

**TAX NEGOTIATIONS, STATE BUILDING, AND INEQUALITY:
Guatemala, Weak by Design?**

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TAXES, STATE BUILDING, AND INEQUALITY: Guatemala, Weak by Design?

There are nevertheless ways democracy can regain control over capitalism and ensure that the general interest takes precedence over private interests while preserving economic openness and avoiding protectionist and nationalist reactions —Thomas Piketty, 2014:1.

Summary

This thesis analyzes the case of the failed tax reforms in Guatemala, from 2006 to 2012, and contributes to understanding the power dynamics which have prevented the implementation of a more progressive tax system. This research explores how the structure and agency of the economic elites interplay to create institutions that shape exclusive tax negotiation processes and unequal tax decisions. More specifically, this research explores the formal and informal political institutions (institutionalized sources of power) which condition the tax negotiation processes in different spaces for tax bargaining (negotiation arenas), and its outcomes (tax policies)—while permanently excluding civil society from participating in tax negotiations.

This thesis explores the structural and instrumental sources of power that support the veto capacity of the economic elites. Using power resource theory, as proposed by Tasha Fairfield (2014 & 2015), complemented with a historical-institutional approach and a critical political economy perspective, this research contributes to explaining the way political institutions and decision-making mechanisms operate to preserve the privileges of small groups while preventing significant progressive changes to the tax system. The main sources of veto power identified refer to the relationships of the economic elites with the decision makers and elected politicians, which have been institutionalized through formal and informal means. Additionally, these mechanisms for state-elite interaction are sustained by a series of institutionalized resources such as elite cohesion, tax expertise, media access, and violence, which are rooted in economic elites' structural (economic) power and therefore self-reinforce sources of power.

However, different from Fairfield's approach, this thesis also explores the institutional mechanisms that limit or veto the participation of other social forces in tax negotiations. Moreover, it avoids the general assumption that more taxation necessarily leads to representation. Building on the insights of Will Prichard (2015), based on evidence from Sub-Saharan African countries, this thesis explores when and whether tax policies improve democracy (or not). In context of extreme state fragility where institutions of liberal democracy are weak, political will, economic resources, and violence are fundamental variables to explain tax progressivity or lack of it. Most importantly, non-democratic institutions appear as fundamental mechanisms framing and conditioning tax decisions. On that basis, I argue that the Guatemalan state is weak by design.

Acknowledgements

Several years ago, I started to explore fiscal policies and tax exemptions in Guatemala. I had learned, through studying the Guatemalan political parties, that “following the money” would allow me to understand policymaking. At that time, very few publications on the topic were available. As my doctoral research project took shape, more publications came to light, reinforcing my perception that the fiscal issue needed more attention to explain inequality. I would like to thank everyone who believed in my research project, and all those whose work, publications, support, and comments made my research process easier.

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Acronyms

CACIF	Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (<i>Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras</i>)
CNAP	National Council for the Accomplishment of the Peace Agreements (<i>Consejo Nacional para el Cumplimiento de Los Acuerdos de Paz</i>)
FLACSO	Latin American Faculty of Social Sciences (Facultad Latinoamericana de Ciencias Sociales)
FRG	Political Party: <i>Frente Republicano Nacional</i>
GANNA	Political Party: <i>Gran Alianza Nacional</i>
GPFDD	Group for the Promotion of the Fiscal Dialogue (<i>Grupo Promotor del Dialogo Fiscal</i>)
ICEFI	Central American Institute of Fiscal Studies (<i>Instituto Centroamericano de Estudios Fiscales</i>)
IDRC	International Development Research Centre
IEEMA	Tax to Mercantile and Agricultural Companies (Decree 99-98) (<i>Impuesto a las Empresas Mercantiles y Agropecuarias</i>)
IEETAAP	Extraordinary and Temporal Tax to Support the Peace Agreements (Decree 19-04) (<i>Impuesto extraordinario y temporal de apoyo a los Acuerdos de Paz</i>)
IFIs	International Financial Institutions
ISO	Solidarity Tax (Decree 73-2008) (<i>Impuesto de Solidaridad</i>)
MINUGUA	United Nations Verification Mission in Guatemala
PAN	Political Party: <i>Partido de Avanzada Nacional</i>
PP	Political Party: <i>Partido Patriota</i>
SAT	Tax Administration Superintendence (<i>Superintendencia de Administración Tributaria</i>)
UNE	Political Party: <i>Unidad Nacional de la Esperanza</i>
URNG	Political Party: <i>Unidad Revolucionaria Guatemalteca</i>

