provinces, not solely in their localities. Contrariwise, in 1999, a reputation as a local, particularistic provider of public goods at the municipal level sufficed to secure election or reelection to the chamber.

To recapitulate: one hypothesis regarding the effects of district size holds that less populated constituencies (akin to Madison's “small republics”) are likely to encourage voter manipulation and produce poor representation. For that reason, larger districts are preferable. This is not the only view; another explanation claims that smaller districts yield a

schoolteacher's degree served as a means for social advancement.

closer connection between representatives and constituents, as well as heightened accountability. In the case of Panama, where there is a strong tradition of particularism and gross inequality in the distribution of resources (with a resulting strong demand for public goods), and where policy issues attract little attention, an electoral system based on small districts over-representing the marginalized rural areas is likely to promote clientelism and lessen the probability of a deliberative chamber formed by competent representatives. A comparison of the memberships of the 1945 and 1999 Assemblies lends credence to this view. Deputies in the 1945 Assembly, elected in larger districts than their 1999 counterparts, reveal broader backgrounds and more robust intellectual credentials than Panama's current legislators. Partly for that reason—as confirmed by the historical record (Sánchez Borbón, 1993)—members in 1945 made better representatives than legislators elected under the 1983 regime.

District Magnitude

District magnitude, or the number of representatives elected in each constituency—an aspect of district size (Katz, 1980: 30)—also decreased under the 1983 constitutional regime in comparison to the old regime's electoral system. This reduction also has its origins in the constitutional design of the military regime. As explained above, in 1983, rather than return to the old system of constituency formation on the basis of provincial boundaries, the Electoral Reform Commission decided to draw the country's new constituencies on the basis of municipal boundaries, or one level below the main political subdivision. In 1968, each

constituency elected, on average, 4.67 members;³⁶ under the 1983 regime, the same measure drops to 1.77 in 1999. Institutionally, therefore, the Assembly of County Representatives (consisting wholly of single-member constituencies) is a more similar predecessor of the Legislative Assembly than the National Assembly of the old regime, at least in terms of district size and magnitude.

Reduced district magnitude has negative consequences for proportional representation, which relate to the actual possibilities for the expression of diversity in the deliberative chamber. In a multi-party system, a predominance of districts electing few members tends to discriminate against the smaller parties, discarding the votes issued in their favor, as occurs in Panama. For example, if party A appeals to 10 percent of the population, its votes are more likely to count effectively towards the election of a representative in a constituency that chooses ten members (district magnitude, or $M=10$) than in a constituency electing five representatives ($M=5$). In the latter case, votes cast for party A are likely to be lost, because a candidate will probably require more than 10 percent of the vote to ensure election to an assembly seat.

Thus, in proportional representation systems, such as Panama is supposed to be according to Article 141 of the 1972 Constitution, the degree to which the electoral system deviates from the ideal of proportional representation is accentuated by a low district magnitude (Lijphart 1999: 150, 157-58). Chapter 8 will examine this issue further in depth. For the time being, suffice it to say that while some authors have attributed pernicious consequences to the fractionalization of the assembly into a multitude of parties resulting from strict proportional representation (e.g., Rae, 1971)—a characteristic that may reduce

³⁶ District magnitude for the 1968 elections ranged between 1 deputy for the Darién and Bocas del Toro provinces and 15 for the Province of Panama. Other provinces elected deputies as follows: Chiriquí, 7;

possibilities for effective governance—acute deviation from proportionality is not desirable either, because it is likely to cast off the preferences of an appreciable number of voters and leave them without representation in the assembly (Katz, 1980: 120). Without a doubt, this scenario also contradicts the democratic spirit.

Centralization of Powers in the Executive

A constitutional design based on executive predominance, to the detriment of the representative chamber, has consequences for the assembly's performance and provides specific incentives to member's behavior (Weber, 1978 [1918]; Hartlyn, 1988; Shugart and Carey, 1992). For analytic purposes, these consequences may be grouped in two broad categories. Barred from consequential participation in the affairs of state, members of a subordinate assembly may devote to either "negative" or "low" politics, i.e., issues of patronage, clientelism, and particularism. Which of these two activities members of a subordinate assembly chose to engage in also depends on the additional informal incentives representatives receive.

Following Max Weber, in a highly ideologized setting such as Imperial Germany, also featuring a strong, efficient bureaucracy, the expected outcome is that an assembly "excluded from positive participation in the direction of political affairs" will engage in "negative politics." Such a chamber is likely to devote to confronting the administration "as if it were a hostile power." In Weber's view, this attitude has consequences not only for the reputation of the assembly and its members, but also for the legitimacy of representative government. Indeed, a "hostile" assembly

Veraguas, 5; Coclé, 4; Colón, 4; Los Santos, 3; and Herrera, 2.

will be given only the indispensable minimum of information and will be considered a mere drag-chain, an assembly of impotent fault-finders and know-it-alls. In turn, the bureaucracy will then easily appear to parliament and its voters as a caste of careerists and henchmen who subject the people to their annoying and largely superfluous activities (Weber, 1978 [1918]).

To avoid this negative outcome—as well as to make the assembly a training ground for democratic leadership—in his “Parliament and Government” essay Weber proposed increasing the powers of the German representative chamber to transform it into “a working parliament (...) one which supervises the administration by continuously sharing its work.”

In passing, Weber also observed that powerlessness might have other consequences for the representative assembly. To introduce the critique of plebiscitary legislation contained in “Parliament and Government,” he wrote: “the mistrust against the powerless *and therefore* corrupt parliaments of the individual American [US] states has led to an expansion of direct popular legislation” (Weber, 1978 [1918], emphasis in original). Thus, in Weber’s view, assembly weakness could also be expected to promote the corruption of political representation.

This is a logical expectation, especially in a political environment heavily influenced by clientelism, where policy matters fail to attract the attention of broad sectors of the population. In other words, in clientelistic environments, an assembly subordinated to the executive and restrained from involvement in major political issues is likely to channel its energies towards particularism and issues of “low politics.” Likewise, a president interested in further reducing the autonomy of the deliberative chamber will promote the involvement of representatives in these activities.

This view coincides with Cox and Morgenstern’s—expressed as one of the categories in their four-fold typology of Latin American presidents and assemblies—that “to a venal or parochial assembly corresponds a nationally-oriented president” (Cox and Morgenstern,

n.d.). The hypothesis also finds at least partial sustenance in pre-1991 Colombia. There, as noted by Hartlyn (1988: 170-71), intense centralization focused members of Congress' attention on "electoral, patronage and brokerage matters, particularly pork-barrel funds and the placement of job holders" and fostered the delegation of "high" or national political issues to the executive.

This interpretation also holds for Panama. An institutional design promoting active Assembly involvement in the affairs of state was never characteristic of Panama, perhaps because of what in 1967 constitutional specialist César Quintero described as the "mistrust that a complex or numerous or excessively active legislative branch generated and still generates in important sectors of the country." From 1904 to 1945, under the Statutes of 1904 and 1941, the Assembly met every two years for a brief, 90-day period. This changed in 1946, when that year's constitution established annual, four-month sessions. However, such features as a low number of deputies,³⁷ a four-year mandate (which the author considered long), and the Assembly's own lack of initiative and discretion as regards the summoning of extraordinary sessions remained in place and, in Quintero's view, prevented the chamber from becoming "a truly popular and dynamic organ" (Quintero, 1967: 473, 475, 478, 485-86).

But, when a deliberative chamber ostensibly designed along liberal-democratic lines was reintroduced in 1983, this new body was even more constrained than the old regime's National Assembly. A comparison of both charters substantiates this assertion. Articles 118 and 120 of the 1946 Constitution assigned the Assembly a primary responsibility for

³⁷ According to the Constitutions of 1904, 1941, and 1946, the number of deputies to the National Assembly was proportional to the country's population. The first Assembly (1904-1906) had 32 members. The number rose progressively until 1952, when it reached 53. Pursuant to a constitutional amendment adopted subsequently, in 1964 the number of deputies dropped to 42. In this regard, see the texts of the Constitutions and the constitutional amendments in Fábrega and Boyd, 1981.

determining the organization and structure of the administration as well as the size of the security force, managing the public debt, approving all government contracts, planning the construction of public works, appointing the prosecutor-general and his deputy, and scrutinizing the government's accounts. Articles 153 and 155 of the 1972 Constitution, as reformed in 1983, gave the executive and other state agencies—such as the Comptroller-General's Office in financial matters—the upper hand in all these affairs.

Article 120 of the 1946 Statute allowed the assembly to summon ministers without major restrictions. Article 155 of the 1972 Constitution, while broadening the range of officials that the chamber could summon, limits their participation to responding the specific questions that the Assembly must submit 48 hours prior to their appearance before the chamber. In the realm of foreign relations, Article 157 of the 1972 Constitution prevents the Assembly from requesting “copies of instructions issued to diplomatic agents” or “reports on confidential negotiations.” Article 121 of the 1946 Constitution only forbade the Assembly from requesting public reports on pending confidential diplomatic negotiations. Under the same provision of the 1946 Charter, the Assembly was forbidden from authorizing public works in addition to those approved in the respective law, except in emergency cases as declared by the chamber. According to the 1972 Statute, only the executive can declare a state of emergency. Article 157 of the 1972 Constitution provides a revealing summary of the restricted role of the Assembly under the new regime, when it forbids the chamber from “meddling through resolutions in matters within the sphere of responsibility of other branches of government.” The 1946 Constitution contained no similar provision.

In no other field is this restricted role more evident than in the government's budget. Article 118 of the 1946 Constitution assigned the Assembly authority to approve the budget

bill submitted by the executive, with or without amendments. If the chamber was unable to vote the bill before its sessions expired, responsibility for this task fell upon the Permanent Legislative Commission, a seven-member committee of deputies that sat during the Assembly's eight-month recess (Article 122).

In contrast, the 1972 Constitution severely restricts the capacity of the chamber to modify the budget bill. To that effect, the 1983 Constitutional Reform Commission added a full new chapter to the statute (Articles 264-74). Accordingly, the Assembly may only eliminate or reduce expense items that do not affect debt service expenditures or previously authorized public investments; it may not increase expenditures without the approval of the executive; and it may not increase income figures without the approval of the Comptroller-General's Office. Finally, if all these requirements are met, the Assembly still requires executive approval before amending any item on the budget bill. If the assembly fails to approve the bill, the executive has the prerogative of enacting its budgetary initiative through a cabinet resolution. If the Assembly expressly rejects the budget bill, the executive automatically rolls over the previous year's budget with the rejected bill's appropriations for debt service and public investments (Bernal, 1995: 58-62, 64-66, 68-69, 122-25; Fábrega and Boyd, 1981: 150-57).

These restrictions on the Assembly's involvement in budgetary matters responded to criticism of irresponsibility and demagoguery under the old regime (Quintero, 1967: 525-28). According to Mario Galindo Heurtematte, a former minister of Finance (1989-1993) who also represented the opposition party MOLIRENA in the 1983 Constitutional Reform Commission, a mistrust of the chamber's potential for decreeing inflated budgets triggered the limitation of the Assembly's competence in budgetary issues under the new constitutional regime (Galindo Heurtematte, 1999). But the limitations also reflect a clear

intention of the military-dominated Constitutional Reform Commission to subordinate the Assembly to the executive, a decision that, unsurprisingly, contributed to disseminate the view of legislators as recycled county representatives and, as such, little more than influence peddlers.

As was mentioned in Chapter 1, this diminished role assigned to the Assembly under the 1972 Constitution reflects in the modification of the chamber's name. Calling the institution *Legislative Assembly* instead of *National Assembly* conveys the idea of an institution whose members meet exclusively to pass laws, instead of undertaking the universalistic functions that democratic theory entrusts to representative assemblies—deliberation, lawmaking, oversight, political socialization, leader recruitment, information supply, and nation building, among others. On only two significant aspects does the 1972 Charter grant the Assembly more leeway than the 1946 Statute. Article 153 of the 1972 text restricts the exercise of extraordinary powers by the executive, expressly excluding such matters as introducing new taxes, approving international treaties, and modifying provisions on civil and political rights as well as on penalties for crimes. The 1972 Constitution also extended the Assembly's sessions to two-four month periods interrupted by two two-month recesses (Article 143). As was previously indicated, under the Constitution of 1946, the Assembly met annually for a brief, four-month period (Article 109) (Bernal, 1995: 54, 61; Fábrega and Boyd, 1981: 147).

Comparative analysis of its constitutional functions, such as was conducted by Shugart and Carey (1992: 148-52, 155), also highlights the Legislative Assembly's weakness vis à vis the executive. The country's performance on Shugart and Carey's index, which attempts to assess how powerful a president is in constitutional terms, shows that Panama is indeed one of those cases scoring highest on presidential legislative powers, including the

package and partial vetoes, decree powers, exclusive introduction of legislation, and budgetary powers. On the basis of a recalculated score intended to correct original assessment inaccuracies,³⁸ Panama obtains 7.5 on an appraisal of presidential legislative powers across forty-three cases. This score, sixth highest on Shugart and Carey's index, after Chile (1969, 12), Brazil (1988, 9), Chile (1891 and 1925, 8), and Colombia (pre-1991, 8), is evidence of the significant checks on proactive political involvement that the constitution places on the Legislative Assembly. On the same scale, the National Assembly under the 1946 Constitution obtains 6.0.

Even greater mistrust of a strong Assembly than existed prior to 1968 seems to have inspired the decisions of the military-controlled Constitutional Reform Commission of 1983. Its design of the Assembly was much less democratic than the model adopted in 1946, not only as regards distribution and balance of powers between the executive and the deliberative chamber, but also in terms of accountability. By extending the mandate of legislators (as well as all other elected officers) to five years, the 1983 reform placed an additional obstacle on accountability to the electorate.³⁹ Moreover, as stated before, in highly

³⁸ I changed the scores Shugart and Carey assigned Panama on the "exclusive introduction of legislation" and "budgetary initiative" aspects in accordance with the Constitution of 1972, as reformed in 1983. As regards the first aspect, Shugart and Carey assigned Panama a 0 to indicate that the presidency had no exclusive power for introducing legislation (apart from the executive budgetary initiative). According to my calculations Panama scores at least 1 on this count, for only the executive may introduce legislation on government salaries and the structure of the national administration, and solicit approval of treaties and international conventions. This latter exclusivity, which is widespread among presidential regimes, indicates the convenience of reviewing Shugart and Carey's assessments, particularly so since most cases were ranked 0 on this aspect. See Article 153 of the 1972 Constitution in Bernal, 1995: 59-62. I thank Salvador Sánchez González for his views on exclusive introduction of legislation. As regards budgetary initiative, I changed Panama's score from Shugart and Carey's 0, indicating no restriction on legislative amendment of the executive's budget proposal, to 1.5, in accordance with Article 268 of the Constitution, which indicates that the Assembly may eliminate or reduce budget expense items except for debt service expenditures; that the Assembly may not increase expenditures without the approval of the cabinet; that it may not increase income figures without the approval of the Comptroller-General's Office; and that, if all these requirements are met, cabinet approval is still required for budget reform.

³⁹ While the five-year term introduced in 1983 is longer than the old regime's four-year period, it does represent an improvement over the six-year term during which county representatives were in office from 1972

particularistic setting, reducing the scope of the Assembly's constitutional functions provided its members with an added incentive to engage in clientelism. While contrary to democratic theory, these developments are clearly in line with the authoritarian mentality of Panama's military dictatorship, whose main exponent, Omar Torrijos, had a contemptuous opinion of representative assemblies. Torrijos confided this view to a US reporter in a 1970 interview: "Under legislative government," he declared, "we had 42 legislators (sic), who were 42 anchors. So we removed them and now the ship of state sails freely" (*El Panamá América*, 27 July 1970, obtained through Brittmarie Janson Pérez).

Summary

Chapter 3 focused on three formal institutional features that influence the behavior of Panamanian legislators: seat allocation formulas, district size, and the balance of power between the executive and the Assembly. Although these are not the only formal rules that contribute to shape the actions of Panama's legislators, they are undoubtedly significant. All three institutional features reinforce Panama's strong clientelistic tradition. They were introduced during the military-controlled constitutional review process to promote the state-sponsored clientelism on which the military regime and its party, the PRD, relied to continue dominating the country's politics.

These institutions have other consequences that undermine possibilities for further democratization in Panama. Seat allocation rules that place a bonus on personalism contribute to further undermine the weak ideological element in Panama's politics, addressed in previous descriptions of patron-client relationships (see Chapter 2). Low district size

to 1984. The 1941 Constitution also stipulated a six-year term for elected officers. I thank Ricardo Arias

contributes to prevent the election of individuals with solid national reputations as representatives, an issue that further prevents the system of democratic representation from entrusting the tasks of government to the most competent members of the political community—to politicians who live “for” politics, in Weber’s terminology. Low district magnitude, an associated (but not directly correlated) feature, contributes to generate a severe deviation from proportionality that contradicts the notion of political equality and discounts the votes of a considerable portion of the electorate. Chapter 8 will address this topic in further detail. Centralization of government powers in the executive precludes the participation of the Assembly in consequential political issues and thus contradicts the notions of balance of power and the need for democratic oversight that, according to Montesquieu, Madison, J.S. Mill, Weber, and other authors, constitute important safeguards against tyranny.

Chapters 2 and 3 have described important institutional incentives for certain behaviors by Panamanian legislators that the literature has not generally addressed. Members of Panama’s deliberative chamber operate in an informally institutionalized environment where elections, while taking place as scheduled, are also tainted by irregularities and where clientelism and impunity are pervasive. Seat allocation rules, low district size, and the assembly’s constitutional subordination to the executive reinforce clientelism and preclude the election as representatives of Madison’s “worthier types.” These institutional characteristics, in turn, provide incentives for behavior oriented towards enrichment and ensuring immunity from prosecution. Chapter 4 deals with the first of these behaviors: legislators’ attempts to increase their personal wealth.

Calderón for pointing this out.

CHAPTER 4

PERSONAL ENRICHMENT THROUGH LEGAL MEANS

The establishment of polyarchy gives rise to certain expectations among the members of the political community. One is that action by government leaders be oriented towards some version of the public good (O'Donnell, 1996). This owes to the intrinsic quality of the democratic regime as a political system completely or almost completely responsive to all its citizens (Dahl, 1971: 2). Naturally, such a regime is an ideal type; absolute or near-absolute responsiveness, although conceptually possible, is materially unattainable. Even so, the democratic rhetoric—"government of the people, for the people, by the people"—legitimizes an ideal that, among other things, repudiates behavior by public officials oriented toward the satisfaction of private objectives.

The republican tradition in which this universalistic expectation is imbedded has deep roots in Western political thinking. The moral philosophers of antiquity exalted civic virtue, which they understood as unselfish dedication to the interests of the *res publica*. Renaissance and Enlightenment thinkers saw patriotism, conceptualized as the suppression of personal ambition and unswerving devotion to the public welfare, as an essential element in maintaining a vigorous political regime. In *The Spirit of the Laws*, Montesquieu (1966 [1748]) argued that sustaining the democratic regime required the prevalence of a generalized "sensation" of civic virtue among its members.

These theoretical admonitions notwithstanding, behavior by public officials oriented towards private gain is present in all societies. There are, however, significant variations in the degree of particularism that different polyarchies exhibit or tolerate. Clearly, there is less of it in formally institutionalized polyarchies, where written laws are generally a reliable predictor of the behavior of political actors. Where informal institutions, such as those addressed in Chapter 2—electoral fraud, impunity, and clientelism—serve as better predictors of politicians' behavior, a drive towards private gain is more evident in the actions of politicians.

This is the first of two chapters that focuses on private gain as a motivation of Panamanian legislators. Based on the premise that representatives are self-interested rational actors, getting rich may well be a reason for obtaining or maintaining an Assembly seat. Analysts of representatives' behavior, however, have only mentioned this goal in passing. While "private gain" is one of five goals of representatives mentioned in his 1973 study of Congressional committees, Fenno clarifies on the book's first page that this objective "will not be treated at all." Mayhew (1974: 16), another major theorist of representatives' behavior, wrote that some members of the US Congress may "try to get rich in office, a quest that may or may not interfere with reelection."

At a higher level of generality, Samuels (1998) has observed that "many politicians may seek office for other reasons," than obtaining reelection, "such as promoting good policy or to become rich." Despite these cursory references, the private gain objective and its implications have not been examined in depth. At least one analyst describes this as a potential weakness, for representatives "do their work within environments that are increasingly populated by the affluent—ranging from corporate executives to high-powered lobbyists to many wealthy peers with similar backgrounds and experiences" (Loomis, 1994).

In the analysis of Panamanian legislators' behavior from 1984 onwards, getting rich emerges as an important motivation for seeking reelection. An acute observer of Panamanian politics, former Electoral Tribunal and Supreme Court Magistrate César Quintero, explained the "excess" of Assembly candidates in the 1999 elections principally as a function of the high salaries and ample prerogatives enjoyed by legislators (*El Panamá América*, 7 February 1999). Nearly 560 candidates competed for the 71 chamber seats disputed in 1999, which represents an average of approximately eight candidates per seat (Tribunal Electoral, 1999; *El Panamá América*, 14, 15, 16, 17, 19, 20, 21, 22 April 1999; *La Prensa*, 5 March 1999).⁴⁰

This chapter describes and classifies Panamanian legislators' attempts at personal enrichment through legal means. In the present context, personal enrichment is understood as a political actor's efforts at enhancing his/her economic status directly through legal or illegal means. Legislators may attempt to increase their wealth legally (though perhaps not morally) through formal institutional mechanisms. Some of these, such as the legislative process and recourse to Supreme Court rulings, may serve representatives to increase their remuneration and establish or expand prerogatives with economic value. Members of Panama's Assembly have attempted to augment their personal wealth through formal institutional mechanisms, but also by through means constituting transgressions of the law.

To describe Panamanian legislators' attempts at personal enrichment, therefore, this chapter will focus on three legal personal enrichment mechanisms. These are decreeing or attempting to decree salary increases, expanding and exploiting the postal, telephone, and telegraph franking privileges, and expanding and exploiting their tax exemption on the

⁴⁰ While this feature may be partly attributed to the large number of parties taking part in the election—12 registered parties participated in the process—it also indicates a strong desire among politicians for obtaining

purchase of vehicles. Chapter 5 will examine the illegal means some legislators employ to try to get rich.

Attempts to Increase Legislators' High Salaries

For their services to the state, public officials, including representatives, should receive adequate compensation. In many countries, the low remuneration received by officers of the state is frequently used as an explanation for public sector corruption. In this context, increasing public officials' salaries could be judged positively if the pay rise is meant to provide a corrective for income inequality and a disincentive for illegal enrichment.⁴¹ But, if wage structures fail to address salary injustices and discourage illicit rent-seeking, they lose significance in democratic terms. In Panama, as this and the following chapter show, legislators' preoccupation with increasing their earnings has little to do with the aforesaid democratic objectives. On the contrary, they relate to a desire for personal enrichment, partly induced by the informal institutions discussed in Chapter 2 as well as by the military regime's sultanistic legacy.

In a constitutional analysis volume published towards the end of the old regime, César Quintero (1967: 474) complained of the "evident tendency towards the increase of deputies' salaries, diets, allowances, and privileges." From 1904 to 1932, Panama's deputies only received payment during sessions. Under the 1904 Constitution, the Assembly met every two years for a four-month period. In 1904, Law 3 of 2 March established their salary at at 400 pesos (approximately US\$200) per month during sessions (República de Panamá,

an Assembly seat.

⁴¹ I am grateful to Martha Merritt for this insight.

1906). At one point before 1932, and after the adoption of the US dollar as legal tender in Panama, pursuant to the Legal Tender Agreement of 20 June 1904,⁴² the salary was set at US\$300 per session month. In 1932, to the US\$300 monthly sessional allowance was added a US\$150 payment for each month during which the Assembly was in recess.

This double remunerative scale was abrogated in 1956, when pursuant to a constitutional amendment deputies' salaries were increased to US\$750 per month throughout the year. An additional allowance of US\$1,000 per extraordinary session was also introduced at this time. In 1964, the US\$750 allowance was enhanced with a US\$250 monthly supplementary allowance, which in effect signified an increase in deputies' salaries to US\$1,000 per month. At the time, Quintero (1967: 476-78) judged this emolument "excessive." In his opinion, "a deputy should not be paid more than a schoolteacher or a high-school professor. If he has no personal supplementary income, he can live on such salary; if he has additional income, such salary will allow him to maintain his habitual lifestyle."

This payment was modest, however, compared to the emoluments legislators approved for themselves after the 1983 constitutional reform went into effect. At the time of the new Assembly's inauguration, in 1984, members set their own basic monthly salary at US\$1,800. To this amount they added a \$3,200 representation allowance, a \$1,000 fuel allowance, and a \$1,000 committee attendance allowance, all of which brought legislators' fixed monthly emoluments to \$7,000. Despite members' attempts to increase their remuneration, as of this writing their emoluments remain at the same level. The \$7,000 figure still contrasts sharply, however, with Panama's minimum monthly wage, which

⁴² For the text of the agreement, see US Department of State, 1972: 681-83.

President Mireya Moscoso (PA) increased to US\$253 in July 2000 (*El Panamá América*, 20 July 2000; *La Prensa*, 20 July 2000).⁴³

In real figures, the basic salary of a legislator in 1984 was nearly three times the income of a deputy in 1968. Using 1956 as a base year and adjusting Assembly members' salaries for cost of living in Panama, as reported in Mitchell (1998), the US\$1,000 monthly salary of deputies in 1968 represented US\$925.56 in 1956 figures.⁴⁴ When the Assembly was reintroduced in 1984, the monthly US\$7,000 salary of legislators represented US\$2,663.78 in 1956 figures, or 2.88 times the monthly wage of a deputy in 1968 (adjusted for 1956 prices). Table 4.1 shows Assembly members' real wages from 1956 to 1968 and from 1984 to 1993, adjusted for cost of living in Panama in 1956:

⁴³ A Planning Office report released in mid-1998 calculated Panama's annual average per capita income at \$2,237, or almost 38 times less than the gross annual income of a legislator (US\$84,000). *El Panamá América*, 12 June 1998.

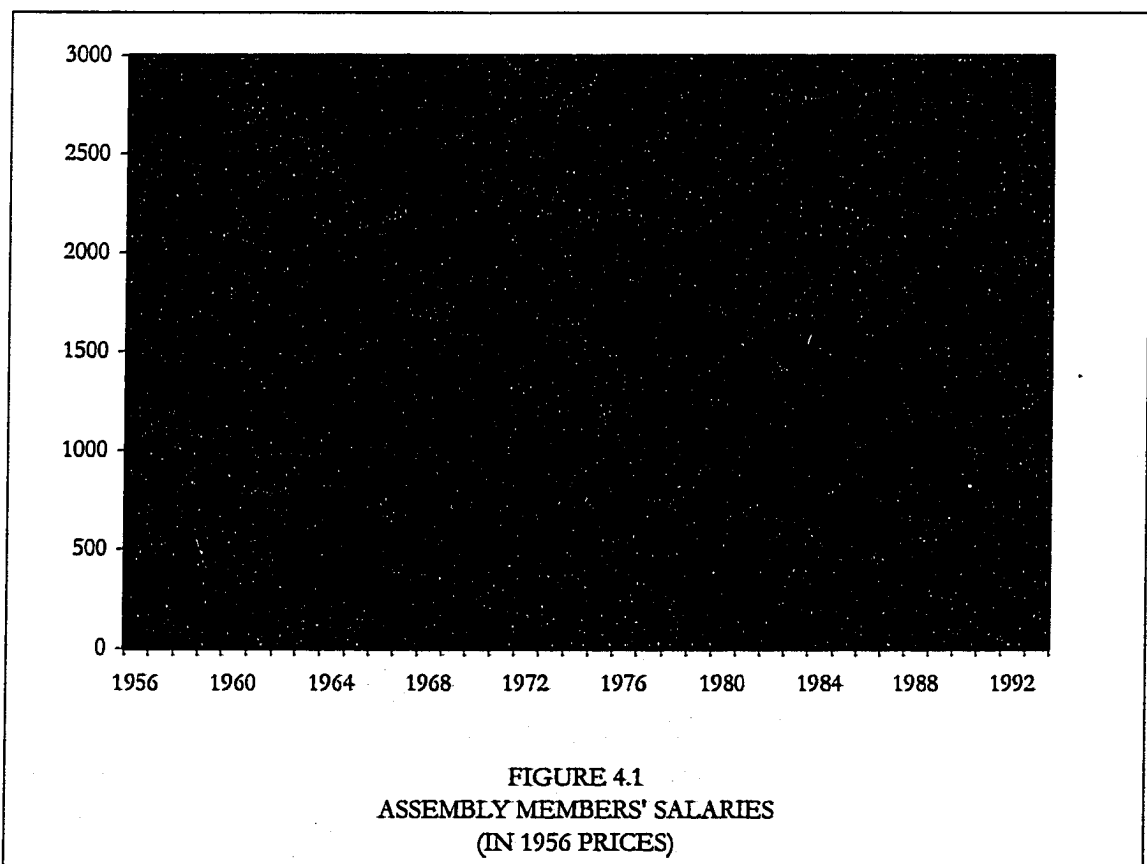
⁴⁴ Deputies' and legislators' salaries were adjusted in accordance with Panama's Consumer Price Index (CPI) as reported in Mitchell (1998), which provides data for Panama up to 1993. This exercise adjusted all salaries to 1956 prices. I am grateful to Michael Coppedge for suggesting and helping undertake this analysis.

TABLE 4.1

PANAMANIAN ASSEMBLY MEMBERS' SALARIES
(IN 1956 PRICES)

YEAR	REAL SALARY
1956	750.00
1957	753.93
1958	753.93
1959	757.89
1960	753.88
1961	753.88
1962	745.95
1963	742.06
1964	958.74
1965	953.90
1966	953.90
1967	939.52
1968	925.56
1969	
1970	
1971	
1972	
1973	
1974	
1975	
1976	
1977	
1978	
1979	
1980	
1981	
1982	
1983	
1984	2,663.78
1985	2,640.81
1986	2,640.81
1987	2,618.24
1988	2,596.05
1989	2,596.05
1990	2,574.24
1991	2,531.33
1992	2,489.84
1993	2,469.76

As demonstrated graphically in Figure 4.1 (below), the price adjustment reveals a substantial increment in members' real salaries between the wages paid to deputies in the 1960s and the emoluments received by legislators beginning in 1984. The comparison is not only significant in real terms but also as regards members' workload. Under the 1946 Constitution, as explained in Chapter 3, deputies represented larger territorial constituencies. Despite population growth between 1968 and 1984, most of the old electoral districts had more inhabitants than the new constituencies created under the 1983 regime. Moreover, under the 1946 Statute, the Assembly had broader constitutional functions. The obvious implication is that legislators are paid substantially more, in real terms, than National Assembly deputies, for a significantly reduced amount of work.



A review of the backgrounds of legislators elected in 1999 reveals that most would not receive a US\$7,000 monthly income—which adds up to a gross US\$84,000 annual salary—if they were not members of Panama’s Legislative Assembly. On the basis of the résumés submitted by 67 of the 71 legislators elected in 1999, available at the Assembly’s website (www.asamblea.gob.pa) and in accordance with a survey of international prices and wages published by the Union Bank of Switzerland (Gutmann and Frey, 2000), most respondents (73 percent) could expect to receive gross annual salaries of less than US\$27,000 if they had other employment pertinent to their professional and educational experience—assuming, naturally, that they sought a position in the formal sector. Slightly over one fourth (27 percent) could expect to receive gross annual salaries above US\$27,000. Most responding legislators (27, or 40 percent of 67 respondents) would probably receive gross annual salaries in the US\$20,000-US\$27,000 range.⁴⁵ One third would probably earn a salary

⁴⁵ I classified legislators according to their backgrounds with regard to the data for Panama City contained in Gutmann and Frey, 2000. The classification was based on each legislator’s professional profile, excluding membership in the Assembly. The survey of international wages has 12 categories: saleswoman, female industry worker, building labourer, skilled industrial worker, automobile mechanic, primary schoolteacher, bus driver, secretary, cook (chef), engineer, department manager, and bank credit clerk. I added a thirteenth category, higher income job, for cases in which the legislator’s profile appeared to qualify him/her for a better paid job than bank credit officer. I matched legislators’ professional profiles to the UBS survey categories as follows:

1. Saleswoman (US\$4,200): None
2. Female industrial worker (US\$4,500): None
3. Building labourer (US\$4,700): Construction worker
4. Skilled industrial worker (US\$5,800): None
5. Automobile mechanic (US\$6,100)
6. Primary schoolteacher (US\$6,200): Primary schoolteacher
7. Bus driver (US\$9,800): Bus driver, taxi driver
8. Secretary (US\$9,900): Accountant, agricultural technician, business/public sector clerk, high-school professor, medical technician, reporter, secretary
9. Cook (chef) (US\$18,900): None
10. Engineer (US\$20,100): Agricultural/chemical engineer, driver-entrepreneur, engineering technician, public sector administrator, rural dentist/physician, university professor, veterinarian
11. Department manager (US\$24,800): commercial farmer, commercial farmer-high school professor, pilot-industry supervisor
12. Bank credit clerk (US\$26,800): Bank administrator, business administrator, urban physician
13. Higher income job (above US\$27,000): attorney, businessman, engineer-business owner, urban physician-business owner

under US\$10,000 per annum. These results, which support the assertion that some members of Panama's Legislative Assembly seek reelection to maintain their high-income status, are summarized in Table 4.2:

TABLE 4.2
LEGISLATORS' EXPECTED SALARIES
PANAMA, 1999

SALARY CATEGORY	N	PERCENT
Less than 10,000	22	33%
Between 10,000-20,000	0	0%
Between 20,000-27,000	27	40%
Over 27,000	18	27%
	67	100%

In addition to the US\$7,000 monthly emoluments, in 1984 each legislator was awarded a US\$4,000 fixed staff allocation, which they still receive (*La Prensa*, 23 March 1994). Legislators also have access to an additional amount of funding to appoint "activists" and "advisors" in their constituencies or to the Assembly bureaucracy. This undisclosed additional staff allocation is not always distributed equally among legislators; normally, those belonging to the majority obtain higher allocations. In 1999-2000, all members of the chamber received an extra US\$4,000 for this purpose. Funding thus obtained is used to reward family, friends, and loyal supporters (Blandón, 2000a; *El Siglo*, 28 April 2000, 3 May 2000).

Partidas circuitales, the constituency appropriations assigned directly to each legislator for "community development" purposes, were also made available to both government and

Legislators' résumés were obtained from the Legislative Assembly website (www.asamblea.gob.pa) with the

opposition members at that time. Additionally, supplementary allowances were decreed for the chamber's president and two vice-presidents.⁴⁶ From 1984 to 1994 the president of the Assembly received an additional monthly allowance of US\$2,500 and each of the two vice-presidents an extra US\$1,250 monthly stipend. After 1994, these supplementary payments were increased to US\$5,000 and US\$3,000, per month, respectively (Ameglio, 1998). These additional payments may explain at least in part the commotion that surrounds the annual election of the Assembly's directing board.

Legislators who perform as officers in the Assembly's 21 committees also receive additional stipends. These officers are elected annually. Committee presidents reportedly receive a US\$1,250 "special monthly diet." Vice-presidents are paid an extra US\$1,000 and secretaries receive a supplementary US\$750 stipend per month (Janson Pérez, 1998a).

Payments received by Panamanian legislators are not only well above the earnings of most of the country's citizens. They also compare favorably to the remuneration received by members of most other deliberative chambers. This conclusion is based on a mid-1999 analysis of the emoluments received by representatives in several countries, available in the *PARLINE* database of the Inter-Parliamentary Union.⁴⁷

Adjusting the fixed monthly remuneration of US\$11,000 received by Panamanian legislators (including the US\$4,000 staff allowance that other countries in the dataset also include) for currency differences and purchasing power allows comparison with the

assistance of Marcela Endara. I thank Scott Mainwaring for suggesting this assessment of legislators' income.

⁴⁶ Together with the secretary-general, who is not a legislator, the president and two vice-presidents constitute the Assembly board or *Junta Directiva*. See Article 12 of the Organic Law, in República de Panamá, Asamblea Legislativa, 1999: 6. I thank Eduardo Quirós (PA) a substitute of Legislator José Blandón Figueroa and current Vice-Minister of Finance, for providing the latest edition of the Organic Law.

⁴⁷ www.ipu.org/parline-e/parlinesearch.asp

emoluments received by representatives in other countries.⁴⁸ The process results in a revised total monthly remuneration of US\$25,722 for Panamanian legislators, the sixth highest in a list of 38 countries that by mid-1999 had provided information about the total compensation received by members of their representative assemblies (lower chambers in the case of bicameral bodies). Though their total remuneration may not be disclosed by representatives in some countries,⁴⁹ it is nevertheless revealing to find that Panama's legislators appear to be better compensated than representatives in such advanced post-industrial countries as France, the United Kingdom, Belgium, New Zealand, Canada, Australia, the Netherlands, Spain, Luxembourg, and Sweden. The results of this exercise are featured in Table 4.3:

⁴⁸ For each country that reported information, the adjustment process consisted of adding all emolument items, converting them to US dollars at the yearly average exchange rate reported in the April 1999 edition of the IMF's *International Financial Statistics*, and multiplying this product by the Purchasing Power Parity (PPP) Adjustment Index. The PPP Adjustment Index was calculated by dividing GDP in PPP dollars by GDP in market prices (US dollars). GDP data are from the *World Development Indicators*, The World Bank, 1998 CD ROM. This index adjusts market prices in a given country to their actual purchasing power vis à vis prices in all other countries, thus allowing a basis for cross-national comparison. In the case of Panama, to the basic salary of US\$1,800 were added the representation allowance of US\$3,200, the fuel and committee attendance allowances of US\$1,000 each, and the staff allowance of US\$4,000, which gave a total of US\$11,000. No currency translation was required because Panama uses the US dollar as its currency. Total emoluments in US dollars, or 11,000 in the case of Panama, were then multiplied by the PPP Adjustment Index for Panama of 2.338350633. This operation rendered the adjusted total emolument of US\$25,722 for Panama. I thank Maiju Perala, PhD candidate in Economics at the University of Notre Dame, for valuable assistance in calculating these adjustments.

⁴⁹ The dataset of 38 countries includes information for Panama as well as all those countries that provided a seemingly complete answer to question 2.2.1 of the Inter-Parliamentary Union (IPU) survey: "What indemnities do MPs receive: (a) A basic salary? Please specify the amount. (b) An additional allowance? Please specify the amount." While the IPU *PARLINE* database remains the most complete source on comparative emoluments received by representatives, the possibility exists that in some cases specific allowances may have been omitted. To overcome this possibility, I tried to obtain information directly from deliberative chambers or other informants in as many cases as possible. Countries for which the information on emoluments was complemented or provided by outside sources and can thus be considered more reliable are indicated with an asterisk (*) in Table 4.2. These countries are Argentina, Brazil, Chile, Colombia, Costa Rica, El Salvador, Peru, Russia, the United States, and Uruguay. Sources for these countries are as follows: Argentina: Mark Jones, e-mail message, 18 May 1999; Brazil: Ademar Silveira Sabino, Brazilian Congress, through João Eustáquio da Silveira and Scott Mainwaring, facsimile transmission, 2 June 1999; Chile: Deputy Ignacio Walker, interview, 21 April 1999; Colombia: Gustavo Gallón, e-mail message, 24 March 1999; Costa Rica: Anny Córdoba Barrantes, Costa Rican Legislative Assembly, through Jorge Vargas Cullel, letter, 12 May 1999; El Salvador: Clara Escamilla, through Carlos Ungo, e-mail message, 25 March 1999; Peru: Carlos Castro Paragulla, Peruvian Congress, e-mail message, 4 May 1999; Russia: Martha Merritt, translation of article published in *Argumenty i fakty*, Moscow, 11 May 1999; United States: Representative Tim Roemer (D-Indiana), letter, 24 May 1999; Uruguay: David Altman, e-mail message, 15 March 1999.

TABLE 4.3

REPRESENTATIVES' EMOLUMENTS: BASIC SALARY PLUS OTHER
ALLOWANCES, ADJUSTED FOR PPP, SELECTED COUNTRIES

RANK	COUNTRY	ADJUSTED TOTAL EMOLUMENT (in US\$)
1	United States *	90,103
2	Colombia *	55,841
3	Brazil *	47,207
4	Chile *	30,391
5	Russia *	29,135
6		
7	France	16,278
8	Peru *	13,687
9	Philippines	11,643
10	Uruguay *	10,255
11	Costa Rica *	8,403
12	Thailand	7,729
13	Paraguay	7,212
14	Haiti	7,114
15	United Kingdom	6,824
16	Belgium	6,463
17	Turkey	6,195
18	New Zealand	6,154
19	Argentina *	5,768
20	Canada	5,725
21	Australia	5,642
22	Netherlands	5,596
23	Jamaica	5,332
24	Chad	4,677
25	Ivory Coast	4,405
26	Spain	4,373
27	Botswana	3,892
28	Benin	3,880
29	El Salvador *	3,855
30	Luxembourg	3,635
31	Poland	3,530
32	Sweden	3,044
33	Czech Republic	2,518
34	Fiji	1,725
35	Kenya	1,468
36	Bangladesh	1,375
37	India	1,343
38	Pakistan	1,292
N	38	

(*) Presumably complete information verified with country informants, as indicated in footnote 49.