CHAPTER 1: INTRODUCTION

The spirit of a people, its cultural level, its social structure, the deeds its policy may prepare—all this and more is written in its fiscal history, stripped of all phrases. He who knows how to listen to its message here discerns the thunder of world history more clearly than anywhere else —Joseph Schumpeter [1918] 1991.

Taxation is not a technical matter. It is pre-eminently a political and philosophical issue, perhaps the most important of all political issues. Without taxes, society has no common destiny, and collective action is impossible...At the heart of every major political upheaval lies a fiscal revolution —Thomas Piketty, 2014:493.

According to current historical institutional theories of taxation, taxes express and result from national state-society relations and negotiation processes. Although this conclusion derives from well-studied old Western democracies, it is grounded in key theoretical assumptions about how state-society negotiations occur, which do not fully explain the complex realities of unequal or in-existent tax negotiations in developing and fragile democracies. For example, most of the documented evidence on Latin American countries highlight the existence of exclusive tax negotiations among elites, particularly between political and economic groups of power (e.g., Sanchez, 2009; Schneider, 2012; Fairfield, 2014; Ondetti, 2018). These power dynamics are true even when tax negotiations occur in supposedly democratic regimes. Why, then, is civil society generally absent from tax bargaining processes, at least in Latin America and the Caribbean? What are the mechanisms that limit social participation and reproduce inequality through unfair tax policies? How are tax negotiations different in poor and fragile democracies?

This thesis analyzes the case of the failed tax reforms in Guatemala, particularly from 2006 to 2012, and contributes to understanding the power dynamics which have prevented the implementation of a more progressive tax system.¹ This research explores how agency and

¹ A progressive tax is understood here as a tax whose rate is higher for some individuals than for others: those who earn more, own more, or consume more. A progressive tax is the opposite of a regressive tax, whose rate “decreases for richer individuals” due to regressive rates, exemptions, “legal” avoidance, or “illegal” evasion (Piketty, 2014:495). A progressive system implies a progressive tax structure and, as proposed by Thomas Piketty, “the major twentieth-

structure interplay to create institutions that shape tax bargaining processes and tax decisions. More specifically, this thesis explores the formal and informal political institutions which condition the tax negotiation processes, the spaces for tax bargaining (negotiation arenas), and its outcomes (tax policies). It explains how the lack of democratic decision-making institutions has favoured the interests of traditional economic elites in Guatemala, provided them strong veto mechanisms and limited the channels for social participation. In other words, institutionalized decision-making spaces permanently exclude civil society from participating in tax negotiations.

From a power resources approach, this thesis explores the structural and instrumental sources of power that support the veto capacity of the most powerful groups. Power resource theory, as proposed by Tasha Fairfield (2014 & 2015), is complemented with a historical-institutional approach and a critical political economy perspective, as discussed in the theoretical chapter. This approach contributes to explaining the way political institutions and decision-making mechanisms operate to preserve the privileges of small groups, while preventing significant progressive changes to the tax system. The main sources of veto power identified refer to the relationships of the economic elites with the decision makers and elected politicians, which have been institutionalized through formal and informal institutions. Additionally, these mechanisms for state-elite interaction are sustained by a series of institutionalized resources such as elite cohesion, tax expertise, money, media access, and violence, which provide stable and self-reinforcing sources of veto power to the economic elites.

As Bräutigam, Fjeldstad, and Moore (2008) argue, taxation is fundamental in “building and sustaining the power of states” in economic and political terms. Taxes are the mechanism

century innovation in taxation was the creation and development of the progressive income tax. This institution... played a key role in the reduction of inequality in the last century” (Piketty, 2014:493).

through which economic and political spheres join and interlock, by allowing the state to access private economic resources. On the one hand, taxation provides the resources for the basic functioning and existence of the state. On the other, taxes allow states to accomplish their specific goals, such as economic, developmental, industrial, or social policies (Bräutigam et al. 2008). At a more ideological and moral level, “taxation is crucial in determining what is valued in society—it does not just reflect value that is otherwise fixed outside of it” (Sugin, 2011:247). Fundamental values such as private property, education, childcare, and maternity, among many others, may be incentivized or disincentivized through tax policies. Negative values such as inequality, racism, sexism, and the patriarchy can also be supported through tax rules (e.g., Mccaffery, 2009). In sum, taxes shape and are shaped by state-society relations, and this mostly depends on how states and societies “negotiate (or fail to negotiate) revenue rising” for the state (Bräutigam et al. 2008:1–2).

Contributing to explore the state-society links, Wilson Prichard’s recent work on Sub-Saharan Africa (2015) concludes that taxation and democracy are strongly correlated; however, his findings, as he explains, do not explain causality. They open the door to several hypotheses, such as: that taxation improves state-society relations; that democratic systems have the possibility of raising more taxes by having a better state-society negotiation mechanism; or that democracy and tax revenues reinforce each other. As Prichard’s case studies show, tax policies do not improve democracy unless they are intentionally constructed to achieve that objective (Prichard, 2015).

The institutional literature on fiscal policy also proposes that taxes express the nature of any social contract and shape state-society interactions (Bräutigam *et al.* 2008; Prichard, 2015). Some scholars claim that this interaction contributes to strengthening governance by promoting state responsiveness and accountability toward the taxpayers (Prichard, 2015). However, Prichard’s argument also underscores the importance of political will: democracy is only advanced

when political elites decide to build it - and social participation also appears as a key element incentivizing those political decisions. This thesis explores whether these findings on political will and stakeholders' agency can contribute to explaining the Guatemalan case and how they interact with other structural and institutional sources of power.

It is important to remember that real transformations of the state are difficult to achieve because they challenge existing political and economic arrangements. Some good examples that document this complex argument come from a literature exploring state-building processes in Eastern Europe and former communist states. For example, in her book on state-building in that region, Verena Fritz (2007) argues that the “timely” creation of democratic political institutions, under more participatory circumstances and without interference from the mafia or economic oligarchies, contributed to the possibility of implementing more effective state-building policies. She analyzes the implementation of tax reforms as one of the most important decisions in state-building (Fritz, 2007), highlighting the weight of pre-existent institutions and path-dependence.

Therefore, the point of departure to build effective tax institutions is strongly determined by *a priori* mechanisms of participation. For example, different from the classic idea that taxation leads to representation, the Swedish economist Knut Wicksell noticed in his *Inquiries in Public Finance* (1896)² that when political elites build the rules to tax the citizens of a country, they will generally design the tax burden to lean towards the most “disadvantaged” populations. As such, the existence of democratic spaces where all social forces are represented in the decision-making

² The original name of the book is *Finanztheoretische Untersuchungen* (Inquiries in Public Finance), and only the second chapter has been translated into English (*A New Principle of Just Taxation*) in Musgrave and Peacock's *Classics of the Theory of Public Finance* (1958). The relative neglect of *Finanztheoretische Untersuchungen* shows a lack of interest in the public matters (*res publica*) vs. the market issues. While Wicksell's *Value, Capital and Rent and Interest and Prices* deal with the functioning of capital markets, *Finanztheoretische Untersuchungen* focuses on the organization and functioning of the state (Blankart and Fasten, 2011:133).

processes is necessary to build more democratic and fair systems³ (Blankart and Fasten, 2011:133). Despite this recognition of power inequalities and their policy impacts, the discussion about inequality and tax justice in developing countries has been dominated by economic perspectives and elitist “technical” discourses until very recently, and the important recognition of social participation is just starting to emerge, as discussed in the following pages.