Furthermore, Panamanian legislators head the list in this set of 38 countries as the best compensated representatives after calculating the ratio of total remuneration per constituent. The reason for calculating this ratio is that the effort, responsibility, and prestige of representation increase as the number of constituents increases. This ratio therefore provides a standard for appropriate compensation that is more proportionate to the demands and prestige of each position.⁵⁰ In the case of Panama in 1997, with an approximate population of 2.72 million and an Assembly of 72 members, each legislator theoretically represented 37,778 persons ($2,720,000 \div 72$). Dividing the adjusted total emolument (US\$25,772) by the number of persons theoretically represented by each legislator (i.e., $37,778 \div 25,772$) gives a ratio of 0.68. In other words, comparatively speaking, each person in Panama must contribute US\$0.68 every month towards his/her legislators' remuneration. The same exercise gives US\$0.25 for Chile, US\$0.20 for New Zealand, US\$0.15 for the United States, US\$0.10 for Belgium, and US\$0.05 for the Netherlands. Results for all 38 countries are shown on Table 4.4. Note the magnitude of the disproportion between the ratio for Panama and that for all other countries (except Luxembourg), which attenuates doubts that might arise as a result of the comparability issues addressed in footnote 49.

⁵⁰ I thank Michael Coppedge for this observation.

TABLE 4.4

REPRESENTATIVES' EMOLUMENTS (ADJUSTED FOR PPP) PER PERSON

RANK	COUNTRY	ADJUSTED TOTAL EMOLUMENT	POPULATION (1997)	No. OF MEMBERS	PERSONS REPRESENTED BY EACH MEMBER	TOTAL EMOLUMENT PER PERSON
2	Luxembourg	3,635	420,000	60	7,000	0.52
3	Uruguay	10,255	3,220,000	99	32,525	0.32
4	Chile	30,391	14,620,000	120	121,833	0.25
5	Colombia	55,841	36,160,000	161	224,596	0.25
6	New Zealand	6,154	3,760,000	120	31,333	0.20
7	France	16,278	58,610,000	577	101,577	0.16
8	Brazil	47,207	159,880,000	513	311,657	0.15
9	Fiji	1,725	810,000	71	11,408	0.15
10	United States	90,103	267,900,000	435	615,862	0.15
11	Costa Rica	8,403	3,460,000	57	60,702	0.14
12	Jamaica	5,332	2,550,000	60	42,500	0.13
13	Sweden	3,044	8,850,000	349	25,358	0.12
14	Botswana	3,892	1,530,000	47	32,553	0.12
15	Paraguay	7,212	5,090,000	80	63,625	0.11
16	Belgium	6,463	10,190,000	150	67,933	0.10
17	Russia	29,135	147,100,000	450	326,889	0.09
18	Chad	4,677	6,700,000	125	53,600	0.09
19	Haiti	7,114	7,490,000	83	90,241	0.08
20	United	6,824	58,200,000	659	88,316	0.08
21	Peru	13,687	24,370,000	120	203,083	0.07
22	Canada	5,725	30,290,000	301	100,631	0.06
23	Benin	3,880	5,830,000	83	70,241	0.06
24	El Salvador	3,855	5,910,000	84	70,357	0.05
25	Ivory Coast	4,405	14,300,000	175	81,714	0.05
26	Netherlands	5,596	15,600,000	150	104,000	0.05
27	Turkey	6,195	63,750,000	550	115,909	0.05
28	Thailand	7,729	60,600,000	393	154,198	0.05
29	Czech	2,518	10,300,000	200	51,500	0.05
30	Australia	5,642	18,530,000	147	126,054	0.04
31	Poland	3,530	38,650,000	460	84,022	0.04
32	Argentina	5,768	35,670,000	257	138,794	0.04
33	Spain	4,373	39,320,000	348	112,989	0.04
34	Philippines	11,643	73,530,000	217	338,848	0.03
35	Kenya	1,468	33,140,000	224	147,946	0.01
36	Bangladesh	1,375	122,010,000	330	369,727	0.00
37	Pakistan	1,292	138,160,000	217	636,682	0.00
38	India	1,343	955,220,000	545	1,752,697	0.00
N	38					

Panamanian legislators, therefore, receive abundant compensation, both in comparison to their fellow citizens as well as to representatives in other countries. Yet despite their ample remuneration, they have repeatedly attempted to increase their income. So have representatives in other countries, such as Nicaragua, where—however—deputies do not earn as much as members of Panama's Legislative Assembly. In 1998, a bill providing a US\$1,000 monthly increase in deputies' emoluments to US\$4,500 was submitted to the Nicaraguan National Assembly.⁵¹ The chamber's president, Iván Escobar Fornos, justified the proposed pay raise as a measure to avoid "bribery" and as a reward for the assembly's "efficiency." Such increases would be justifiable if in fact low pay was the reason for corruption in the first place. But, as critics complained, deputies' salaries were already disproportionate to the remuneration earned by less influential public sector employees, such as physicians, schoolteachers, and policemen, who on average received monthly salaries of US\$200, US\$80, and US\$70, respectively (*El Panamá América*, 3 September 1998).

The public has also criticized Panamanian legislators' efforts to increase their remuneration. Yet members of Panama's Assembly have tried to raise their salaries, directly or through indirect legal subterfuges, on at least three occasions during the 1990s. In another three, they resolutely resisted attempts to curtail their emoluments. These episodes—which manifest some legislators' preoccupation with securing a salary increment or protecting their remuneration from reduction—are described below.

⁵¹ The US\$4,500 figure included basic salary plus allowances for committee attendance, transportation, and vehicle maintenance. It did not comprehend a fuel allowance paid separately. Compare this figure to Panamanian legislators' emoluments less fuel allowance (US\$6,000).

Episode 1: Legislators' Refusal to Accept the General Salary Reduction (1990)

Governing Coalition: PDC, MOLIRENA, PA, PLA

Upon assuming office after the US invasion of December 1989, the administration of President Guillermo Endara (PA) found the government's finances in a chaotic state.⁵² In consequence, President Endara introduced a series of measures to restore fiscal order that included salary cuts for top government officials. Through Cabinet Decree No. 22 of 2 February 1990, the president's emoluments were fixed at US\$7,000 per month and those of second-level officials, including ministers, Supreme Court magistrates, and legislators, at US\$5,000 per month. In the case of the members of the Legislative Assembly, this measure represented a monthly cut of US\$2,000 in their paychecks. It was estimated at the time that the salary reduction in the higher government levels would produce annual savings of approximately US\$2.1 million.

The salary reduction decree was introduced pursuant to the "Statute of Immediate Return to Constitutional Order" issued on 21 December 1989 which, among other features described in Chapter 2, assigned all legislative functions to the executive until the Legislative Assembly was able to meet. After the conclusion of a dubious electoral review process,⁵³ the Assembly met for the first time on 1 March 1990. Shortly thereafter, legislators began to complain that the executive had acted illegally by including them in the salary reduction decree. Legislator Milton Henríquez (PDC), president of the Budget Committee, summed up the complaints of his fellow members by reminding the executive and the public that in

⁵² This section was written on the basis of information provided in Ricord, 1991: 571-72; and *La Prensa*, 19, 20, 23 February 1990; 26 April 1990.

⁵³ For details, see Chapter 2, footnote 23.

accordance with Article 151 of the Constitution, legislators' emoluments were established by law. In consequence, the executive had no authority to reduce members' salaries; only the Assembly itself could change them through the legislative process.

The chamber's attempts to resist the reduction of members' salaries were highly unpopular and contributed significantly to erode public confidence in the Assembly. Nearly three years of political turmoil and US economic sanctions, added to the destruction brought about by the US invasion of December 1989, had devastated the country's economy and caused widespread deprivation. Even in the face of extensive criticism, however, the Assembly succeeded in maintaining the remuneration of legislators at their higher, pre-1990 level.

Episode 2: Legislators' Attempt to Secure Payment for "Vacations" (1994-1996)

Governing coalition (1994): PA, PLA; (1994-1996): PRD, PSOL

In May 1994, Assembly President Arturo Vallarino (MOLIRENA, previously PALA)⁵⁴ wrote to Comptroller-General José Chen Barria to request payment of vacation benefits to the chamber's 67 legislators.⁵⁵ Legislator Vallarino's argument was that as public employees and in accordance with Panamanian law, legislators were entitled to receive one month's full payment for every eleven months' work. The bill for legislators' vacation payments amounted to approximately US\$1.3 million.

⁵⁴ Arturo Vallarino, legislator for PALA (1984-1989) and MOLIRENA (1989-) is the only member to have achieved reelection on all occasions since the inception of the Assembly in 1984. As indicated in Chapter 2 (fn. 15), in 1999 in addition to attaining reelection he was elected First-Vice President of the Republic.

⁵⁵ This section was written on the basis of information provided in *El Panamá América*, 7, 8, 9 February 1996; and *La Prensa*, 28 May 1994; 13 June 1994; 9, 11, 15, 19 July 1994; 4 September 1994.

At the comptroller-general's request, Solicitor-General Donatilo Ballesteros (PA) issued a legal opinion that rejected the claim. Payment of vacation benefits required continuous, uninterrupted service for at least eleven months, which was not the case of legislators who met twice a year during four-month periods separated by two two-month recesses. In actuality, said the solicitor-general, legislators were paid during twelve months every year when they only worked during eight months. Quoting the poor attendance record of many legislators, indignant observers added that the Assembly only met four days a week during sessions.

The Assembly countered Solicitor-General Ballesteros' opinion by claiming that legislators' duties continued during recess. On occasion, during these four months they attended committee meetings and carried out constituency service. In response, the solicitor-general expressed the view that, in accordance with the Constitution, attendance at committee meetings and performance of constituency service during recess were optional and not directly linked to the official duties of members. Because the Assembly insisted on obtaining payment and the comptroller-general refused, the matter was submitted to the Supreme Court.

It took the magistrates almost two years to resolve the issue. In February 1996 the Court, basically reiterating the solicitor-general's argument, ruled that legislators were not entitled to receive vacation payments. The ruling emphasized that legislators received additional pay during extraordinary sessions and did not enjoy immunity against criminal prosecution during recess. These facts, said the Court, clearly demonstrated that members were not required to work during recess. In other words, they enjoyed a vacation period of four months per year while the rest of the working population was only entitled to a one-month yearly holiday.

Although the Assembly's membership had already been renewed by the time the Court issued its verdict, the chamber was not amused. Many in the new Assembly were counting on an increase in their income if the Court ruled that legislators were legally entitled to receive vacation pay. Legislator Miguel Bush (PRD) took the floor to lambast the Court for "snubbing the popular classes represented in the Assembly" by denying its representatives payment of what in his view was legally due them. Government and opposition legislators added that the unfavorable decision would undermine relations between the Assembly and the Court.

Episode 3: Legislators' Repeatedly Reject a Salary Reduction Proposal (1994-1996)

Governing coalition (1994-1996): PRD, PSOL

In response to complaints about the high level of compensation awarded to legislators, their ample privileges, and their poor attendance records, a "movement for legislative reform" (*Movimiento de Depuración Legislativa*) was initiated during the 1994 political campaign.⁵⁶ The proposal included a US\$2,000 salary reduction to US\$5,000 per month, the abolition of the vehicle tax exemption privilege (which allows the tax free purchase of three vehicles per term for legislators' personal use), the obligation to submit a yearly declaration of assets, the suspension of allowances for failure to attend meetings, and an obligation to resign six months prior to the elections for those members seeking reelection. Several legislative candidates joined the movement, including incumbent Marco Ameglio (originally PLA, then MORENA, subsequently PA).

⁵⁶ This section was written on the basis of information provided in Guillén, 2000; *El Panamá América*, 18 October 1995; and *La Prensa*, 6, 25 April 1994; 21 September, 1994; 18 October 1995, 14 December 1996.

Once the new Assembly met, in September 1994, Legislator Olmedo Guillén (then PRC, later PA, subsequently PDC) took the reformist banner to the Assembly floor and submitted a bill setting a US\$5,600 limit on members' remuneration. The proposal included using the savings generated by the salary reduction for the creation of a "special fund against poverty and drug consumption." Together with the proposed cut, Legislator Guillén also submitted a bill restricting the automobile tax exemption privilege, addressed in a subsequent chapter section.

The chamber, however, shelved both proposals. At the beginning of the next legislative period—specifically in October of 1995—Legislator Guillén once again presented the bills, as required by Article 169 of the Constitution in case a proposal is not discussed by the Assembly before the end of the period (Bernal, 1995: 75; Blandón Figueroa, 1998c; Méndez Fábrega, 2000b). On this occasion several members accused Legislator Guillén of demagoguery. Legislator Raymundo Hurtado (MOLIRENA, later CD), for example, said the salary reduction proposal was "yet another act of demagoguery, because he [Guillén] knows it will not be approved." Legislator Hurtado added: "The salary we earn is not sufficient; in my case, I have to share it with my constituency and all the country's unemployed."

The comment by Legislator Hurtado is indicative of some members' claim that they require ample remuneration and access to state funding (such as *partidas circuitales*) to finance public works and provide clientelistic favors. There is no doubt that members channel funds towards these objectives, as will be revealed in Chapter 7. As the record shows, however—and as is demonstrated by specific behavior described in this chapter—the urge for salary increases and additional funding also responds to a desire for personal enrichment exhibited by at least some of the members of Panama's Assembly.

As before, Legislator Guillén's salary reduction plan was not considered in the appropriate committee during the fall 1995 session of the Legislative Assembly. The following year Legislator Guillén re-submitted his proposal. Once again, members dismissed it as demagoguery. Legislator César Pardo (PRD) declared he wished he could have access to "a one million dollar allowance, so as to satisfy all the needs of my constituency." Legislator Alberto Cigarruista (then PLA, later PA) suggested that the proposal was illegal because the Organic Law of the Assembly stipulated that members' remuneration should be equivalent to the salary of cabinet ministers, which had recently been increased to US\$10,000 per month.

Episode 4: Legislators Attempt a Pay Increase (1995-1997)

Governing coalition: PRD, PSOL, PLN, part of MPE, two "independents"

The ministerial pay increase referred to above went into effect on 1 October 1995.⁵⁷ Because the Constitution (Article 210) and certain specific laws require an equivalence between the salaries of ministers of state and several other high-level officers, including the magistrates of the Supreme Court and the Electoral Tribunal, the prosecutor-general, the solicitor-general, the electoral prosecutor, and the administrator of the Inter-Oceanic Regional Authority, these high-ranking officials immediately requested a salary adjustment. During the last three months of 1995 the increase was charged to a "Global Expenses"

⁵⁷ This section was written on the basis of information provided in *El Panamá América*, 24 October 1995; 24, 26 November 1995; 2, 5, 9, 11, 12 December 1995; 9 February 1996; 27, 28 November 1996; 2, 4, 5, 6, 7, 11, 12, 13, 14, 16, 17, 27, 30 December 1996; and *La Prensa*, 29 September 1994; 2, 19, 20 October 1996; 4 November 1995; 4 December 1995; 2, 3, 15 February 1996; 4, 6, 11, 17, 22, 31 December 1996; 1, 3, 8, 15 July 1997, 29 February 2000)

account controlled by the executive. In this manner President Ernesto Pérez Balladares (PRD) avoided presenting a budgetary amendment request before the Assembly.

The budget bill for fiscal year 1996 (1 January—31 December 1996), submitted by the executive to the Assembly in the last quarter of 1995, did contemplate the increase in the salaries of ministers, magistrates, and other high-level officers. It also provided a 140 percent increase in alternates' monthly emoluments, from US\$250 to US\$600.⁵⁸ In December 1995 the Assembly approved the budget bill that contemplated these increases.

The decision of President Pérez Balladares was highly unpopular and heavily criticized in the press as well as by the Catholic Church and other civil society groups. The Assembly reacted to this criticism by demanding a \$3,000 increase in the salaries of its 72 members whose emoluments—in accordance with Article 237 of the chamber's Organic Law—must equal those paid to ministers of state. These demands came from both government and opposition members. Legislator Elías Castillo (PRD) complained that in practice, ministers were paid more than legislators when in theory they should earn the same. On 20 October, the press quoted Legislator Lucas Zarak's (then PA, later PDC) hope that President Pérez Balladares “had taken into consideration that an increase in the salaries of ministers must automatically produce a rise in the remuneration not only of the 72 legislators but also of the nine Supreme Court justices, the three Electoral Tribunal magistrates, and other high-level officials.”

The executive, however, declined to adjust legislators' paychecks. It based its decision on Article 151 of the Constitution, which stipulates that any increase in legislators'

⁵⁸ At some point after 1995 alternates' salaries were increased to US\$1,000 and, later, US\$1,500. Beginning in April 2000, their emoluments were increased to US\$2,000. In exchange for this payment they are not legally obligated to perform any service to the state. Legislators and parties try to compensate substitutes from the public treasury, however, for their role as party activists, especially during electoral campaigns (Méndez Fábrega, 2000a, 2000b; *La Prensa*, 19 April 2000).

salaries can only take effect in the subsequent term (Bernal, 1995: 58). The executive also cited budgetary constraints—a US\$3,000 per month pay increase for legislators represented an additional, US\$2.6 million yearly expenditure, which had not been provided for in the 1996 budget bill that legislators approved towards the end of 1995. Furthermore, at the time a decision was pending on a December 1995 suit presented before the Supreme Court by a pro-government attorney, who asked the magistrates to declare the equivalence between legislators' and ministers' salaries unconstitutional. Despite Legislator Miguel Bush's (PRD) threats to sue the government before the Supreme Court, in practice there was little the Assembly could do to further its cause but await a decision by the justices.

In a verdict issued on 5 December 1996, the Court ruled that the Organic Law provision establishing the equivalence of “prerogatives, emoluments, and allowances” enjoyed by legislators and ministers of state (presently Article 237) was not unconstitutional. At the same time, it emphasized the constitutional provision whereby legislation providing salary increases enters into effect after the conclusion of the term of the Assembly that approved it (Article 151). As regards the specific issue in question, the ruling was ambiguous because it was the executive, not the chamber, who had ordered a wage increase that benefited a category of officers including the members of the Assembly.

A few days earlier, on 3 December, the Assembly approved a bill submitted by Legislator Alberto Alemán Boyd (PRD), presumably in development of the equivalence provision. Although the bill concentrated on matters of protocol—stipulating, for instance, that legislators and alternates should occupy the same order of precedence on state occasions as cabinet ministers and that their families should be granted preferential treatment in official functions—it was insistently rumored that the real intention of the Assembly was to further its claim to the salary increment. The “honors” bill passed the third reading with 35 votes in

favor and four abstentions. Only four members opposed it: Olmedo Guillén (then PA, previously PRC, later PDC), Víctor Méndez Fábrega (MPE, later MOLIRENA), and the substitutes of Legislators Lenín Sucre (then MOLIRENA, previously Partido Liberal [PL], subsequently PA) and Rubén Arosemena (PDC).

Believing its claim had been boosted by the Supreme Court ruling and the “honors” bill of early December, the Assembly now proceeded to insist on a pay adjustment for its members. By early 1997, however, the government was already immersed in a campaign to ensure the approval of a constitutional amendment allowing the chief executive’s consecutive reelection. If the public uproar caused by the increase in ministers’ salaries and the approval of Legislator Alemán’s “honors bill” were any indication, a US\$3,000 increment in the emoluments of all 72 legislators would have disastrous effects on the government’s image and, consequently, on its reelection campaign as well.

To bring the matter temporarily to a close, in July of 1997—one year before the referendum on reelection—President Pérez Balladares ordered a reduction in minister’s monthly salaries to US\$7,000, the same amount earned by the members of the Assembly. Sensing that their pay increase expectations had vanished, some legislators reacted angrily. Legislator Alberto Cigarruista (then PL, subsequently PA) criticized the decrease as “arbitrary” and demanded that the president submit a bill to the chamber regulating the issue of high-level government salaries. Predictably, however, no such bill was submitted.

Episode 5: Legislators Refuse to Consent to Loss of Allowances for Unjustified Absences (1998)

Governing coalition: PRD, PSOL, PLN, part of MPE, two "independents"

As noted before, Panamanian legislators are elected concurrently with two substitutes, whose purpose, according to Article 141 of the Constitution, is to replace their principals when the latter cannot be present at Assembly meetings (Bernal, 1995: 53).⁵⁹ Despite the existence of alternates, absenteeism is a chronic problem in the Panamanian Assembly. Many committee and plenary sessions cannot be held because legislators repeatedly fail to show up and neglect to send their substitutes to the meetings. Moreover, Panamanian legislators have no obligation to be present at Assembly sessions and are not penalized for failing to attend.

Added to a group of countries that by mid-1999 had provided information to the Inter-Parliamentary Union in this regard, representatives in Panama prove to be among the most privileged. Within a dataset of 77 countries, attendance is compulsory at plenary and committee meetings for representatives in 45 countries, i.e., 58 percent of the sample; compulsory in either plenary or committee meetings in 9 other countries, or 12 percent; and non-compulsory in 23, or 30 percent, among them Panama.

Furthermore, within a sample of 69 countries, representatives in 62 states (90 percent) receive some type of sanction for failing to show up at meetings. These include loss of mandate or allowances, suspension, denial of further leave of absence, reminder of attendance requirements, censure, publication of the list of absences, loss of the right to be

⁵⁹ This section was written on the basis of information provided in Méndez Fábrega, 2000; *El Panamá América*, 23, 27, 30 October 1998; 21 May 1999; and *La Prensa*, 4, 18, 21, 22, 23 March 1994; 10, 30 May, 1994; 30 December 1996; 4 March 1997; 27 April 1997; 26, 28 September 1997; 16 March 1998; 11, 16 September 1998; 22, 23 October 1998; 1 March 1999; 15, 22 April 1999; 20 May 1999; 4 July 1999.

deputized, loss of the right to stand for election to the board or committees, remark, warning or rebuke, reproach, admonition, reprimand, or call to order. In the remaining seven countries (including Panama), which constitute 10 percent of the sample, representatives face no sanctions for their failure to attend congressional or parliamentary meetings.

In response to widespread public criticism for absenteeism, in 1993 Legislator José Hill (PDC) submitted a bill that penalized legislators with suspension of allowances in cases of unjustified absences. The proposal was never considered. In 1994, as a result of heightened absenteeism at election time, Assembly President Arturo Vallarino (MOLIRENA, previously PALA) threatened members who failed to attend with loss of allowances. The measure, however, was never implemented, despite Legislator Vallarino's assurances to the contrary.

In the following term (1994-1999), Legislator Víctor Méndez Fábrega (MPE, later MOLIRENA) submitted a new bill stipulating the loss of allowances for unjustified absences. Predictably, it did not even reach the discussion stage at the committee level and was dropped from the agenda at the end of the legislative period. In September 1998, after having submitted the bill five times and in response to the public outcry that blatant absenteeism had triggered, Legislator Miguel Bush (PRD), chair of the Assembly's Rules Committee, finally agreed to place it on the agenda. The proposal passed the first reading on 22 October with the Rules Committee's recommendation that it be processed with urgency by the plenum. There, however, it was received with disdain and never scheduled for the second reading.

While most legislators preferred either to remain silent or express their agreement with the measure, some were surprisingly candid about their feelings toward the prospect of

losing allowances for failing to attend Assembly meetings. Legislator Miguel Bush, who presided over the first reading of the bill in 1998, called it a “chimerical” project submitted by a “clown” (Legislator Méndez) interested in ensuring his own reelection.⁶⁰ Legislator Benicio Robinson (PRD) also belittled the initiative as “a political show” organized by Legislator Méndez. Gerardo González Vernaza (PRD), president of the chamber from 1997 to 1999, claimed it was “unconstitutional” and “ridiculous” (*un disparate*) to propose the loss of allowances for unjustified absences. “The issue of attendance at sessions is one of civic responsibility. Whoever wishes to attend shows up. Legislators have the right to attend or not to attend meetings,” explained the chamber’s presiding officer.

Episode 6: Legislators Attempt to Ensure a Retroactive Salary Adjustment, 2000

Governing coalition: PA, MOLIRENA, CD, PSOL, PLN, PDC

In February 2000, press reports informed of some members’ intention to obtain a retroactive salary adjustment for the 1994-1999 group of legislators.⁶¹ The attempt was based on the Supreme Court ruling of 5 December 1996 declaring that the equivalence between ministers’ and legislators’ salaries was constitutional. The adjustment would cover 18 months of the period during which the emoluments of cabinet ministers’ exceeded legislators’ salaries by US\$3,000, as described in *Episode 4*.⁶² The cost of the requested adjustment added up to approximately US\$3.6 million. If effective, it would benefit 31 of

⁶⁰ Incidentally, Legislator Méndez failed to achieve reelection.

⁶¹ This section was written on the basis of information provided *El Panamá América*, 22, 23, 24 February 2000, 3 March 2000, 2 April 2000, 26 January 2001; and *La Prensa*, 29 February 2000; 2 March 2000; 12 April 2000; 26 January 2001.

the 71 members of the Assembly elected in 1999, or 44 percent of the chamber, who were also legislators between 1994 and 1999, with a payment of over US\$50,000 per legislator.

On 22 June 2000, Assembly President Enrique Garrido (PDC, previously PA) requested authorization from the Comptroller-General's Office to pay the salary adjustment. Comptroller-General Alvin Weeden (PA) refused to authorize the payment, arguing that the 1996 Court ruling did not constitute an instruction to satisfy the legislators' claim. He further added that funding for this purpose was not included in the budget and that such an expenditure would place the government in difficulties.

Assembly sources held different opinions. Legislator Enrique Garrido (PDC, previously PA), president of the chamber from 1999 to 2000, held the view that the adjustment should be paid, but recognized the competence of the Supreme Court to clear the matter. As almost half of his peers, Legislator Garrido also served in the previous Assembly.

Francisco Alemán (PA), a new member who served as Budget Committee chair in 1999-2000, expressed his view that the 1996 ruling meant the adjustment had to be paid. Recognizing that funds had not been appropriated for this purpose, he suggested that the Assembly Board could decide whether to allocate funds from the chamber's own 2000 budget. Pursuant to a 1999 reform of the Assembly's Organic Law, explained Legislator Alemán, the chamber had autonomy to administer its own resources. Legislator Haydée Milanés (PSOL)—like President Garrido, a reelected member—insisted the Court ruling paved the way for the retroactive salary adjustment. She expressed her intention of

⁶² It is unclear why the claim covered 18 months instead of 21 months, i.e., between 1 October 1995, when the ministerial pay increase became effective, until 30 June 1997, after which it was revoked.

accepting retroactive payment because legislators had a “right” to the adjustment and “rights cannot be relinquished”.

As a result of the controversy between the Assembly and the Comptroller-General’s Office, the matter was brought before the Supreme Court. On 25 January 2001, the Court declared that the adjustment should not be paid. The ruling was based on Article 151 of the Constitution, which—as noted in *Episode 6*—stipulates that any rise in legislators’ salaries only takes effect in the ensuing period.

Exploitation and Expansion of Legislators’ Ample Privileges

To assist in the performance of their duties, members of deliberative chambers in most countries enjoy certain prerogatives. With the purpose of facilitating communication with constituents, for example, they are normally assigned postal franking privileges. Likewise, members of representative assemblies frequently receive diplomatic, official or special passports that allow preferential migratory treatment (and, in the case of diplomatic passports, immunity abroad under the 1961 Vienna Convention on Diplomatic Relations).

These specific identity documents facilitate travel in which modern-day members of assemblies increasingly engage in the fulfillment of their representative duties. In effect, within a group of 78 countries that by mid-1999 had provided information to the Inter-Parliamentary Union on the subject, 43 (55 percent) reported assigning diplomatic passports to representatives. Another 25 (32 percent) reported assigning them official or special passports, while representatives in only 10 countries (13 percent) traveled on their own, regular passports.

Article 238 of the Organic Law also recognizes these and other special prerogatives to members of the Panamanian Assembly (*Asamblea Legislativa*, 1999: 80-81). The Panamanian Assembly has, however, expanded these privileges in ways that are not directly linked to the fulfillment of its members' representative functions but appear to be more related to a collective aspiration for status aggrandizement or, when the privileges in question have economic value, personal enrichment.

The postal franking privilege within Panamanian territory, for instance, was included in the Organic Law adopted by the new Assembly in 1984. As indicated in Article 206 of the 1984 law, together with this prerogative legislators also instituted in their favor a telephone and telegraph frank within Panamanian territory (*Asamblea Legislativa*, 1984: 52). Although members of the Legislative Assembly are not known for communicating with their constituents through massive newsletter and bulletin mailings—as are their counterparts in the United States and other countries—it does make sense to recognize the postal frank to legislators as a mechanism that might help procure a closer link between the electorate and their representatives. Theoretically, the telephone frank also fulfils the same purpose, as does free use of the telegraph in a country such as Panama, where communication by wire has traditionally served as an efficient link between rural and urban areas.

It is practical to assign prerogatives to members of deliberative chambers as long as they assist in the achievement of the representative function, a collective good. But when privileges merely establish a personal benefit (as opposed to a collective good) they are no longer functional in democratic terms. To expand personal prerogatives such as these makes even less sense in the context of democratic theory.

But this is precisely what Panamanian legislators did in 1992, when a reform of the Organic Law extended the postal, telephone, and telegraph franking privileges to alternates

at all times, even when not acting for their principals (República de Panamá, 1992: 48 [Art.95]). As was previously emphasized, alternates fulfill no representative (or, for that matter, official) function whatsoever except in the absence of their principals. For purposes of better representation, substitutes temporarily operating as legislators should be enabled to use their principal's franking privileges. Otherwise, the nature of their position does not warrant the usufruct of franking privileges.

The trend towards the expansion of special prerogatives for personal economic gain once again became evident in June 1995, when the Assembly attempted to add a cellular telephone franking privilege to its members' prerogatives. As in most countries, communication by mobile telephone is costly in Panama. The proposal was submitted by legislators of all parties, including Benicio Robinson (PRD), Yadira González (PRD), Roberto Abrego (PRD), Carlos Afú (PALA, later PRD), Edgardo Alvarez (PRD), Carlos Alvarado (PRD), Enrique Montezuma (PRD), Jaime Loré (PSOL), Gloria Young (MPE, later PA), Mariela Jiménez (MPE, later PRC) and Rodrigo Arosemena (MOLIRENA, later "independent"). Public disapproval became so widespread after the measure passed the third reading, by a 40-7 vote, that Assembly President Balbina Herrera (PRD) asked President Ernesto Pérez Balladares (PRD) to veto the new privilege. Provided with yet another opportunity to pose as champion against corruption, the chief executive obligingly consented (*La Prensa*, 30 June 1995).

No estimate of the economic significance of the postal and telegraph frank to legislators and substitutes was available at the time of this writing. As reported by *La Prensa* (15 May 1999), the telephone franking privilege consisted of a US\$200 monthly telephone bill credit. Legislators representing districts other than Panama City's constituencies reportedly have access to a national long distance line at their Assembly offices.

Observers tend to agree that a generalized interest among Assembly members and their substitutes for accumulating personal privileges—particularly so if they have monetary value—has driven the expansion of legislators' prerogatives, not only with respect to the postal, telephone, and telegraphic frank but in other regards as well (Ameglio, 1998; Bernal, 1998; Cochez, 1998b). A case in point is the generous assignment of diplomatic passports that the Assembly decreed in 1984 and has since expanded.

Article 206 of the 1984 Assembly's Organic Law also provided for the use of diplomatic passports by legislators. Members' dependents and alternates who had acted for their principals were also eligible for the privilege. In 1992, diplomatic passports were assigned to substitutes, whether or not they had ever replaced their principals, as well as to alternates' spouses. A 1998 amendment to the Organic Law included alternates' dependents among the beneficiaries of diplomatic travel documents (República de Panamá, 1992; República de Panamá, 1998).

While giving representatives diplomatic passports when they travel abroad on official duty is justified, there is no reason to assign them to substitutes (unless they replace their principals or otherwise act in an official capacity) or to representatives' or alternates' dependents, who fulfill no representative function whatsoever. Besides constituting an unnecessary privilege, it lends itself to abuse, such as in the case of an alternate who requested a diplomatic passport for her 34-year-old son, claiming (despite the son's age) he was still her "dependent."⁶³ Developments in this sense can only be understood in the context of personal privilege expansion for economic or status motivations.

As regards the first, immunity enjoyed by bearers of diplomatic passports can constitute a convenient aid in attempts to introduce or export illicit goods for profit. Bearers

of diplomatic passports are frequently granted expeditious passage through ports of entry as well as other courtesies, such as freedom from customs inspections. Although no Panamanian legislator has ever been convicted of using his/her diplomatic immunity to introduce illegal goods in Panama or other countries, at least one has been accused of using his influence and immunity in Panama to assist in drug export operations. As described in Chapter 6, in 1994 Legislator Anel Ramírez (PALA) was caught in a sting operation in Miami, accused of conspiring to organize drug shipments from Panama to the United States (*La Prensa*, 30, 31 August, 16 November 1994).

Moreover, bearers of Panamanian diplomatic (or consular) passports have been involved in contraband. A case occurred in 1997, when the Panamanian consul-general in New York, Frank Iglesias, a relation of President Ernesto Pérez Balladares' (PRD),⁶⁴ entered into a conspiracy with other smugglers to introduce a highly valuable Peruvian archaeological piece into the United States and sell it for US\$1.6 million. According to the indictment issued by a US Federal Grand Jury in 1998, Consul Iglesias used his diplomatic privileges to smuggle or help smuggle the artifact. Reportedly, he also took advantage of his diplomatic status to escape arrest and run away to security in Panama (Brannan Jaén, 1998).

Yet another way of understanding the access to diplomatic passports enjoyed not only by legislators, but also by their families, their substitutes and substitutes' families, is as a *sui generis* conception of honor shared by many members of the Assembly. Although not central to this study, it is nevertheless instructive to focus briefly on the constant preoccupation of legislators with matters of protocol and their insistence on public recognition. When referring to him/herself, for example, a Panamanian legislator will say "I

⁶³ My personal experience as acting vice-minister of Foreign Affairs, between 2 and 6 November 1999.

am ‘the honorable’ so-and-so,” as if election to the Assembly automatically transformed one into an “honorable” individual and this condition accompanied the legislator throughout incumbency, independently of performance.

This preoccupation with status was more likely than not an additionally important reason behind the “honors bill” submitted by Legislator Alberto Alemán Boyd (PRD) in 1996, as referred to in *Episode 4* of the previous section. While discussing the bill and after its approval, in response to intense public criticism, many legislators provided revealing information about their concern for and ideas about personal honor. In defense of the bill, Legislator Alemán said his “intention was not to grant legislators new rights above the rest of the citizenry, but to give legislators the treatment they deserve as genuine representatives of the people, who arrived at this branch of government through popular election” (*El Panamá América*, 27 November 1996; *La Prensa*, 4 December 1996).

Legislator Enrique Garrido (then PA, subsequently PDC), president of the Assembly from 1999 to 2000, explained he voted in favor of the “honors” bill in 1996 because “on many public occasions I have a place to sit but my wife is left standing, so I am forced to withdraw in embarrassment” (*La Prensa*, 4 December 1996). In addition to economic motivations, a rationale such as revealed by Legislators Alemán and Garrido helps understand the reasons behind the assignment of diplomatic passports to members, alternates, and all their dependents, which—however—does not make sense within the logic of democratic theory.

Some analysts of Panamanian politics share this view. In May 2000, former Legislator Guillermo Cochez and attorney Víctor Martínez presented an unconstitutionality suit before the Supreme Court, against the Organic Law articles establishing the telephone

⁶⁴ Frank Iglesias is the father of one of President Pérez Balladares’ sons-in-law.

frank, the diplomatic passport privilege, and other prerogatives of legislators and alternates, such as the automobile tax exemption privilege (discussed in the following section). In a press summary of their action, Cochez and Martínez wrote that these benefits “constitute privileges in favor of a special group of persons, owing to their political situation, in violation of Article 19 of the Constitution, which prohibits establishing privileges on the basis of race, birth conditions, social class, gender, religious affiliation, or political ideas” (Cochez and Martínez, 2000). At the time of this writing, a decision by the Court on this issue was still pending.

Exploitation and Expansion of the Automobile Tax Exemption Privilege

Diplomatic passports and the postal, telephone and telegraphic frank are not the only special prerogatives Panamanian legislators have access to. As in other countries (such as the United States), each representative has the right to a special vehicle license plate. Panamanian legislators share this privilege with their substitutes.⁶⁵ Because traffic policemen reveal a certain hesitation to stop automobiles exhibiting “legislative” license plates, some observers believe these special plates allow legislators and their substitutes to avoid citations (and fines) for traffic violations.

Moreover, Article 238 of the Assembly’s Organic Law gives members the right to purchase one vehicle every two years free of import duties and “all other taxes” (República de Panamá, Asamblea Legislativa, 1999: 80). The rationale behind this privilege is that as representatives, legislators must remain in close contact with their constituents, for which purpose they require efficient means of transportation. Hence, to facilitate their efforts in

procuring this collective good (adequate representation), the state should somehow compensate representatives' transportation costs and the deterioration of their vehicles due to constant travel to their districts.

Panama is not the only country where this special prerogative has been instituted. In El Salvador, deputies had the right to import a vehicle with value up to US\$25,000 tax free. This prerogative was abolished beginning in 1997 (Martínez Peñate, 1997).⁶⁶

In Uruguay, pursuant to a law adopted in 1955, deputies and senators (as well as other elected national officials) were allowed to "import a new car, free of all normal tariffs, every two years." The law was popularly christened *Ley de colas chata* or "Law of the flat-tailed cars," after the large, US-manufactured sedans apparently favored by members of the Uruguayan Congress. During the existence of the tax exemption in Uruguay, it was common for newly-elected representatives to receive loans from dealers to import vehicles. At the end of the biennium, the lending dealer bought the automobile back from the representative, "at the market price, subtracting his loan."

At the time, representatives made from US\$5,000 to US\$7,000 on the deal "while having a car without personal expense during the period." Although the purpose of this privilege was to encourage representatives to "maintain their contacts in the interior," the public considered the automobile tariff exemption "an abuse of privilege" (Taylor, 1962: 73, 197, endnote 27).⁶⁷ Reportedly, the exemption was in effect until the demise of the constitutional regime in 1973 but was not reinstated after the restoration of polyarchy in 1985 (Altman, 2000b).

⁶⁵ Other public officials, such as county representatives or councilors, also have special plates.

⁶⁶ I am grateful to Mark Jones for this reference.

Since 1984, Panamanian legislators also enjoy an automobile tax exemption privilege once every two years. The provision is interpreted as meaning that representatives have the right to purchase three tax-free vehicles at any time during their period. Legislators share the tax exemption with other high-ranking public officials, such as Supreme Court magistrates (*La Prensa*, 28 April 1994) as well as with their own substitutes.

Article 206 of the 1984 Organic Law stipulated that only substitutes who had stood in for their principals were eligible for the privilege, which they could only exercise once during the term (República de Panamá, Asamblea Legislativa, 1984: 52). In accordance with an amendment introduced in 1992, currently alternates who at any point replace their principals may exercise the privilege once every three years (República de Panamá, 1992: 48-49 [Art. 95]). In other words, they are allowed to purchase two duty-free vehicles during their principals' term. Article 238 of the Organic Law currently in force (1999 version) also assigns legislators and alternates the prerogative of replacing an exempted automobile lost through accident or theft with a new, tax-free vehicle (Asamblea Legislativa, 1999: 80-81).

As reported about Uruguayan representatives during the existence of the *Ley de colas chatas*, some Panamanian legislators also allegedly abuse the tax exemption for personal economic advantage. *La Prensa* (3 May 1994) published a description of the procedure employed to obtain profits through the exploitation of this privilege. According to the account, a car dealer will "sell" a high-priced vehicle, tax-free, to a legislator (or alternate), who will subsequently re-sell the automobile to a third party. The cost for the third party will be higher than the original "sale" price, i.e., the price at which the legislator (or substitute) supposedly bought the vehicle, but still substantially lower than what it would cost the third party to acquire the car at the regular market price, including taxes.

⁶⁷ I am grateful to Aníbal Pérez Liñán for this reference.

The difference between the original, or gross import price of the automobile and the tax-free resale price of the vehicle provides a profit that is split between the legislator (or alternate) and the dealer. For example, an automobile featuring an import price (prior to tariffs) of US\$40,000 and a market price (including taxes) of US\$80,000 will be sold through a legislator for US\$60,000. The buyer saves US\$20,000 and both the dealer and the legislator (or substitute) split the US\$20,000 profit. On occasion, the original "sale" to the legislator (or substitute) occurs only on paper, i.e., the vehicle never actually comes into the Assembly member's possession.