The full literature review in chapter 2 of this thesis concludes that despite the recent efforts of scholars to avoid limited Western approaches when studying taxation in “developing countries,” many biased premises endure. These Western biases, such as the assumption of the existence of autonomous and rational states with democratic institutions, reduce the explanatory power of their theories, leaving “outlier” countries such as Guatemala unexplained. It is necessary to understand the political and economic power dynamics and the way they are institutionalized in any given country to avoid such assumptions. States are not always rational, nor autonomous from economic or social forces. Similarly, democratic mechanisms are not always in place to allow open state-society interactions (for example, when the state and/or elites use violence to shape outcomes). In sum, taxation can exist without representation.

Among the studies on taxation in Latin American countries, a common characteristic is the lack of problematization about the generally low rates of social participation. Even when scholars recognize the unequal power relations between the society and the economic elites (e.g., Schneider,

³ According to Wicksell, the most important ground of conservatism in Sweden was the fact that three-quarters of all male citizens were not enfranchised. Thus, the distribution of representatives was markedly skewed towards the rich and very rich. They decided on the taxes which had to be paid by both the rich and the disenfranchised poor. Wicksell criticized the fact that when, for example, the issue was on financing a new vessel for the navy, the enfranchised rich were in a position to vote “yes” in their interest by simultaneously shifting the burden of taxation on the poor. Thus, taxation of nineteenth-century Sweden can be seen as a result of the restrictiveness of the suffrage (Blankart and Fasten p. 133). “Wicksell made the important point that just taxation is less a problem of norms, as could be derived from the ability to pay principle, but a problem of the organization of the collective decision process” (Blankart and Fasten: 2011:139).

2014; Fairfield, 2015; Ondetti, 2018), they generally fail to explain the mechanisms that prevent democratic participation or those who favour successful social tax demands when democratic conditions exist (a good exemption is the case of Chile, studied by Fairfield, 2015).

Although tax conflicts can be common in any regime, inclusive and democratic tax negotiations do not exist in every formal democracy. Social participation is also conditioned by the history of violence and repression as well as by the institutions framing the space to facilitate or limit those tax negotiations. For example, it is not a coincidence that Will Prichard's (2015:3) findings on Sub-Saharan Africa highlight that "conflicts over taxation can emerge as an important spur to broader governance gains." As he proposes "relatively explicit forms of tax bargaining have been more likely when governments have faced significant revenue pressure, when taxpayers have enjoyed significant capacity for both collective action and tax resistance, *when institutions have existed to facilitate bargaining between taxpayers and governments* [emphasis added] and when taxes have been comparatively politically salient" (Prichard, 2015:34).

This thesis explores the failed tax negotiations of the Guatemalan society, which have resulted from (and perpetuated) unequal state-society relations. This research focuses on state-society tax negotiations, particularly through formal political institutions. This approach will help explain why the Guatemalan government, with the smallest state and lowest tax revenue rates in Latin America, has been unable to pass any comprehensive tax reforms since 1985. We will see how non-democratic institutional spaces shape and reproduce the distribution of power in society, how they work as barriers protecting the status quo, and prevent more progressive income redistribution measures. In sum, the thesis will document and explain path dependency at work, where the state remains weak and with few resources by design.

As such, this thesis contributes to the new and growing literature on taxes and development, more specifically to the discussions on equitable taxation in developing countries (e.g., ICTD and ONU-WIDER publications). Additionally, it echoes the most recent approaches of Mick Moore and Prichard (November 2017), who question the prescriptions provided by multilateral organizations for low-income countries, recommending the collection of more tax revenues (at certain prescribed levels, i.e., 15% of 17% of GDP). Besides the work of the International Financial Institutions (IFIs) raising concerns about equity and social policies, in recent years, there has been a consensus (see the Addis Ababa Action Agenda and Tax Initiative, 2015) about the importance of raising and increasing tax burdens in “developing” countries. Moore and Prichard acknowledge that “there are risks in emphasizing increasing revenue at the expense of other objectives. Governments also need to be concerned with questions of equity, efficiency, trust and reciprocity, among others” (Moore & Prichard November 2017:3). The thesis documents the challenges faced by low-income and fragile democracies such as Guatemala, where political obstacles to reform institutions are unusually high in the tax area.