According to the initial design of the vehicle tax exemption, at the time of resale the purchaser of an exempted vehicle was required to pay all duties that the original proprietor (legislator, substitute, magistrate, diplomat, or other) was excepted from paying. Article 540 of the Fiscal Code stipulated that upon transfer (i.e., sale or donation) to a third party not enjoying the privilege, goods imported under tax exemption prerogative would be subject to taxation at the normal rates. In December 1991, however, the Assembly unanimously approved an amendment to the Fiscal Code whereby purchasers of vehicles owned by foreign diplomats assigned to Panama, Panamanian diplomats concluding their missions abroad, and members of the judicial branch and the Assembly enjoying exemption privileges were not subject to payment of the appropriate duties (*La Prensa*, 3 May 1994).

In 1994, the Comptroller-General's annual report indicated that between January 1990 and December 1993, legislators and substitutes had purchased 349 tax-free vehicles. This figure represents approximately 75 percent of the total number of vehicles that would have been bought from 1989 to 1994 if all legislators and alternates had made maximum use

of the privilege, i.e., 469 automobiles.⁶⁸ The total value of the exemptions reported up to December 1993 exceeded four million US dollars—in other words, as reported in the press, the state failed to receive over US\$4 million in taxes as a result of legislators' and alternates' exercise of the exemption privilege between 1990 and 1993. All legislators (and most substitutes) exercised the privilege at least once but some clearly took more advantage of it than others.

According to *La Prensa* (19 March 1994), Legislator Edilberto Culiolis (PRD) headed the list as the Assembly member featuring the highest investment in vehicles. From 1991 (when he assumed office in that year's by-elections) to 1993, this member received an exemption of US\$91,000 on his acquisition of one Mercedes Benz and two BMW automobiles with a total original market value of nearly US\$190,000. Legislator Culiolis was a member for Darién Province, a remote jungle region on the border with Colombia, where only four-by-four vehicles can transit the single dirt road in existence.

Other important beneficiaries of the tariff frank from 1990 to 1993 include Melquíades Riega (Partido Liberal [PL]), who received an US\$80,000 exemption on his acquisition of one Lexus and two Mercedes Benz vehicles with a total market price of US\$173,500 and Miguel Bush (PRD), who obtained a US\$89,000 exemption on his purchase of one Jaguar and one Mercedes Benz automobiles jointly valued at US\$157,000. Mario Rognoni (PRD), who acquired two Mercedes Benz and one Mitsubishi Galant vehicles for a total of US\$135,000, received an exemption of US\$80,000. Gerardo González Vernaza (PRD), another major recipient of the benefit, was reported to have paid US\$132,000 for three Infiniti automobiles and obtained an exemption of US\$62,000.

⁶⁸ At the time there were 67 legislators and 134 substitutes in the Assembly. The total number of exempted vehicles legislators were allowed to purchase was 201 (67 x 3). The total for alternates was 268 (134

The publication of the Comptroller-General's 1994 report with details of the exercise of the exemption privilege by legislators generated significant indignation and calls to regulate the privilege. Assembly Secretary-General Rubén Arosemena (PDC), who was elected a legislator in 1994 and reelected in 1999, declared it was necessary to revise the existing legislation to avoid tax evasion by consumers (*La Prensa*, 21 March 1994). Secretary-General Arosemena, however also functioned as attorney and member of the board of one of the dealerships where most legislators and substitutes had purchased their vehicles (*La Prensa*, 3 May 1994).⁶⁹

In March 1994, the PDC majority fraction submitted a bill that placed a US\$5,000 limit on exemptions under the vehicle tariff frank. Although the press informed that legislators agreed it was necessary to approve the limitation, the bill never passed the first reading (*La Prensa*, 23 March 1994). As indicated above, during the ensuing term (1994-1999) Legislator Olmedo Guillén (then PRC, later PA, subsequently PDC) presented a proposal with the same purpose on three different occasions, but his initiative did not prosper.

After the 1994 incident, the Comptroller-General's Office no longer reports publicly on the extent of the exemptions granted to legislators. Circumstantial evidence, however, indicates that legislators continue to take advantage of the tax exemption privilege. Shortly after the May 1999 election, a major car dealership set up an exhibit of its newest models at the Legislative Assembly premises, ostensibly to facilitate the purchase of vehicles by the incoming group of legislators (*La Prensa*, 27 May 1999).

x 2). The grand total for the period thus amounted to 469 (201+268).

⁶⁹ The paper reported that Bavarian Motors, of whose board Rubén Arosemena was a member, had sold 45 BMWs to legislators and substitutes between 1990 and 1993. Arosemena was elected legislator in 1994 and president of PDC in 1995 (*La Prensa*, 20 November 1995). He was reelected to the Assembly in 1999.

Summary

In addition to pursuing reelection for career maintenance or advancement, as held by theories of legislators' behavior, representatives may seek successive terms in office for other reasons. As evidence from Panama shows, some members of deliberative chambers use legal or illegal means at their disposal to increase their personal wealth. Chapter 4 dealt with Panamanian legislators' attempts to ensure personal enrichment through legal means.

In Panama, the high remuneration and ample privileges with economic value enjoyed by legislators provide a clear incentive for office seeking. This chapter's analysis shows that members of the Legislative Assembly receive abundant emoluments, both according to contemporary and historical Panamanian standards as well as in comparison to representatives in other countries. High absenteeism, added to the fact that most legislators vehemently oppose initiatives to reduce their remuneration, indicates that some members are more interested in the economic rewards they can obtain from holding office than in building their political careers or adequately representing the interests of their constituents through the promotion of good public policy.

Panamanian legislators also enjoy wide-ranging privileges with significant economic value. Among these privileges are a postal, telephone, and telegraphic frank and access to diplomatic passports, as well as a tax exemption on vehicle purchases that members of Panama's Legislative Assembly have transformed into a lucrative business operation. Political influence and control over the legislative process have driven legislators' attempts to increase their remuneration and expand their prerogatives.

Personal enrichment by representatives has clear implications for the democratic regime, principally because the establishment of democracy gives rise to certain expectations among the population regarding the behavior of public officers. In a democratic regime, citizens expect that the officers of the state will act to procure the public good. As state employees, representatives require adequate compensation, especially if the public aspiration is an assembly consisting of members who—as hoped by Weber—will live “for” politics. A strong impulse towards personal enrichment by representatives, however, violates not only the theoretical underpinnings of the modern democratic system. It also undermines public trust in polyarchy, contributing to alienate the population from the democratic system.

In his introduction to an edited work on the subject of democratic maintenance, Juan Linz (1978) has explored in depth the detrimental consequences of this alienation. More than any other type of regime, polyarchy depends on popular support, or democratic legitimacy. Behavior by politicians that does not coincide with the universalistic expectations of the population undermines democratic legitimacy and provides an added element towards democratic deterioration or even breakdown.

To increase their personal wealth, members of representative assemblies may also engage in illicit activities, which undermine public trust in polyarchy even more than do attempts to legally increase public officials’ personal wealth. This is so because, as breaches of the law, illegal enrichment violates the democratic requirement of “adherence to the rules of the game by both a majority of the voting citizens and those in positions of authority, as well as trust on the part of the citizenry in the government’s commitment to uphold them” (Linz, 1978: 17). Chapter 5 will examine this other facet of the personal enrichment objective.

CHAPTER 5

PERSONAL ENRICHMENT THROUGH ILLEGAL MEANS

In Panama, legislators are occasionally criticized by referring to them as “*legisladores*” (Bernal, 2000b; *El Panamá América*, 28 August 2000; *El Siglo*, 7 August 2000). The term *legislador* is a hybrid between *legislador* (legislator) and *ladrón* (thief). This use is indicative of a popular perception that in addition to attempting to get rich through legal means—i.e., through salary increments, the expansion of franking privileges, and the sale of vehicles—legislators engage in illegal means to enhance their personal economic situation.⁷⁰

The strong prevalence of informal institutions, such as particularism and impunity, which—as explained in Chapter 2—were boosted by the military regime, has encouraged some Panamanian legislators’ involvement in illegal acts aimed at increasing their personal wealth. The military dictatorship’s sultanistic style, to which many of its supporters were socialized during its prolonged, two-decade tenure, also contributes to explain why, although this behavior has been identified among legislators across the political spectrum, it is most observable among members with stronger links to the 1968-1989 military regime and its

⁷⁰ Although members of the Ecuadorian Congress are officially called *diputados* (deputies), the term “*legisladores*” has also been employed to refer to them, at least in an inflammatory Marxist pamphlet published on the Internet. See “Ecuador: educar es luchar contra infierno creado por capitalismo,” in *Desafío*, 12 January 2000 (www.plp.org/de00/de0112.html).

supporting parties, especially the PRD. Through fraud and manipulation, the PRD and its allies have held majorities in the 1984-1989, 1994-1999, and 1999-2004 assemblies.⁷¹

Even within the generalized context of democratic malfunctioning that prevailed during the period under scrutiny (1984-1999), the Panamanian experience reveals that the enrichment aspirations of legislators have been more easily fulfilled when such agencies as the judiciary, the Electoral Tribunal, the Prosecutor-General's Office, and the Comptroller General's Office have enjoyed less autonomy, such as from 1984 to 1989 and from 1994 to 1999. Conversely, when these institutions have been able to exercise somewhat increased autonomy—as between 1989 and 1994—at least minimal efforts at checking legislators' rent-seeking ambitions have been attempted and, at times (although only occasionally), succeeded.

Because some Panamanian legislators have been accused of employing illicit means to increase their personal wealth, we need to question the assumption that representatives essentially seek reelection or career advancement. In informally institutionalized polyarchies, however, describing illegal personal enrichment poses a methodological difficulty. In these settings, suspected offenses by public officials are not always investigated transparently.

In Panama, of 188 individuals who served in the Assembly from 1984 to 1999, four have been convicted of wrongdoing. The first—Rigoberto Paredes (PRD)—was a close collaborator of the military regime featuring an extensive record of illegalities. The remaining three—Anselmo Guaynora (PRD), Anel Ramírez (PALA), and Mario Miller (PRD)—were marginal politicians linked to the military regime. Two others—Eliás Castillo (PRD) and Otilio Miranda (PALA)—remained in preventive detention for embezzlement

⁷¹ Chapter 2 described the 1984 electoral fraud, which benefited the PRD. Chapter 8 describes more subtle means of manipulating elections employed in 1994 and 1999, which also primarily worked to the PRD's

and other offenses during some time but eventually regained their freedom through political influence. Chapter 6 describes the circumstances surrounding the detention of Elías Castillo; Miranda's tale is depicted towards the end of this chapter.

In July 1991, Rigoberto Paredes, a former Tercer Partido Nacionalista deputy (1964-1968) and PRD legislator (1984-1989) closely connected to dictator Manuel Noriega, was sentenced to imprisonment for human rights abuses. Other accusations submitted against him included homicide, abuse of authority, and personal violence. Paredes was also involved in embezzlement and misappropriation but, apparently, was never tried for these crimes. He spent a total of four years in jail before receiving a pardon from President Ernesto Pérez Balladares (PRD) in September 1994 (*La Prensa*, 10 February 1990, 19 March 1990, 14 January 1991, 14 March 1991, 18 July 1991, 2 September 1991, 23 February 1994, 24 September 1994, 10 January 1996).

In September 1993, Anselmo Guaynora (PRD), a legislator for Darién province between 1984 and 1989, was tried for misappropriation and falsification of public documents. A Panama City circuit judge condemned former Legislator Guaynora to 44-months' imprisonment in March 1994 (*La Prensa*, 7 March 1994). In October 1993, agents of the US Drug Enforcement Administration (DEA) arrested another legislator for Darién province, Anel Ramírez (PALA, 1991-1993), in Miami for conspiring to export narcotics to the United States. A US federal judge sentenced former Legislator Ramírez to six years' imprisonment in January 1995 (*La Prensa*, 16 November 1994). Mario Miller (PRD), elected as legislator for Bocas del Toro province in May 1994, was arrested for extortion the following November, stripped of his immunity, and convicted in 1997. In July 2000, however, the Supreme Court repealed the conviction (Janson Pérez, 2000b; *El Panamá*

advantage.

América, 4 July 2000; *La Prensa*, 4 July 2000). Chapter 6 examines the cases of incumbents Ramírez and Miller in further detail.

The absence of conclusive evidence (i.e., judicial rulings or other formal institutional procedures) of additional enrichment by legislators relates to the pervasiveness of informal institutionalization in Panama. As explained in Chapter 2, influential politicians can normally “buy” freedom from prosecution. Lacking such definitive confirmation, this chapter offers examples of attempts at illegal enrichment drawn from newspaper reports, illustrated with coverage of analogous incidents in other countries. Certainly, members of Panama’s Legislative Assembly share undue acquisition of wealth accusations with representatives in other countries.

This discussion of enrichment by Panamanian legislators, therefore, serves to illustrate the dynamics and implications of a broader but understudied aspect of the behavior of representatives. Selling their votes, exercising political influence to obtain business advantages or personal benefits, and misappropriating public resources are means members of Panama’s Assembly reportedly employed towards this goal.

Vote Selling

Some Panamanian legislators allegedly obtain payments in cash or other rewards to vote as requested by strong political actors, which may include the executive or important economic groups. Naturally, not all legislative votes are bought or sold. Politically unpopular measures or bills in the approval of which strong actors have a vested interest are more likely objects of monetary transactions than is legislation offering opportunities for position taking or other electorally gainful activities. Even so, vote selling is a phenomenon

observable in several informally institutionalized polyarchies. Compensation received by members through the sale of votes is used for personal enrichment or to build up reelection chests.

In September 2000, the release of a video that showed Peruvian spy chief Vladimiro Montesinos handing opposition member Alberto Kouri a US\$15,000 bribe to join the government bloc in the Congress triggered extensive demands for the resignation of President Alberto Fujimori, who had just begun serving a third (fraudulent) term in office, as well as for the prosecution of Montesinos. Critics of the Fujimori regime seized the opportunity to emphasize that vote-buying was standard practice in the Peruvian chamber under the rule of President Fujimori. The Congressional bribery scandal contributed to accentuate the Peruvian political crisis, ultimately resulting in the chief executive's departure from office in late November 2000 (Vargas Llosa, 2000; *The New York Times*, 11 October 2000; *La Prensa*, 19, 20 November 2000).

In August 2000, as many as 11 of 72 members of the Argentine Senate were implicated in a bribe-taking scandal according to which some senators were paid to facilitate the approval of a controversial labor reform bill the previous April. As in Peru, this incident triggered a political crisis that severely tainted the image of the administration of President Fernando de La Rúa and sparked the resignation of Vice-President Carlos Alvarez, who protested that the administration's fight against corruption was not sufficiently energetic (*El Panamá América*, 26 September 2000; *La Prensa*, 9 October 2000; *The Economist*, 12 October 2000; *The New York Times*, 7 October 2000, 10 October 2000). In a previous charge of misconduct affecting members of the Argentine Congress, in 1995 deputies of the ruling Justicialista (Peronist) Party allegedly accepted bribes to pass a post office privatization bill (*La Prensa*, 19 August 1995).

That same year, Ecuadorian opposition deputies of Partido Social Cristiano, Partido Roldosista Ecuatoriano, and Movimiento Popular Democrático were accused of repeatedly demanding bribes from the executive in exchange for support for the government's economic reform agenda. In 1997, it was disclosed that at least five Brazilian deputies received nearly US\$190,000 each in exchange for their votes in favor of the constitutional amendment allowing the consecutive reelection of the country's executive officers, including President Fernando Henrique Cardoso (*El Panamá América*, 16, 20, 22, 28 May 1997; *La Prensa*, 3, 19 August 1995; 29 September 1995; 14 May 1997). In October 2000, a judge sentenced ex Prime Minister P.V. Narasimha Rao of India, together with a former cabinet minister, to three years' imprisonment as a result of their successful efforts to defeat a no-confidence vote in 1993 by bribing four opposition MPs. Each MP was allegedly paid the equivalent of US\$100,000 (*The Economist*, 5 October 2000; *The New York Times*, 12 October 2000).

In Panama the practice of selling legislators' votes goes back to the pre-1984 period. Under the military regime, it was apparently common practice to resort to cash payments in an effort to encourage the approval of legislation the executive wished to pass through the Assembly of County Representatives or the National Legislation Council. On 25 November 1984, an opinion piece in *La Prensa* claimed the defunct National Legislation Council, in existence from 1978 to 1984, "charged" a "fee" of US\$250,000 for passing urgent legislation. This allegation is reminiscent of a statement made in a recent World Bank report about parliamentary practices in Poland. "In 1992 a fee for blocking amendments to the law on gambling was \$500,000 but recently rose to the zloty equivalent of \$3m," according to the report (*The Economist Intelligence Unit*, 3 April 2000).

It has long been rumored that the executive bribes Panamanian legislators to obtain support for important bills, such as the annual budget bill. One way of ensuring approval of the budget initiative every December is through increased constituency allocations or *partidas circuitales*. Providing cash rewards constitutes another mechanism towards the same purpose. "Christmas gifts" supposedly received by legislators at year-end are a well-understood means of executive influence (Harrington, 1994).

According to press coverage, in December 1999 the government of President Mireya Moscoso secured the passage of the budget bill and other important legislation through a combination of constituency funding and personal gifts to members of the chamber. Legislators of the opposition PRD agreed to support the executive after the government promised it would guarantee each member access to at least US\$300,000 in constituency funding during 2000.⁷² Additionally, at the traditional year-end luncheon held in the presidential house, the chief executive gave each legislator an expensive Cartier wristwatch and accessory jewelry.

While newspaper reports estimated that legislators' Christmas gifts had cost approximately US\$150,000, President Moscoso assured that she had paid the jewelry from private funds. To criticism that her initiative might be construed as bribery, the president replied that her predecessors had also distributed presents at the year-end reception for members of the Legislative Assembly and that nobody had ever complained. Comptroller-General Alvin Weeden certified that no public funds had been employed in the purchase of the gifts and explained that the jewelry had been distributed "as a show of gratitude for the

⁷² Despite the fact that, according to Law 35 of 1999, the Assembly now "designs and administers" its own budget, including annual global appropriations for *partidas circuitales*, the executive still possesses considerable leeway in releasing constituency funds. For a detailed discussion of the dynamics of constituency funds, see Chapter 7.

months of work legislators have put into guaranteeing the country's governance." The president's chief of staff, Ivonne Young, added that it was customary to give presents during the Christmas season. In a roundabout reference to the chamber's high absenteeism rate, Minister Young added that the Cartier wristwatches would facilitate legislators' punctual arrival at Assembly sessions.

Most members were not troubled by the many complaints voiced in the media at the time about the executive's practice of presenting gifts to members of the chamber. Legislator Carlos Smith (PRD) declared he personally found nothing "sinful" in the idea and that the president's gift should not be considered as an attempt to "buy" the legislators. Legislators José Luis Fábrega (PA) and Felipe Cano (PRD) coincided in their appraisal of the action as a "good gesture of the president at a time of love and reconciliation." Teresita Yániz (PDC) was the only member to return the gift, explaining in a letter to President Moscoso that the chief executive's actions might be interpreted in ways that could affect the image of the government and the Assembly (Janson Pérez, 2000a; *El Panamá América*, 3, 5, 9, 11, 13 January 2000; *La Prensa*, 5, 6, 8, 9, 10, 12 January 2000).

Public objections to the distribution of expensive year-end presents to Assembly members triggered a change in the executive's approach to this tradition. As reported by *La Prensa* (23 December 2000) in the next holiday season, that year's Christmas gift consisted of a "modest" wine basket for each of the country's 71 legislators. At least one member publicly complained about the change in the practice, which under President Pérez Balladares (PRD) had included giving legislators engraved gold fountain pens and costly leather briefcases (*El Panamá América*, 25 January 2000). Accustomed to more generous gifts under the previous executive, Legislator Elías Castillo (PRD) criticized President Moscoso for yielding to public pressure in an "extreme" manner that resulted in the presentation of

“a very common gift,” compared to the “attractive present” received in 1999 (*La Prensa*, 23 December 2000).

Contracts between the state and private companies, some of which must be approved by the Assembly in accordance with Article 153 of the Constitution (Bernal, 1995: 61), provide an opportunity for selling votes. In December 1992, allegations circulated that Refinería Panamá, S.A., a Texaco subsidiary, had paid a number of legislators to ensure approval of a contract it had signed with the executive a few months before. When the Assembly postponed discussion of the highly polemic issue, Legislator Miguel Bush (PRD), who favored the agreement, explained that some members opposed the contract for “conceptual” reasons while others, however, “were waiting until Refinería Panamá passed envelopes with money to vote in favor of the deal.”

The allegations of bribery were never confirmed because the appropriate organizations never investigated them. After initially procrastinating, the Assembly hurriedly approved the contract before the legislative period expired on 31 December 1992 (*La Estrella de Panamá*, 18 June 1993; *La Prensa*, 27 November 1992; 10, 29, 31 December 1992; 1 May 1994). In Panama, as in many other countries, a large percentage of all legislation passes on the eve of adjournment. In the context of personal enrichment here approached, one wonders if this large percentage is not explained by the high price representatives can extort from executives or strong interest groups on the last day.⁷³ This reading is particularly compelling in the case of Panama, where—as mentioned in Chapter 4—Article 169 of the Constitution requires that bills not discussed by the Assembly before the end of the period be re-submitted during the ensuing legislature (Bernal, 1995: 75).

⁷³ I thank Michael Coppedge for this observation.

A similar accusation of vote selling was formalized before the Rules Committee in 1994. To promote the approval of a contract with the Chiriquí Land Company, a Chiquita Brands subsidiary, Legislator Balbina Herrera (PRD, 1989-) accused the company of delivering nearly ten thousand cases of bananas to an undisclosed number of legislators (*La Estrella de Panamá*, 18 June 1993). Because the charge was never formally investigated, the public remained ignorant of the use given the bananas, i.e., personal consumption, sale, or distribution among constituents. While an agreement with Chiriquí Land Company was not approved in 1994, when a new contract was finally achieved in 1998 it was not reported if donations of produce contributed to the Assembly's approval (*La Prensa*, 1 May 1994; 30 June 1994; 23 January 1998).

Other hefty economic interests have also been reported to buy legislators' votes. In 1994, an opinion editorial in *La Prensa* complained that legislators were paid to vote down a bill regulating the sale of spare automobile parts (Quintero Jiménez, 1994). In 1997-1998, the press reproduced accusations that a US construction conglomerate had distributed up to US\$5 million in bribes among legislators and other high government officials to obtain a contract for the construction of a new Assembly building, valued at US\$30.4 million (*El Panamá América*, 11 May 1998; *La Prensa*, 26 September 1997; 15, 16, 17, 21 October 1997; 22 November 1997; 1 December 1997; 9 May 1998; 2 June 1998; 1, 31 July 1998; 13 September 1999).

In 1995, former President Guillermo Endara (PA) attributed the insistence of the PRD faction in the Assembly in passing the amnesty law referred to in Chapter 2 to the prospect of receiving a kickback from the bill's beneficiaries. The proposed law would have extinguished all pending legal actions against supporters of the military dictatorship and returned all illegally acquired property to its most recent holders. President Endara publicly

denounced Legislator Alberto Alemán Boyd (PRD) as the mastermind behind an operation that would return approximately US\$78 million in liquid assets and properties to their military regime holders, allegedly for a commission to be paid to the bill's supporters in the Assembly.

In retaliation, Legislator Alemán angrily threatened to sue ex President Endara for slander. The suit never materialized, however, as the former chief executive assured he was prepared to provide proof of mismanagement involving PRD figures. The amnesty bill was eventually withdrawn from the agenda, under pressure from local and international human rights groups (*El Panamá América*, 28 November 1995; 2, 3, 4, 5, 20 December 1995; *La Prensa*, 6, 10 December 1995).

Exercising Political Influence to Obtain Particularistic Benefits

Some Panamanian legislators use their contacts with high officials in the executive branch or other forms of political influence to obtain benefits for third parties (for a fee) or for themselves. Charges of this type have also tarnished the reputation of representative assemblies elsewhere. In 1994, newspaper reports unveiled a corruption scandal in Brazil that involved between 12 and 18 deputies who were accused of receiving monthly bribes ranging between US\$10,000 and US\$15,000, in exchange for influence in favor of organized crime bosses. In 1997, *Moskovskii Komsomolets*, a daily Moscow paper, published a "list of fees" charged by members of the Duma in exchange for political "favors" rendered to private businessmen and mafiosi (*La Prensa*, 4, 24 January 1994; 6 March 1994; 8 April 1994; 29 October 1997).

In Panama during the 1994-1999 period, several pro-government legislators, among other PRD leaders, reportedly exercised their clout in their personal benefit to obtain leases on prize property built under US administration in the former Canal Zone. In addition to cabinet ministers, Supreme Court magistrates and other high government officials, Assembly President Gerardo González Vernaza (PRD) and Legislators Balbina Herrera (PRD), César Pardo (PRD), César Sanjur (PRD), Felipe Serrano (PRD), Abel Rodríguez (PRD), and a substitute of Carlos Alvarado (PRD) were assigned fine houses in the area. Furthermore, in 1999 the Assembly passed a law granting the occupants of these houses the first right of purchase, a entitlement not previously recognized to tenants of those properties (Cochez, 1999; *El Panamá América*, 17 June 1999; *La Prensa*, 23 May, 17 June 1999).

In July 1999, 24 government and opposition legislators who failed to achieve reelection formed the "Association of Ex-Legislators of the Republic." This "non-profit organization" was constituted with the stated purpose of transmitting former members' "experience and expertise" to the incoming Assembly "to strengthen the democratic system." Through Law 35 of 1999, the PRD-controlled Legislative Assembly officially recognized the Ex-Legislators Association as an "advisory" organization providing "support to the parliamentary (sic) process" for the "democratic and institutional strengthening of the Legislative branch" (República de Panamá, Asamblea Legislativa, 1999: 81-82 [Article 242-A]). Some observers commented ironically that the real purpose of the organization was to promote the appointment of lame-duck legislators as advisors and other lucrative offices in the Assembly bureaucracy in the ensuing term.

Several former members—not all of them founding fathers of the Ex-Legislators' Association, however—obtained jobs as advisors to the new Assembly. An updated list published in *El Siglo* on 24 April 2000 gave the names of seven ex legislators who served as

advisors from September 1999 to September 2000, with monthly salaries of US\$4,000 each. The list included Lucas Zarak (PDC, formerly PA, 1989-1999), Daniel Arias (PDC, formerly PA, 1994-1999), José Serracín (PDC, formerly PA, 1994-1999), José Torres (PDC, 1989-1994), Raúl Ossa (PDC, 1984-1994), Mario Quiel (PL, 1994-1999), and Mariela Jiménez (PRC, formerly MPE, 1994-1999). An eighth ex legislator, Alfredo Oranges (PL, formerly PRD, 1984-1989), was also appointed to the Assembly staff but was asked to resign when confronted with prosecution in Italy in a money-laundering case (*La Prensa*, 25 April 2000). Reportedly, these Assembly advisors were dismissed when the opposition PRD, in alliance with the PDC, obtained control of the Assembly in September 2000. The new board, presided by Legislator Laurentino Cortizo (PSOL), replaced them with politicians closely linked to the military regime, such as puppet presidents Manuel Solís Palma (1988-1989) and Francisco Rodríguez (1989) (*El Panamá América*, 29 September 2000; *La Prensa*, 29 September 2000).

At least from 1999 to 2000, therefore, in addition to membership in the fledgling Ex-Legislators Association, influence with the faction controlling the presidency of the chamber helped past members renew their presence in the Assembly. As explained by chamber President Enrique Garrido (PDC, formerly PA), in exchange for support for the government's legislative agenda the executive agreed to surrender control of the presidency and all appointments in the Assembly bureaucracy to Legislator Garrido's faction, consisting of PA defectors as well as members of PDC and the extinct PL, PRC, and Partido Nacionalista Popular (PNP) (*El Panamá América*, 11 February 2000; *La Prensa*, 2 July 1999). While not strictly illegal, the appointment of former legislators as "advisors" was strongly criticized as an act of corruption. In this regard, political commentator Maribel Cuervo wrote that

to create expensive advisory positions paid with government funds with the sole intention of allowing ex legislators and former candidates who have been rejected by the popular vote to generate sufficient income so as to balance their personal financial statements, or to hire unemployed politicians with the purpose of keeping them alive in the political arena and thus postpone their irreversible transit towards the annals of the insignificant, generates repugnance and profound disappointment (Cuervo de Paredes, 1999).

Political influence also helps legislators take advantage of business opportunities they would otherwise not have access to. During the 1994-1999 period, the Transit Authority assigned Legislator Benicio Robinson (PRD) several lucrative taxi operation permits in his native Bocas del Toro Province. After the end of the period, members of the local drivers' unions complained before the new authorities of what they deemed a "political" assignment and demanded the invalidation of the permits (*La Prensa*, 12 September 1999, 8 February 2000).

In 1994, Assembly President Arturo Vallarino (MOLIRENA, previously PALA) was accused of attempting to manipulate the bidding process for the assignment of a slot-machine concession contract. Legislator Vallarino was the attorney for the company that since 1981 had operated the slot machines at Panama's casinos, a state monopoly until 1998. The company that provided and operated the machines received from 20 to 25 percent of the earnings, estimated at approximately US\$77 million per year.

After complaints of irregularities in the bidding process surfaced, President Endara (PA) decided to expropriate the slot machines. Legislator Vallarino, who achieved reelection in May 1994, accused the president of arbitrariness, calling him a "crook" and appealed the expropriation decree before the new (PRD) government, which assumed power on 1 September 1994. Allegedly, to further his claims, he voted for the PRD candidate to the presidency of the new Assembly, Balbina Herrera, thus breaking with the party line. The new government, however, resolved to abide by President Endara's decision and retained

ownership of the slot machines (*La Prensa*, 22, 24 February 1994; 16, 29 June 1994: 2, 30 July 1994; 13, 16, 17, 22 August 1994; 3, 5, 9, 12 October 1994).

Misappropriating Public Resources

Some representatives in informally institutionalize polyarchies may also try to get rich by appropriating public resources. In 1997, the Ecuadorian Supreme Court ordered the preventive arrest of 13 deputies charged with embezzling public funds in a school supply scheme. In 1999, former Ecuadorian President Fabián Alarcón was arrested on charges of misappropriation during his tenure as president of the Congress in 1995. President Alarcón allegedly approved nearly 1,200 fictitious appointments to the congressional payroll. A corruption scandal publicized in March 2000 involved the President of the Colombian House of Representatives, Armando Pomárico, as well as other deputies, in the approval of approximately US\$2.5 million in dubious contracts for improvements in the Congress building (*El Panamá América*, 20 April 1997; 26, 31 March 2000; 3, 6, 10, 12, 16 April 2000; *La Prensa*, 20 April 1997, 18 August 1999; *The Economist Intelligence Unit*, 10 April 2000).

Panamanian legislators have also been associated with misappropriation of public funds. One example is the PARVIS housing subsidy scandal, to be addressed in Chapter 7, in which funds were misdirected towards electoral and personal use. There is also widespread public perception of corruption in the assignment and use of *partidas circuitales*, a reelection mechanism also described in Chapter 7. This perception is nourished by the absence of rational decision-making in allocating and disbursing these constituency funds as well as by the lack of efficient state control over their management. It is also fueled by press reports that have approached the topic of illegal enrichment by legislators.

These press reports have addressed, for example, the case of Legislator Felipe Serrano (PRD, 1994-1999), who was accused of misdirecting towards personal use US\$500,000 of the *partida* assigned to him. Another PRD legislator, Miguel Bush (1989-), chair of the Rules Committee between 1994 and 1999, was mentioned in connection with the disappearance of constituency funds for approximately US\$1 million. At the same time, he was accused of devoting part of his constituency fund to building a private road on family property. Still another legislator of the main government party during the Pérez Balladares Administration, Roberto Abrego (PRD, 1994-), was involved in the misuse of two vehicles acquired through his constituency fund, which ended up in the hands of a relative and a political associate. Newspaper coverage also indicated that Abrego had used \$8,500 of a *partida circunital* towards the cost of a relative's wedding (*El Panamá América*, 8, 10, 11 March 1999).

In October 1996, the two alternates of Legislator Rogelio Alba (PLN) accused him of incurring in irregular practices in the management of his constituency fund. They charged that the legislator falsified the signatures of at least forty scholarship beneficiaries to collect their stipends and misrepresented the identities of the participants in a public bid to build libraries in his district. The substitutes also denounced Legislator Alba for maintaining a payroll of false employees, who only showed up on payday to collect their salaries and gave the Assemblyman a percentage of their earnings. Legislator Alba retorted by flatly denying the charges and threatening to eliminate the substitutes from his payroll as well as to initiate proceedings for slander (which in Panama is still a criminal offense). Predictably, the alternates retracted their accusation, after which the Rules Committee of the Assembly dismissed by the case (*El Panamá América*, 26, 29 October, 7, 13 November 1996; *La Prensa*, 25, 29 October, 7, 11 November 1996, 21 August 1997).

Misappropriation of Multiagency Program Funds, 1984-1989

Despite widespread allegations of misappropriation, only once was a concerted effort to settle accusations of this type undertaken by Panamanian authorities. This occurred during the 1989-1994 government of President Guillermo Endara (PA), which was characterized by slightly increased opportunities for the exercise of horizontal accountability. Despite the political mistakes incurred by the Endara Administration, some of which were addressed in Chapter 2, a careful review of the historical record shows that between 1989 and 1994, the judiciary, the Electoral Tribunal, the Prosecutor-General's Office, and the Comptroller General's Office were less dependent on the executive than during the military regime or the Pérez Balladares Administration (1994-1999).

President Endara had been elected as a result of massive opposition to the military dictatorship, whose misdeeds remained strongly imbedded in the country's collective memory. Additionally, several of the civilian government's closest collaborators maintained strong stances against military authoritarianism and corruption, and had suffered abuse from the dictatorship's henchmen. Respecting the constitutional separation of powers and pushing corruption investigations was also a means of distinguishing the new, civilian administration from despotic rule by the armed forces and the PRD. Even so, the strength of Panama's informal institutionalization and the pervasiveness of the military regime's sultanistic legacy prevented the thorough cleanup that many sectors had hoped for.

In 1990, at the request of Legislator José Antonio Sossa (PDC),⁷⁴ the Comptroller General's Office initiated an investigation over the use of funds allocated to members of the

⁷⁴ In 1995, President Ernesto Pérez Balladares (PRD) appointed former Legislator Sossa as prosecutor-general, for a ten-year term.

1984-1989 Assembly under the Legislator's Multiagency Program (*Programa Multiagencial de Proyectos Comunitarios*, as *partidas circuitales* were then called). Although several irregularities were identified, political pressures—which intensified after the return of the PRD to office in 1994—have prevented the satisfactory conclusion of the investigations.

In January 1990, the Comptroller-General's Office announced that an estimated US\$4.3 million allocated to members of the Assembly under the Multiagency Program remained unaccounted for. The authorities called on legislators who received these funds to explain their use of state resources or face prosecution. In July 1992, the Comptroller-General's Office reported that only five of 17 legislators involved in the Multiagency Program irregularities had submitted documents explaining the use of allocated funds to the office's satisfaction. An audit revealed that over two million dollars of the program had been directed towards "fictitious" operations by pro-dictatorship legislators. The scheme involved issuing checks to ghost companies linked to legislators, supposedly for payment of services that were never rendered. Some, if not most of these misdirected funds were used for personal enrichment.

The 17 legislators listed in the report by the Comptroller-General's Office included Sotero Alfonso (PRD), the beneficiary of a US\$275,000 allocation; Alberto Alemán Boyd (PRD, US\$265,000); Anselmo Guaynora (PRD, US\$216,000), Moisés Melamed (PRD, US\$165,505), Fabio Juárez (PRD, US\$160,000); Eben Chi (PRD, US\$146,000); Magdalena de Durán (PRD, US\$140,500); Guillermo Jiménez (PRD, US\$127,000); and Francisco Solís (PRD, US\$88,195). Rafael Abrego (PRD), Jorge Simons (PRD), Hugo Torrijos (PRD), Alicia Rivera (PRD), Gustavo Collado (PALA), Carlos Barsallo (PRD), and Romelia de Pardo (PRD) were also presumably involved in the irregularities. While indicating that

legislators opposed to the dictatorship were also under scrutiny, the Comptroller General's Office promised it would act to recover the misappropriated funds.

After the return of the PRD to power in 1994, however, the investigative zeal of the Comptroller-General's Office dwindled markedly. In consequence, most former legislators accused of misappropriating state resources remain unpunished and retain possession of the allegedly embezzled funds. As mentioned at the beginning of this chapter, the only reported instance in which a former member of the Assembly was punished expressly for misappropriation occurred in January 1994, when ex Legislator Anselmo Guaynora (PRD) was sentenced for misuse of government property. Guaynora had been prosecuted for appropriating a state vehicle presumably acquired with funds from the Multiagency Program.

At a May 1996 hearing before the Assembly's Budget Committee, Comptroller-General Aristides Romero, a cousin of President Ernesto Pérez Balladares (PRD), reported that from 1990 to 1995, his office had returned approximately \$9 million in funds seized from embezzlement suspects. Confiscated funds were restored to their "rightful" owners because the Comptroller-General's Office had received reimbursement for misappropriated assets in some cases or, in others, had determined that no misappropriation had occurred. The comptroller further informed the Assembly that 1996 had seen a "high" rate in the return of seized funds. This was a particularly sensitive topic for the PRD-controlled Assembly, given the large number of its members that had experienced confiscation of assets for irregularities committed during the 1968-1989 military dictatorship (*La Prensa*, 27 January 1990; 29 July 1992; 7 March 1994; 16 May 1996; 3 June 1999).

Enrichment and Immunity

Otilio Miranda (PALA, 1984–1989) was one of the former legislators who succeeded not only in remaining unaccountable and in retaining most of the properties he had acquired during the dictatorship, but also in returning to public office after being implicated in gross misappropriation.⁷⁵ The case of Legislator Miranda is revealing not only as an example of the interest in personal enrichment that drives some Panamanian legislators' quest for reelection and the illegalities some of them incur in the pursuit of this objective. It also illustrates the degree of impunity that prevails in the political system and prevents many legislators and former members of the Assembly from being held accountable for their misdeeds. This latter feature was explored in Chapter 2. Additionally, it demonstrates the powerful effect the military regime's sultanistic style has exerted on post-dictatorship Panama, encouraging illegal enrichment and freedom from prosecution for transgressors of the law.

A former schoolteacher, Otilio Miranda was a close collaborator of dictator Manuel Noriega. In October 1999, an anonymous letter received in the Prosecutor-General's Office mentioned Miranda as one of the members of a "special commando" that in 1971 abducted Father Héctor Gallego from his parish in Veraguas Province (*La Prensa*, 6, 11 October 1999). The body of Father Gallego, a Catholic priest who advocated liberation theology, was never

⁷⁵ This section was written on the basis of information provided in Janson Pérez, 2000c; Sánchez Borbón, 1992, 1994a, 1994b, 1999; *Crítica*, 19 December 1984, 18 June, 8, 11 July 1987; *El Matutino*, 29 July, 7 August 1986; *El Panamá América*, 23 May 1996, 25, 28 September 1997; *El Siglo*, 4 January, 10 February 1990; *La Prensa*, 12, 20 January, 13, 22, 24 February, 7, 10 March, 30 April, 9, 16, 24 May, 28 June, 12 July, 9 September, 27, 30, 31 October, 1, 2, 3, 8, 10, 12, 13, 15, 16 November, 6, 14 December 1990, 12 August 1991, 7 February, 17, 23 March, 8 April, 12 September, 4, 6, 8, 13 October, 7, 10, 28 November 1994, 18, 28 February, 2 November, 30 December 1995, 1, 26 January, 7 July, 12 August, 22 September 1996, 27, 28 September, 2, 3, 4, October 1997, 27 March, 11, 12 August 1998, 1 March, 9 May, 14 September 1999; and *La República*, 19 December 1984, 14 June 1987.

found. Investigations conducted after the fall of the military regime have suggested that he was tortured to death. In his column of 6 February 1990, renowned writer Guillermo Sánchez Borbón included Miranda's name among those involved in the harrowing 1985 assassination of Hugo Spadafora, an outspoken critic of Noriega (Sánchez Borbón, 1990).

Between 1984 and 1989, as a member of PALA, a PRD satellite closely linked to the dictatorship, he represented his native province of Chiriquí in the Legislative Assembly, from where he actively supported the dictatorship's agenda. At the same time, he reportedly served as front for Noriega's several businesses in Chiriquí Province and elsewhere. In 1994, a piece in *La Prensa* (23 March) described him as "financial advisor" to the dictator. Whatever his professional capacity, he was accused of expropriating a large rural estate and a tanning plant for Noriega.

Miranda sought reelection in 1989. According to the military regime's vote-rigging strategy (in which PRD Legislators Alberto Alemán Boyd and Rigoberto Paredes played a prominent role, as will be described in Chapter 8) Miranda was scheduled to retain his seat. His reelection expectations were frustrated, however, after the dictator ordered the annulment of the May elections. After the US invasion of 20 December 1989, former Legislator Miranda went into hiding and later fled the country. Arrested in New Orleans on 15 May 1990, he was deported to Panama in mid-July. Upon his arrival, Miranda was incarcerated while he awaited trial for at least five cases the Prosecutor-General's Office had submitted against him, four of them for embezzlement.

Otilio Miranda used his influence as a member of Noriega's entourage and his privileged access to state resources as a pro-regime legislator to increase his own personal wealth. In January, 1990, Education Minister Ada de Gordón (also a PDC legislator) implicated him, together with other former members of the Assembly, in the

misappropriation of over US\$100,000 of the Ministry's Contingency Fund. Among other uses, funds and materials meant for the refurbishment of public schools were allegedly employed by former Legislators Miranda, Hugo Giraud (PRD), and Camilo Gozaine (PRD) to complete the construction of private residences and pay for holiday travel.⁷⁶

The inventory of assets allegedly appropriated by Miranda during his term included several properties and houses, a milk processing plant, a corn mill, a water tank, 400 rolls of fence wire, several hundred heads of cattle, telegraph posts, processed wood, galvanized steel pipes, tractors, railroad tracks, and approximately 200 archaeological pieces, all of which was valued at several million dollars. Miranda presumably appropriated some of these properties and goods on instructions from Noriega, but employed others for personal benefit as well. Additionally, the former legislator was accused of participating in a US\$7 million fraud against the National Bank (*Banco Nacional de Panamá*). For these offenses, bank accounts and property registered under his name were seized by the Prosecutor-General's Office and the Comptroller-General's Office.

Aided by contacts in the security forces and the Prosecutor-General's Office, on 31 October 1990—after little more than three months in preventive detention—Miranda escaped prison. When a plot to overthrow the government the former legislator had participated in disintegrated, he fled to Costa Rica on 7 November. From there he issued threats against the custodian of one of the Chiriquí properties the government had seized from him.

⁷⁶ Hugo Giraud was elected as deputy to the Central American Parliament (PARLACEN) on the PRD ticket in 1999. In October 2000, he was elected president of PARLACEN (*El Panamá América*, 23 October 2000). Camilo Gozaine competed for an Assembly seat on the PRD ticket and obtained reelection, after two terms, in May 1999.

Miranda was recaptured in late 1993 as he attempted to cross the border and imprisoned at the public jail in David, the capital of Chiriquí province. Alleging poor health, in March 1994 he requested home imprisonment. In September 1994, a judge granted his request. At the same time, he was pardoned by newly-inaugurated President Ernesto Pérez Balladares (PRD), alongside a number of former collaborators of the military regime.

Upon his release, arguing that the presidential pardon foreclosed any responsibility he had for misappropriation, Miranda immediately proceeded to one of the rural properties he had taken hold of during his legislative term and expelled the government custodians at gunpoint. The Comptroller-General's Office ordered Miranda's eviction which, however, was not executed until the end of February 1995. Some time later, the Comptroller-General's Office inexplicably appointed the former legislator's attorney as the official custodian of the ex legislator's properties. Miranda was able to re-occupy them after 30 December 1995, when his attorney delegated custody on the ex legislator himself.

On 18 February 1995, the Comptroller-General's Office determined that Miranda and other associates should be held responsible for misappropriation of funds assigned to the former legislator under the 1984-1989 Multiagency Program. In March 1998, the same office concluded that Miranda was responsible for embezzling nearly US\$190,000 of an aqueduct construction project in Chiriquí. In August 1998, the Comptroller-General's Office decided that six properties valued at approximately US\$500,000, which had been illegally transferred to private companies following Otilio Miranda's instructions, should revert to the state. While the office succeeded in restoring some of the misappropriated assets, most of the misdeeds Miranda was accused of remained unpunished due to negligence and collusion by the authorities as well as to the presidential pardon granted by President Pérez Balladares in 1994.

In May 1999, Miranda attempted to win an Assembly seat for the Chiriquí constituency he had represented from 1984 to 1989. In a completely unexpected turn of events, however, this time he stood as a candidate of Partido Cambio Democrático (CD), one of the four parties in the alliance that supported the candidacy of current President Mireya Moscoso (PA), the leader of the opposition to the PRD government (and, by implication, to the military regime Miranda had served). Unsuccessful in his bid, Miranda accused his main contender, Legislator Carlos Alvarado (PRD), of ensuring his reelection victory through “voter transportation” and vote-buying by means of the PARVIS subsidy (see Chapters 7 and 8).

Legislator Alvarado described Miranda as “a criminal and a liar” and threatened to sue the ex legislator for slander. Manifesting indignation at the fact that “an individual who stole six million dollars remains free,” Legislator Alvarado also promised he would initiate legislation aimed at reviewing President Pérez Balladares’ pardon decree. The reelected member, however, has yet failed to keep his promise, presumably because so many of his copartisans were listed among the beneficiaries of President Pérez Balladares’ several pardon decrees. As regards Otilio Miranda, the new government rewarded his support during the electoral campaign by appointing him Panama’s consul-general in Santo Domingo, Dominican Republic.

Summary

Particularism and impunity, which in Panama were furthered by the military regime’s sultanistic approach to politics, have promoted some Panamanian legislators’ involvement in illegal enrichment activities. Legislators in Panama, as in some other informally

institutionalized polyarchies, sell their votes, exercise influence to obtain benefits for themselves or others, and appropriate state resources. Because—as this chapter has shown—members of Panama’s Assembly are not alone in their efforts to get rich, the rent-seeking objective remains a promising area for further scholarly research.

Apart from constituting a breach of the law, illegal enrichment by representatives violates the notion of democratic representation, one of the pillars upon which the modern democratic regime is constructed. When members of deliberative chambers are overly concerned with increasing their personal wealth, they become more responsive to those actors who have the power to increase their income, such as the executive or large private interests. They are also prone to cross party lines in contravention of the principles represented by the party ballots on which they were elected. Concurrently, they become less responsive to their own constituents, whose views they are supposed to represent and in whose interest they are supposed to act (Pitkin, 1967).

Distorted responsiveness also affects the balance of power in democratic regimes, one of the basic safeguards against tyranny (Montesquieu, 1966 [1748]). As illustrated by the Panamanian case, executives interested in imposing their own agenda over the public interest may do so constitutionally by buying the approval of the chamber through personal rewards such as constituency appropriations or cash handouts. Likewise, assemblies concerned with ensuring impunity for illegal enrichment may twist the law to attain their objectives, undermine the judiciary or other controlling agencies, or collude with them in covering up mutual wrongdoing.

These reflections lead directly to the issue of accountability. If personal enrichment by representatives so violates the basic norms of the democratic system, why do constituents tolerate it? One reason is that in informally institutionalized democratic regimes, institutions

responsible for ensuring horizontal accountability do not operate under necessary conditions of autonomy to satisfactorily accomplish their objectives (O'Donnell, 1998b). As noted in this chapter, the enrichment aspirations of Panamanian legislators have been more easily fulfilled when such agencies as the judiciary, the Electoral Tribunal, the Prosecutor-General's Office, and the Comptroller General's Office have enjoyed less autonomy, such as during the military regime (1968-1989) and the Pérez Balladares Administration (1994-1999). The only significant, albeit modest attempt to investigate illegal enrichment by members of the Assembly occurred during the Endara Administration (1989-1994), when these institutions were able to exercise somewhat increased autonomy.

Institutional obstacles to the exercise of vertical accountability—i.e., accountability exercised by voters—constitute another reason explaining the toleration and recurrence of legal and illegal enrichment practices by legislators. In the case of Panama, such features as a tradition of electoral fraud, a highly disproportional electoral system and the prevalence of clientelism (as mentioned in Chapter 2) significantly distort the will of the electorate. In 1999, for example, they contributed to ensure the reelection of a higher percentage of incumbent legislators (49 percent) than would have been expected on the basis of previous electoral experiences (1989, 1994). As reported in this chapter, press reports involved some legislators reelected in 1999, such as Roberto Abrego (PRD), Rogelio Alba (PLN), Miguel Bush (PRD), Elías Castillo (PRD), Balbina Herrera (PRD), and César Pardo (PRD) in ethically ambiguous practices. Chapter 6 examines a major formal obstacle to accountability in Panama: the institution of “parliamentary” or “legislative” immunity.

CHAPTER 6

PRESERVING IMMUNITY THROUGH REELECTION

In most countries, members of representative assemblies enjoy immunity, a “grant of exception from certain civil and criminal penalties accorded to parliamentarians for the duration of their service in the chamber, and sometimes beyond their service, in order to ensure their freedom to perform their duties as representatives” (Kurian, 1998: 5). Some assembly members—most likely those involved in unlawful activities—may be interested in reelection to retain immunity or in initial election to gain immunity. This may be particularly the case in countries where the grant of exception is broad and guarantees that representatives will in most cases remain free from prosecution, despite the gravity of the misdeeds they may commit.

Representatives may want this immunity to remain free from arrest or to ensure that they will be able to continue to commit illegal acts with impunity. In 1997, the Honduran Catholic Church criticized the “sale” of congressional candidacies to persons wishing to avoid prosecution for criminal acts, indebtedness, or corruption, or even to escape responsibility for alimony payments. “The assignment of candidacies in exchange for money is a proven and reproachable fact,” said an editorial in the Church’s official newspaper (*La Prensa*, 29 September 1997).

Members of deliberative chambers may also “rent” their immunity for a fee. In this variant, immunity becomes a commodity that can be traded in a country’s informal market

of goods and services. According to a 1997 piece in a Russian daily, *Moskovskii Komsomolets*, members of the Duma charged fees beginning at US\$50,000 to register a Moscow office in their names. Because parliamentary immunity in Russia apparently extended to a representative's office as well, there was a demand for immune premises among businessmen who conducted shady activities and who wished to minimize their likelihood of prosecution by the authorities (*La Prensa*, 29 October 1997).

Evidence from Panama throughout the period under study indicates that, as elsewhere, some legislators reveal an eagerness to retain and exercise their ample "legislative" or "parliamentary" immunity, as the prerogative is called by members of the Panamanian Assembly. As indicated above, this is particularly the case of legislators who have been implicated in illegal acts, especially in acts of corruption (but also more serious criminal actions). In this fashion, immunity is intimately linked to illegal personal enrichment as a major incentive for seeking office or ensuring reelection.

In Panama, extensions of immunity have passed easily, with the votes of legislators publicly implicated in wrongdoing as well as the support of members across the political spectrum. Beneficiaries of "legislative" immunity have also been elected to leadership positions in the Assembly. Yet another compelling proof that the majority of the chamber values this privilege is that immunity has been lifted only twice and, on both occasions, only after strong outside pressure was exerted on the chamber. These developments relate to the generalized climate of impunity that prevails in Panama, as described in Chapter 2, which prevents the prosecution and punishment of politically influential offenders.

Representatives' Immunity in Comparative Perspective

Before examining the evidence from Panama which shows that representatives may want reelection to continue enjoying freedom from prosecution, a comparative analysis of immunity is warranted. Immunity was originally conceived as a safety measure against the obstacles that powerful political actors, notably the executive, could place on the activity of representative assemblies in pre-democratic times or at the dawn of democracy (Moscote, 1943: 240)⁷⁷. Its purpose is to prevent politically-motivated legal actions against members that would render them unable to fulfill their representative duties and thus violate the will of the electorate as well as the idea of democratic representation.

Non-liability

Non-liability and inviolability are the two basic types of immunity granted to representatives. Non-liability (also called non-accountability) allows members to express their opinions and exercise their mandates freely without being sued for declarations or votes emitted as part of their official functions (Kurian, 1998: 6). Within the sample of 70 countries that by mid-1999 had responded to the Inter-Parliamentary Union (IPU) survey on the subject, all except Cuba recognized the non-liability of representatives.

In 39 of these countries (56 percent of the sample) non-liability is limited to words written and spoken by representatives and votes cast by them in the chamber. In 12 countries (17 percent), this type of immunity applies to words written and spoken by

⁷⁷ This historical interpretation is originally Hans Kelsen's, as expressed in *Vom Wesen und Wert der Demokratie* (Tübingen, 1929).

members both within and outside the chamber, provided that these statements relate to their duties as representatives. In another 18 states (26 percent), non-liability applies both within and outside the assembly, with no exceptions (IPU, *PARLINE* database).

Panamanian legislators also enjoy non-liability. According to Article 148 of the Constitution, they are not legally responsible for the opinions and votes they issue in the exercise of their office (Bernal, 1995: 57). The provision is interpreted as providing legislators with unrestricted freedom to express views on any subject or person, even in cases of defamation. For that reason, the Rules Committee of the Assembly repeatedly dismisses slander or libel suits against legislators forwarded by the Prosecutor-General's Office.

Inviolability

Inviolability, the second basic type of immunity, is the main focus of this chapter. It protects members of deliberative assemblies from arrest or other restrictions of their freedom to which they could be liable on account of acts performed outside the exercise of their functions (Kurian, 1998: 5; IPU, *PARLINE* database). Inviolability may safeguard representatives against prosecution or arrest in civil or criminal cases, or both. Within the set of 75 countries that by mid-1999 had provided information to the IPU on the subject, 71 (95 percent) gave members of their representative assemblies some type of inviolability.

The less privileged representatives in this dataset are those in the four countries (5 percent of the sample) that reportedly granted its representatives no inviolability whatsoever: Bangladesh, Namibia, the Netherlands, and New Zealand. Members in ten other countries (13 percent), including Australia, Canada, India, the United Kingdom, and the United States, among others, only recognize inviolability in civil suits. Representatives in a majority of

states (35, or 47 percent of the sample), including Austria, Belgium, Chile, Ecuador, France, Japan, Spain, Sweden, and Switzerland, only enjoy immunity in criminal cases. In terms of inviolability, the most privileged members of deliberative chambers are those in the 26 states (35 percent) that recognize immunity in both civil and criminal cases, among them Argentina, Costa Rica, Denmark, Finland, Israel, Norway, Paraguay, and Uruguay (IPU, *PARLINE* database). Had Panama's Legislative Assembly responded to the IPU survey, its legislators would feature with the latter group of most privileged representatives.

According to Article 149 of the Constitution, Panamanian legislators enjoy inviolability in criminal cases during sessions as well as five days before and five days after the beginning of each session. During this period, members of the Legislative Assembly may not be prosecuted or arrested for criminal or police cases without the chamber's prior authorization, except when caught *in flagrante delicto* or when a member voluntarily renounces immunity.⁷⁸ Article 149 further indicates that legislators may be sued in civil cases but no seizures may be declared over their property or belongings from their election until the expiration of their terms (Bernal, 1995: 57). This provision effectively protects legislators from adverse decisions in civil cases uninterrupted during their terms (Bernal, 2000a). Comparatively, therefore, members of the Panamanian Assembly figure among the most privileged representatives because they enjoy inviolability in both criminal and civil cases.

As regards immunity from prosecution in criminal cases, within the subset of 60 countries that recognize criminal inviolability and responded to the appropriate IPU survey

⁷⁸ As in most other countries where inviolability applies, the Assembly also holds the exclusive right to decide whether a legislator will be prosecuted, in which case it must authorize the trial. While deliberative chambers have traditionally granted their members certain privileges and immunities in order to guarantee the effective performance of representative duties (as indicated, for example, in Article 1, Section 6 of the US Constitution), the case of Panama stands out for the magnitude these prerogatives have acquired, as specified in the Assembly's own Organic Law and exemplified by custom and practice.

question,⁷⁹ Panama's legislators would feature among members in 14 countries (23 percent) who are immune only during sessions. Representatives in 44 states (73 percent) are inviolable uninterruptedly from the start until the expiration of their mandates. More privileged in the subset are members in two other states (3 percent)—Cape Verde and Hungary—who enjoy inviolability uninterruptedly from candidature until the end of their terms.

Although Panama's legislators classify among the least privileged in this subset, as candidates they also enjoy inviolability during the electoral process. According to Article 128 of the Electoral Code, the period during which candidates are immune extends from the beginning of the electoral process—i.e., four months prior to the day when elections are held—until three months after the Electoral Tribunal completes the task of issuing winners' credentials. During this period, which may last up to one year or more, no candidate may be arrested or prosecuted without authorization from the Electoral Tribunal, except in cases of *flagrante delicto* (República de Panamá, 1997: 65; see also Articles 180 and 181 on p. 91).⁸⁰ In addition to the constitutional and electoral immunity provisions, supplementary legislation (especially in the Assembly's Organic Law)—as well as the Assembly's own handling of most cases against members—has rendered legislators virtually immune from criminal prosecution, as shall later be seen.

⁷⁹ "2.5.7 Is protection provided: a) From the start of the parliamentary mandate? b) Only during sessions? c) Between the dissolution of parliament and the election of the new parliament?"

⁸⁰ This provision also applies to the presidents, vice-presidents, secretaries, and sub-secretaries of officially recognized political parties, as well as to several officers of the Electoral Tribunal.

Moreover, compared to the subset of 35 countries that recognize civil inviolability and responded to the appropriate IPU survey question,⁸¹ Panama's legislators are amply protected. Representatives in 19 countries (54 percent of the sample), including Australia, Canada, Costa Rica, India, the United Kingdom, and the United States enjoy immunity in civil suits only during sessions. Members in another ten countries (29 percent), among them Argentina, Germany, Norway, Paraguay, and Uruguay, are immune from the start of their mandates, i.e., from the first sitting or when their mandates are validated. More privileged are representatives in six states (17 percent), including Denmark, Israel, and Turkey, that recognize inviolability from the moment of election (IPU, *PARLINE* database). Had Panama's Assembly responded the IPU questionnaire, its representatives would feature in this latter group, for although they may be sued in civil cases, judicial rulings against them may not be executed until the end of their terms (Méndez Fábrega, 2000). Moreover, just as in criminal cases, electoral immunity protects them as candidates in civil procedures.

In sum: comparatively, legislators in Panama are among the most privileged in terms of immunity because they enjoy inviolability in criminal and civil cases. They also feature among the better protected in terms of civil immunity because they enjoy inviolability from the day of their election until the end of their terms. As regards criminal cases, they only enjoy inviolability during sessions as well as five days before the beginning and five days after the end of the sessions. But, because supplementary legislation enacted by the Assembly has considerably developed the immunity theme, Panama's legislators are much more privileged than it would appear at first sight. As revealed by the ensuing chronological survey, legislators have consistently expanded and defended their inviolability in ways that

⁸¹ 2.5.7 Is protection provided: a) From the start of the parliamentary mandate? b) Only during sessions? c) Between the dissolution of parliament and the election of the new parliament?

have transformed this privilege into an incentive to secure reelection, especially in the case of members involved in wrongdoing.

The 1990-1992 Struggle for Immunity

Concerted action by the Assembly during the 1990s to strengthen legislators' inviolability prerogatives shows the high value members assign to immunity. During the early years of the decade, from 1990 to 1992, the Assembly reacted resolutely to the attempts of a more autonomous Prosecutor-General's Office to hold legislators accountable for common crimes. Action by the prosecutor-general against officers of the state was a new development in Panama, where during the 1968-1989 dictatorship public officials, including legislators, generally enjoyed *de facto* immunity owing to the prosecuting agency's subordination to the military-controlled executive.

The case in point between 1990 and 1992 was the protracted effort by the Prosecutor-General's Office to act against three PRD legislators, Balbina Herrera, Alberto Alemán Boyd, and Elías Castillo. At the time of their proclamation as elected legislators, shortly after the US invasion of 20 December 1989 but prior to the first sitting of the new Legislative Assembly on 1 March 1990, all three members were under investigation. Balbina Herrera was accused of conspiring to commit murder; Alberto Alemán Boyd of embezzlement and electoral fraud; and Elías Castillo of embezzlement.⁸²

When press reports suggested that ongoing investigations might disqualify the three PRD activists from membership in the Assembly, officials of the new government quickly

⁸² A case against a fourth PRD legislator, Mario Rognoni, was never formalized.

replied that they could only be prosecuted and tried if authorized by the Assembly. This interpretation was constructed on the basis of the above-mentioned Electoral Code provision that recognized candidates' inviolability (currently, Article 128). It did not take into account, however, that widespread irregularities had occurred during the 1989 electoral campaign which had grossly vitiated the legislative election (summarized in footnote 22, Chapter 2) (Ameglio, 1998; Bernal, 1998; Cochez, 1998b; confidential source, 1998; Janson Pérez, 1998; Márquez Amado, 1998; *La Prensa*, 4 February 1990; *El Panamá América*, 7 February 1990).

When, on 26 June (four days before adjournment), the Prosecutor-General's Office completed its investigation and asked the chamber to suspend the immunity of the three legislators, Assembly officers complained that Prosecutor-General Rogelio Cruz had waited until the last moment to file his request. In the absence of legal precedents, handling the cases would be time consuming, they explained, for this was the first time the Assembly received a formal request for immunity suspension. The chamber was now too busy to consider the request, said Assembly President Carlos Arellano Lennox, then of the Christian Democratic Party (PDC),⁸³ but Prosecutor-General Cruz could order any arrest after 5 July, when the immunity period expired, as prescribed by the Constitution. Before the end of the immunity period, however, at least two of the accused legislators left the country, only to return after they were once again legally immune (*La Prensa*, 27 June 1990, 2 July 1990, 4 September 1990).

Over recess, the Rules Committee of the Assembly met to consider the prosecutor-general's request. The committee decided in favor of suspending the PRD legislators'

⁸³ Legislator Arellano broke with the PDC leadership in 1993. After the 1994 elections, he joined PA.

immunity and presented the plenum with this recommendation after the chamber reconvened on 1 September (*La Prensa*, 13 July 1990, 25 July 1990).⁸⁴ In the meantime, however, a row about the distribution of the directing positions of the Assembly developed within the governing coalition. The PDC, which held a relative majority of seats, wished to retain control of the presidency of the chamber while the other government parties advocated rotation of the office among the coalition members.⁸⁵ When the PDC refused, the remaining parties in the coalition struck a deal with its erstwhile opponents. As it turned out, the PRD cast the decisive vote for Alonso Fernández Guardia (then MOLIRENA) to assume the presidency of the Assembly, presumably in exchange for guarantees of immunity for its troubled legislators (*La Prensa*, 4 September 1990, 8 September 1990).⁸⁶

Heated controversy over legislators' immunity characterized the beginning of this new legislative period. When discussion of the Rules Committee report requesting immunity suspension began, PRD legislators argued the petition was not only unconstitutional but also demonstrated the administration's proclivity toward political persecution. The party's representatives engaged in filibuster and blackmail tactics, accusing legislators in the governing coalition of an assortment of crimes, from embezzlement to rape.

⁸⁴ The nine members of the Rules Committee were Raúl Ossa, Gloria Moreno, Raquel Lanuza, and Domi Luis Montenegro of PDC; Miguel Cárdenas and Leo González of MOLIRENA; Aurelio Alba (PA); Marco Ameglio, then of PLA; and Alberto Alemán Boyd (PRD). All except Alemán Boyd (PRD) voted in favor of recommending immunity suspension. Ameglio, 1998; *La Prensa*, 25 July 1990.

⁸⁵ As of September, 1990, the government coalition in the Assembly consisted of the Christian Democratic (PDC), Movimiento Liberal Republicano Nacionalista (MOLIRENA), Arnulfista (PA), and Liberal Auténtico (PLA) parties. Together they held 51 of the still incomplete Assembly's 58 seats, as follows: PDC: 26; MOLIRENA: 13; PA: 7; PLA: 5. All 7 opposition seats belonged to the PRD, the military dictatorship's party.

⁸⁶ Alonso Fernández joined PA after the 1994 elections. The September 1990 deal set the stage for productive collaboration between the PRD and the MOLIRENA, PA, and PLA government factions in the chamber. Thanks to PRD support, these parties obtained control of the directing positions of the Assembly in 1990-1991, 1992-1993, and 1993-1994. Ameglio, 1998; *Latin American Newsletters* wire, 24 September 1992; *La Prensa*, 30 December 1992.

While the newly-elected Assembly president, Alonso Fernández, declared a permanent session until the matter was decided, the debate dragged on endlessly and bitterly. At one point Legislators Herrera, Alemán, and Castillo voluntarily renounced their immunity; Prosecutor-General Cruz, however, later informed that the waivers were not valid due to a legal technicality. When Legislators Herrera and Alemán (but not Castillo) "corrected" their waivers, Raúl Ossa (PDC), chairman of the Rules Committee, requested a vote to confirm the suspension of immunity. The PRD bloc then walked out of the Assembly hall and broke the quorum. This blunt action concluded the debate, for according to the chamber's Organic Law a break in quorum automatically brought a permanent session to an end (*La Prensa*, 4, 7, 11, 18, 19, 20 September 1990).

New Rules, Expanded Inviolability

Even though the Assembly failed to decide on the issue of legislative inviolability, Prosecutor-General Cruz ordered the arrest of legislator Castillo after the immunity period ended, on 5 January 1991. Throughout Castillo's detention the PRD bloc in the Assembly repeatedly demanded his release on constitutional and legal bases. In response to these protests and, more generally, in reiteration of the importance members of the Assembly assign to their immunity prerogatives, the chamber introduced substantial elaborations to the inviolability thesis, included within the wide-ranging reform of the Assembly's Organic Law approved in May 1992. As corollary to this approval, in June 1992 Legislator Castillo was set free and reassumed his legislative seat (Bernal, 1998; confidential source, 1998; Sánchez González, 1998; República de Panamá, 1992; *La Prensa*, 5 January 1991, 26 February 1991, 12 March 1991, 23 April 1991, 28 April 1991, 3 May 1991, 5 June 1992).

The 1992 reform of the Organic Law considerably strengthened legislators' inviolability. The law was now rewritten to say that while either citizens or the prosecutor-general could request the prosecution of a legislator, a suit against a member required presentation of proof of wrongdoing. Suits by citizens further required depositing an unspecified bail bond with the Prosecutor-General's Office (República de Panamá, 1992: 42 [Art. 78]; Sánchez González, 1998;). These new conditions placed significant obstructions to the process of holding legislators accountable for civil and criminal offenses.

As stipulated by the 1992 reform, upon receipt of an accusation against a legislator, the prosecutor-general must immediately file the complaint with the Assembly, where it is assigned to the Rules Committee. If the committee believes the charge merits a formal investigation, it recommends the suspension of immunity, which the plenum must decide. Otherwise, the committee rejects and files the complaint. The same procedure applies when, acting *sua sponte*, the prosecutor-general requests immunity suspension for investigative purposes (República de Panamá, 1992: 41-44 [Arts. 77, 78, 80]).

The 1992 reform also prescribed the nullity of any judicial process in which the legislator in question had not previously waived his/her immunity or the Assembly had not authorized the proceedings. For investigative purposes, the plenum may only suspend a legislator's immunity for a maximum period of two and a half months. In this period, the Prosecutor-General's Office must conclude the investigation and the Supreme Court issue an indictment; otherwise, the process is rendered null and void (República de Panamá, 1992:

47-48 [Art. 94]).⁸⁷ Given the overburdening of Panama's judicial system, it is highly unlikely that the Court will formalize an indictment within such a short term.

Thus, the Prosecutor-General's Office must have authorization from the Assembly before it begins investigations against a legislator. Once the investigation is completed, the report must be sent to the Assembly before the case is tried. After the indictment is formalized the Supreme Court must rule within a one-month period. Except as a result of a judicial ruling or when caught *in flagrante delicto*, a legislator may not be arrested unless expressly authorized by the Assembly (República de Panamá, 1992: 43, 44 [Arts. 79, 81]).

The January arrest of Legislator Elías Castillo proved to be the high point in the Prosecutor-General's Office battle against the Assembly. Thereafter, several factors combined to assert legislative inviolability. Among these were the PRD's renewed belligerence, the party's acquisition of a majority of the seats filled in the January 1991 partial legislative election,⁸⁸ enlistment of foreign support for their cause,⁸⁹ an erosion in the credibility of the Prosecutor-General's Office, and the breakdown of the governing coalition in April 1991, which prompted further cooperation between the remaining government parties and the PRD (Ameglio, 1998).⁹⁰

⁸⁷ At the prosecutor-general's request, the Supreme Court may present the Assembly with a once only, two and a half month extension to broaden the case. The Assembly has the right to approve or reject the extension request.

⁸⁸ As a result of electoral irregularities in May 1990 and the US invasion the following December, partial elections to complete the membership of the Assembly were held in January 1991. The PRD and its allies (PALA, Liberal) acquired five of the nine contested seats in these elections of 27 January 1991 (*La Prensa*, 30 January 1991)

⁸⁹ In March, 1991, Humberto Peláez, President of the Latin American Parliament (PARLATINO) and deputy Walter Márquez, member of the Human Rights Subcommittee of the Venezuelan Congress, visited legislator Castillo in prison (*La Prensa*, 12 March 1991).

⁹⁰ In April 1991 PDC withdrew from the government coalition. MOLIRENA, PA, and PLA remained in coalition until the beginning of the electoral campaign of 1994. Thereafter, MOLIRENA withdrew from the coalition.

To all appearances, however, the most significant factor was the generalized interest among both government and opposition legislators for upholding the “principle” of “legislative” immunity. Legislator Castillo, as noted above, remained in prison for a year and a half, after which he returned to the Assembly. In his specific case, the chamber retroactively applied the Organic Law amendment that requires prior Assembly authorization for any investigation against a member. This requirement was not met in Castillo’s case because it was not in force at the time of his arrest. For that reason, charges against him were dismissed (*La Prensa*, 6 June 1992).⁹¹ Although Prosecutor-General Cruz requested the indictment of Legislator Herrera, the cases against her were eventually dropped, ostensibly for lack of strong evidence (confidential source, 1998; *La Prensa*, 29 December 1990, 26 February 1991). The accusations against Legislator Alemán were left dormant (Bernal, 1998; Cochez, 1998b; confidential source, 1998; *La Prensa*, 12 March 1991, 28 April 1991, 3 September 1996).

Variations on the Immunity Theme

In the face of attempts to hold legislators accountable for transgressions of the law, the Panamanian Assembly has consistently sprung to the defense of its members, protecting them through collective action against prosecution. The chamber has repeatedly held that its members enjoy a special legal status and has acted firmly to maintain it. Throughout the previous decade, under three different administrations, the Rules Committee recurrently

⁹¹ Legislator Castillo’s attorney asserted this decision was legal because the Constitution authorizes the retroactive application of a law when it benefits an accused or convicted individual.

dismissed charges against both government and opposition legislators (*La Prensa*, 7 October 1994, 29 August 1995, 23 December 1995, 20 August 1997).

In other instances it has neglected to consider serious complaints. No action was taken, for example, in June 1991, when the acting mayor of Panama City complained that legislator Alberto Alemán Boyd (PRD) had obstructed a police operative and assaulted a local *corregidor* (county magistrate). Such permissiveness was also demonstrated towards Balbina Herrera (PRD) after authorities accused her of inciting violent disturbances during the official visit of US President George Bush in June 1992 (*La Prensa*, 15 June 1991, 16 June 1992; UPI wire, 6 July 1992).

Moreover, as have their Russian peers, members of the Panamanian Assembly have maintained that immunity is transferable to a legislator's property. When the house of Gerardo González Vernaza (PRD) was searched under warrant in 1992, the chamber issued a statement protesting violation of Legislator González's "immunity." In reply, Prosecutor-General Cruz contended that inviolability did not apply to a legislator's property or belongings (*La Prensa*, 23 June 1992).

But the "transfer of immunity" argument has held: when in 1992 the automobile of Miguel Bush (PRD) was stopped in a roadblock under suspicion of carrying contraband, the legislator defended his immunity, as well as that of his vehicle, at gunpoint. An automobile reportedly owned by the same member was involved in a similar incident in 1997 (*La Prensa*, 16 June 1992, 4 April 1997, 20 April 1997).

In fact, only under pressure from more powerful external actors has the Assembly acquiesced in suspending the immunity of its members. The details of pressure exertion and resistance by the Assembly give additional support to the view that exercising and protecting inviolability is a major concern of Panama's legislators. Thus in Panama, as this study

argues, at least some legislators are interested in reelection not only to advance their political careers, as held by the literature on representatives' behavior, but also to increase their personal wealth and remain free from prosecution.

Immunity Suspension: The Two Exceptions

Only two examples exist of immunity suspension by the Assembly. Both occurred in 1994, in response to strong demands the chamber was unable to resist. In the first case, there is ample reason to suspect that pressure by agencies of the US government, notably the DEA and the Justice Department, affected the outcome. In the second case, pressure applied by President Ernesto Pérez Balladares (PRD) had the same effect.

In November 1993 Legislator Anel Ramírez (PALA, a PRD ally) was caught in a DEA sting operation and arrested in Miami. Before a US federal judge, the legislator for Darién province confessed he had employed public funds to purchase 150 kilograms of cocaine, stored the narcotics in his house, and used his vehicle to transport the drugs (Brannan Jaén, 1994; *La Prensa*, 27 December 1993, 24 February 1994, 15 March 1994, 29 August 1994; Reuters wire, 20 October 1993, 25 October 1993). Covert DEA agents participating in the operation testified that Anel Ramírez "repeatedly offered to use his immunity to 'protect' illegal shipments and operations" (*La Prensa*, 30 August 1994).

When questioned during the trial, the ex assemblyman admitted that he had personally carried five parcels of cocaine in his car because his "immunity as a legislator ensured that no police officer would search" his automobile (Brannan Jaén, 1997a). As a result of the international implications of the case, but only after lengthy procrastination, the Assembly voted to strip Ramírez of immunity in April 1994. It was the first time the

chamber suspended the immunity of one of its members (*La Prensa*, 6 April 1994; Reuters wire, 6 April 1994).

In November 1994, Legislator Mario Miller (PRD) was reportedly caught *in flagrante delicto* by Panamanian police officers in an attempt to extort money from a group of businessmen. Although his arrest was initially prevented by the intervention of fellow Legislator Aristides de Icaza (then PRC, later “independent,” subsequently PSOL), Miller turned himself in hours later (*La Prensa*, 22 November 1994, 24 November 1994). Claiming it had the right to determine the flagrancy of a crime,⁹² the Assembly immediately demanded the transfer of Miller’s case from the Prosecutor-General’s Office. Among the most vocal defenders of the arrested member’s right to immunity were Legislators Balbina Herrera (PRD), at that time president of the Assembly and Miguel Bush (PRD), then chair of the Rules Committee (*La Prensa*, 29 November 1994, 30 November 1994, 1 December 1994, 2 December 1994, 3 December 1994, 23 March 1995, 22 November 1995, 8 December 1995). The high leadership positions held by these advocates of Legislator Miller suggests broad condonement of, or lack of concern about unethical activities by members of the chamber, at least on this instance.

The same day Legislator Miller surrendered, however, President Pérez Balladares (PRD) asked his party’s National Executive Committee to expel Miller and revoke his mandate, which would have the same effect as stripping him of immunity (Janson Pérez, 2000b, 2000d; *La Prensa*, 24 November 1995). Though President Pérez Balladares used the case as proof that he would prosecute corruption in his administration, political observers believed that Legislator Miller had incurred in the chief executive’s personal wrath and that

⁹² An editorial in *La Prensa* dated 17 May 1995 complained that a recent amendment to the Judicial Code had given the Assembly the right to determine the flagrancy of a crime imputed to one of its members.

the president wished to use him as an example of what was in store for legislators who entertained thoughts of independent action. Certainly, only at the president's insistence did the chamber eventually agree to the suspension of Miller's immunity (Ameglio, 1998; Bernal, 1998; confidential source, 1998; Márquez Amado, 1998; *El Panamá América*, 26 December 1997; *La Prensa*, 29, 30 November 1994; 1, 2, 3 December 1994).⁹³

Inviolability: The Electoral Connection

The preceding sections substantiate the view that Panamanian legislators are keenly interested in exercising and expanding the immunity that their offices enjoy. A case illustrating the connection between inviolability and election to an Assembly seat is that of Pedro Miguel González. Although elected for the first time in 1999, the González case lends support to the view that some candidates who strive for a seat in the chamber are motivated by a strong desire to remain free from prosecution.

On 10 June 1992—the eve of US President George Bush's brief visit to Panama—an attack on a US military vehicle in the outskirts of Panama City killed one US soldier and severely wounded another. Eyewitnesses identified Pedro Miguel González, the son of PRD President and Legislator Gerardo González Vernaza, as one of three assailants. The younger González had reportedly participated in terrorist activities from 1990 to 1992 (Abad, n.d.).

⁹³ As noted at the beginning of Chapter 5, Mario Miller was convicted in 1997. In December 1997, a Panama City circuit judge sentenced Miller to 44 months' imprisonment for extortion and conspiracy to commit crimes. He was also barred from exercising public office for the same period. But at that time the former legislator was also paroled, because he had already served most of his prison sentence. In 1999, he stood as an Assembly candidate for Bocas del Toro province on the Cambio Democrático (CD) ticket. He failed to win back the Assembly seat he had secured in 1994. In July 2000—ten months after the end of President Ernesto Pérez Balladares' administration—the Supreme Court repealed the 1997 conviction. Miller then submitted a US\$2.5 million civil suit against former President Pérez, for "judicial slander." (*El Panamá América*, 3, 26 December 1997, 4, 5 July 2000; *La Prensa*, 4, 5, 6 July 2000)

Panamanian investigative authorities later found the attackers' automobile at a nearby property owned by Legislator González and one of the murder weapons at the workplace of a daughter of the legislator (Garvin, 1997a).

Before the police could execute an arrest warrant, however, Pedro Miguel González left the country incognito, presumably to Cuba (*La Prensa*, 23 May 1994, 24 May 1994). There he remained until after the return of the PRD to power, in September 1994. At a press conference held in the presidential house on 25 January 1995, González—accompanied by his father and the rest of the family, as well as Prosecutor-General José Antonio Sossa (PDC)—surrendered to President Ernesto Pérez Balladares (PRD) (Garvin, 1997b, 1997c; *El Panamá América*, 7 October 1997). Imprisoned under privileged conditions, at an air-conditioned private cell with a television, a cellular phone, a fax machine, and a computer—facilities denied to the rest of Panama's prison population—González pursued a political career while in jail, securing election as under-secretary of the PRD's youth organization (Garvin, 1997a; *El Panamá América*, 1 November 1997).

While prosecutors and judicial authorities put off the trial for as long as they could, Legislator González exercised his political influence to derail the case. President Pérez Balladares dismissed Jaime Abad, the police chief who had investigated the attack, and Legislator González charged former chief Abad with forging an FBI ballistics test unfavorable to his son. Another charge claimed that Abad had concealed a Panamanian police ballistics test that was less damaging to the younger González. While the forgery charge had to be dismissed after the US Embassy in Panama authenticated the results of the FBI ballistics test, the judge in the case upgraded the concealment charge from a misdemeanor to a felony (Garvin, 1997c).

On 7 October 1997, Pedro Miguel González finally sat on trial. A jury consisting of public employees who owed their jobs to the PRD government pronounced him not guilty on 1 November 1997. The US Government, which had repeatedly expressed an interest in González's conviction and offered a US\$100,000 reward for his capture, did not hesitate to manifest its deep displeasure. Washington spokesmen complained bitterly about the lack of transparency of Panama's judicial system. These complaints were reproduced in the State Department's *Panama Country Report on Human Rights Practices for 1997*:

In November a jury acquitted Pedro Miguel Gonzalez, son of Legislative Assembly president Gerardo Gonzalez (also president of the ruling Democratic Revolutionary Party—PRD), and two other defendants, Amado Sanchez Ortega and Roberto Garrido, who were accused of the politically motivated 1992 killing of U.S. serviceman corporal Zak Hernandez and intent to kill U.S. army sergeant Ronald Terrell Marshall. Gonzalez was freed; Sanchez must still serve a 7-year prison term for a prior murder conviction; and Garrido had still not been located at year's end. Gonzalez was acquitted despite clear evidence of his guilt and in the wake of improper actions by his father in this case and a separate case against a police official, Jaime Abad. Gonzalez's trial was subject to political interference, manipulation, and intimidation of the judge and jury.

Rumors that González might be abducted by US authorities and brought to trial in the United States began to circulate at the time. On the basis of the Noriega experience this was not a far-fetched supposition, taking into account the existence of an indictment for terrorism against González, issued by a District of Columbia Grand Jury in mid-1992 (Brannan Jaén, 1997b; Garvín, 1997a; *El Panamá América*, 5 November 1997; *La Prensa*, 25 November 1997).

While Pedro Miguel González enjoyed de facto inviolability under the PRD government, US pressures against him made continued immunity a necessity in his case. Elections scheduled for 1999 might return an opposition government more responsive to US requirements (as well as to general demands for more effective and transparent justice) and thus trigger a re-opening of his case. In this context, González launched his legislative

candidacy for a single-member rural district in Veraguas Province where his family has exerted political influence since the early years of the military dictatorship.

In the October 1998 PRD primary, Pedro Miguel González faced incumbent PRD Legislator Enrique Riley Puga. After the proclamation of González's victory, Legislator Riley complained that his opponent had incurred in widespread vote-buying and tally-sheet alterations. After losing the ensuing legal battle between both candidates, Legislator Riley switched labels and accepted nomination by Partido Cambio Democrático (CD), one of the parties supporting the candidacy of President Mireya Moscoso (1999-) (*El Panamá América*, 28, 29, 30, 31 October 1998; 11, 12, 24, 25, 27 November 1998; 2, 3 December 1998).