Finally, this thesis also attempts to contribute to the growing literature advocating for the need to include more broad and social participation (e.g., Prichard 2015; ECLAC/CEPAL and IDB publications). Adapting the terms of recent literature on developmental states to the discussion of fiscal matters, we will see how more social participation could mean “expanded embeddedness” or even “disembeddedness” (e.g., Williams, 2014; Evans, 2014; Carroll & Jarvis, 2017), namely a system that better reflects the needs of society, and less the dictums of the market and capital.⁴ In addition, I argue that participation is needed, not only on the side of promoting government social

⁴ As discussed in chapter 2, the term embeddedness derives from Karl Polanyi’s theory (1944; Polanyi, Arensberg, and Pearson 1957). See also Ruggie (1982) and Granovetter (1985).

expenses and social policies, but from building the tax agenda to negotiating its approval. This kind of informed social participation needs to surpass the misconception (and institutionalized mechanism of exclusion) that tax negotiations are too difficult and too technical for common citizens to participate (acknowledging the real need for more fiscal literacy—not just “expertise”).

In broad theoretical terms, this thesis proposes that in present weak democracies with fragile institutions, taxation improves state-society relations only when taxation provides some benefits to the taxpayer—preferable when it is just, progressive, and accountable. A progressive tax system requires pre-existent, inclusive state-society negotiations and social (rational) acceptance (commitment to paying taxes). This means that democratic mechanisms for broad social participation in tax negotiations are fundamental elements to the creation and implementation of progressive, just, and efficient tax institutions. Ultimately, the negotiation and implementation of progressive taxes reflect agent-institution dynamics that modify existing economic, political, and social structures, as explored in these pages.