During the 1999 electoral campaign, Legislator Riley repeatedly denounced Pedro Miguel González for propaganda destruction, illegal use of PARVIS subsidies to attract voters, and other forms of vote-buying (see Chapters 7 and 8). González retorted by accusing Legislator Riley of using vehicles purchased through the member's *partida circuital* to promote his candidacy. After the Electoral Tribunal proclaimed Pedro Miguel González as the winner of his district's seat, Legislator Riley accused González of voter transportation, intimidation, and vote buying through the distribution of construction materials, food, and cash, including counterfeit US\$20 bills. Despite the obvious occurrence of irregularities, the Electoral Prosecutor Gerardo Solís—a member of the PRD with close links to President Pérez Balladares—neglected to conduct any investigations, thus opening the way for the Electoral Tribunal's endorsement of Pedro Miguel González's "victory" (*El Panamá América*, 1 April 1999; *El Siglo*, 8, 14, 15, 18 May 1999; *La Prensa*, 31 March 1999, 16 May 1999).

In August 1999—again amidst denunciations of fraud—Pedro Miguel González secured his election as regional president of the PRD in Veraguas Province (*La Prensa*, 2 August 1999). González's public declarations as legislator-elect emphasized his fear of

action by US authorities and thus the importance of securing criminal inviolability and political influence through an Assembly seat. On 18 May 1999 he accused former Police Chief Abad of colluding with the US Embassy in a kidnapping attempt aimed at having him face trial in Washington, D.C. *El Panamá América* reported him as saying that “officials of the US Embassy and the FBI were involved in the false proceedings” initiated against the legislator-elect. He further added that US officials “had set up a strategy” with the purpose of creating him the “image of a villain to facilitate his abduction.” Citing the precedent of Legislator Anel Ramírez (PALA, 1991-1994), he claimed the strategy contemplated his capture “before the inauguration of the new administration, to take advantage of the climate of uncertainty that would prevail” until the swearing-in ceremony in September (*El Panamá América*, 18 May 1999). Later he said that “only as a dead man” would he leave Panama to stand trial in the United States (*La Prensa*, 23 May 1999). As he was well aware, only in Panama would he continue to enjoy immunity from prosecution as legislator for the 1999-2004 term.

Summary

This chapter has described the cases of some legislators who have taken advantage of immunity to remain free from prosecution in criminal cases. More broadly, however, the record shows that Panama’s Assembly, including members from across the political spectrum, has shown a firm determination to uphold the inviolability of its members. While legislating to make it practically impossible to hold legislators accountable for misdeeds and dismissing complaints against members on the occasions that they make their way to the

Rules Committee, the Assembly has also extended the principle of inviolability to include legislators' property.

The chamber, moreover, has elected some of the most notorious beneficiaries of immunity to positions of leadership in the Assembly, a development that indicates condonement of impunity among its membership. Only when coerced by more powerful political actors, such as the executive or agencies of the US government, has the Assembly acquiesced in lifting the immunity of its members. Between 1984 and 1989, this has only occurred twice, in the cases of Legislators Anel Ramírez (PALA, 1994) and Mario Miller (PRD, 1994).

In Panama, as in other informally institutionalized polyarchies where it applies, inviolability has become a privilege that legislators appreciate highly and wish to preserve through reelection. To retain immunity from prosecution through reelection or initial election, some candidates and members of the Assembly—particularly those troubled by accusations of wrongdoing—actively engage in electoral politics through patronage distribution and other mechanisms that will be described in Chapters 7 and 8. As this chapter showed, this was clearly the case of PRD candidate Pedro Miguel González, in whose case election to a legislator's seat was a safety measure against potential imprisonment for homicide.

On the basis of the available evidence, as presented in this chapter, one can presume that an interest in remaining free from prosecution also motivated the reelection ambitions of other legislators at odds with the law, such as PRD members Alberto Alemán Boyd, Balbina Herrera, Miguel Bush, and Elías Castillo. In this way, the ample immunity that Panamanian legislators have enacted in their favor—a broad privilege when examined in

comparative perspective—places a significant obstacle on the democratic requirements of accountability and impartial, universalistic application of the law.

Chapters 7 and 8, which follow, deal with certain means Panamanian legislators employ to enhance their prospects of reelection for career advancement, enrichment, or continued immunity from prosecution. Patronage distribution is the first of these means, addressed in Chapter 7.

CHAPTER 7

SEEKING REELECTION THROUGH PATRONAGE

The preceding chapters have established that the institutional context allows some Panamanian legislators to seek other goals besides career advancement, such as personal enrichment and immunity. Chapters 2 and 3 described some institutional traits that permit members of the Panamanian Assembly to pursue these ends—a tradition of electoral fraud, patron-client relationships, and impunity, together with certain formal institutional features that further promote clientelism, as are seat allocation rules, district size, and the balance of power between the executive and the assembly. In this setting, reelection serves as one means towards the goals of career advancement, enrichment, and immunity.

This chapter examines the use of patronage as an electoral mechanism legislators employ to increase their reelection prospects. In broad terms, patronage refers to “the use or distribution of state resources on a nonmeritocratic basis for political gain.” Goods distributed in exchange for support have traditionally included jobs in the government bureaucracy; after the expansion in state activity experienced in most countries in the course of the 20th century, however, they have also come to encompass “public sector services and works projects, state contracts and concessions, and state investments.” Political scientist Frank Sorauf has best expressed the concept “as an incentive system—a political currency with which to ‘purchase’ political activity and political responses” (Mainwaring, 1999: 177).

Patronage-related activities in which representatives in many polyarchies engage include securing the construction of public works in key localities and obtaining state funding for specific groups and projects in their constituencies. In this capacity, members of representative assemblies assume the role of intermediaries between the executive branch and their constituents in the process of allocating state resources. As noted by analysts elsewhere, especially in the United States, this activity—labelled “allocation responsiveness” by some and, more colloquially, “pork barrel” politics—takes up a substantial amount of representatives’ time and energy. In the United States, for example, members of the Congress introduce legislation to ensure that their districts receive “a fair share of government projects, programs, and expenditures” (Cain, Ferejohn, and Fiorina, 1987: 3-4). Although it is undertaken with a clear electoral objective in mind, in most advanced polyarchies “allocation responsiveness” does not comprise the direct access to constituency funds by representatives for the provision of goods and services, with the express purpose of creating electoral clienteles. This is certainly not true in the United States and Great Britain, the cases studied by Cain, Ferejohn, and Fiorina in their 1987 discussion of allocation and service responsiveness.

As predicted by the theory, to aid their reelection ambitions Panamanian legislators also resort to patronage. In Panama, however, patronage encompasses dimensions that the literature on legislators’ behavior has not yet fully addressed. Members of the Panamanian Assembly—who, contrary to their peers in formally institutionalized polyarchies, do have direct access to constituency funds—engage in a much more straightforward particularistic distribution of public goods and services with an unmistakable electoral connection in mind. This feature illustrates the link between patronage and clientelism, a political phenomenon

discernible in several recent polyarchies that, additionally, has strong roots in Panama, as explained in Chapter 2.

As a result of these historical-institutional legacies, patronage is an important mechanism employed by some Panamanian legislators to increase their chances of reelection. In Panama, legislators engage in patronage by distributing state resources directly to constituents, in clientelistic fashion, for electoral gain. Members of the Legislative Assembly use state resources to purchase political support in both legal and illegal ways. The two main sections that follow provide examples of legal and illegal uses of patronage, respectively.

Legal Distribution of Patronage Through *Partidas Circuitales*

Partidas circuitales are budget funds assigned directly to legislators for discretionary use in their districts. Literally translated, the term means “constituency funds.” Inspired by Panama’s clientelistic tradition, conceived towards the end of the old regime (1903-1968), instituted during the military regime (1968-1989), revived— after the return to polyarchy— towards the end of the Endara Administration (PA, 1989-1994), and maximized during the government of Ernesto Pérez Balladares (PRD, 1994-1999), *partidas circuitales* are an efficient means some Panamanian legislators have used to surmount a historically low reelection rate.

As mentioned in Chapter 2, in 1989 only 22 percent of Assembly members seeking reelection succeeded. This percentage rose only slightly in 1994, to 26 percent. But, in 1999, almost half (49 percent) of all legislators seeking reelection managed to retain their seats. This considerable increase is explained not by better performance or a more conscientious exercise of representative functions in the 1994-1999 Assembly, but essentially by a greater

and more consistent access to constituency funds as well as by lesser constraints on the use of this funding source.

The rise in the availability of *partidas circuitales* was promoted by President Ernesto Pérez Balladares (PRD, 1994-1999) to render the Assembly even less effective than prescribed by the 1972 Constitution. In this way, the president ensured the uncontested application of his agenda and legislators were guaranteed funding to cultivate electoral clienteles (Cochez, 2000a). The policy had adverse consequences for the democratic system, especially as regards the balance of powers and the quality of representation. But, in the pursuit of the objectives of President Pérez Balladares as well as of the members of Panama's Assembly, it proved successful.

Partidas Circuitales: Their Background

Partidas circuitales have been in existence since the reinstatement of the Assembly in modified fashion, under military rule. As was previously indicated, however, the practice of allocating "development" funds directly to representatives can be traced to the inception of the military regime's constitution in 1972. Additional antecedents are found not only in the clientelistic approach to politics that was a legacy of the old regime, but also in an initiative by former Deputy Ovidio Díaz (1964-1968), who in 1965 proposed the allocation of state resources directly to members of the Assembly for the construction of public works (*El Panamá América*, 17 March 2000).

Ovidio Díaz was first elected deputy in 1964, on the Partido Republicano (PR) label, in representation of his native Los Santos province. In an essay recently written in reaction to heightened criticism of *partidas circuitales*, former assemblyman Díaz explained that the

proposal was a response to his own disillusion “after I became aware of my incapacity to satisfy the most urgent basic needs of the communities and my constituent friends who had faith and hope in my mandate.” As president of the Assembly’s Public Works Committee, Ovidio Díaz secured the inclusion in the 1966 budget of a \$30,000 fund for each deputy, with the exception of two other members and Díaz himself who, as originator of the initiative, received a higher amount.⁹⁴ In his account, Díaz underscores the electoral connection implicit in the establishment of these deputy funds:

As every good idea, this one took root and continued to be utilized in 1966, 1967, and 1968 to build public works, some of which were constructed by the military government. The prize I received was my reelection as deputy in the following period [1968]. From the communities of Los Santos, which were satisfied with their deputy’s work, I not only received votes but also money and goods as contributions to my electoral campaign. The result was that for the first time the opposition won in the Province of Los Santos, despite the enormous persecution unleashed by the government of Marco Robles [1964-1968]” (Díaz, 2000).

In 1984, Ovidio Díaz was elected legislator, again in representation of Los Santos province, but now as a member of PRD, the military regime’s party, with which he collaborated enthusiastically after the 1968 coup. As a result of the 1960s experience with deputy funds,

it was not difficult to sell my idea once again, now as president of the Budget Committee. Owing to the changes introduced in the 1983 constitutional reform, particularly in Articles 269 and 270 [of the Constitution], I had to negotiate with Nicolás Ardito Barletta, then President of the Republic, who authorized the necessary funding that allocated \$200,000 to each government legislator and \$100,000 to each opposition member. It was pressure from some of my party’s leaders that prevented the distribution of the same amount to all legislators, as I wished (Díaz, 2000).

⁹⁴ According to Díaz, the other two deputies were Jorge Rubén Rosas, a brother of Comptroller-General Olmedo Rosas, and Virgilio Schuverer, “who were not satisfied with their allocation and demanded a higher sum. We finally acceded to their wishes to prevent the destruction of this happy initiative.” Jorge Rubén Rosas served two terms as Movimiento de Liberación Nacional (MLN) deputy (1960-1968) for Chiriquí province and two additional terms as MOLIRENA legislator (1984-1994). A MOLIRENA party leader, he also served as Labor minister (1989-1993); currently, he is a member of the National Foreign Relations Council. Virgilio Schuverer served as Partido Acción Radical (PAR) deputy for Bocas del Toro province (1964-1968).

As indicated by former Legislator Díaz, the executive allocated different amounts to government and opposition members in 1985, 1986, and 1987, under the so-called *Programa Multiagencial de Proyectos Comunitarios*, as partidas circulares were then designated (see Chapter 6). But, according to the Comptroller-General's Office—and, contrary to former Legislator Díaz's recollection—in 1985 allocations ranged from US\$59,000 to US\$166,000 for government legislators and from US\$20,000 to US\$40,000 for opposition members. In 1986, members of the pro-dictatorship bloc received from US\$151,000 to US\$301,000 and opposition legislators obtained from US\$10,000 to US\$70,000. In 1987, government members received from US\$30,000 to US\$200,000; opposition legislators received no funding. The total amount disbursed among members of the Assembly under the Multiagency Program in 1985-1987 reached US\$17.4 million (República de Panamá, Contraloría General de la República, 1987).

Generally knowledgeable sources confirmed that the Multiagency Program was suspended after 1987 owing to the dismal state of government finances during the last years of the military regime. Reportedly, however, legislators aligned with the dictatorship received indirect and irregular payments for personal, political, and “allocation responsiveness” purposes in 1987, 1988, and 1989 (Arellano, 2000).⁹⁵ As mentioned in Chapter 6, in 1990 the Comptroller-General's Office initiated an investigation over the use of some US\$4.3 million assigned to members of the Assembly under the Multiagency Program during the 1984-1989 term.

Upon the re-establishment of polyarchy, towards the end of 1989, a stricter management of state resources initially averted a return to the practice of allotting

constituency funds, despite the fact that legislators insisted on their assignment. But constituency funds were once again included in the 1993 budget, as a device to generate support for the governing parties and incumbent members of the Assembly in the upcoming (1994) elections (Cochez, 2000a; *El Panamá América*, 1, 3 January 1993; *El Siglo*, 3, 16 January 1993; *La Prensa*, 2, 5 January 1993). According to the Comptroller-General's Office, US\$83.5 million were assigned to "parliamentary initiatives" in the 1993 budget, specifically in the Planning Office's budget.

As before, pro-government members and certain "collaborating" legislators across party lines received substantially higher amounts than opposition members. In 1993, allocations to pro-government legislators ranged between US\$1.7 million and US\$3.7 million. Opposition members received up to US\$960,000; at least four assemblymen reportedly did not receive any funding at all (República de Panamá, Contraloría General de la República, 1994).

In 1993, however, legislators did not have direct access to these resources and the Comptroller-General's Office did not authorize any disbursement of funds unless projects were specifically contemplated in the budget bill. Funds were normally channeled through the Ministry of Public Works under strict supervision by the Comptroller-General's Office (Cochez, 2000a; Gómez, 2000). For this reason, of the hefty allocations assigned in 1993 for a total of US\$83.5 million, approximately one third, or US\$28.5 million, remained undisbursed. This figure roughly coincides with the *partidas* amount allocated in the 1994 budget (US\$28.9 million) almost 100 percent of which was disbursed in that election year. Presumably, therefore, funding not used in 1993 was redistributed in 1994, albeit unequally,

⁹⁵ A protest leaflet distributed in late June 1987 claimed that one pro-dictatorship legislator was receiving US\$300,000 monthly for distribution among other Assembly members, including at least six opposition

among the full membership of the Assembly. Although many legislators in the government bloc obtained substantially more funding than their opposition peers, no clear pattern was discernible in the 1994 allotment, in which all legislators obtained *partidas circuitales*, ranging between US\$79,000 and US\$1.2 million (República de Panamá, Contraloría General de la República, 1994).

The difference between allocated and disbursed amounts points to an important matter in *partidas* politics: the issue of government control over expenditures. According to the Comptroller-General's Office, legislators disbursed the entire constituency funding allocated in the 1984-1989 period (US\$17.4 million). At a time of extreme corruption and military manipulation of the political process, as described in Chapter 2, this is a revealing fact that suggests lax supervision of expenditures by the Comptroller-General's Office.⁹⁶ This deduction is substantiated by the fact that after the re-establishment of polyarchy, a more independent Comptroller-General's Office opened investigations into the use of Multiagency Program funds, as a result of which at least one legislator, Anselmo Guaynora (PRD), was convicted of misappropriation of public resources during the previous term (see Chapter 6).

In the 1989-1994 period—again, according to the Comptroller-General's Office—total disbursements of US\$84.0 million represented 75 percent of the full amount allocated in the period (US\$112.6 million). As noted above, the difference between authorized and disbursed amounts was more evident in 1993, when total disbursements (US\$55.1 million) added up to two thirds of the appropriated sum (US\$83.6 million). In 1994, an electoral year, the disbursement rate neared 100 percent. Presumably, either projects were approved

"legislators for sale" (*legisladores vendidos*).

the previous year or the Comptroller-General's Office applied a more flexible disbursement procedure. If the funds help reelection (a hypothesis that will be statistically proved later in this section), it was a mistake to wait until election year to permit a more expeditious use of funds, as revealed by that year's low return rate among incumbents seeking to retain their seats (26 percent).

This approach contrasts with the strategy adopted under the administration of President Ernesto Pérez Balladares (PRD, 1994-1999). Legislators were assigned abundant constituency funding in each fiscal year of the Pérez Balladares Administration. Moreover, new, more "flexible" disbursement procedures were introduced, which made it easier for Assembly members to spend the allocated amounts and claim credit for the projects undertaken through constituency appropriations. Instead of directing constituency activities through the Ministry of Public Works, which requires holding public bids with the participation of a minimum of three bidders, President Pérez Balladares allowed legislators to channel funds through the Emergency Development Fund (Fondo de Emergencia Social, or FES) (Gómez, 2000).⁹⁷ As an agency of the Presidency of the Republic for emergency relief, FES was authorized to assign its projects directly without holding public bids. During the Pérez Balladares Administration, a practice developed whereby legislators' would set up their own "non-governmental organizations" (NGOs), which would apply and receive funds directly from FES, with the ostensible objective of carrying out development projects in legislators' districts (*El Panamá América*, 10 March 1999, 3 July 2000, 10 September 2000; *El Siglo*, 6 September 2000; *La Prensa*, 2 September 2000).

⁹⁶ Conceivably, another feature it might suggest is efficient management by legislators, but this is unlikely, given the sultanistic context that characterized military rule in Panama.

⁹⁷ FES was renamed Fondo de Inversión Social, or FIS, at the beginning of President Mireya Moscoso's administration.

As a result of these policies, the disbursement rate rose to 90 percent under the Pérez Balladares Administration, reaching almost 100 percent in 1997 and 1998. Ironically, it dropped to 62 percent in election year 1999, by which time, however, the benefits of “efficient” and regular disbursement of constituency funds had, presumably, already accrued. Table 7.1 shows the allocation and disbursement of *partidas* during the period under review:

TABLE 7.1
ALLOCATION AND DISBURSEMENT OF CONSTITUENCY FUNDS
Panama, 1984-1999
(in millions of current US dollars)

YEAR	FUNDS		DISBURSEMENT AS A % OF ALLOCATION
	ALLOCATED	DISBURSED	
1985	3.6	3.6	100%
1986	9.4	9.4	100%
1987	4.4	4.4	100%
1988	0	0	0%
1989	0	0	0%
1990	0	0	0%
1991	0	0	0%
1992	0	0	0%
1993	83.6	55.1	66%
1994	29.0	29.0	100%
1995	21.8	20.9	96%
1996	39.2	36.8	94%
1997	43.6	43.2	99%
1998	45.9	45.3	99%
1999	37.6	23.4	62%

Source: República de Panamá, Contraloría General de la República, 1987, 1994, 1998a, 1999a, 2000.

As during the Endara Administration, under President Pérez Balladares *partidas circuntales* were included in the Planning Office budget. In July 1999, after the election—but

before the inauguration—of President Mireya Moscoso (PA), the PRD-controlled Legislative Assembly voted to remove the constituency appropriations from the Planning Office's budget and incorporate them into the Assembly's own budget, under the chamber's "investments" account. Article 16 of the hastily approved Law 35 of 1999, which amended chamber's Organic Law, further stipulated that the Assembly's budget should correspond to at least 2 percent of the central government's current income and that this budget would increase every year proportionally to the increase in the government's budget.⁹⁸ Furthermore, the amendment determined that henceforth the Assembly would "design and administer" its own budget and that in no case would the global amount for *partidas circuitales* be less than the previous year's appropriation for this item (República de Panamá, Asamblea Legislativa, 1999: 82-83 [Article 267-A]).

This move by the PRD-controlled Assembly responded to President Moscoso's campaign promise that once in office she would "revise" the allocation of constituency funds, hinting at their elimination or transfer to the municipal councils or county representatives (*El Panamá América*, 10 March 1999, 10 April 1999, 14 June 1999, 22 August 1999; *La Prensa*, 6 May 1999). Thus did the Assembly prevent the potential eradication of a major public resource to which many of its members attributed their reelection. In reply, the Moscoso Administration opted for suing the new budgetary provision before the Supreme Court, on the grounds of unconstitutionality.

Since the approval of the latest amendment to the Assembly's Organic Law, the Supreme Court has received at least four suits against Article 16 of Law 35 (*El Panamá América*, 6 November 2000). One of these was submitted by Presidential Advisor Mario

⁹⁸ In 1999, the central government's current income amounted to US\$1.7 billion (República de Panamá, Contraloría General de la República, 2000: 31).

Galindo Heurtematte, who argued before the Court that the new provision constitutes a usurpation of functions by the Assembly and a threat to the doctrine of separation of powers. According to Advisor Galindo's rationale, the chamber can only carry out the functions specifically assigned by the Constitution, which do not include the design and administration of its own budget, a task that—as explained in Chapter 3—corresponds exclusively to the executive branch (Galindo Heurtematte, 2000).

In response to Advisor Galindo's argument, Solicitor-General Alma Montenegro (PRD), a strong supporter of President Pérez Balladares' initiatives, issued an opinion in favor of the constitutionality of the Assembly's budgetary prerogative. As of this writing, a decision by the Supreme Court is still pending (*El Panamá América*, 6 November 2000). A ruling against the Assembly would return decision-making power over the allocation of constituency funds to the executive and allow their elimination or continued use as a bargaining chip by the Moscoso Administration.

A broader proposal against legislator's *partidas* was launched by Legislator José Blandón Figueroa (PA), who in September 2000 submitted a bill that provided for the elimination of the constituency funds. Predictably, most government and opposition legislators declared against the Blandón bill and in favor of a project to "regulate" the *partidas*, presented by current Assembly President Laurentino Cortizo (PSOL). The pertinent provision in the Cortizo bill simply says that "the use of constituency funds will be regulated" (Blandón, 2000b; Blandón, 2000c; *El Panamá América*, 6, 8, 11, 18 September 2000, 12, 13 October 2000; *El Siglo*, 14 September 2000, 12 October 2000; *El Universal*, 14 September 2000; *La Prensa*, 14 September 2000, 12 October 2000).

In November 2000, Legislator Cortizo circulated a draft of a regulatory resolution among the membership. The final resolution, which will not have the force of law, is

scheduled to be issued by the Assembly board on 30 November and will apply between 1 January and 31 August 2001. Assembly President Cortizo's initiative begins by proposing a change in name from *partidas circuitales* to *programas de desarrollo social* ("social development programs"). It stipulates the use of 80 percent of the fund received by each legislator in the member's constituency. This responds to complaints about certain legislators' practice of destining the funds towards projects in other constituencies.⁹⁹

The proposal further establishes that funds may only be channeled through government agencies or non-governmental organizations whose boards do not feature close family members of the recipient legislator. According to the draft resolution, members or their staff cannot be involved in the bidding process for projects and fund administrators are subject to control by the Comptroller-General's Office. If the proposal is accepted, each legislator will have to present an annual report of projects undertaken with constituency funds received and the executive, through the Ministry of Finance, will be obliged to release the funds on a "simultaneous and egalitarian" basis (*El Panamá América*, 22 November 2000).

⁹⁹ A case in point is that of Gloria Young (MPE, PA, 1994-), whom Legislator Carlos Smith (PRD, 1994-) accused of using US\$286,000 of her fund in Legislator's Smith district. Gloria Young acknowledged the transfer of funds and justified her action by saying that members "should not be selfish and help any constituency in need." Legislator Young's husband, Joel Lezcano, is a substitute of Legislator Osman Gómez (PA, 1999-), a member representing the same district as Legislator Smith. Although Lezcano denied it, press reports indicated that he was preparing to run for an Assembly seat in 2004, in the same district Legislator Young had invested part of her *partida*. Commenting on the funds transfer by Legislator Young, Teresita Yániz (PDC, 1999-) said such action was "improper" although not "illegal" (*El Panamá América*, 6 June 2000; *La Prensa*, 6 June 2000; *El Siglo*, 7 June 2000). A few days later, it was reported that another legislator, Felipe Cano (PRD, 1999-), had also transferred US\$300,000 of his *partida* to a rural district. Legislator Cano, who represents the urban constituency of San Miguelito, explained that the rural district's municipal board would only administer these funds (for a fee), which would serve to finance projects in San Miguelito (*El Panamá América*, 13 June 2000).

Constituency Funding in Comparative Perspective

The previous section underscored the two key elements that explain the electoral value of Panama's *partidas circuitales*: size and lack of control over their disbursement. Although the assignment of funds—especially such generous funds as is the custom in Panama—for discretionary particularistic use by representatives violates the norm that legislation should be impartial and universalistic (Weber, 1978 [1922]: 217-26), Panama is by no means the only Latin American country where such practice has existed.¹⁰⁰ At least in Argentina, Ecuador, Costa Rica, and Colombia, representatives have or have had direct access to state funds. In Argentina, members of the lower chamber “receive a base amount of resources for the granting of subsidies to non-profit and governmental institutions (approximately \$18,000-\$20,000 in 1998), of pensions to individuals (approximately \$1,200 per month in total, including medical coverage), and of a small number of modest scholarships to university students” (Jones, 1998: 31, fn. 46).

In Ecuador, deputies were formerly assigned budget funds (*partidas presupuestarias*) to carry out projects in their constituencies. Owing to complaints of corruption and clientelism, the 1998 Constituent Convention eliminated these funds and inserted a clause in the Constitution explicitly prohibiting deputies from “offering, dealing with, receiving, or managing budget resources, except for those assigned to the operation of the Congress” (Coppedge, 1999; Mejía Acosta, 1999b).

¹⁰⁰ Contrary to what many Panamanian legislators seem to believe, however, the practice of allocating constituency funds to representatives is by no means widespread, least of all among formally institutionalized polyarchies, one of the defining characteristics of which is “a universalistic orientation to some version of the public good” (O'Donnell, 1996) which the assignment of government resources on a particularistic basis so clearly violates. In a meeting held on 9 January 1999, in support of the candidacy of Mireya Moscoso (PA), former Legislator Gloria Moreno (then PA, previously MORENA and PDC) declared her failure to understand

Costa Rican deputies also have access to similar funding sources, where they are called *partidas específicas*, “small pork-barrel appropriations targeted at specific communities” (Carey, 1996: 107). Whereas in Argentina constituency funds are distributed evenly among representatives, in Costa Rica, however, they are assigned almost exclusively to members of the party in government. In response to accusations of mismanagement, in May 1998 the Costa Rican Legislative Assembly approved a law that placed *partidas específicas* under stricter government control and now channels pork-barrel funds through the municipalities, thus placing constraints on the discretionary use of these funds by deputies (Leis, 1999).

The Colombian equivalent of these constituency funds assigned to members of Congress for carrying out projects in their districts, called *auxilios parlamentarios*, was in existence at least from 1968 to 1991. These *auxilios* were reportedly a part of the package that President Alberto Lleras Restrepo (1966-1970) negotiated with the Congress to placate members who were reluctant to go along with President Lleras’ proposals to increase the executive’s budgetary powers vis-à-vis the Congress and formalize the status of several decentralized institutes (Hoskin, 2000). Through this scheme, the Congress ensured it could initiate legislation at least in this one area, since under the 1968 reforms it lost its initiative in all other budgetary matters (Hartlyn, 2000). This speaks directly to the hypothesis advanced in Chapter 3, which suggests that, in a clientelistic setting, a representative assembly denied involvement in issues of “high” politics is likely to channel its energies towards patronage and related activities.

Because of their application to electoral politics, *auxilios parlamentarios* were singled out as “the most viable mechanism to guarantee a legislator’s reelection.” As in Panama, this use was facilitated by lack of adequate controls in their assignment and disbursement, a

the “fuss” over *partidas circuitales*, when to the extent of her knowledge, representatives everywhere, including

feature that also contributed to their employment for personal enrichment purposes (Behar and Villa, 1991: 63-70).¹⁰¹ But in Colombia, complaints of maladministration and widespread graft prompted an attempt by the 1991 Constituent Convention to eliminate them (Archer and Shugart, 1997: 135-36). They were abolished specifically in the 1991 Constitution, only to reappear in a modified form of *proyectos de co-financiación*, involving negotiations between members of the Congress, departmental or municipal governments, and the National Planning Office. Thus, rather than outright grants to members of the Congress, as characteristic of the *auxilios*, after 1991 the allotments were projects approved by the Planning Office. Primarily because of the financial difficulties of the national government, the Pastrana Administration (1998-present) suspended the *proyectos de co-financiación* (Hoskin, 2000).

Size and Lack of Control: The Electoral Connection

As this modest comparative survey shows, the assignment of constituency funds to representatives in informally institutionalized polyarchies is not unique to Panama. What is significant about the Panamanian case, however, is that while a tendency towards the rationalization and heightened control of these funds is evident elsewhere, the recent trend in Panama has been towards the substantial increment in constituency assignments (together with further inequality in their distribution among legislators) and an accentuated discretionary use by their recipients (owing to lenient government supervision). These features underscore the electoral value of *partidas circuitales*. The size of the fund, which is

US senators and House members, "also have access to constituency funds."

¹⁰¹ I am grateful to Aníbal Pérez Liñán for providing this reference.

generally higher for government legislators, and lack of control over its disbursement, contribute to determine legislators' reelection possibilities.

Table 7.2 shows the distribution of constituency funding disbursements, the amounts disbursed by legislators in each term, and the type of government control exercised during each period. For the 1984-1989 term, the guiding presumption is that despite lax supervision, the size of the constituency disbursements was not sufficient to counter the widespread repugnance generated by the military regime. This translated into a lower reelection rate for the recipients of larger *partidas*, i.e., those legislators aligned with the government, according to the already established practice.

For the 1989-1994 period, the supposition is that despite an evident increase in the size of the funds, a more prudent control over their use by the Comptroller-General's Office prevented their maximization as an electoral device. The analysis further supposes that the adequate combination, in terms of size and lack of control, was not found until the Pérez Balladares Administration (PRD, 1994-1999). This resulted in a significantly increased reelection rate, especially for legislators receiving the larger *partidas*. After a description of the dynamics of constituency funding in Panama, the final segment of this section refines and tests these presumptions through logistic regression analysis.

TABLE 7.2
 CONSTITUENCY FUNDING DISBURSEMENTS
 PANAMA, 1984-1999

Type of control:	1984-1989		1989-1994		1994-1999	
	N	Lax Reelected	N	Strict Reelected	N	Lax Reelected
Size of constituency fund:						
Under US\$250K	14	43%	5	0%		
US\$250K-US\$500K	21	10%	8	0%		
US\$500K-US\$1M	1	0%	13	38%		
US\$1M-US\$2M			7	43%	31	35%
US\$2M-US\$3M			9	22%	9	44%
Above US\$3M			4	50%	23	70%
	36	22%	46	26%	63	49%

Analysis of the figures allotted as *partidas* during each fiscal year of the government of Ernesto Pérez Balladares (PRD, 1994-1999), the first administration during which the constituency funds were consistently allocated, indicates the intensification of these two variables—size and lack of control—that, in the Panamanian context, explain their electoral value. For the purposes of this analysis, fiscal years 1995 through 1999 coincide with the term of President Pérez Balladares, given that the constitutional term begins on 1 September and ends on 31 August and the fiscal year starts on 1 January and concludes on 31 December. In other words, legislators elected in May 1994 took the oath on 1 September 1994 and were assigned funds beginning on 1 January 1995 until 31 August 1999, i.e., for twelve months each in 1995, 1996, 1997, and 1998 and for eight months in 1999. This accounts for a lower *partidas* budget for election year 1999. When calculated as a monthly

figure, however, the 1999 *partidas* amount is higher than in any other year during President Pérez Balladares' period.

Constituency funding increased constantly during the 1994-1999 term: from US\$21.7 million in 1995, it rose to US\$39.2 million in 1996, US\$43.1 million in 1997, US\$46.5 million in 1998, and US\$37.6 million for the first eight months of 1999, amounting to a grand total of US\$188.1 million. As a monthly average, the figure allotted to legislators "initiatives" (as members' projects are called) during the Pérez Balladares Administration rose from US\$1.8 million in 1995 to US\$3.9 million in 1999, which represents a 171 percent increase over the five-year period. For fiscal year 2000 (1 January-31 December), the first for which, pursuant to Law 35 of 1999, the Assembly designed and administered its own budget, the reported figure was \$38 million, representing a monthly average of \$3.2 million (República de Panamá, Contraloría General, 1999b: 58; República de Panamá, Contraloría General, 1998b: 64; *El Panamá América*, 30 October 1998, 4 December 1995, 3 January 2000; *La Prensa*, 6 November 1994).

How are these sums determined? The global amount assigned to "parliamentary initiatives" is negotiated each year between the Assembly leadership and the executive before the annual budget is submitted to the chamber in September or October of each year. The Assembly leadership then apportions *partidas circuitales* to legislators according to entirely political criteria.¹⁰² Funds are allocated among legislators according to three basic guidelines: adherence to the government bloc, membership in the Budget Committee, and performance of a formal or informal leadership role within the Assembly (*El Panamá América*, 30 October

¹⁰² This description of the procedure whereby *partidas circuitales* are allocated is drawn from newspaper coverage, as indicated in the text, as well as from analysis of the "parliamentary initiatives program" breakdown for 1997 and 1998, as included República de Panamá, Contraloría General de la República, 1998a, 1998b, 1999a, 1999b, 2000, and from Bernal, 1997; Blandón Figueroa, 1998a, 1998b; Cochez, 1999a; and Gómez, 2000.

1998). Consequently, the allotment of *partidas circuitales* is highly skewed against opposition members, as shown in Table 7.3.

TABLE 7.3
ALLOCATION OF *PARTIDAS CIRCITALES* AMONG GOVERNMENT AND
OPPOSITION LEGISLATORS, 1994-1999

	NUMBER OF LEGISLATORS	%	TOTAL PARTIDAS ALLOTTED (IN US\$)	%
Government	43	60%	142,530,836	76%
Opposition	29	40%	45,605,113	24%
	72	100%	188,135,949	100%

Sources: República de Panamá, Contraloría General de la República, 1998b and 1999b. Given the changes in party labels across time, Table 2.2 reflects the adherences of legislators to the government and opposition blocs as at September 1998.

After the global amount for “parliamentary initiatives” has been determined, the Assembly leadership decides how much corresponds to each legislator. A baseline is then set for opposition and government members. In 1997-1998, the last two full fiscal years during which *partidas* were allocated during the Pérez Balladares Administration (1994-1999), this baseline was \$300,000 for opposition (or pseudo-opposition) legislators and \$650,000 for members formally adhering to the government bloc.

From then on, incremental sums are assigned according to the degree of influence the legislator exercises within the Assembly. In 1997, the opposition’s ceiling was set at \$540,000, which was the amount received by the seven opposition members that belonged to the Budget Committee in the 1996-1997 legislature. The 1998 opposition ceiling was \$500,000, allotted to Rubén Arosemena (PDC), an opposition member of the Budget Committee. After this, the highest amounts in the opposition bloc were assigned to other

Budget Committee members and two of five Movimiento Papa Egoró (MPE) representatives who, although not formally belonging to the government coalition at that time, regularly gave support to the government's legislative agenda.

In 1997, the average and mode for opposition members were \$367,059 and \$300,000, respectively. In 1998, the same indicators were \$360,006 and \$300,000, respectively. Given that the total allocation increased in 1998, a lower average for opposition members in the latter year indicates a more biased distribution in favor of government legislators.

While in 1997 the average and mode for government members were \$817,886 and \$850,000, respectively, the same indicators in 1998 were \$859,013 and \$850,000, respectively. The highest amounts were reserved for government members of the Budget Committee and Assembly leaders, consisting of the chamber's president, the two vice-presidents, key committee chairs, and government whips (who do not have an official position per se within the chamber, except as *jefes de fracción* or bloc coordinators). The highest amount assigned in 1997 was \$1,110,000, allocated to Assembly President César Pardo (PRD). Seven other legislators, including the two vice-presidents, the chair and certain members of the Budget Committee, and Balbina Herrera (PRD), a past president and government whip received over one million dollars in 1997.

The ceiling reached \$1,605,000 in 1998, allocated to Budget Committee Chair Carlos Alvarado (PRD). Assembly President Gerardo González Vernaza (PRD) and the vice-president of the Budget Committee received over one million dollars each. Eleven other legislators, including the chamber's two vice-presidents, all government members of the Budget Committee, and Balbina Herrera (PRD) received over \$900,000 in 1998 (República de Panamá, Contraloría General, 1999b: 58; República de Panamá, Contraloría General,

1998b: 64; *El Panamá América*, 10 March 1999, 30 October 1998, 27 August 1997; *El Siglo*, 8 September 1998; Blandón Figueroa, 1998d).

Discretionality, or Lack of Control over Disbursement

As mentioned before, in addition to size, a lack of effective government control over the disbursement of *partidas circuitales* explains their usefulness as an electoral instrument. As regards discretionality, members of the Panamanian Assembly may use these funds to support whatever activity they please. As in Colombia and Costa Rica (Hartlyn, 1988: 173; Carey, 1996: 111-12), *partidas circuitales* are normally directed towards two principal activities: infrastructure improvement and "social support".¹⁰³ The first includes building or repair of roads, bridges, schools, health centers, housing complexes, churches, marketplaces, airstrips, docks, aqueducts, power plants, drainage systems, slaughterhouses, and other public facilities.

At times, however, *partidas* are devoted to infrastructure activities not wholly within the public sphere. In 1996, for example, a number of government and opposition legislators pooled their *partidas* to contribute to the renovation of the influential National Bar Association (*Colegio Nacional de Abogados*) (Cochez, 1998a). This association was headed at the time by Gerardo Solís (PRD), director of President Pérez Balladares' FES, the government office through which most legislators channeled their constituency funds. Gerardo Solís subsequently served in electorally-sensitive capacities as Housing Minister (1998) and Electoral Prosecutor (1999-).

¹⁰³ Description of these uses comes from a review of 1990-1999 newspaper clippings from *Crítica Libre*, *El Panamá América*, *El Siglo*, and *La Prensa*.

Under “social support,” on the other hand, fall such activities as distributing food, school supplies, and toys; providing scholarships; purchasing vehicles (such as buses, police cars, trucks, and ambulances) for community use; financing nutritional and substance-control programs; funding cooperatives and land measurement efforts; setting up maternity wards and senior-citizen clinics; and providing disaster relief (Pérez Jaramillo, 1998; Cochez, 1996; *El Panamá América*, 18 December 1996).

Legislators claim direct credit for all these activities, by publicizing them in the newspapers through press releases or paid advertisements and erecting highly visible signs indicating their sponsorship of a given project. “Social support” uses of *partidas* are frequently referred to as “donations” from legislators. The legislator’s name is normally affixed to sports uniforms or painted on vehicles purchased through his/her *partida*. One legislator, Edgardo (“Galo”) Alvarez (PRD, 1994–1999) sponsored the construction of a housing complex that was later named *Villa Galo* after him. Others, for example, advertised their pooling of funds to contribute to the continued operation of the local hospital morgue (*El Panamá América*, 9 March 1999; *La Prensa*, 21 November 1994).

In response to criticism pointing to the non-rational use of public money through *partidas circuitales*, legislators have argued that constituency funds allow them to satisfy certain social needs that the highly centralized Panamanian state is unable to fulfill, particularly in distant rural areas. For instance, in 1999 Legislator Laurentino Cortizo (PSOL), elected president of the chamber in September 2000, asserted that without *partidas circuitales*, the constituents of his rural district would most likely not have access to scholarships, roads, “and many other public works.” Furthermore, former opposition member Mario Quiel (PL, 1994–1999) claimed that constituency projects are “legislators’ answers to the basic and

priority needs of their communities” (*El Panamá América*, 9 February 1999, 3 December 1998).

Critics, however, protest that leaving allocation decisions wholly to individual legislators prevents the optimal use of state resources to satisfy socio-economic needs. As an example, one political observer remarked: “Hundreds of scholarships are distributed according to political criteria instead of serving to alleviate the needs of sectors that require them most but, unfortunately, do not represent votes” (Leis, 1999). Others have highlighted the fact that legislator allocation decisions frequently do not coincide with the country’s priorities, as Assembly members normally assign funds with an electoral objective in mind (Lewis Galindo, 1999; Blandón Figueroa, 1999; Cochez, 1996). Still others have complained that the discretionary use of funds promotes corruption, for legislators may well choose to devote *partidas* to private uses without any restriction whatsoever (Bernal, 1997; Blandón Figueroa, 1998d). During the last electoral campaign, Camilo Gozaine (PRD), who served as Assembly president during the 1984-1989 period and who returned to the Assembly after the 1999 elections, declared that *partidas circuitales* “have only served to ‘enrich bad politicians,’” (*El Panamá América*, 4 December 1998).

As allocations and expenditures of state resources, *partidas* are theoretically subject to the oversight of the Comptroller General’s Office, according to Article 276 of the Constitution (Bernal, 1995: 126-27; República de Panamá, Contraloría General de la República, 1999b: 46). During the administration of President Ernesto Pérez Balladares (PRD, 1994-1999), however, supervision of these funds was quite lax. Evidence of lenient supervision by the Comptroller-General’s Office is provided by the fact that, although complaints of irregularities in the management of *partidas* were widespread, no substantive action was taken against any legislator.

In November 1998, Comptroller-General Gabriel Castro declared that he had ordered the suspension of disbursements under one legislator's *partida circunital* after discovering a mismatch between the amount of the expenditure and the value of the goods to be purchased. The identity of the legislator was not disclosed, however, and nobody was brought to trial for the alleged misconduct. In early 1999, it was revealed that between five and ten legislators were under investigation for irregularities in the management of *partidas*. After loud protests from the Assembly, however, the Comptroller-General's Office apparently abandoned interest in pursuing the matter any further (*El Panamá América*, 26 November 1998; 10 March 1999; *Crítica Libre*, 6 March 1999).

The direct allocation of state funds to legislators for their discretionary expenditure, with little control by the competent authorities, provides members of Panama's Assembly with a convenient electoral connection. *Partidas circuniales* supply the necessary capital for creating and fostering electoral clientele that are likely to vote repeatedly for their benefactors under the expectation of continuing to receive the goods and services delivered by their patrons. Additionally, direct, discretionary, and uncontrolled access to funding provides opportunities to claim credit, i.e., "acting so as to generate a belief in a relevant political actor (or actors) that one is personally responsible for causing the government, or some unit thereof, to do something that the actor (or actors) considers desirable" (Mayhew, 1974: 52-53). According to Mayhew, credit claiming is one activity representatives find it electorally useful to engage in:

The political logic of [credit claiming], from the congressman's point of view, is that an actor who believes that a member can make pleasing things happen will no doubt wish to keep him in office so that he can make pleasing things happen in the future. The emphasis here is on individual accomplishment (rather than, say, party or governmental accomplishment) and on the congressman as doer (rather than as, say, expounder of constituency views). Credit claiming is highly important to congressmen, with the consequence that much of congressional life is a relentless search for oppotunities to engage in it.

Circumstantial evidence from the May 1999 elections provides some grounds to conclude that patronage distribution through *partidas circuitales* has a favorable effect on the reelection prospects of legislators. The available data shows that those legislators who received larger *partidas* in the 1994-1999 period were reelected at higher rates than those who received less funding. Presumably, as well as allowing higher visibility and name recognition, larger *partidas* translated into heightened constituent loyalty which in turn yielded better results at the ballot box.

As illustrated in Table 7.2 (see above), of the 63 legislators who sought reelection in 1999, 23 (all pro-government) disbursed above US\$3 million in *partidas* between 1994 and 1999. Sixteen of these, or 70 per cent, were reelected. These results are well above the average reelection rate for all 63 legislators who ran for reelection (49 per cent). In the \$2-3 million segment, of nine legislators seeking reelection (all pro-government), four (44 per cent) succeeded. Finally, in the lower tier (\$1-2 million), of 31 aspirants, 11 (35 per cent) achieved reelection. Although a small number of cases reduces the statistical significance of this analysis, these findings are nevertheless suggestive of the role of larger, unsupervised *partidas circuitales* in procuring the reelection of Panama's legislators.

Statistical Analysis

The preceding discussion prepared the ground for the development of an argument regarding the electoral value of *partidas circuitales*: larger *partidas* help reelection as long as there is lax government control over their use. But, given the particularities of Panama's

electoral politics, at least two additional elements must be added to the equation. First is the electorate's tendency to punish the president's party.

In the 1989 elections, the official candidate, Carlos Duque (PRD), received 28 percent of the total presidential vote. Mireya Moscoso, the candidate of President Guillermo Endara's Arnulfista party (PA) in 1994, obtained 29 percent of the total presidential ballots cast that year. The "punishment vote" decreased in 1999, when Martín Torrijos (PRD), who stood as a candidate for the Pérez Balladares' Administration, obtained 38 percent of the electorate's preferences. Still, during the period under study (1984-1999), the electoral tide has flowed against the incumbent. Assuming a negative "coattail effect," the tendency to punish the official presidential candidate is likely to have some bearing on the electoral fate of Assembly candidates aligned with the government.¹⁰⁴

Another significant factor that helps to understand the value of constituency funds is the strong presence of the PRD. This party, the better organized of Panama's political groupings, has strong roots in an important segment of Panamanian society. Its role as the military regime's political arm and its unparalleled access to political resources from 1968 to 1989, as well as between 1994 and 1999, permitted the cultivation of a loyal clientelistic base of support.

Adding these factors to the equation gives a refined argument, as follows: *Larger "partidas," which are normally assigned to government legislators, help forestall the negative effect of belonging to the official bloc and contribute towards reelection as long as there is little government control over their disbursement. Additionally, being in the PRD helps legislators achieve reelection, whether they happen to be*

¹⁰⁴ The "coattail effect" is "the tendency for a candidate heading a party ticket to attract votes for other candidates of his or her party on the same ballot." According to Plano and Greenberg (1993: 64), "negative coattail impact may also exist, with an unpopular candidate for high office likely to prejudice voter sentiment against other candidates of the party on the same ballot."

in the official bloc or not, because the PRD is the better organized of Panama's parties and has a larger group of committed supporters than any other party.

This hypothesis was tested through logistic regression analysis of the results of all 145 attempts at reelection by incumbent legislators between 1984 and 1989.¹⁰⁵ The dependent variable was whether or not the legislator achieved reelection. The independent variables were:

- 1) Size of the fund disbursed by the legislator, measured in hundreds of thousands of current US dollars;
- 2) A control variable for the Endara Administration (1989-1994) during which, as shown by the historical record, there was strict supervision of government funds allocated to legislators;
- 3) The percentage of vote for the government's presidential candidate;
 - 3a) However, because the impact of this variable should be different for opposition and government legislators, this variable is split into two variables, one that applies only to government legislators and one that applies to opposition legislators;
- 4) A control variable for membership in the PRD.

Table 7.4 summarizes the results of the analysis:

¹⁰⁵ For their help in performing the regression analysis, I am grateful to Michael Coppedge, David Altman, and Aníbal Pérez Liñán.

TABLE 7.4

ELECTORAL VALUE OF PARTIDAS CIRCUITALES
PANAMA, 1984-1999

N	145			
Dependent Variable	Reelection			
-2 Log Likelihood	150.527			
Cox & Snell – R square	.228			
Nagelkerke – R square	.314			
Marginal distribution of Y:	.3517			
Variable	B	Standard Error	Wald	Significance
Size of the fund	.1946	.0498	15.2517	.0001 ***
Endara Adm.	-1.9787	.7755	6.5093	.0107 **
Presidential vote (opp)	-25.6733	11.1503	5.3014	.0213 **
Presidential vote (govt)	-36.3048	13.3385	7.4082	.0065 **
PRD	1.4481	.5133	7.9584	.0048 ***
Constant	6.7162	3.5030	3.6760	.0552 *

*** p < .005; ** p < .05; * p < .1

These results confirm the validity of the hypothesis. The overall model correctly predicts 73.1 percent of the cases. Furthermore, all independent variables are statistically significant and have the anticipated sign. Without a doubt, the size of the disbursed fund helps legislators achieve reelection. So does membership in PRD. Strict control over the disbursement of constituency funds during the Endara Administration reduced the likelihood of reelection. As regards the control variables for Assembly bloc membership, the fact that the coefficient for the opposition variable is “less” negative than the coefficient for

the government variable indicates that legislators in the opposition group have a better chance of winning reelection than members of the official bloc.¹⁰⁶

Interpreting logistic regressions is a more complex exercise than reading the results of other types of statistical analysis, such as ordinary least squares (OLS) regressions. For this reason, the statistical findings can be better described by calculating the probabilities of the different outcomes represented in the model and displaying these probabilities graphically (Altman, 2000a). According to the model, membership in the opposition bloc is the most consequential control variable, followed by lax control over the disbursement of constituency funds (i.e., in the model, the situation under governments other than the Endara Administration) and membership in the PRD. Thus, the ideal scenario for a Panamanian legislator seeking reelection is belonging to the opposition, enjoying lax supervision of constituency fund disbursements, and being a member of PRD. The eight possible scenarios predicted by the model—each representing progressively diminishing chances for reelection—are subsequently listed:

- 1) OPP LAX PRD: opposition bloc candidate; lax control; PRD member (no example);
- 2) OPP LAX NON-PRD: opposition bloc candidate; lax control; not a member of PRD (PA, MOLIRENA, PDC, PLA, PRC, 1999);
- 3) OPP STRICT PRD: opposition bloc candidate; strict control, PRD member (PRD, 1994);
- 4) OPP STRICT NON-PRD: opposition bloc candidate; strict control; not a member of PRD (PDC, 1994);
- 5) GOVT LAX PRD: government bloc candidate; lax control; PRD member (PRD, 1989, 1999);

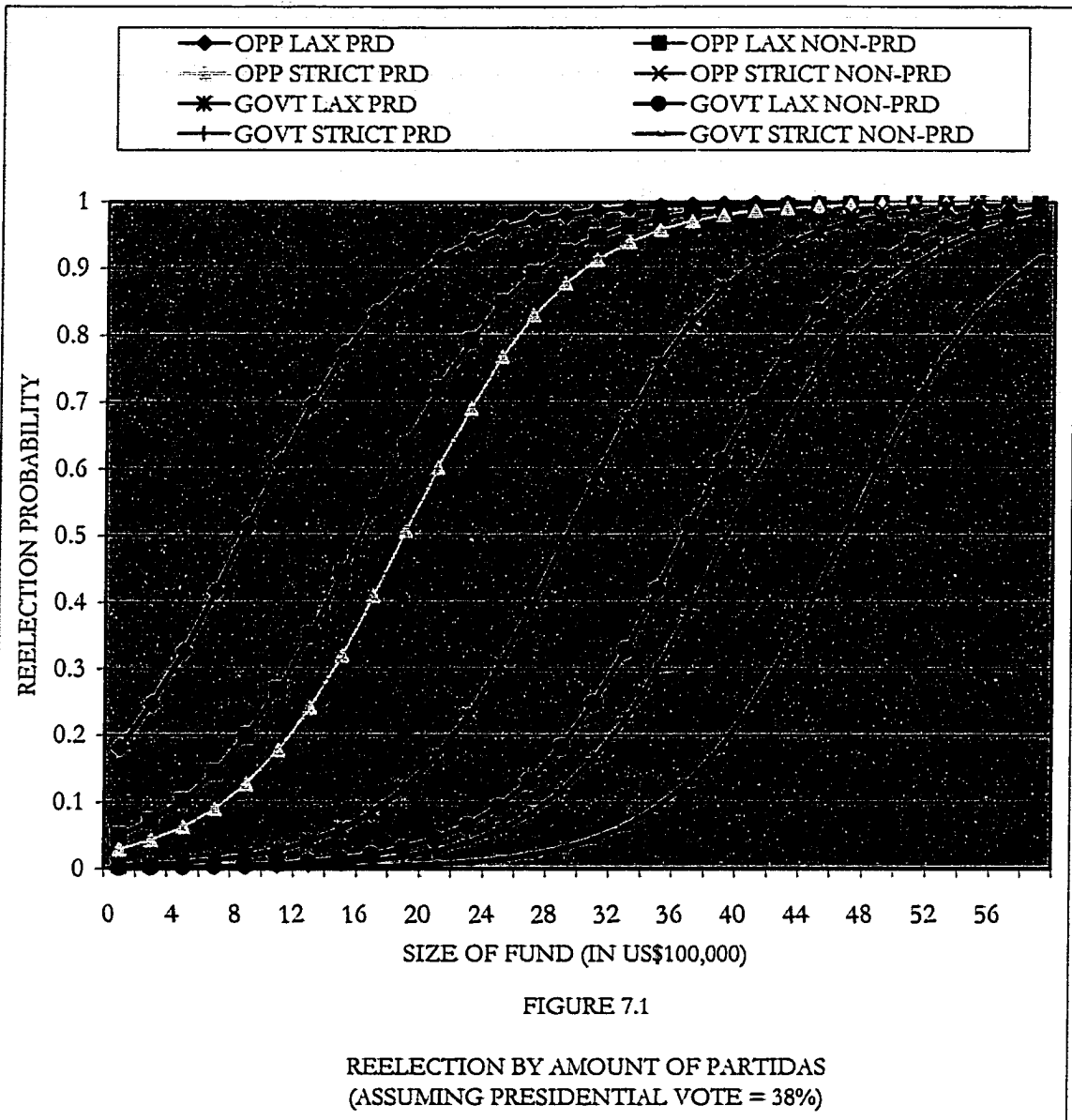
¹⁰⁶ The “opposition” and “government” variables capture interactions between belonging to the government and opposition blocs, on the one hand, and an indeterminate variety of upward secular trends, on the other. They should not be interpreted as evidence that a higher presidential vote makes higher constituency funds necessary for reelection. In the interest of obtaining a better estimate of the impact of the size of constituency funds on a legislator’s reelection chances, however, having some type of control variable for such trends in the model is preferable than leaving them unmodelled. I am grateful to Michael Coppedge for this insight.

6) GOVT LAX NON-PRD: government bloc candidate; lax control; not a member of PRD (PSOL, PLN, 1999);

7) GOVT STRICT PRD: government bloc candidate; strict control; PRD member (no example);

8) GOVT STRICT NON-PRD: government bloc candidate; strict control; not a member of PRD (PA, MOLIRENA, PLA, 1994)

The reelection probabilities for each scenario, as a function of the size of the constituency fund, are shown graphically in Figure 7.1:



These probabilities can also be interpreted as follows. Assuming 1) that a 90% probability gives near certainty of reelection and 2) a 38 percent vote for the government's presidential candidate (as achieved by the PRD's Martín Torrijos in 1999),

- 1) A PRD opposition candidate can expect reelection with a US\$2.0 million fund when there is lax control over constituency fund disbursements;
- 2) A non-PRD opposition candidate can expect reelection with a US\$2.6 million fund when there is lax control over constituency fund disbursements;

- 3) A PRD opposition candidate can expect reelection with a US\$3.0 million fund when there is strict control over constituency fund disbursements;
- 4) A non-PRD opposition candidate can expect reelection with a US\$3.6 million fund when there is strict control over constituency fund disbursements;
- 5) A PRD government candidate can expect reelection with a US\$4.0 million fund when there is lax control over constituency fund disbursements;
- 6) A non-PRD government candidate can expect reelection with a US\$4.8 million fund when there is lax control over constituency fund disbursements;
- 7) A PRD government candidate can expect reelection with a US\$5.0 million fund when there is strict control over constituency fund disbursements;
- 8) A non-PRD government candidate can expect reelection with a US\$5.8 million fund when there is strict control over constituency fund disbursements.

As confirmed by the regression analysis, constituency funds help Panamanian legislators achieve reelection. Moreover, larger disbursements result in higher reelection rates. Because *partidas* are public resources, and because non-incumbent candidates to the chamber do not have access to such resources, this funding can be construed as a subsidy paid by the state to assist individual Assembly members in their reelection efforts. Because pro-government legislators receive significantly higher allocations, the subsidy is skewed in favor of members of the official bloc. In these ways, the practice of assigning constituency funds to representatives contravenes the notions of equality and universalism that are central to the democratic system.

Seeking Reelection Through Illegal Distribution of Patronage

In addition to distributing patronage through legal means, Panamanian legislators also illegally employ state resources in an effort to obtain the support of their constituents and promote their electoral aspirations. In 1990, shortly after the removal of the military

regime, investigators found a government truck painted with the PRD label at state property assigned to the former Panamanian Defense Forces (PDF, the name of Panama's military force between 1983 and 1989). Inscribed on the truck was electoral propaganda that read "Carlos Duque, President; César Pardo, Legislator: he delivers!" (*La Prensa*, 17 July 1990).

Membership in the governing party and close links to the current powerholders facilitated this use of state assets to further the reelectoral ambitions of Legislator Pardo (PRD, 1984-1989, 1994-).¹⁰⁷ The recurrence of the practice under polyarchy, after 1990, substantiates the fact that such use is standard practice in Panama. To emphasize the point, two examples of illegal employment of state resources for campaign purposes, occurring during the succeeding Endara (1989-1994) and Pérez Balladares (1994-1999) Administrations, are subsequently discussed.

The Bocas del Toro Earthquake Relief Fund Incident (1991-1994)

After a destructive earthquake shook Bocas del Toro Province on 22 April 1991, President Endara (PA) appointed Legislator Francisco Artola (then PA, afterwards PDC) as his special representative for disaster relief in the region. In cooperation with the president's wife, Ana Mae Díaz, Legislator Artola had responsibility for coordinating an aid committee consisting of the vice-ministers of Government and Justice, Public Works, Housing, Education, and Health as well as for allocating the US\$10 million the executive had appropriated for reconstruction works (*La Prensa*, 25 April 1998).

¹⁰⁷ Legislator Pardo represents the constituency of Penonomé, the capital of Coclé Province. He failed to retain his seat in 1989 but returned to the Assembly in 1994 and achieved reelection in 1999. César Pardo was Assembly president between 1996 and 1997.

Despite the appointment of these high-level figures to address the problem, complaints of inefficiency and irregularities in the distribution of official aid soon surfaced and marred the assistance effort (*La Prensa*, 5 July 1991). In October-November 1994, early in the administration of President Ernesto Pérez Balladares (PRD), Legislator Mario Miller (then PRD, afterwards CD), accused Francisco Artola and the ex president's wife of deviating part of the relief fund towards electoral purposes (*La Prensa*, 12 November 1994). Legislator Artola had unsuccessfully run for reelection in May 1994 and Ana Mae Díaz had sought election as mayor of Panama City, also without success. These accusations coincided with an announcement by Prosecutor Cecilia López, in charge of investigating the case, that the assistance fund had been "poorly administered and managed" (*La Prensa*, 16 November 1994). In particular, Prosecutor López mentioned maladministration in housing and infrastructure reconstruction as well as in the provision of direct aid to earthquake victims (*La Prensa*, 22 November 1995).

While ex President Endara vehemently denied the charges and voiced doubts about the trustworthiness of the official investigators of the case (*La Prensa*, 16 November 1994), an accusation of extortion undermined the credibility of Legislator Mario Miller, who was subsequently recalled and imprisoned on instructions from President Pérez Balladares (see Chapter 6). Even so, investigations continued by the offices of the Prosecutor-General, the Comptroller-General, and the Electoral Prosecutor. In December 1995, the Electoral Prosecutor dropped the case against Ana Mae Díaz but questioned ex Legislator Artola about the alleged use of part of the relief fund for political campaigning (*La Prensa*, 22 December 1995).

Although the investigation by the Comptroller-General's Office reportedly cleared ex Legislator Artola of mismanagement in the case (*El Panamá América*, 11 August 1997), new

complaints of electoral irregularities by the former member of the Assembly were voiced in May 1996. At a hearing before the chamber's Housing Committee, a Bocas del Toro community leader, José Corella, protested that the earthquake assistance subsidies had been distributed according to "political criteria." Corella added that many victims failed to receive assistance "because they did not support the Arnulfista party, then in power." He also voiced suspicions that food baskets distributed by Legislator Artola during the 1994 campaign may have been bought with money from the relief fund (*La Prensa*, 15 May 1996).

To date, no convictions have been made in the Bocas del Toro earthquake incident, a feature that makes it difficult to prove conclusively that misappropriation for electoral purposes actually occurred. In cases such as the above, however, state resources may not have been misappropriated directly. Rather, the beneficiaries of contracts may give the contracting agents a kickback, which may later be used for electoral or personal enrichment objectives. A generally reliable but confidential source believes this was the mechanism employed to take advantage of the relief fund for campaign purposes.

The PARVIS Housing Subsidy Case (1997-1999)

Another alleged example of illegal use of state resources for electoral purposes occurred from 1997 to 1999 through the PARVIS program, a \$34.5 million low-income housing improvement project.¹⁰⁸ With the Inter-American Development Bank (IADB)

¹⁰⁸ This section was written on the basis of information provided in the Inter-American Development Bank *Panama programs website* (www.IADB.ORG/exr/doc97/apr/lcpanaq.htm); República de Panamá, Defensoría del Pueblo, 1999; and Pérez Jaramillo, 2000; as well as in *El Panamá América*, 12 June 1998, 18 April 1999, 18 May 1999, 19 May 1999, 23 May 1999, 26 May 1999, 28 May 1999, 29 May 1999, 11 June 1999, 15 June 1999, 3 July 1999, 7 August 1999, 13 December 1999, 8 January 2000, 9 January 2000, 18 January 2000; 30 November 2000; *El Siglo*, 6 April 1999, 22 May 1999, 30 July 1999, 8 January 2000, 13 January 2000, 2 December 2000; and *La Prensa*, 20 September 1998, 23 May 1999, 26 May 1999, 27 May 1999, 8 June 1999, 9

providing half the funding (\$17.25 million), PARVIS began in mid-1997 and is scheduled to continue into 2001. The program was designed to provide up to one thousand dollars worth of construction materials (blocks, sand, cement, zinc sheets, and others) to individuals having legal title over their properties but whose monthly income is under \$300.

During the last two years of the Pérez Balladares Administration, government supporters directed PARVIS materials towards electoral and private gain. The latter included appropriation for sale or personal construction projects by public employees and government sympathizers. It is estimated that a PARVIS materials for a total of US\$1.2 million were misled between 1997 and 1999.

The project was clearly conceived with an electoral purpose in mind, as is indicated by its launching date and the fact that its designer was Housing Minister Francisco Sánchez Cárdenas, one of then-President Ernesto Pérez Balladares' main electoral strategists. The immediate goal of PARVIS was to generate support for President Pérez Balladares' proposed constitutional change that would allow his immediate reelection in 1999. After the proposal was defeated in a referendum held on 30 August 1998, the program was recycled to provide illegal electoral assistance to certain pro-government politicians with privileged access to the Ministry of Housing, who sought nomination in the October ruling party primary and accession or reelection to office in the May 1999 general elections.

The scheme basically consisted in appropriating materials from Housing Ministry warehouses throughout the country and distributing them in exchange for a commitment to vote for a ruling party (PRD) candidate to office. A more sophisticated version that provided a stronger incentive to vote for the issuing candidate and promote his/her

June 1999, 12 June 1999, 5 August 1999, 17 August 1999, 20 August 1999, 1 September 1999, 25 September 1999, 29 November 1999, 3 December 1999, 6 January 2000, 7 August 1999, 8 January 2000, 30 October 2000, 30 November 2000).

candidacy among family and friends in the constituency included distributing PARVIS certificates promising to supply materials after the election was over.

Allegedly, in addition to Minister Sánchez Cárdenas, Vice-Minister Rogelio Paredes (PRD), a son of ex Deputy and Legislator Rigoberto Paredes, was also involved in the scheme.¹⁰⁹ As Vice-Minister of Housing (1994-1998), the younger Paredes served briefly as acting minister in 1998 and then quit to become an unsuccessful legislative candidate for the PRD in the May elections. Also mentioned in the PARVIS irregularities were PRD Legislators Gerardo González Vernaza (at the time president of the ruling party as well as of the Legislative Assembly) and Benicio Robinson, both of whom sought reelection but failed; Pedro Miguel González, a son of Gerardo who pursued and won an Assembly seat; Cecilia Monteza, a former Housing Ministry officer who quit to run unsuccessfully as PRD candidate for legislator in the same district as Gerardo González Vernaza; and several other PRD activists and candidates to elective office.

The state agencies responsible for clearing up the PARVIS irregularities have failed to pursue this objective diligently. Disgruntled former Legislator Enrique Riley Puga (PRD), an opponent of Pedro Miguel González, presented criminal charges against the latter for illegal use of state resources, but the case has lapsed and, based on previous experiences, will most likely end in dismissal by the Assembly, the competent body to allow the prosecution of a legislator. Although the electoral use of PARVIS was publicly known at least since June 1998, when PRD Legislator Abelardo Antonio took the Assembly floor to deplore not being among those representatives enjoying favored access to construction materials for electoral

¹⁰⁹ Rigoberto Paredes was a PR deputy in 1964-1968 and a PRD legislator in 1984-1989. See Chapter 5 for additional information about his relationship to the military dictatorship.

purposes, the Electoral Prosecutors' Office and the Electoral Tribunal failed to intervene at any point to prevent the illegal use of government resources for campaign purposes.

After the May 1999 elections, the Prosecutor-General's Office conducted an official investigation into the PARVIS scandal. With two exceptions, however, the indictment produced in early January 2000 did not call for the prosecution of any of the major figures involved in the case. Among government celebrities, former Vice-Minister Paredes was indicted for "infringing his duties as a public servant," a petty charge. Only former candidate Monteza—a minor star in the PRD constellation—was charged with a serious crime, misappropriation of public resources.

The indictment against Cecilia Monteza was widely regarded as retaliation by PRD and Assembly President Gerardo González Vernaza. As an adversary of Legislator González for an Assembly seat, the former Housing official had gained the enmity of the chamber's presiding officer. In addition to Monteza and Paredes, Prosecutor Cecilia López's report implicated twelve other individuals in the PARVIS irregularities.¹¹⁰ Most of these were middle-and lower-rank Housing Office staff, among them ex Legislator Francisco Solís (PRD, 1984-1989).¹¹¹

After a preliminary hearing held in April 2000, the Panama City circuit judge to whom the lawsuit was assigned declined to hear the cases against eight of the fourteen defendants, among them Rogelio Paredes, whose legal action he downgraded and reassigned to a municipal judge. The six remaining defendants, including ex PRD candidate Monteza, were tried in October 2000. On 29 November 2000, the circuit judge absolved three

¹¹⁰ Prosecutor López had previously investigated the Bocas del Toro earthquake relief fund incident (see above).

defendants and sentenced three others to imprisonment. Cecilia Monteza was among those condemned. She received a seven-year prison sentence and was fined US\$3,000 for forgery and embezzlement. At the time of this writing, a decision by the municipal court in the case against Rogelio Paredes is still pending.

Summary

Where they are allowed to serve several terms, representatives are likely to seek reelection, whether to advance their political careers or to pursue other goals, as allowed by the institutional context. According to the literature on legislators' behavior, representatives undertake specific activities to achieve reelection: advertising, claiming credit, taking positions (Mayhew 1974), supporting the party line, distributing patronage, and accommodating the bureaucracy (Arnold 1979; Cain, Ferejohn, and Fiorina 1987; Cox 1987). In this regard, Panamanian legislators behave as predicted by theory. But they also engage in other electorally-rewarding behaviors that, however, have not been sufficiently addressed in the literature.

Distributing patronage is one activity predicted by theories of legislators' behavior that Panamanian legislators clearly undertake in their efforts to attain reelection. In most formally institutionalized polyarchies, representatives limit their role in this field to that of intermediaries between the state and their constituents. In Panama, however, many legislators have secured roles as direct providers of goods and services to their constituencies. They have achieved this through legal and illegal means.

¹¹¹ In 1990, a report by the Comptroller-General's Office had mentioned Francisco Solís in connection with the Multiagency Program irregularities (see Chapter 5). Solís received a pardon from President Ernesto Pérez Balladares (PRD) in 1994 (*La Prensa*, 24 September 1994).

As suggested by the Bocas del Toro earthquake relief fund and the PARVIS housing subsidy incidents, with a view to attaining reelection, some Panamanian representatives—particularly those with privileged access to the government—may channel state resources to their pork-barrel activities in illicit ways. On the other hand, Panama's legislators have also formally institutionalized their recourse to large constituency appropriations known as *partidas circuitales*. Access to these funds gives legislators a significant electoral advantage over non-incumbents, as is demonstrated the unprecedented reelection rate registered in 1999, particularly among those legislators receiving the more sizable appropriations.

This chapter described the dynamics surrounding the use of *partidas circuitales* and tested the main argument explaining their electoral value. Larger funds, which are normally assigned to government legislators, help forestall the negative effect of belonging to the official bloc and contribute towards reelection as long as there is little government control over their disbursement. Additionally, larger *partidas* help PRD legislators achieve reelection, regardless of their membership in the official bloc, because as the better organized of Panama's parties, the PRD has strong roots in an important segment of the electorate. On the basis of the available data, logistic regression analysis demonstrated the validity of this hypothesis.

While most Panamanian legislators engage in patronage politics, those operating under the PRD label have clearly surpassed their adversaries in exploiting this connection. Conceivably, this owes to the fact that the PRD maximized the legal and illegal variants of patronage politics when it held office, first as the political arm of the military dictatorship, between 1968 and 1989, and—later—under the administration of President Ernesto Pérez Balladares (1994-1999).

Legal and illegal distribution of patronage for electoral gain has consequences for democratic representation. By creating an electoral clientele, patronage distribution corrupts the free link that, ideally, should exist between representatives and constituents. If constituents are conditioned to provide electoral support in exchange for the goods and services directly delivered by legislators, their right to vote on the basis of principles and platforms is significantly restricted. Under polyarchy, the exercise of this right is also a prerequisite for the maintenance of a high quality democratic regime.

Privileged access to government resources for electoral purposes also violates the idea of equality that is at the basis of the democratic system. *Partidas circuitales*, as well as other forms of legal and illegal electoral use of state resources, create a subsidy in favor of incumbents. This discriminates against candidates that do not have such access and—because it increases the likelihood of reelection—reduces the chances of holding incumbents accountable for their performance in office. The executive's use of constituency funds as a tool to bribe legislators into inaction is yet another detrimental consequence of patronage politics in the Panamanian context.

Panamanian legislators also employ other means to increase their reelection prospects. Among these are switching parties and manipulating the electoral process, topics rarely addressed by the literature. Both mechanisms will be addressed in Chapter 8.

CHAPTER 8

PARTY SWITCHING AND ELECTORAL MANIPULATION

This chapter continues the focus on some activities Panamanian legislators carry out to gain reelection, which—additionally—the literature on legislators' behavior has not yet fully explored. The initial section deals with party switching. The last part of the chapter, which addresses electoral manipulation, consists of a description of legislators' successful attempts to change the electoral rules in ways that increase their reelection prospects and the activities they pursue to alter the preferences of voters at election time.

Chapter 8, therefore, attempts to provide a careful look at spheres of representative activity in informally institutionalized polyarchies that are seldom referred to in the literature. Highlighting specific aspects of the activity of Panamanian representatives will contribute to broaden our understanding not just of legislators' behavior but also of its repercussions on the quality of democratic representation.

Party Switching

According to some analysts of representatives' behavior, supporting their parties is one of the means assembly members employ to advance their political careers (Cox, 1987). The underlining logic is that ballot control, especially in closed-list systems, renders parties crucial in ensuring nomination to office (Carey and Shugart, 1995). Most Panamanian

legislators follow this prediction, especially those belonging to the more disciplined parties, such as the PRD and, to a lesser degree, the PDC. An important feature ensuring this support is the recall mechanism included in the Constitution (Article 145), which stipulates that parties may revoke a legislator's mandate under certain circumstances (Bernal, 1995: 55). One of these is that the party's statutes must specifically contemplate the recall mechanism, which is the case of both the PRD and the PDC, but not of other parties.

Even as they support their parties, some Panamanian legislators—indeed, a substantial minority—also change labels. This feature, which occurs elsewhere in the region as well, remains an understudied trait of Latin American congressional politics. In Ecuador, where party switching is prevalent, a recent study estimated that on average, of 12 percent of representatives changed parties in every legislative period between 1979 and 1996 (Mejía Acosta, 1999).

Panama's party switching rate is even higher. Many switches remain informal, however, as legislators fail to register with the new party they choose to vote with or nominates them for reelection. Moreover, the Assembly does not keep records of representatives' "migrations." Despite the calculation difficulties these irregularities pose, it is estimated that at least 36 percent of the chamber changed parties during the 1994-1999 term; the figure for the 1989-1994 Assembly is at least 24 percent.¹¹²

A straightforward analysis of legislative politics in Panama shows that for different motivations, Assembly members change parties at three different moments during their terms:

¹¹² Complete data enabling computations for the 1984-1989 period were not available at the time of this writing. By the end of the term, at least six legislators, or 9 percent of the chamber, had migrated to other parties. The intense polarization of Panamanian politics between 1984 and 1989 may account for a lower party switching rate at this time.

- 1) At the beginning of the term (years 1-2), because the parties that nominated them became “extinct”;
- 2) At mid-term (years 2-4), because of ideological or personalistic disputes with the leadership;
- 3) At end-term (years 4-5), because of reelection concerns.

At the beginning of their terms, some legislators are forced to find new parties because the ones that originally supported them became extinct, in accordance with Article 132 of the Constitution and Articles 107-112 of the Electoral Code that stipulate a 5 percent threshold for survival. Parties must obtain at least 5 percent of the vote in either presidential, legislative, or municipal elections (whichever is more favorable to the party); otherwise they are declared “extinct” by the Electoral Tribunal (Bernal, 1995: 44; República de Panamá, Código Electoral, 1997: 55-57). In a highly fragmented, multiparty environment, it is common for parties to disappear after each election. In the aftermath of the May 1999 voting, for example, five of twelve parties participating in the contest were declared extinct.

The trend at Moment 1 is of small-party legislators finding shelter in larger parties or remaining “independent.” Since the 1999 election, legislators from two “extinct” parties—MORENA and PRC—found themselves in this situation. José Carreño, who won a seat as a candidate of PRC, is now listed as a member of the Arnulfista Assembly bloc. José Urrutia, nominated by MORENA, has officially remained independent, but normally votes with the government bloc, consisting of PA, MOLIRENA, PSOL, PLN, and CD (República de Panamá, Legislative Assembly website).

After the 1994 elections, Partido Liberal (PL), Partido Laborista (PALA), Unión Democrática Independiente (UDI), and Partido Liberal Republicano (LIBRE) failed to reach the 5 percent threshold. Among the members of Partido Liberal, only Legislator Lenín Sucre followed the party line and joined MOLIRENA, then in opposition. Fellow Liberals

Alberto Castellero and Jaime Loré chose to migrate to to Partido Solidaridad, then (as now) in government. Carlos Afú, of PALA, affiliated with PRD and Orestes Vásquez, of Unión Democrática Independiente (UDI), changed to Partido Arnulfista, then the main opposition party. Juan Peralta and Rogelio Alba, both of Partido Liberal Republicano (LIBRE), remained formally independent until 1997, when the Electoral Tribunal officially recognized Partido Liberal Nacional (PLN), their selected substitute.

At mid-term (Moment 2), some legislators change parties as a result of ideological or personalistic disputes with the leadership. During the 1994-1999 term, for example, legislators Aristides de Icaza (PRC) and Rodrigo Arosemena (MOLIRENA) both staged controversies with the party bosses. Although they proclaimed their “independence,” in actuality they were coopted by the ruling party (PRD).

As a result of a bitter altercation with party leader/pop singer Rubén Blades, in 1998 Legislator Gloria Young left MPE and joined PA. After the Arnulfista presidential primary in March 1998, eleven of the party’s legislators broke with the leadership, as they chose to continue supporting the defeated candidate and formed their own Assembly fraction. Although they were eventually expelled from the party, they remained in the Assembly under their own, informal trademark (*saltamontes*, or “grasshoppers”). Likewise, at mid-term during the 1989-1994 period, a schism within the PDC resulted in the refusal of five legislators to continue following the party line and their permanence in the Assembly under a “Social Christian” label that, however, was not recognized by the Electoral Tribunal.

Party Switching: The Electoral Connection

At Moment 3, towards the end of the term, some legislators change parties for electoral purposes. At this point they may fail to secure nomination for reelection from the party leadership or may seek the support of a larger party with better electoral prospects. The arrangement is mutually convenient: it provides the legislator with a place on the ballot, presumably in exchange for larger electoral support (i.e., votes) for the party.

Political parties seek a higher share of the vote not only for survival reasons, as explained above. More votes also signify a higher official subsidy, as prescribed by the electoral reform of 1997, which instituted state funding for political parties. As indicated in Article 164 of the Electoral Code, the amount of funding every surviving party receives is partly a function of the support it obtains at the polls every five years (República de Panamá, Código Electoral, 1997: 81-82).

In conjunction with legislators' desire to secure reelection, these institutional traits can contribute to elucidate the puzzle of such intense party switching as is evident in Panama's Assembly politics. Some caveats, however, are in order. If party switching is a means to enhance prospects for reelection, then the dominant trend at Moment 3 should be towards larger parties, since larger political groups have higher reelection rates, as will be subsequently shown. However, while a legislator may wish to switch to a new or existing party with better electoral prospects, the party may not be interested in supporting or willing to sponsor a specific legislator. Effective switching at Moment 3 thus depends not only on the legislator's reelectoral aspirations, but also on the receiving party's electoral strategy. If both coincide, the switch becomes effective; if not, the legislator must find another party or renounce his/her interest in reelection.

Furthermore, these deductions about the connection between party switching and reelection are based on only two elections (1994 and 1999). Two electoral experiences may not provide enough observations to develop entirely confident inferences. However, this is all that the Panamanian case allows at the time of this writing.

At the beginning of the 1999 political campaign, most of the eleven Arnulfista dissidents, who were keen on retaining their seats, secured the support of PDC. After its poor performance at the polls in 1994, Panama's Christian Democratic Party was particularly worried about its prospects for survival. The coincidence of interests between PDC and the Arnulfista dissidents resulted in a larger share of the vote for the nominating party and the reelection of three of the nine *saltamontes* nominated by the Christian Democratic Party.

Other examples illustrate the electoral convenience of party switching for both legislators and parties. In early 1999, when MOLIRENA failed to provide a place for Legislator Lenín Sucre on its ballot, PA sponsored him. Sucre was reelected under his new label while MOLIRENA elected none of its candidates in the two-member district of Arraiján.

Legislator Marco Ameglio, who had served in the Assembly as PLA legislator in the 1989-1994 period and MORENA representative from 1994 to 1999, registered with PA shortly before the May 1999 elections and secured sponsorship for his candidacy. He also obtained reelection. So did Gloria Young, who ensured PA support and reelection to her Assembly seat after her break with Rubén Blades' MPE.

Other attempts at obtaining mutual benefit from electoral unions of this type are not as successful. In 1999, Víctor Méndez Fábrega, an MPE legislator who had also distanced himself from Blades, procured sponsorship from MOLIRENA, a secondary party. Méndez

Fábrega did not achieve reelection, however, despite the fact that he reportedly had the best attendance record and had gained distinction as one of the more responsible legislators.

Of the eleven PA dissidents referred to above, who secured the support of PDC and smaller parties (i.e., with less adherents), only three obtained reelection. Enrique Riley Puga, who ascertained support from the upstart Partido Cambio Democrático (CD) after he lost the PRD primary in his district (amidst widespread accusations of fraud), failed to secure reelection under his new label. In 1994, Gloria Moreno, Carlos Escobar, and Domiluis Montenegro, three of the five PDC legislators who entertained a dispute with the leadership, obtained nomination by MORENA, a smaller party. While MORENA achieved sufficient votes to guarantee its continued operation between 1994-1999, none of the PDC dissidents, however, was reelected.

Towards the end of the legislative term, then, a substantial proportion of Panamanian legislators changes parties. Party switching is less characteristic of the PRD, the largest and most disciplined of Panamanian parties. The recall provision included in the PRD's statutes may contribute to explain this trend, as it exposes the party's legislators to losing their Assembly seat if they switch. The fact that the PDC, the other party whose statutes contemplate the possibility of recall, has also suffered migrations, renders this explanation only partly plausible.

Ostensibly, therefore, reelection ambitions drive switches occurring towards the end of the period. Legislators who change at this time normally have little or no possibility of securing nomination by their parties. As evidenced by a look at Table 8.1 (below), possibilities of achieving reelection increase for representatives who manage to obtain the support of larger parties and decrease for legislators who achieve the support of smaller parties. As the table shows, of seven legislators in the dataset who switched to larger parties

for electoral purposes, four (57 percent) were reelected. Concurrently, of 18 representatives who shifted to smaller parties, only three (17 percent) retained their seats. This trend may well be a function of the disproportionality of the electoral system, which consistently favors the larger parties, a feature addressed in the ensuing section.¹¹³

TABLE 8.1
 REELECTION RATES OF LEGISLATORS WHO SWITCHED PARTIES
 FOR ELECTORAL PURPOSES
 PANAMA, 1989-1999

	TERM	PARTY AT MID-TERM	PARTY THAT NOMINATED	SIZE (SMALLER OR LARGER THAN PARTY AT MID-TERM)	OBTAINED REELECTION? (Y/N)	
1.	Alberto Cigarruista	1994-1999	PLA	PA	LARGER	YES
2.	Gloria Young	1994-1999	MPE	PA	LARGER	YES
3.	Marco Arneglio	1994-1999	MORENA	PA	LARGER	YES
4.	Lenín Sucre	1994-1999	MOLIRENA	PA	LARGER	YES
5.	Hermann Graegi	1989-1994	PLA	MOLIRENA	LARGER	NO
6.	Aristides de Icaza	1994-1999	INDEPENDENT	PSOL	LARGER	NO
7.	Víctor Méndez Fábrega	1994-1999	MPE	MOLIRENA	LARGER	NO
8.	Marco Arneglio	1989-1994	PLA	MORENA	SIMILAR	YES
9.	Mariela Jiménez	1994-1999	MPE	PRC	SIMILAR	NO
10.	Carlos Santana	1994-1999	ARNULFISTA	PDC	SMALLER	YES
11.	Enrique Garrido	1994-1999	ARNULFISTA	PDC	SMALLER	YES
12.	José Luis Varela	1994-1999	ARNULFISTA	PDC	SMALLER	YES
13.	Raymundo Hurtado	1994-1999	MOLIRENA	CD	SMALLER	NO
14.	Leo González	1989-1994	MOLIRENA	MORENA	SMALLER	NO
15.	Alonso Fernández	1989-1994	MOLIRENA	PRC	SMALLER	NO
16.	Gloria Moreno	1989-1994	PDC	MORENA	SMALLER	NO
17.	Dorniluis Montenegro	1989-1994	PDC	MORENA	SMALLER	NO
18.	Carlos Escobar	1989-1994	PDC	MORENA	SMALLER	NO
19.	Daniel Arias	1994-1999	ARNULFISTA	PDC	SMALLER	NO
20.	José Serracín	1994-1999	ARNULFISTA	PDC	SMALLER	NO
21.	Leopoldo Benedetti	1994-1999	ARNULFISTA	PRC	SMALLER	NO
22.	Lucas Zarak	1994-1999	ARNULFISTA	PDC	SMALLER	NO
23.	Manuel Ortiz	1994-1999	ARNULFISTA	PDC	SMALLER	NO
24.	Rodrigo Jované	1994-1999	ARNULFISTA	PRC/PL	SMALLER	NO
25.	Olmedo Guillén	1994-1999	ARNULFISTA	PDC	SMALLER	NO
26.	Orestes Vásquez	1994-1999	ARNULFISTA	PDC	SMALLER	NO
27.	Enrique Riley Puga	1994-1999	PRD	CD	SMALLER	NO

Source: República de Panamá, Tribunal Electoral, 1984-1999.

¹¹³ I am grateful to Monica Barczak and Fátima García Díez for this observation, made at the 2000 meeting of the Latin American Studies Association (LASA) in Miami, 16-18 March 2000.

Party switching has significant consequences for the democratic system, especially for political representation and vertical accountability. Because parties are the means of organizing and aggregating citizens' political preferences in mass polyarchies, particularly at election time, in theory they constitute an important vehicle for representing the views of their constituents and holding political leaders accountable. But, as noted by Mainwaring (1999: 6) in the Brazilian case,

where party labels change frequently, where major parties disappear and others come on the scene, where politicians switch parties with impunity, where party discipline is limited, and where interparty electoral alliances are common but neither national nor enduring, electoral accountability through parties is hampered.

Electoral Manipulation

With a view to retaining their Assembly seats, some Panamanian legislators engage in electoral manipulation. Two forms of manipulation can be singled out. The first consists of employing the legislative process to change the electoral rules in ways that increase the reelection prospects of legislators. Directly altering the preferences of voters at election time is the second type of electoral manipulation considered below.

Changing the Rules: The Electoral Connection

Most representative assemblies have the power to amend electoral legislation. This capacity provides representatives in many countries with an instrument to promote their reelection goals. And many, indeed, readily employ this capability to forward their political objectives. In Brazil, as noted by Mainwaring (1999: 100-101), an electoral reform launched in 1985, shortly after the demise of the military regime, resulted in measures that intensified

the focus of elections on candidates as opposed to parties. In this manner, Brazilian congressmen contributed to emphasize the personal connection, based on the provision of goods and services to constituents, and thus enhanced the prospects for a continued exercise of power by regional elites and individual deputies.

Panamanian legislators have also amended the electoral regime in ways that provide them electoral advantages over other competitors. Specifically, they have changed the rules governing the allocation of seats in multi-member districts to place a bonus on the clientelistic relationship between legislators and constituents, even as they undermine the principle of proportionality that according to Article 141 of the Constitution should inspire the allotment of seats in constituencies electing two or more legislators (Bernal, 1995: 51-52).

As explained in Chapter 3, the constitutional reform of 1983, enacted under military rule, led to the division of the country in 26 single-member and 14 multi-member constituencies electing between two and six legislators each. The proliferation of single-member districts undermined the proportionality of the system from the outset, a significant issue in Panama where a strong tradition of proportional representation had taken root prior to the 1968 military coup. With a view towards somewhat reducing the regime's disproportionality, a preferential party-list system of proportional representation was adopted for multi-member districts. The allocation formula established by this system was described in Chapter 3.

As regards the allotment of remaining seats, in 1983 it was decided that they would be assigned to those parties featuring the largest remainders, after deducting a full quota or a half quota from parties allotted full-quota or half-quota seats, respectively, in the first two distribution rounds (Bernal, 1995: Articles 140, 141; IPU, *PARLINE* database; Tribunal Electoral, 1996; Morice, 2000b). The distribution of remaining seats is a key concern in a

multiparty system such as Panama's, where the large number of parties competing in the election makes it difficult to achieve full-quota or half-quota seats in multi-member districts. In 1999, for example, sixteen (36 percent) of the 45 multi-member district seats were assigned through the largest remainder formula employed at the time (República de Panamá, Tribunal Electoral, 1999).

The 1983 provisions ostensibly aimed at ensuring some measure of proportionality. However, in addition to widespread electoral fraud, one of the salient results of the electoral system's first application in 1984 was its acute disproportionality, owing to the large number of single-member districts. In effect, the overall index of deviation from proportionality for 1984 was 27 percent. In other words, overall the largest parties (notably the PRD) obtained 27 percent more seats than they would have secured under conditions of perfect proportional representation (discounting electoral fraud). Such comparatively high deviation indicates that the effects of the electoral regime are more similar to those of a plurality-majority system than to a proportional representation regime and, more practically, that the system discards a high portion of the votes cast, which fail to translate into the substantive choices made by the electorate.¹¹⁴ The full- and half-quota deductions introduced in 1983 aimed at correcting some of this disproportionality. Thus, when calculated only in multi-member districts, deviation from proportionality drops slightly to 24 percent from the national average of 27 percent.

¹¹⁴ The general formula for deviation (D) from proportionality is: $D = (1/2) \sum |s_i - v_i|$ where \sum stands for the summation over all parties involved, s_i for the percentage of seats obtained by the i -th party and v_i for the percentage of votes obtained by the i -th party. In a list of D for 48 countries circa 1985, Panama's D of 27 percent would have featured towards the end, after St Lucia (26 percent) and just before India (32 percent), Dominica (35 percent), and Sri Lanka (37 percent), which revealed the most acute deviation in the sample. At the time, all these countries employed majority-plurality electoral systems. See Taagepera and Shugart, 1989: 104-108.

Two subsequent electoral reforms introduced by the Assembly, however, intensified disproportionality in multi-member constituencies to the point of projecting the index above the average for the whole system. A 1988 law, approved under military rule—when the PRD and its allies held the majority of the chamber—stipulated the distribution of the remaining seats only among those parties that had received full- or half-quota seats, thus excluding the smaller parties from representation. Presumably, the extreme polarization of the electorate in 1989 and the consequent tendency to vote a straight ticket caused a drop in that year's overall deviation from proportionality, to 19 percent. The fact that deviation in multi-member districts rose above the national average to 22 percent is, nevertheless, indicative of the effect the 1988 reform had on distorting electoral results in districts electing more than one legislator.

In 1993, yet another electoral reform further intensified the disproportionality of the system. At that time, the Assembly (in which the PDC held a plurality of seats) decided to distribute electoral remainders among individual candidates receiving the highest preferences in each constituency, without regard to the share of the vote received by each party. In other words, since 1993 remainders have been distributed to individual candidates obtaining more "votes" (i.e., preferences), as if a plurality-majority system were in place in multi-member constituencies at this allocation stage.

Furthermore, when in 1997 an electoral bill was introduced that among other provisions contemplated a return to the 1983 formula distributing remainders to parties, the Assembly (once again dominated by the PRD and its allies) rejected this specific reform, opting to stick by the 1993 method (República de Panamá, Tribunal Electoral, 1997; Morice, 2000b). As a result, deviation from proportionality in multi-member districts jumped to 30 percent in 1994, five points above the national average of 25 percent in that year. In 1999 it

reached 30 percent in multi-member districts, ten points above the national average of 20 percent. Table 8.2 portrays the evolution of disproportionality over time.

TABLE 8.2
DEVIATION FROM PROPORTIONALITY AND REELECTION RATES
IN MULTI-MEMBER DISTRICTS
PANAMA, 1984-1999

	1984	1989	1994	1999
Deviation from proportionality, national average	27%	19%	25%	20%
Deviation from proportionality in multi-member districts	24%	22%	30%	30%
Consecutive reelection rate in multi-member districts	*	13%	21%	37%

(*) First elections held under the new constitutional regime (1983). Source: República de Panamá, Tribunal Electoral, *Estadísticas electorales*.

In Panama, therefore, allocation rules promoting acute deviation from proportionality in multi-member districts provide an electoral connection. In addition to the increased availability and disbursement of constituency funding, addressed in Chapter 7, distributing the remainder among candidates, not parties, furthers the reelection prospects of legislators in the highly personalistic Panamanian context. As noted in Chapter 3, many Panamanian candidates, including legislators seeking reelection, campaign on the basis of their personal reputations as particularistic providers of public goods and services in their constituencies. Legislators are particularly well positioned to promote themselves in this capacity given the abundance of resources available to them through *partidas circuitales* as well as through their otherwise legal or illegal access to state resources, as described in Chapter 7. Their insistence that supporters issue selective votes in their favor—i.e., that voters mark only the candidate's name on the ballot, to the exclusion of other names on the list—reveals

the intense competition for remaining seats that candidates to the Assembly, including incumbent legislators, engage in.

The consequences of allocation rules on proportionality as well as on the reelection of incumbents have not gone unnoticed. Critics of the system have contended that thirteen seats (approximately 18 per cent of the Assembly) were improperly assigned both in 1994 and 1999, to the detriment of those candidates that in accordance with the spirit of the Constitution and the letter of the 1983 electoral law would have been elected. In response to what the affected individuals have deemed a violation of their civil rights—particularly regarding the principle of equality of votes and the right to be elected—several “losing” candidates have presented complaints before the Inter-American Human Rights Commission and filed a suit against the Republic of Panama with the Inter-American Human Rights Court (Morice, 2000a).

Altering the Preferences of Voters at Election Time

With the purpose of guaranteeing their continuation in office, Panamanian legislators have also resorted to altering the preferences of voters at election time. In this endeavor they have sometimes acted in collusion with their parties and local or national electoral authorities. This was clearly the case in the 1984 and 1989 elections, when vote fraud was an important element in the dictatorship’s strategy to remain in power against the will of the majority of the population. At that time the Electoral Tribunal, the military, and the parties that supported the dictatorship, as well as some individual candidates to office, were employed in manipulating results with the purpose of fabricating electoral victories for the military regime.

In 1984, the strategy not only resulted in the fraudulent election of PRD presidential nominee Nicolás Ardito Barletta but also in the improper assignment of legislative seats to several pro-dictatorship legislative candidates, as mentioned in Chapter 2. Similar actions were also executed during the 1989 elections. Telephone conversation recordings that circulated widely at the time revealed the participation of Legislators Alberto Alemán Boyd (PRD) and Rigoberto Paredes (PRD) in “fixing” electoral results in favor of the dictatorship, including their own reelection. Alemán and Paredes “corrected” the returns of their constituencies’ tally sheets, as other pro-dictatorship figures did elsewhere, with the purpose of concocting at least fifteen Assembly seats for government supporters, including incumbent legislators. The magnitude of the vote against the dictatorship was such, however, that it prevented the regime from carrying out the plot as intended. Instead it opted for annulling the elections altogether (Ricord, 1991: 97-108; *El Siglo*, 28 April, 29 April 1999).

Although overt electoral fraud of this magnitude has not recurred under polyarchy, electoral irregularities, however, continue to occur, revealing the persistence of the practice of manipulating elections in an effort to ensure the reelection of certain legislators and the selection of other candidates to office. Evidence in this regard was provided in a lengthy report submitted by the Ombudsman’s Office in the aftermath of the 1999 elections (República de Panamá, Defensoría del Pueblo, 1999). Since 1990, specific devices Panamanian legislators have applied to engineer favorable electoral outcomes include using their influence to alter voter records, delivering money in exchange for a promise to vote (or not to vote), and exercising influence to manipulate the vote count, among others. These practices, which have roots in pre-1990 political habits, have presumably exercised some

effect in determining which candidates effectively assume office and, in particular, which legislators remain in the Assembly and which are faced with retirement.

Maintaining accurate voter records is the responsibility of the Electoral Tribunal. Especially under military rule, however, the Tribunal manipulated these records to favor official candidates, including legislative aspirants. In 1984 and 1989, for example, known opponents were reassigned to far away precincts or altogether dropped from the registry, thus preventing them from voting. At the same time, the Tribunal enfranchised several thousand persons who for various reasons (age restrictions, failure to register on time) did not appear on the electoral registry and issued special credentials to public employees to allow them to vote at any precinct (thus enabling them to exercise their voting rights repeatedly). It is estimated that this maneuver cost the opposition approximately 100,000 ballots in 1984 (Arias de Para, 1984: 72-75; Koster and Sánchez, 1990: 305-6; Ricord, 1991: 84, 85).¹¹⁵

While such large-scale fraud is certainly no longer the case, altering voter lists to include sympathizers at the district level has been denounced under polyarchy. In May 1994 Laurentino Cortizo, at the time a candidate to the Assembly on the PSOL ticket, complained that activists of PLA (then in government) had transported several hundred voters from other districts to support the Liberal candidate in his constituency. These individuals presumably employed special credentials issued by the Electoral Tribunal to vote outside their constituencies. On this occasion the Tribunal held new elections, after which Cortizo was declared the winner (*La Prensa*, 11 May 1994).

In 1999, it was reported that certain legislative candidates, in collusion with electoral authorities, "transplanted" voters to their districts. Candidate Renato Pereira (PRD)

complained before the Electoral Prosecutor about the presence in his constituency of between three and four thousand voters from other districts, who had been transported to support incumbent PRD Legislators Elías Castillo, Manuel de La Hoz, and Olivia de Pomares, all of which, in effect, ensured their reelection. Estranged PRD Legislator Enrique Riley Puga, the candidate of CD in a remote district of Veraguas province, protested that PRD candidate Pedro Miguel González, a son of PRD and Assembly President Gerardo González Vernaza, had introduced more than 800 voters from other districts to guarantee the younger González's victory at the polls (*La Prensa*, 7, 8 May 1999).

Several months prior to the election, Legislator Pablo Quintero Luna (PA) of a rural constituency in the Province of Herrera, accused PRD activists of bloating his district's register with approximately two thousand "new" voters (*La Prensa*, 30 September 1998). Quintero lost his seat to Mateo Castellero of PRD. After the May 1999 elections, community leaders in Darién Province indicated they would complain before several international human rights organizations about the inclusion of "thousands" of Panama City residents in the local voting rosters. The leaders argued that the Electoral Tribunal was well aware of the irregularity but neglected to take any action, ostensibly to contribute to the reelection of one of the Province's legislators, the influential Haydée Milanés (PSOL, then as now pro-government) as well as to the election of a PRD candidate, Sergio Tócamo (*El Panamá América*, 15 May 1999). The Ombudsman's Office also received complaints of illegal changes in voter registries in the district of Chepo, where incumbent Tomás Altamirano Mantovani (PRD), a son of First Vice-President Tomás Altamirano Duque (PRD), was

¹¹⁵ At the time the electoral population was approximately 917,000.

declared the winner in the contest against Arnulfista challenger Hernán Delgado (República de Panamá, Defensoría del Pueblo, 1999).¹¹⁶

Buying votes (or abstentions) is another vote-rigging mechanism legislators have reportedly employed to preserve their seats. In 1984, there was widespread vote-buying in the San Blas (Kuna Yala) Indian Reservation as well as in the rural Provinces of Herrera and Los Santos, where the price of a ballot ranged between US\$5 and US\$20. Together with money, candidates with close links to the military regime who additionally had privileged access to the Electoral Tribunal gave vote sellers the “right” ticket, that is, they handed voters their ballot before the voter entered the precinct.

Renting voting cards (*cédulas*) is a variant of this behavior also employed in the 1984 elections and in subsequent occasions as well, more recently in 1999 (*El Siglo*, 7 May 1999). Candidates pay voters a certain sum in exchange for their voting cards that are retained by the aspirant until after the election. This mechanism not only prevents a possible follower of an opponent from supporting him/her at the ballot box but also potentially provides the candidate who “rents” the *cédula* with an extra vote. The rented voting card is given to a supporter who may thus vote more than once for the candidate of his/her preference. In 1984 and 1989, multiple voting was facilitated by lax controls at the precincts, which were principally staffed by supporters of the military regime who condoned such illegalities (Arias de Para, 1984: 75-77).

After the reestablishment of polyarchy, some degree of vote-buying has persisted, albeit through more subtle devices. During the 1994 political campaign and elections, newspaper articles repeatedly reported on vote-buying and described it as expected political practice. Complaints about the inclination of candidates to pay in exchange for purported

¹¹⁶ In this regard, see also Chapter 2 as well as Salas, 1999.

support at the polls marred legislative elections in several precincts in Herrera, Coclé, and Darién provinces, among others (*La Prensa*, 19 February, 23 February, 9 May, 14 May, 18 August 1994). Lamenting the prevalence of the practice in his district, one political commentator wrote that vote buying had completely distorted the principle of representation in Darién (*La Prensa*, 18 August 1994).

On election day in 1999, Legislator Franz Wever (PRD) reportedly distributed as much as US\$25 thousand in low-denomination (US\$10) supermarket coupons to constituents. Wever, who allegedly devoted part of his *partida circunital* to financing the coupons, was accused of vote-buying by his colleague and party fellow Alberto Alemán Boyd, who ran for reelection in the same district as the former but failed to retain the Assembly seat he held since 1984 (*El Siglo*, 6 May, 7 May 1999; *La Prensa*, 13 May 1999).

Shortly after the election, Arnulfista candidate Arnulfo Escalona accused Legislator Alberto Castellero (PSOL, then as now in government) of delivering construction materials and scholarships to voters in Herrera Province. News coverage reported that Castellero allegedly warned constituents that they would have to pay for the value of the materials and scholarships in case he lost (República de Panamá, Defensoría del Pueblo, 1999). Vote-buying was also reported in the impoverished Ngobe-Buglé Indian Reservation, where a major fraud occurred in 1984, in the rural district of Antón (Coclé province), and in low-income sectors of Panama City (*La Prensa*, 3 May, 13 May 1999; *El Siglo*, 13 May 1999). In the highland region of Veraguas province, PRD candidate Pedro Miguel González was accused of distributing large quantities of food and counterfeit US\$20 bills to voters on election day (República de Panamá, Defensoría del Pueblo, 1999; *La Prensa*, 8 May 1999).

Exercising influence to manipulate the vote count is another mechanism some legislators have resorted to in an effort to maintain their seats. This influence is a function

of their individual standing with the Electoral Tribunal authorities as well as their rank in the party, the weight of the party in national politics, their links to the executive, and the degree of executive involvement in electoral affairs. As expected, this type of fraud was much more prevalent during the military period.

In 1984, for example, the “victory” of several pro-regime candidates to the Assembly was based on results featured in “corrected” tally sheets that had been audaciously written over at the PRD-controlled scrutiny boards. On instructions from the military command and with the additional purpose of securing their “reelection,” “corrections” of similar or greater magnitude were attempted in 1989, among others, by Legislators Alberto Alemán Boyd and Rigoberto Paredes (*El Siglo*, 28 April, 29 April 1999). In a different context and to a much lesser degree, in 1994 and 1999 tally sheets have also “disappeared” and “reappeared,” sometimes with curious additions.

In 1994, the press reported “grave irregularities” in tally sheets pertaining to Panama City precincts as well as to voting places in Chiriquí and Darién Provinces. In the latter region, candidate Abraham Pretto (MOLIRENA), a Tercer Partido Nacionalista deputy under the old regime during the 1960-1964 and 1964-1968 terms, complained that the tally sheets had been purposely altered to favor Haydée Milanés of PSOL (*La Prensa*, 12 May 1994). In 1999, over 100 tally sheets pertaining to several Panama City precincts remained at undisclosed locations for approximately two days after the 2 May elections. After they were finally retrieved, candidates complained that their figures did not coincide with those immediately reported at the end of the vote (*La Prensa*, 4 May, 5 May 1999; *El Panamá América*, 4 May, 5 May 1999; *El Siglo*, 4 May, 5 May 1999). The Ombudsman’s Office also reported receiving complaints of tally sheet alterations in the district of La Chorrera. These

changes ostensibly favored incumbent Roberto Abrego (PRD), to the detriment of challenger Leopoldo Castillo (PA) (República de Panamá, Defensoría del Pueblo, 1999).

During the military period, another device employed to assign seats to favored individuals included accepting all legal objections (*impugnaciones*) presented by pro-government candidates, who consistently impugned adverse precinct results. Accordingly, only votes cast in precincts in which pro-regime candidates won were taken into consideration in the final count (Arias de Para, 1984: 78-82). A similar strategy was executed in 1989 prior to the annulment of the elections (Ricord, 1991: 91-99).

While the practice of objecting adverse electoral results has continued after the reestablishment of polyarchy in 1990, the Electoral Tribunal has revealed less inclination to go along with it. Both in 1994 and 1999, the Tribunal has dismissed most formal objections to vote counts. Furthermore, the cost of presenting electoral suits has risen considerably, as the Tribunal now requires the deposit of a substantial bail before considering them and, on occasion, has resorted to fining the promoters of legal actions against candidates declared to have won. While these restrictions have been appropriately criticized as constituting an obstacle to justice, they have reduced the incentives to pretending to manipulate the distribution of Assembly seats on the basis of purported legal actions.

After the reestablishment of polyarchy, the practice of governments resorting to large-scale, blatant electoral fraud to ensure their continuation in power appears to have been overcome. Localized irregularities, aimed at guaranteeing the election and reelection of certain candidates—among them legislators—are still an issue, however. The 1999 electoral experience provides testimony in support of this affirmation. Shortly after the elections, the Ombudsman's Office reported receiving an "avalanche" of complaints of lack of transparency (*El Siglo*, 7 May 1999). Reflecting on the persistence of manipulative practices,

an editorial in *El Panamá América* (6 June 1999) insisted that the elections of May 1999 had been “the most irregular of those held since the middle of the century.” According to the daily, “vote-buying, violence, spurious records, altered tally sheets, and irregular counts” were the distinguishing trait of a process that resulted in the “questionable assignment of at least one dozen Assembly seats, mainly to the ruling PRD [...] without any arithmetic relationship to the total amount of votes cast in the legislative election.”

Summary

Switching parties and manipulating elections are among the electoral behaviors not predicted by theory that Panamanian legislators engage in. Although most Panamanian legislators support their parties, many of them also change labels. They do so because their own parties become extinct and because they hold differences with the leadership, but also with a clear electoral connection in mind. Towards the end of their periods, at election time, many shift because opportunities for securing candidacy are few or non-existent in their own parties or because they believe they have higher reelection prospects under different labels. The available evidence suggests a general trend toward achieving reelection among those legislators who change to larger parties as well as a tendency to fail among those who shift to smaller parties.

Electoral manipulation is another activity Panamanian legislators undertake with the purpose of securing reelection. Two types of manipulation are observable. Assembly members use their power to change laws in order to amend the electoral legislation in ways that favor their reelection ambitions. In particular, members have legislated to reduce the proportionality of the electoral system, instituting procedures that place a bonus on their

own personal reputations as particularistic providers of public goods and services over party ideology or political principles. In the highly clientelistic Panamanian context, this legislation has provided incumbents with yet another electoral connection.

A second type of manipulation consists of altering the preferences of voters at election time. To promote their continuation in office, some Panamanian legislators modify voting records, buy votes from constituents, and adjust electoral computations. These practices, which were much more widespread under the military dictatorship (1968-1989), have, however, continued—albeit to a lesser degree—under polyarchy. Due to their irregular nature it is difficult to estimate how much they influence the reelection of legislators. Based on the available evidence, however, it seems fair to say that at least some representatives owe their continuation in office to the manipulation of voter preferences.

As occurs with patronage, not all legislators engage in party switching and electoral manipulation with equal zeal. PRD members, for example, have shown less inclination to switch parties than their adversaries, many of whom reveal few qualms about redirecting their loyalties. As regards electoral manipulation, legislators constituting a majority in the Assembly—independently of their label—exhibit an inclination to change the rules in ways they deem electorally convenient. Thus the PRD, which held a majority in the 1984-1989 Assembly, adopted a reform that watered-down the proportionality of the electoral system in 1988. Legislators belonging to the PDC acted correspondingly in 1993, when they had a plurality of seats in the chamber. In 1997 the majority, consisting mainly of the PRD, voted down the proposal to return to the 1983 formula that promoted the distribution of remaining seats among the smaller parties. When it comes to manipulating voter preferences on election day, however, the PRD clearly has the upper hand.

Chapter 2 underlined several adverse consequences for democratic representation inherent in the practice of manipulating the will of the electorate. Switching parties also has negative effects on representation and accountability. Party switching releases representatives from the commitment of upholding the program their constituents voted for when they opted for a certain party label. Moreover, it reduces opportunities for accountability through elections, because it places an obstacle on voters' possibilities for punishing politicians and political parties.

In Panama, party switching and electoral manipulation are instruments legislators employ to retain their Assembly seats. These behaviors, promoted by an informal institutionalization that also encourages a much broader use of patronage than is the case in formally institutionalized polyarchies, have not merited much scholarly attention by students of legislators' behavior. Panamanian legislators seek reelection through these and other means to advance their political careers, but also to get rich and preserve their freedom from prosecution. Chapter 9 summarizes these findings and reflects on their consequences for the democratic system.

CHAPTER 9

CONCLUSION

This study has argued that in informally institutionalized polyarchies, informal institutions allow members of representative assemblies to seek other goals besides reelection or, more generally, career advancement. Informal institutionalization also encourages different means towards reelection besides those predicted by students of representatives' behavior. This argument derives from a close examination and analysis of the behavior of representatives in Panama, an informally institutionalized polyarchy where legislators demonstrate a desire to pursue political careers—as predicted by the literature—but also seek enrichment and immunity from prosecution. To achieve reelection, which in this context serves not only as a means for political advancement, but also for getting rich and remaining free from the reach of justice, representatives distribute patronage much more broadly and directly than do their peers in formally institutionalized polyarchies. They also incur in behaviors that the literature has not considered sufficiently, such as switching parties and manipulating elections and electoral rules.

These findings are significant because they illustrate ways in which informal institutions contribute to shape the behavior of the members of representative assemblies. They underscore the need for approaching the study of representatives from a broader perspective than has usually been the case. The literature holds that members of representative assemblies are rational actors concerned with advancing their political careers

as permitted by the formal institutional context in which they operate, and normally approaches the examination of representatives' behavior from this assumption. This assumption is valid for formally institutionalized settings, where there is a close fit between the letter of the law and political actors' behavior. But where, as in informally institutionalized polyarchies, informal institutions are better predictors of actors' behavior than written rules or formal procedures, it is reasonable to expect that informal features—such as, in Panama, a tradition of electoral fraud, impunity, and clientelism—allow representatives to pursue other objectives in addition to those encouraged by formal institutions.

These findings are also valuable because they enhance our understanding of the effects of representatives' behavior on the quality of the democratic regime and, particularly, on the quality of democratic representation. The following paragraphs approach this topic from the perspective of democratic theory.

The establishment of polyarchy gives rise to certain expectations among the population. These expectations relate to the properties of the democratic system and to citizens' ideas of what democracy is supposed to mean. According to Dahl (1989: 221), "polyarchy is a political order distinguished by the presence of seven institutions, all of which must exist for a government to be classified as a polyarchy." Dahl further states that "the institutions of polyarchy are necessary to democracy"; in other words, they are required for the "highest feasible attainment of the democratic process in the government of a country" (1989: 222). These institutions, the presence of which is a pre-requisite for democracy, include: 1) elected officials; 2) free and fair elections; 3) inclusive suffrage; 4) the right to run for office; 5) freedom of expression; 6) alternative information; and 7) associational autonomy. As explained by O'Donnell (1996), the first four institutions relate

to an essential characteristic of democracy: inclusive, fair, and competitive elections. The final three attributes address “political and social freedoms that are minimally necessary not only during but also between elections as a condition for elections to be fair and competitive.”

Fairness, therefore, is a precondition for democratic elections. But citizens of a democratic state expect that fairness will also prevail not only in the electoral realm but, additionally, in other spheres of political life, such as in policy making and implementation as well as in the administration of justice. This universalistic expectation derives from the notion of political equality, a cornerstone of democratic thought, according to which each member of the community has equal political rights and responsibilities and, in his or her relationship to the community, no one should enjoy special advantages or privileges.

Fairness requires that action by government leaders be universalistic, i.e., oriented towards some consensus-based version of the public good (O'Donnell, 1996). The republican tradition in which this view is imbedded requires unselfish dedication to the interests of the *res publica* by those who exercise public office and repudiates the use of political office for private gain. In a democratic regime, officeholders are supposed to sacrifice their personal interests for the benefit of the community. The republican tradition further holds that public officeholders “should subject themselves to the law no less and even more than ordinary citizens (...) Republicanism is damaged if public officials, elected or not, refuse to subject themselves to the law, or prefer private interest to public duty” when the two conflict (O'Donnell, 1998). In accordance with this view, it is unfair for officers of the state to influence the political process for personal benefit, because such actions violate the republican basis of democracy as well as the notions of equality and universalism that are central to the democratic regime.

Some behaviors by Panamanian legislators, which this study has described, contravene the ideas of fairness and universalism that are at the root of citizens' democratic expectations. Vote fraud and, in general, attempts to manipulate the electorate's will through legal or illegal measures that render useless the ballots of an appreciable portion of the voting population constitute a violation of citizens' basic right to participate in the political process through the free and fair election of their representatives. The prevalence of fraudulent electoral practices at the local level in Panama as well as in other informally institutionalized polyarchies poses a challenge to students of contemporary democracy. At a minimum, it encourages scholars to refine their assessments of democratic regimes in ways that, while remaining analytically useful, are also sensitive to significant divergences in electoral exercises.

The establishment and expansion of broad prerogatives in favor of representatives, including franking, passport, and tax exemption privileges as well as—especially—a wide-ranging immunity from prosecution, also violates the notions of equality and fairness. As indicated before (Chapter 5), it is practical to assign prerogatives to members of deliberative chambers as long as they assist in the achievement of democratic representation, a public good. But when privileges merely establish a personal benefit (as opposed to a public good) they are no longer functional in democratic terms. Expanding these personal prerogatives, as Panamanian legislators have continuously done since the reestablishment of the Assembly in 1984, makes even less sense in a democratic context.

Members of Panama's Legislative Assembly, however, have transgressed this public-private boundary by—among other activities—legislating to broaden personal privileges with economic value. Chapter 4 reviewed the amendments to the chambers' Organic Law and other legislation that have authorized the use of diplomatic passports by their families,

alternates, and alternates' family members; allowed free telephone access to substitutes; and permitted the sale of tax-exempt vehicles, giving rise to a lucrative "legislative trade" in automobiles. Chapter 5 explained how some legislators engage in unethical enrichment practices by selling their legislative votes, exercising undue influence to obtain personal or particularistic benefits, and appropriating public resources for personal or electoral use. Chapter 6 traced the legislative process that has permitted legislators to remain virtually free from prosecution for offenses, through the expansion of the so-called "legislative" or "parliamentary" immunity.

Legislating with the express intent of legally enabling a minority to remain above the rule of law is particularly contradictory to democratic theory. In many informally institutionalized polyarchies, influential individuals can achieve this goal through informal channels. In Panama, however, legislators have gone even further, securing for themselves a legal license to remain free from prosecution, by incorporating into the Assembly's Organic Law provisions that make it impossible in most cases to prosecute legislators for breaches of legality.

Personal enrichment by representatives has clear implications for the democratic regime. Under polyarchy, citizens expect that the officers of the state will act to procure the public good, not to gain personal advantages. Moreover, when legislators seek enrichment through illegal means and remain unpunished for it, they also undermine the rule of law. Furthermore, a strong impulse towards both legal and illegal personal enrichment by representatives violates not only the theoretical underpinnings of the modern democratic system. It also weakens public trust in polyarchy, contributing to alienate the population from the democratic system.

In his introduction to an edited work on the subject of democratic maintenance, Juan Linz (1978) explored in depth the detrimental consequences of this alienation. More than any other type of regime, polyarchy depends on popular support and democratic legitimacy. Behavior by politicians that does not coincide with the universalistic expectations of the population undermines democratic legitimacy and, by breeding cynicism and discontent among the citizenry, provides an added element towards democratic deterioration or even breakdown.

Under polyarchy, the notion of accountability implies that citizens can punish officeholders who do not live up to democratic standards of fairness and universalism, through removal from office and, when warranted, through judicial penalties. Democratic constitutions contain accountability mechanisms the ideal purpose of which is to keep rulers "virtuous whilst they continue to hold their public trust" (Madison, *The Federalist* No. 57, quoted in chapter 1). More realistically, these mechanisms seek "to prevent, or at any rate sanction, improper actions by officeholders" (O'Donnell, 1998).

The behavior of Panamanian legislators has important consequences for accountability, both vertical and horizontal. Vertical accountability is exercised by voters, particularly at election time. Some constitutions also allow voters to activate other vertical accountability initiatives, such as recall or referenda, between elections. Horizontal accountability refers to "actions ranging from routine oversight to criminal sanctions or impeachment," that specific political institutions are allowed to take "in relation to possibly unlawful actions or omissions by other agents or agencies of the state" (O'Donnell, 1998).

This reference to vertical and horizontal accountability provides an opportunity for considering the effects of Panamanian legislators' behavior on the democratic system and,

particularly, on democratic representation, along two different dimensions: at the constituent-representative and the executive-assembly levels.

As was indicated in the introductory chapter, representation is the legal fiction that enables the entire community to be present in the democratic decision-making process. It is based on the Roman law principle of “that which affects everyone should be approved by everyone” (Finer, 1997: 1030), which forms integral part of our contemporary notion of democracy. Hannah Pitkin, whose *Concept of Representation* (1967) remains the most thorough treatment of the subject, defines this legal fiction as “primarily a public, institutionalized arrangement involving many people and groups, and operating in the complex ways of large-scale social arrangements.” It implies a “substantive acting for others” requiring “independent action in the interest of the governed, in a manner at least potentially responsive to them, yet not normally in conflict with their wishes.”

This definition offers insights into what the link between constituents and representatives ideally should look like. Democratic representation is a public—not private, or particularistic—institution. The substantive action it implies requires a transparent, public link between constituents and representatives, based on trust and responsiveness. Clientelistic practices, including the widespread use of patronage for electoral purposes, as is the norm in Panama or—worse still—the outright purchase of votes with cash or other public or private resources, distorts this link. Democratic representation requires a free, fluid connection between representatives and constituents, a connection obstructed by the informal traits that condition the selection of Panama’s legislators. Patronage and other clientelistic devices allow representatives to “buy” their release from the social contract that links them to their constituents and stipulates responsiveness to their views and wishes.

Party switching operates in a similar way to twist the concept of democratic representation. When members change parties, constituents cannot expect them to act in accordance with the political option voters selected at the polls. In the absence of vertical accountability initiatives (e.g., popular recall) and effective horizontal accountability mechanisms between elections, clientelism and party switching allow members to neglect their duties as representatives during their terms. Worse still, by fostering the creation of electoral clienteles, clientelism allows representatives to overcome the barriers to unresponsive and inadequate behavior posed by periodic elections. The considerable increase in Panamanian legislators' reelection rate in 1999, discussed in Chapter 7, supports this appraisal.

In reaction to criticism of clientelism, particularly through their access to large constituency funds known as *partidas circuitales*, some Panamanian legislators have replied that the practice of engaging in constituency work through *partidas* is a response to high demand for public services in a context of skewed income distribution.¹¹⁷ This is a weak justification for clientelistic practices that absorb an excessive amount of legislators' time, energy, and resources and, furthermore, have assumed proportions that significantly undermine the democratic system in Panama. As conceptualized by Cain, Ferejohn, and Fiorina (1987: 2-3), democratic representation encompasses at least three dimensions. The first is policy responsiveness: "how faithfully does the representative respond to the wishes of the district

¹¹⁷ In an opinion editorial published in *La Prensa*, Legislator Teresita Yániz (PDC) attributed Panamanian legislators' emphasis on service and allocation responsiveness through *partidas circuitales* "to the lack of political culture which we suffer as a nation, the result of 21 years of military hegemony," in addition to "the harsh reality that the majority of the population, burdened with concrete and urgent problems, is faced with." She added: "The wish to solve problems and provide assistance (...) is a genuine preoccupation of many legislators, who live in close contact with their constituents. Abandoned by the executive, constituents demand attention in the areas of health, education, transportation, and employment. *Partidas circuitales* serve to address these needs. Clientelism exists and prospers because there are clients who need urgent attention" (Yániz de Arias, 2000).

in words and deeds?” Allocation responsiveness, or the representative’s efforts “to ensure that his or her district gets a fair share of government projects, programs, and expenditures,” is a second component. Democratic representation also includes service responsiveness, members’ work in response to “individual and group requests for assistance in dealing with the government bureaucracy.”

When representatives engage in allocation responsiveness, democratic theory suggests they should strive to ensure the distribution of public goods on a universalistic basis. The channeling of constituency funds in Panama, however, is characterized by intense particularism. As reported in Chapter 7, universal entitlement, efficiency, or meritocratic criteria are not normally employed to assign public goods through legislators’ initiatives; more often than not, they are allocated on the basis of purely particularistic, electoral, or arbitrary standards. Furthermore, even if their access to and use of *partidas circuitales* is interpreted as allocation responsiveness, Panamanian legislators’ overriding preoccupation with this aspect of representation causes them to neglect the other components of the institution, notably policy responsiveness.

The general unfitness of Panama’s Assembly also makes it difficult for the chamber to engage in universalistic policy responsiveness. As argued in Chapter 3, the lack of a “suitable corps” of representatives in the Legislative Assembly is in some measure related to formal institutional factors that promote personalism and clientelism. In particular, low district size contributes to prevent the election as representatives of individuals with solid, policy-based national reputations, an issue that further prevents the system of democratic representation from entrusting the tasks of government to the most competent members of the political community.

A concern with personal enrichment, securing freedom from prosecution, and obtaining reelection through clientelistic means also affects the Assembly's performance as an agent of horizontal accountability. In Panama, such concerns make legislators responsive to the agents that have the power and resources to procure these objectives, especially the executive. Moreover, an executive concerned with implementing its program without opposition actively promotes these behaviors in exchange for the Assembly's rubber stamp on its agenda. This undermines the chamber's capacity for overseeing the activities of the executive, a basic function within the democratic system's balance of power.

Several instances in recent Panamanian political history demonstrate the negative effects that the constituent-representative disconnection and the manipulation of the Assembly by the executive have had on the country's democratic development. The unfolding of the initiative providing for the consecutive reelection of the president, between 1997 and 1998, probably illustrates this phenomenon better than any other episode. A proposal allowing the chief executive to stand for immediate reelection had not been one of the issues contemplated in the PRD's electoral platform in 1994. Even so, shortly after the presidential inauguration, it became obvious that President Ernesto Pérez Balladares (PRD, 1994-1999) aspired serve at least two full terms in office. At the president's instigation, his party drafted a consecutive reelection proposal that Legislator Balbina Herrera (PRD, 1989-) submitted to the Assembly on 20 October 1997 (*El Panamá América*, 21 October 1997; *La Prensa*, 21 October 1997).

In those Latin American republics where the checks and balances of the democratic system do not succeed in effectively forestalling abuses of power by the executive, the ban against consecutive presidential reelection is one of the few functional safeguards against prolonged tyrannical rule. Most of the region's constitutions, therefore, continue to contain

this ban, even after the reversals registered in the 1990s in Peru (1992, 1999), Argentina (1994), and Brazil (1997). In Panama, according to Article 173 of the 1972 Constitution, a president can seek reelection only after two consecutive terms have elapsed. Article 308 stipulates that amendments to this or any other constitutional provision require approval by two consecutively-elected assemblies or endorsement by the chamber in two successive session periods. In the latter case, the proposal must also be submitted to referendum, after the Assembly's approval (Bernal, 1995: 78, 143-44). Because President Pérez Balladares was interested in seeking reelection in May 1999, he opted for the second procedure.

Panama's opposition politicians, political commentators, and independent observers immediately warned of the harmful consequences that might derive from permitting a president to serve successive terms. Referring to the requirement that legislation should be universalistic, respected former minister and MOLIRENA party notable Mario Galindo Heurtematte cautioned that the proposal's sole aim was to satisfy the personal ambition of President Pérez Balladares. The prohibition against reelection, Galindo explained, "purports to overcome the rooted inclination of our politicians to hold on to power with tenacity worthy of better causes." Nobody can ignore, he added, that in a centralized state such as Panama, where the executive exerts such overwhelming influence on all government institutions, "the participation of President Pérez Balladares as a candidate in the 1999 elections would tilt the electoral balance in favor of the government and contaminate the electoral process, casting doubt over it or, even worse, annulling its legitimacy" (Galindo Heurtematte, 1997).

More significantly, at the time Legislator Herrera presented the constitutional reform proposal before the Assembly, public opinion clearly opposed the immediate reelection of the president. An internal opinion poll conducted by the PRD in September 1997 revealed

that only 40 percent of respondents supported the proposal while a majority opposed it (*El Panamá América*, 29 September 1997). Quarterly polls published by *La Prensa* between March 1997 and 1998 indicated that the percentage of respondents supporting the reelection initiative never exceeded 39 percent and the proportion that opposed it never dropped under 54 percent during that period (*La Prensa*, 24 June 1998). Capturing the prevailing mood against President Pérez Balladares' initiative, an editorial in *El Panamá América* (21 October 1997) predicted that the government would lose the following year's reelection referendum "to a massive 'No' vote" which "neither abstentions, nor discarded ballots, nor computer manipulation" would prevent.

The government majority in the Assembly, however, failed to take note of popular opposition to immediate presidential reelection. At the end of both discussion periods, the constitutional amendment passed the third reading with the affirmative votes of 40 legislators, or 56 percent of the chamber (*El Panamá América*, 26 November 1997, 19 May 1998). Before the electorate, however, the reelection proposal suffered a stunning defeat, as forecasted by opinion polls and political commentators. Despite the widespread use of state resources to promote President Pérez Balladares' aspirations and numerous electoral irregularities, the referendum held on 30 August 1998 returned a 64 percent popular majority against the constitutional amendment, versus only 34 percent in favor (República de Panamá, Defensoría del Pueblo, 1998; *El Panamá América*, 31 August 1998).

The presidential reelection initiative provides a telling example of the acute disconnection between voters and representatives in Panama. In this case, policy responsiveness would have required Assembly rejection of President Pérez Balladares' reelection scheme. The chief executive's ample use of government resources to put together a majority coalition, however, was able to overcome any meaningful opposition to his

objective in the chamber. Through executive largesse, particularly manifested through larger constituency appropriations for loyal legislators, the president succeeded in rendering a majority of the Assembly responsive to his personal agenda, as opposed to the wishes of the governed. The fact that, despite intense opposition to the constitutional amendment, 50 percent of the Assembly members who voted in favor of reform bill achieved reelection, is indicative of Panamanian legislators' ability to overcome the hurdle of unresponsiveness through clientelistic devices, and of the ways in which these devices put an obstacle on vertical accountability. These electorally successful members were among those better rewarded with larger *partidas circuntales*.

In Panama in 1997 and 1998, a proactive assembly, consisting of members adequately representing the policy views of the electorate, would have saved the country from deep polarization as well as from the squandering of state resources in a needless political adventure.¹¹⁸ The Assembly was precluded from playing this role, however, by the informal incentives to focus on "low politics" as well as the formal constraints on its meaningful participation in national affairs. Max Weber stands out among the authors that have studied the negative effects of these limitations from a broad, historically-informed perspective.

In his 1918 essay titled "Parliament and Government in a Reconstructed Germany," Weber reflects on the role of the representative assembly in preserving individual freedom in the modern mass bureaucratized state. "In view of the growing indispensability of the state bureaucracy and its corresponding increase in power," he wrote, "how can there be any guarantee that any powers will remain which can check and effectively control the

¹¹⁸ The cost of organizing the presidential reelection referendum reportedly amounted to US\$5 million (*El Panamá América*, 21 October 1997).

tremendous influence of this stratum?" Weber's solution is placing ultimate responsibility for the tasks of government in the hands of politicians (as opposed to bureaucrats) trained in and accountable to a representative chamber.

Weber's essay is particularly useful because it provides a sharp criticism of a weak, incompetent chamber as much as of those commentators who discredit the representative assembly "in favor of other political powers"—namely the executive, or the authoritarian monarchy, in the German context. A weak representative chamber is a consequence of authoritarianism; specifically, in Germany, "a legacy of Prince Bismarck's long domination and of the nation's attitude toward him since the last decade of his chancellorship." Bismarck's emasculation of the German parliament produced "a nation without any political sophistication". On the basis of the institutional analysis undertaken in Chapter 3, a similar critique may be made about Panama.

In Weber's view, individual freedoms can only be preserved through accountability to the representative chamber. The bureaucracy, therefore, must be made to answer to the assembly. According to his formula, a proactive assembly is the democratic state's best defense against improvisation, impulsiveness, and imprudence. For this reason, his objective is a strengthening of the representative chamber as an organ of administrative supervision and an agent for the recruitment of capable leaders.

The "decisive question" in Weber's considerations is "How can parliament be made fit to govern?" Weber advocates, above all, the development of a "suitable corps" of representatives. According to his scheme, this goal can best be achieved by transforming the representative chamber into an institution that attracts political talent to its ranks. Such transformation requires reforms aimed at making the assembly a factor of "positive politics." "Parliament must be completely reorganized in order to produce such leaders and to

guarantee their effectiveness.” In this endeavor, Weber—as does John Stuart Mill—clearly favors a representative form of government.

Weber’s reflections provide a convenient starting point for a “democratic critique of democracy”, a necessity in all contemporary polyarchal regimes but especially in many informally institutionalized polyarchies where democratic development shows little progress beyond regular elections.¹¹⁹ Without a doubt, the political situation of these countries is preferable to the conditions of authoritarianism that prevailed until recently. Critiques of polyarchy should therefore be construed in such a way as to make it patently clear that democracy is superior to other forms of political organization.

But these assessments should also highlight features that prevent further democratization, such as—among many others—behaviors by representatives that undermine the democratic system. These critiques should also point to the endurance of authoritarian traits that place an obstacle on democratic development, such as, in the case of Panama, the military regime’s sultanistic approach to politics, together with a tradition of electoral fraud, impunity, and a constitutional design that promotes clientelism and centralizes power in the executive. Democratic development requires overcoming these formal and informal features, initially through a broad, consensus-based process of institutional reform. However difficult it may be to overcome the legacies of the past, Panama should not postpone this task any further.

¹¹⁹ This “democratic critique of democracy” theme runs through an interview of Guillermo O’Donnell by Horacio Verbitsky, published in *Página 12* (Buenos Aires), 15 October 2000, also available at <http://www.pagina12.com.ar/2000/00-10/00-10-15/pag13.htm>.

BIBLIOGRAPHY

- Abad, Jaime. N.d. "Cronología del asesinato de un soldado y el linchamiento de un ex-policía." Unpublished.
- Aitman, David. 1998a. E-mail message, 20 November.
- _____. 1998b. E-mail message, 23 November.
- _____. 1999. E-mail message, 15 March.
- _____. 2000a. "The Politics of Coalition Formation and Survival in Multi-Party Presidential Democracies: The Case of Uruguay, 1989-1999." *Party Politics* 6:3: 259-83.
- _____. 2000b. E-mail message, 8 April.
- Ameglio, Marco. 1998. E-mail message, 11 September.
- Ames, Barry. 1995. "Electoral Strategy under Open-List Proportional Representation." *American Journal of Political Science* 39:2 (May): 406-33.
- Archer, Ronald and Shugart, Matthew Soberg. 1997. "The Unrealized Potential of Presidential Dominance in Colombia." In *Presidentialism and Democracy in Latin America*, edited by Scott Mainwaring and Matthew Soberg Shugart. Cambridge: Cambridge University Press.
- Arellano Lennox, Carlos. 2000. Personal conversation, 31 August.
- Arias Grimaldo, Alfredo. 1997. Personal conversation, 27 July.
- Argumenty i fakty*, Moscow.
- Arias Calderón, Ricardo. 1999. Personal conversation, 18 August.
- Arias de Para, Raúl. 1984. *Así fue el fraude*. Panama: The author.
- Arias Zubieta, Juan. 1997. Personal conversation, 14 December.
- Arnold, R. Douglas. 1979. *Congress and the Bureaucracy: A Theory of Influence*. New Haven and London: Yale University Press.

- Azcárate, Fermín. 2000. "Recordando a Julio E. Linares." *El Panamá América*, 22 April.
- Behar, Olga and Villa, Ricardo. 1991. *Penumbra en el Capitolio*. Santafé de Bogotá: Planeta Colombiana Editorial.
- Benhabib, Seyla. 1996. Toward a Deliberative Model of Democratic Legitimacy. In *Democracy and Difference : Contesting the Boundaries of the Political*, edited by Seyla Benhabib. Princeton: Princeton University Press.
- Benhabib, Seyla, ed. 1996. *Democracy and Difference : Contesting the Boundaries of the Political*. Princeton: Princeton University Press.
- Berguido Guizado, Fernando. *La sucesión presidencial en Panamá*. Panama: Editorial La Antigua, 1987.
- Bernal, Miguel Antonio. 1986. *Militarismo y administración de justicia*. Panama: Ediciones Nari.
- _____. 1997. E-mail message, 30 December.
- _____. 1998. E-mail message, 6 September.
- _____. 2000a. E-mail message, 3 May.
- _____. 2000b. "País político vs país nacional." *El Panamá América*, 25 August.
- Bernal, Miguel Antonio, ed. 1995. *Constitución de la República de Panamá de 1972*. Panama: IEPI.
- Biesanz, John and Biesanz, Mavis Hiltunen. 1955. *The People of Panama*. New York: Columbia University Press.
- Blandón Figueroa, José. 1998a. E-mail message, 6 January.
- _____. 1998b. E-mail message, 9 January.
- _____. 1998c. "Hacia una nueva Asamblea," *La Prensa*, 18 October.
- _____. 1998d. "Las partidas circuitales." *La Prensa*, 29 November.
- _____. 1999. "Reelección y partidas circuitales." *El Panamá América*, 10 March.
- _____. 2000a. Personal conversation, 8 August.
- _____. 2000b. "Partidas circuitales." *El Panamá América*, 11 September.

- _____. 2000c. "La reforma de la Asamblea." *El Panamá América*, 19 September.
- Brannan Jaén, Betty. 1994. "El juicio de Anel Ramírez," *La Prensa*, 4 September.
- _____. 1997a. "El retorno de Anel Ramírez," *La Prensa*, 5 January.
- _____. 1997b. "El caso González no se ha cerrado aún," *La Prensa*, 23 November.
- _____. 1998a. "El caso de un contrabando consular," *La Prensa*, 16 August.
- _____. 1998b. E mail message, 31 October.
- Cain, Bruce; Ferejohn, John; and Fiorina, Morris. 1987. *The Personal Vote: Constituency Service and Electoral Independence*. Cambridge: Harvard University Press.
- Carles, Jr., Rubén Darío. 2000. Personal conversation, 31 August.
- Carey, John M. 1996. *Term Limits and Legislative Representation*. New York and Cambridge: Cambridge University Press.
- Carey, John M. and Shugart, Matthew Soberg. 1995. "Incentives to Cultivate a Personal Vote: A Rank Ordering of Electoral Formulas." *Electoral Studies* 14: 4.
- Castro Paragulla, Carlos. 1999. E-mail message, 4 May.
- Cedeño Cenci, Diógenes.
- Chehabi, H.E. and Linz, Juan J. 1998a. *Sultanistic Regimes*, edited by H.E. Chehabi and Juan J. Linz. Baltimore: The Johns Hopkins University Press.
- _____. 1998b. "A Theory of Sultanism 1." In *Sultanistic Regimes*, edited by H.E. Chehabi and Juan J. Linz. Baltimore: The Johns Hopkins University Press.
- _____. 1998c. "A Theory of Sultanism 2." In *Sultanistic Regimes*, edited by H.E. Chehabi and Juan J. Linz. Baltimore: The Johns Hopkins University Press.
- Chen Barriá, José. 2000. Personal conversation, 2 September.
- Cochez, Guillermo A. 1996. "Las partidas circuitales de los legisladores." *La Prensa*, 23 December, p. 46A.
- _____. 1998a. "¿Corrupción en manejo de fondos del FES?" *La Prensa*, 5 February.
- _____. 1998b. E-mail message, 4 September.

- _____. 1999a. E-mail message, 1 March.
- _____. 1999b. E-mail message, 13 April.
- _____. 1999c. "¿Es todo el PRD un partido inmoral?" *La Prensa*, 23 June.
- _____. 2000a. "El cinismo del ex ministro Jorge Eduardo Ritter." *El Universal*, 15 June.
- _____. 2000b. Personal conversation, 31 August.
- Cochez, Guillermo A. and Martínez, Víctor. 2000. "Demanda de inconstitucionalidad presentada por Víctor Manuel Martínez Cedeño y Guillermo A. Cochez." Press summary.
- Comisión Interamericana de Derechos Humanos, Organización de los Estados Americanos (OEA/OAS). 1978. *Resolución sobre la situación de los derechos humanos en Panamá*, 2nd ed. Washington: OEA.
- Comité de Apoyo a los Observadores Internacionales. 1989. *Panamá: testimonio de un proceso electoral*. Panama: Comité de Apoyo a los Observadores Internacionales.
- Confidential source. 1998. E-mail.
- Coppedge, Michael. 1999. E-mail, 19 March.
- Cox, Gary W. 1987. *The Efficient Secret: The Cabinet and the Development of Political Parties in Victorian England*. New York and Cambridge: Cambridge University Press.
- Cox, Gary and Morgenstern, Scott. N.d. "Reactive Assemblies and Proactive Presidents: A Typology of Latin American Presidents and Legislatures." In Scott Morgenstern and Benito Nacif, eds., *Legislative Politics in Latin America* (forthcoming). Cambridge: Cambridge University Press.
- Crítica Libre*, Panama. Printed and Internet (www.epasa.com/critica/hoy/critica.html) versions.
- Crítica*, Panama (1968-1989 version).
- Cuervo de Paredes, Maribel. 1999. "Botellas recicladas," *El Panamá América*, 23 November.
- Cuestas, Carlos H. 1984. *El escándalo de la Caja de Seguro Social (memorias de un fiscal)*. Panama: Ediciones Volcán Barú.
- Dahl, Robert A. 1971. *Polyarchy: Participation and Opposition*. New Haven, Yale University Press.
- _____. 1989. *Democracy and Its Critics*. New Haven: Yale University Press.

- Díaz, Ovidio. 2000. *Las partidas circuitales*. Unpublished essay.
- _____. 2000. Personal conversation, 25 July.
- Dinges, John. 1990. *Our Man in Panama: How General Noriega Used the United States and Made Millions in Drugs and Arms*. New York: Random House.
- El Matutino*, Panama.
- El Panamá América*, Panama. Printed and Internet ([www.epasa.com/El Panama America/](http://www.epasa.com/El_Panama_America/)) versions.
- El Siglo*, Panama. Printed and Internet (www.elsiglo.com) versions.
- El Universal*, Panama. Printed and Internet (www.eluniversal-pma.com/).
- Endara, Guillermo. 2000. Personal conversation, 1 September.
- Epstein, David F. 1984. *The Political Theory of The Federalist*. Chicago : University of Chicago Press.
- Fábrega, Ramón and Boyd Galindo, Mario, eds. 1981. *Constituciones de la República de Panamá*. Panama: Centro de Impresión Educativa.
- Garvin, Glenn. 1997a. "A Case That's Slipping Away: Suspect Being Tried in GI's Killing in Panama." *The Miami Herald*, 23 October.
- Fenno, Jr. Richard F. 1973. *Congressmen in Committees*. Boston: Little, Brown and Company.
- Finer, Samuel E. 1997. *The History of Government from the Earliest Times*. Vol. II. Oxford Oxford University Press.
- _____. 1997b. "3 Acquitted in Murder of U.S. Soldier," *The Miami Herald*, 2 November.
- _____. 1997c. "Ties with Panama Fray over Acquittal," *The Miami Herald*, 19 November.
- Foreign Broadcast Information Service (FBIS)*. 1990. "Daily Report, Latin America."
- Furlong, William F. 1993. "Panama's Difficult Transition Towards Democracy." *Journal of Interamerican Studies and World Affairs* 35 (Fall): 19-64.
- Galindo Heurtematte, Mario. 1997. "Reelección: opción perniciosa." *El Panamá América*, 13 October.
- _____. 1999. Personal conversation, 4 January.

- _____. 2000. "Mario J. Galindo H. solicita la declaratoria de inconstitucionalidad del artículo 16 de la Ley 35 de 30 de Julio de 1999." Argument presented before the Supreme Court, Panamá.
- Gallón, Gustavo. 1999. E-mail message, 24 March.
- Gómez, Francisco. 2000. Personal conversation, 4 September.
- Goytía, Víctor Florencio. 1987. *Las constituciones de Panamá*. 2nd ed. San José: Litografía e Imprenta Lil.
- Guevara Mann, Carlos. 1996. *Panamanian Militarism: A Historical Interpretation*. Athens: Ohio University Press.
- Guillén, Olmedo. 2000. E-mail message, 16 April.
- Gutmann, Manfred and Frey, Christian. 2000. *An International Comparison of Purchasing Power: Prices and Earnings Around the Globe, 2000 Edition*. Zurich: Union Bank of Switzerland (UBS Switzerland). Also available on the Internet at:
<http://www.ubs.com/e/index/about/media/20000913a.newdialog.0003.Upload2.pdf/report.pdf>
- Harrington, Kevin. 1994. "El PDC persiste en hacer sonreír a Panamá," *La Prensa*, 29 April.
- Hartlyn, Jonathan. 1988. *The Politics of Coalition Rule in Colombia*. Cambridge: Cambridge University Press.
- _____. 2000. E-mail message, 14 August.
- Hathaway, Michael R. 1990. "The Role of Drugs in the U.S.-Panamanian Relationship." In *Operation Just Cause: The U.S. Intervention in Panama*, edited by Bruce W. Watson and Peter G. Tsouras. Boulder: Westview Press.
- Hoskin, Gary. 2000. E-mail message, 14 August.
- Inter-American Development Bank (IADB). IADB Panama programs website (www.IADB.ORG/exr/doc97/apr/lcpanaq.htm).
- International Institute for Democracy and Electoral Assistance (IDEA). 1997. *The International IDEA Handbook of Electoral System Design*. Stockholm, IDEA.
- International Monetary Fund (IMF). 1999. *International Financial Statistics (April 1999)*. Washington: IMF.
- Inter-Parliamentary Union (IPU). PARLINE database (<http://www.ipu.org/parline-e/parlinesearch.asp>)

- _____. "Panama" entry, in *PARLINE* database (www.ipu.org/parline-e/reports/2245.htm).
- Janson Pérez, Brittmarie. 1993. "The Process of Political Protest in Panama, 1968-1989." PhD dissertation, unpublished, The University of Texas at Austin. (Published in Spanish as *En nuestras voces: Panamá protesta, 1968-1989*. Panama: Editorial La Prensa, 1993).
- _____. 1998a. "La dictadura de los partidos," *La Prensa*, 14 January.
- _____. 1998b. "El pueblo luchó y los políticos claudicaron," *La Prensa*, 19 March.
- _____. 1998c. E-mail message, 18 April
- _____. 1998d. E-mail message, 19 April.
- _____. 2000a. "La rosca infernal." *El Panamá América*, 6 January.
- _____. 2000b. "El linchamiento de Mario Miller." *El Panamá América*, 24 February.
- _____. 2000c. E-mail message, 14 April.
- _____. 2000d. E-mail message, 8 May.
- _____. 2000e. "El reinado de la corrupción." *El Panamá América*, 11 July.
- _____. 2000f. E-mail message, 27 November.
- Jones, Mark. 1998. "Explaining the High Level of Party Discipline in the Argentine Congress." Paper presented at the XXI International Congress of the Latin American Studies Association, Chicago, 24-26 September.
- _____. 1998. E-mail message, 19 October.
- _____. 1999. E-mail message, 18 May.
- Katz, Richard. 1980. *A Theory of Parties and Electoral Systems*. Baltimore: Johns Hopkins University Press.
- Koster, Richard M. 2000. E-mail message, 24 October.
- Koster, Richard M. and Sánchez Borbón, Guillermo. 1990. *In the Time of the Tyrants: Panama: 1968-1990*. New York: W.W. Norton.
- Kurian, George Thomas. "Glossary." In George Thomas Kurian, ed., *World Encyclopedia of Parliaments and Chambers*, Vol. 2. Washington, D.C.: Congressional Quarterly Inc., 1998.

- La Prensa*, Panama. Printed and Internet (www.prensa.com) versions.
- Labrut, Michele. *Este es Omar Torrijos*. Panama: The Author, 1982.
- Lakoff, Sanford A. 1996. *Democracy: History, Theory, Practice*. Boulder: Westview Press.
- Latin American Newsletters* wire services, London.
- Latin American Weekly Report*, London.
- Leis, Raúl. 1984. *Radiografía de los partidos*. Panama: Centro de Capacitación Social.
- _____. 1999. "¿Qué hacemos con las partidas circuitales?" *El Panamá América*, 24 February.
- Lewis Galindo, Samuel. 1999. "Las partidas circuitales." *El Panamá América*, 23 March.
- Lijphart, Arend. 1999. *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. New Haven: Yale University Press.
- Linares, Francisco José. 1978. "Democratización de la nación panameña." *La Estrella de Panamá*, 6 October.
- Linz, Juan J. 1978. "Introduction." In *The Breakdown of Democratic Regimes*, edited by Juan J. Linz and Alfred Stepan. Baltimore: Johns Hopkins University Press.
- Linz, Juan J. and Stepan, Alfred, eds. 1978. *The Breakdown of Democratic Regimes*. Baltimore: Johns Hopkins University Press.
- Lipset, Seymour Martin, editor in chief. 1995. *The Encyclopedia of Democracy*. Washington: Congressional Quarterly Inc.
- Loewenberg, Gerhard. 1995. "Legislatures and Parliaments." In *The Encyclopedia of Democracy*, Vol. III, edited by Seymour Martin Lipset. Washington: Congressional Quarterly Inc.
- Loomis, Burdett. 1994. "The Motivations of Legislators." In *Encyclopedia of the American Legislative System*, Vol. I, edited by Joel H. Silbey (editor in chief). New York: Charles Scribner's Sons
- _____. 1998. *The Contemporary Congress*, 2nd ed. New York: St. Martin's Press.
- Madison, James; Hamilton, Alexander; and Jay, John. 1987. *The Federalist Papers*, edited by Isaac Kramnick. Harmondsworth : Penguin.
- Mainwaring, Scott. 1999. *Rethinking Party Systems in the Third Wave of Democratization: The Case of Brazil*. Stanford: Stanford University Press.

- Mainwaring, Scott and Shugart, Matthew Soberg, eds. 1997. *Presidentialism and Democracy in Latin America*. Cambridge: Cambridge University Press.
- Márquez Amado, Guillermo. 1998. E-mail message, 3 September.
- _____. 1999a. E-mail message, 1 March.
- _____. 1999b. E-mail message, 4 May.
- Martínez Peñate, Oscar. 1997. "Los diputados salvadoreños: condiciones y obligaciones." *Estudios Centroamericanos* 581-582 (March-April) 259-280
- Mata Kelly, Rainelda. Opinion piece (untitled in the electronic archive). *La Prensa*, 26 September 1992.
- Mayhew, David. 1974. *Congress: The Electoral Connection*. New Haven and London: Yale University Press.
- McCubbins, Mathew D. and Rosenbluth, Frances M. 1995. "Party Provision for Personal Politics: Dividing the Vote in Japan." In *Structure and Policy in Japan and the United States*, edited by Peter F. Cowhey and Mathew D. McCubbins. Cambridge and New York: Cambridge University Press.
- Mejía Acosta, Andrés. 1999a. "Explaining 'camisetazos': The Logic of Party Switching in the Ecuadorian Congress (1979-1996)." Paper presented at the 57th Annual Meeting of the Midwest Political Science Association, Chicago, Illinois, 15-17 April.
- _____. 1999b. E-mail message, 17 March.
- _____. 1999c. E-mail message, 4 May.
- Méndez Fábrega, Víctor. 2000a. E-mail message, 10 April.
- _____. 2000b. E-mail message, 27 April.
- _____. 2000c. E-mail, 5 May.
- Menéndez Franco, Gonzalo. 1999. Personal conversation, 18 August.
- Merritt, Martha. 1999. Translation of article published in *Argumenty i fakty*, Moscow, 11.
- Mill, John StuArticle 1958 [1861]. *Considerations on Representative Government*. Edited with an Introduction by Currin V. Shields. New York, Liberal Arts Press.
- Mitchell, Brian R. 1998. *International Historical Statistics: The Americas, 1750-1993*. 4th ed. London: Macmillan.

- Miró, Rodrigo. *Sentido y misión de la historia en Panamá*. Panama: Biblioteca Cultural Shell, 1995.
- Molinas Vega, José. 2000. Personal conversation, 16 March.
- Montesquieu, Charles-Louis de Secondat, Baron de la Brède et de. 1966 [1748]. *The Spirit of the Laws*. Translated by Thomas Nugent. New York: Hafner Publishing Company.
- Morgenstern, Scott. 1998. "U.S. Models and Latin American Legislatures." Paper presented at the 1998 Annual Meeting of the American Political Science Association, Boston, 3-6 September.
- Morgenstern, Scott and Nacif, Benito, eds. Forthcoming. *Legislative Politics in Latin America*. Cambridge: Cambridge University Press.
- Morgenstern, Scott; Nielson, Daniel; and Swindle, Stephen. 1998. "The Electoral Disconnection? A Comparative Look at Reelection Rates." Paper presented at the 1998 Annual Meeting of the American Political Science Association, Boston, 3-6 September.
- Morice, Eugenio. 2000a. Personal conversation, 23 February.
- _____. 2000b. "Polito, no esperes justicia." *La Prensa*, 31 March.
- Moscoso, Antonio; Cabezas, Carlos; Aguilera, Jr., Rodolfo, eds. 1945. *Segunda Asamblea Nacional Constituyente de la República Istmeña*. Panama: The Authors.
- Moscote, José Dolores. *El derecho constitucional panameño: antecedentes, doctrinas y soluciones*. Panama: The Star & Herald Company, 1943.
- Mossi, Gabriela. 1999. E-mail message, 18 March.
- Nasi, Carlo. 1999. E-mail message, 4 March.
- O'Donnell, Guillermo. 1994. "Delegative Democracy." *Journal of Democracy* 5:1: 56-69.
- _____. 1996. "Illusions About Consolidation." *Journal of Democracy* 7:2: 34-51.
- _____. 1998a. "Polyarchies and the (Un) Rule of Law in Latin America." Madrid: Instituto Juan March de Estudios e Investigaciones, Working Paper No. 25.
- _____. 1998b. "Horizontal Accountability in New Democracies." *Journal of Democracy* 9.3: 112-126.
- Ornstein, Norman J.; Mann, Thomas E.; Malbin, Michael J.; Schick, Allen; and Bibby, John F. 2000. *Vital Statistics on Congress, 1999-2000*. Washington: The AEI Press.

- Pan American Health Organization (PAHO). 1990. *Health Conditions in the Americas, 1990 Edition*, Vol. 1 Washington: PAHO.
- Pardo, Rosario. 1999a. E-mail message, 28 April.
- _____. 1999b. E-mail message, 18 May.
- _____. 1999b. E-mail message, 3 June.
- Pedreschi, Carlos Bolívar. 1979. *El pensamiento constitucional de Moscote*. Panama: Imprenta Universitaria.
- Pereira Burgos, César. 2000. Personal conversation. 16 June.
- Pereira, Renato. 1979. *Panamá: fuerzas armadas y política*. Panama: Ediciones Nueva Universidad.
- Pérez Jaramillo, Rafael. 1998. "Partidas circuitales." *La Prensa*, 30 October.
- _____. 1999a. E-mail message, 12 March.
- _____. 1999b. E-mail message, 17 March.
- _____. 1999c. E-mail message, 18 March.
- _____. 2000. "Partidas con 'P' de PRD." *El Panamá América*, 11 December.
- Phillipps Collazos, Sharon. 1991. *Labor and Politics in Panama : The Torrijos Years*. Boulder : Westview Press.
- _____. 1997. Personal conversation, 10 August.
- Pippin, Larry L. 1964. *The Remon Era: An Analysis of a Decade of Events in Panama, 1947-1957*. Stanford: Institute of Hispanic-American and Luso-Brazilian Studies.
- Pitkin, Hanna Fenichel. 1967. *The Concept of Representation*. Berkeley: University of California Press.
- Pizzurno, Patricia and Araúz, Celestino Andrés. 1996. *Estudios sobre el Panamá republicano (1903-1989)*. Panama: Manfer.
- Plano, Jack C. and Greenberg, Milton. 1993. *The American Political Dictionary*. 9th edition. Fort Worth: Harcourt Brace College Publishers.
- Priestley, George. *Military Government and Popular Participation in Panama: The Torrijos Regime, 1968-1975*. Boulder: Westview Press, 1986.
- Protest leaflet. 1987.

- Putnam, Robert. 1993. *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton: Princeton University Press.
- Quintero, César. 1967. *Derecho constitucional*. Vol. I. San José: A. Lehmann.
- _____. 1989. *Evolución constitucional de Panamá*. 2nd. ed. Panama: The Author.
- _____. 1999. Personal conversation, 18 August.
- Quintero Jiménez, Santiago. 1994. "Por sus hechos los conoceréis," *La Prensa*, 21 April.
- Quirós, Eduardo. 2000. Personal conversation, 12 February.
- Rae, Douglas W. 1971. *The Political Consequences of Electoral Laws*. New Haven: Yale University Press.
- Real Academia Española de la Lengua. 1984. *Diccionario de la Lengua Española*. Madrid: Real Academia Española.
- República de Panamá. 1906. *Leyes expedidas por la Convención Nacional Constituyente de la República de Panamá en 1904*. Panama: Tipografía El Fanal.
- _____. 1992. "Ley No. 7 de 27 de mayo de 1992, por la cual se reforma la Ley No. 49 de 4 de diciembre de 1984, que dicta el Reglamento Orgánico del Régimen Interno de la Asamblea Legislativa." *Gaceta Oficial*, No. 22.044, 28 May.
- _____. 1997. *Código Electoral*. Gaceta Oficial No. 23.437, 13 December.
- _____. 1998. "Ley No. 16 de 17 de febrero de 1998, por la que se reforma el Texto Unico del Reglamento Orgánico del Régimen Interno de la Asamblea Legislativa." *Gaceta Oficial*, No. 23.486, 19 February.
- _____. Asamblea Legislativa. 1999. *Reglamento orgánico del régimen interno de la Asamblea Legislativa*. Panama: Asamblea Legislativa.
- República de Panamá. Asamblea Nacional de Panamá. 1948. "Resolución por la cual la Asamblea Nacional se declara Asamblea Constituyente." In *Estudios Políticos 1* (Enero-marzo de 1998): 34-36.
- República de Panamá. Asamblea Legislativa. Legislative Assembly website (www.asamblea.gob.pa).
- República de Panamá. Contraloría General de la República. 1987. "Proyectos especiales de los legisladores: resumen del período 1985 a 1987." Report. Panama: Contraloría General de la República, Dirección Nacional de Contabilidad, Departamento de Registro de Presupuesto.

- _____. 1994. "Resumen de compromisos por legislador de las iniciativas parlamentarias: vigencias 1993-1994." Report. Panama: Contraloría General de la República, Dirección Nacional de Contabilidad, Departamento de Registro de Presupuesto.
- _____. 1998a. "Resumen de compromisos por legislador de las iniciativas parlamentarias: vigencias 1995-1998." Report. Panama: Contraloría General de la República, Dirección Nacional de Contabilidad, Departamento de Registro de Presupuesto.
- _____. 1998b. *Informe del Contralor General de la República (1997)*. Panama: Contraloría General de la República.
- _____. 1999a. "Resumen de compromisos por legislador (1999)." Report. Panama: Contraloría General de la República, Dirección de Métodos y Sistemas de Contabilidad, Registro de Presupuesto.
- _____. 1999b. *Informe del Contralor General de la República (1998)*. Panama: Contraloría General de la República.
- _____. 2000. *Informe del Contralor General de la República (1999)*. Panama: Contraloría General de la República.
- República de Panamá. Defensoría del Pueblo de la República de Panamá. 1998. "Informe especial sobre el referéndum constitucional del 30 de agosto de 1998, de la República de Panamá." Defensoría del Pueblo website (www.defensoriadelpueblo.gob.pa).
- _____. 1999. "Informe especial sobre las elecciones generales de dos (2) de mayo de 1999, en la República de Panamá." Defensoría del Pueblo website (www.defensoriadelpueblo.gob.pa).
- República de Panamá. Ministerio de Economía y Finanzas. 2000. "Distribución de ingresos en Panamá." Ministerio de Economía y Finanzas website (www.mef.gob.pa).
- República de Panamá. Ministerio de Relaciones Exteriores. 1999, 2000. Consular Revenue Reports.
- República de Panamá. 1984-1999. Tribunal Electoral. *Estadísticas electorales*, various editions.
- _____. 1996. *La representación proporcional en la legislación electoral panameña*. Panama: Tribunal Electoral.
- _____. 1997. *La reforma electoral de 1997*. Panama: Tribunal Electoral.
- _____. 1999. "Candidatos aceptados para legislador" (computer printout).
- _____. 1999. "Integración de la Asamblea Legislativa." Tribunal Electoral website, (www.tribunal-electoral.gob.pa/elec/elec13-01.html).

Reuters wire services.

Ricord, Humberto E. 1991. *Noriega y Panamá: orgía y aplastamiento de la narcodictadura*. México: The Author.

_____. 1999. Personal conversation, 18 August.

Roemer, Tim. 1999. Letter, 24 May.

Rohter, Larry. 1995. "Some Familiar Faces Return to Power in Panama." *The New York Times*, 9 February, p. A3.

Ropp, Steve C. 1992. "Explaining the Long-Term Maintenance of a Military Regime: Panama before the U.S. Invasion." *World Politics* 44: 222-26

Rudolf, Gloria. 1999. *Panama's Poor: Victims, Agents, and Historymakers*. Gainesville: University Press of Florida.

Sabine, George H. 1973. *A History of Political Theory*. 4th ed., revised by Thomas Landon Thorson. Forth Worth, Texas: Holt, Rinehart and Winston.

Salas Céspedes, Aníbal. 1999. "Demanda para que el Tribunal Electoral, previo cumplimiento de los trámites legales, haga las investigaciones y rectificaciones que nuestro ordenamiento jurídico legal exige, dentro del proceso electoral que se llevó a cabo en el Circuito 8-4, especialmente en las materias reguladas en los títulos VI y VII del Código Electoral y sus reglamentaciones." Suit presented before the Electoral Tribunal, Panama.

Samuels, David J. 1998. "Political Ambition in Brazil, 1945-95: Theory and Evidence." Paper presented at the XXI International Congress of the Latin American Studies Association, Chicago, 24-26 September.

_____. 1999. E-mail message, 13 May.

Sánchez Borbón, Guillermo. 1984. "En pocas palabras," *La Prensa*, 12 April.

_____. 1990. "En pocas palabras," *La Prensa*, 6 February.

_____. 1992. "En pocas palabras," *La Prensa*, 7 October, 2A.

_____. 1993. "Los partidos políticos." In *Las elecciones de 1994: Panamá frente a su destino*, edited by Instituto Latinoamericano de Estudios Avanzados (ILDEA). Panama: ILDEA.

_____. 1994a. Op-ed. *La Prensa*, 28 November.

_____. 1994b. Op-ed. *La Prensa*, 9 October.

- Sánchez González, Salvador. 1998. E-mail, 7 September.
- Silbey, Joel H., editor in chief. 1994. *Encyclopedia of the American Legislative System*. 3 Vols. New York: Charles Scribner's Sons.
- Sepúlveda, Mérida Ruth. 1983. *Harmodio Arias Madrid: el hombre, el estadista y el periodista*. Panama: Editorial Universitaria, 1983.
- Schlesinger, Joseph A. 1966. *Ambition and Politics: Political Careers in the United States*. Chicago: Rand McNally & Co.
- Shields, Currin V. 1958. "Introduction." In *Considerations on Representative Government*, by John Stuart Mill, edited by Currin V. Shields. New York: Liberal Arts Press.
- Shugart, Matthew Soberg and Carey, John M. 1992. *Presidents and Assemblies: Constitutional Design and Electoral Dynamics*. Cambridge: Cambridge University Press.
- Silveira, João Eustáquio da. 1999. Letter, 2 June 1999.
- _____. 1999. E-mail message, 9 June 1999.
- Still, Jonathan. 1981. "Political Equality and Election Systems." *Ethics* 91: 375-394.
- Taagepera, Rein and Shugart, Matthew Soberg. *Seats and Votes: The Effects and Determinants of Electoral Systems*. New Haven: Yale University Press, 1989.
- Taylor, Philip. 1962. *Government and Politics of Uruguay*. New Orleans: Tulane University Press.
- The Economist Intelligence Unit* (http://db.eiu.com/client_access.asp).
- The Miami Herald*, Miami.
- The New Webster Encyclopedic Dictionary of the English Language*. Chicago: Consolidated Book Publishers, 1971.
- The World Bank. 1998. *World Development Indicators, 1998*. CD ROM. Washington: The World Bank.
- Ungo, Carlos. 1999. E-mail message, 25 March.
- United Nations Development Programme (UNDP). 2000. *Human Development Indicators* (www.undp.org/hdr2000/english/book/back1.pdf).
- United Press International (UPI) wire services.
- United States of America. 1993 [1787]. *Constitution*.

- US Department of State. 1972. *Treaties and Other International Agreements of the United States of America, 1776-1949*. Vol. 10. Washington: Government Printing Office.
- _____. 1998. *Panama Country Report on Human Rights Practices for 1997* (www.state.gov/www/global/human_rights/1997_hrp_report/panama.html)
- _____. 2000. *1999 Country Reports on Human Rights Practices: Panama* (www.state.gov/www/global/human_rights/1999_hrp_report/panama.html)
- Valdés Escoffery, Eduardo. 1998a. E-mail message, 20 March.
- _____. 1998b. E-mail message, 21 November.
- Vargas Cullel, Jorge. 1999. Letter, 12 May.
- Vargas Llosa, Mario. 2000. "La herencia maldita." *El País* (Madrid), 5 October.
- Vásquez, Juan Materno. 1989. *Mi amigo Omar Torrijos*. Panama: Ediciones Olga Elena.
- Velásquez, Osvaldo. 1993. *Historia de una dictadura: de Torrijos a Noriega*. Panama: The Author.
- Walker, Ignacio. Interview, 21 April 1999.
- Watson, Bruce W. and Tsouras, Peter G. 1990. *Operation Just Cause: The U.S. Intervention in Panama*. Boulder: Westview Press.
- Weber, Max. 1978 [1922]. *Economy and Society: An Outline of Interpretive Sociology*, edited by Guenther Roth and Claus Wittich. Berkeley: University of California Press.
- _____. 1946. *From Max Weber: Essays in Sociology*. Translated, edited, and with an Introduction by H.H. Gerth and C. Wright Mills. New York: Oxford University Press.
- _____. 1978 [1918]. "Parliament and Government in a Reconstructed Germany (A Contribution to the Political Critique of Officialdom and Party Politics)." In Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, edited by Guenther Roth and Claus Wittich. Berkeley: University of California Press.
- _____. 1946 [1919]. "Politics as a Vocation." Max Weber, *From Max Weber: Essays in Sociology*, translated and edited by H.H. Gerth and C. Wright Mills. New York: Oxford University Press.
- Weeden, Alvin. 2000. Personal conversation, 7 July.
- Wong, Edsel. 2001. "La verdad es sólo una." *El Panamá América*, 19 January.

Yániz de Arias, Teresita. 2000. "Clientelismo y clientes." *La Prensa*, 6 December.

Zimbalist, Andrew and Weeks, John. 1991. *Panama at the Crossroads: Economic Development and Political Change in the Twentieth Century*. Berkeley: University of California Press.

Zúñiga, Carlos Iván. 1980. *El proceso Guizado (un alegato para la historia)*. 2nd ed. Panama: Imprenta Bárcenas.