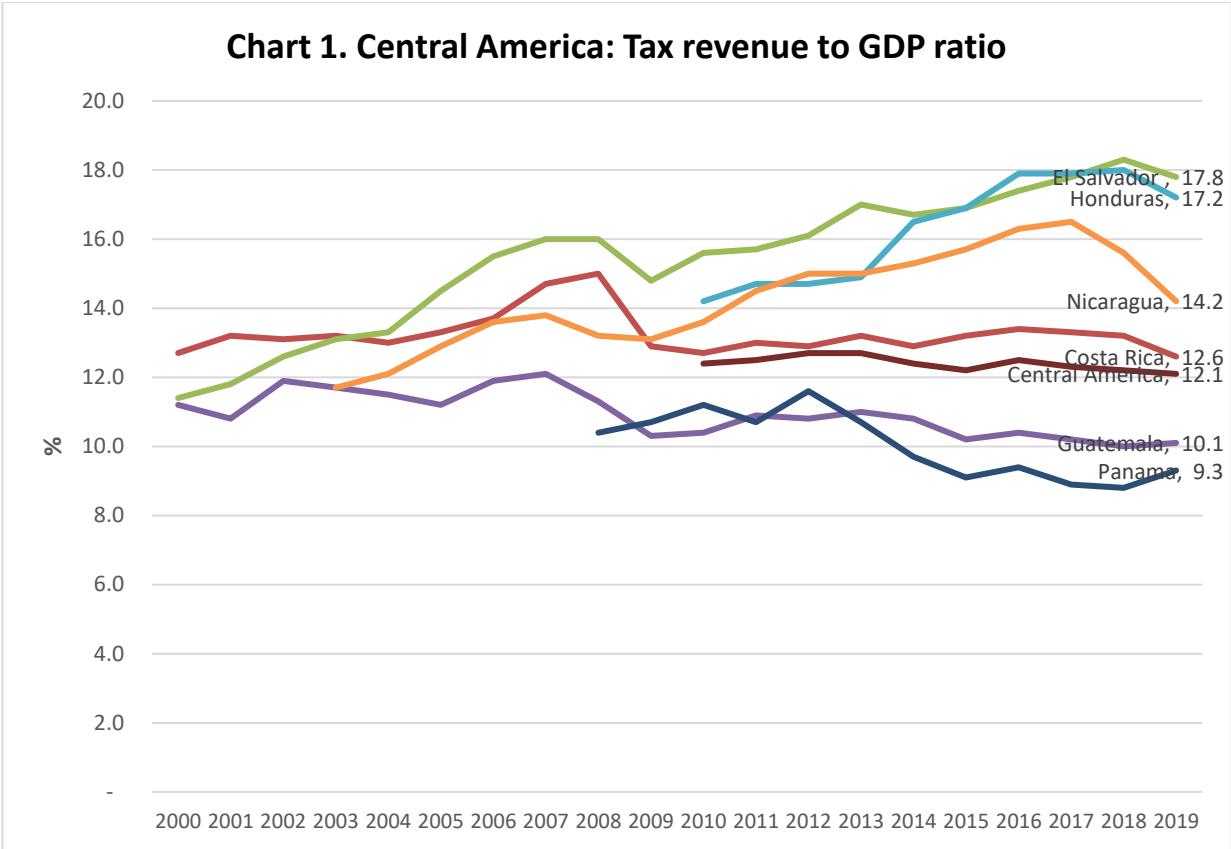
Case Rationale: Guatemala in the Region

The failed fiscal reforms in Guatemala are a paradigmatic case in Latin America, to understand how state-society interactions shape tax institutions and perpetuate inequality. Guatemala is the third poorest country in Central America and the most unequal country in the region (surpassing Brazil’s inequality after taxes and social transfers), with a Gini coefficient of 0.527 (Cabrera, Lustig & Moran, 2014:16).⁵ This country is one of the most fragile states in Latin America, according to different indexes and ranking methods (see Altman and Luna, 2012: 535).

⁵ In Guatemala, there are 260 people whose wealth equals 23 times the public health budget, 21 times the public education budget, and 56% of the National GDP (Oxfam, 2018).

The most recent data shows that, in this Central American country, poverty rates have increased during the last years, in opposition to the decreasing poverty trends in most Latin American countries. More precisely, the 2014 National Survey on Life Conditions in Guatemala (ENCOVI, 2014) shows that 59.3% of the total population lives in poverty, while 23.4% live in extreme poverty conditions. These statistics show that living conditions have worsened for Guatemalans when contrasted to the poverty and extreme poverty rates of 2011, at 53.7% and 13.1% respectively (ENCOVI, 2011; see also ICEFI, 2017). Furthermore, with an indigenous (mainly Mayan) population of more than 40% of a total of 16.2 million inhabitants in 2015 (INE), “the indigenous population is more than twice as likely of being poor than the nonindigenous group” (Cabrera, Lustig & Moran 2014:16).

As the most populated country in Central America, Guatemala also possesses the smallest state per capita, as it has the lowest tax collection rate in the sub-region and the whole Latin American region. Guatemala is one of only two countries (with Panama) where tax amendments enacted between 2009 and 2013 have actually reduced its tax revenues as a percentage of GDP.



Data source: ICEFI, 2019 [<http://icefi.org/observatorio-estadistico-fiscal/cifras-fiscales>]

According to ECLAC, in both Guatemala and Panama, tax revenue decreased by about 0.3 GDP percentage points for 2014, to 10.9% in Guatemala and 9.8% in Panama (as a percentage of GDP, excluding social security contributions). However, Guatemala’s tax revenue (and Panama’s) has continued to decrease, as shown in chart 1, at a level of 10% for 2018. In contrast, all the Latin American countries that approved tax amendments between 2009 and 2013 have increased their tax burden—comparing 2014 data to the level before the reforms (ECLAC-AECID, 2016:45–46).

This comparison situates Guatemala and Panama as the countries with the lowest tax revenues in the region. However, the main difference between these two countries is that taxes represent only 72.7% of total revenues for Panama, which also benefits from other important non-tax sources related to the interoceanic canal services and infrastructure. As a result, Panama’s tax

system is one of the most progressive in the region (with 52.9% of the tax revenue corresponding to direct taxes and 47.1% to indirect taxes). Not surprisingly, in Panama, the levels of Human Development Index and revenue distribution have been improving during the last few years and are now similar to those of Costa Rica (HDI 0.78 and Gini Index 0.48), (see ICEFI 2017).

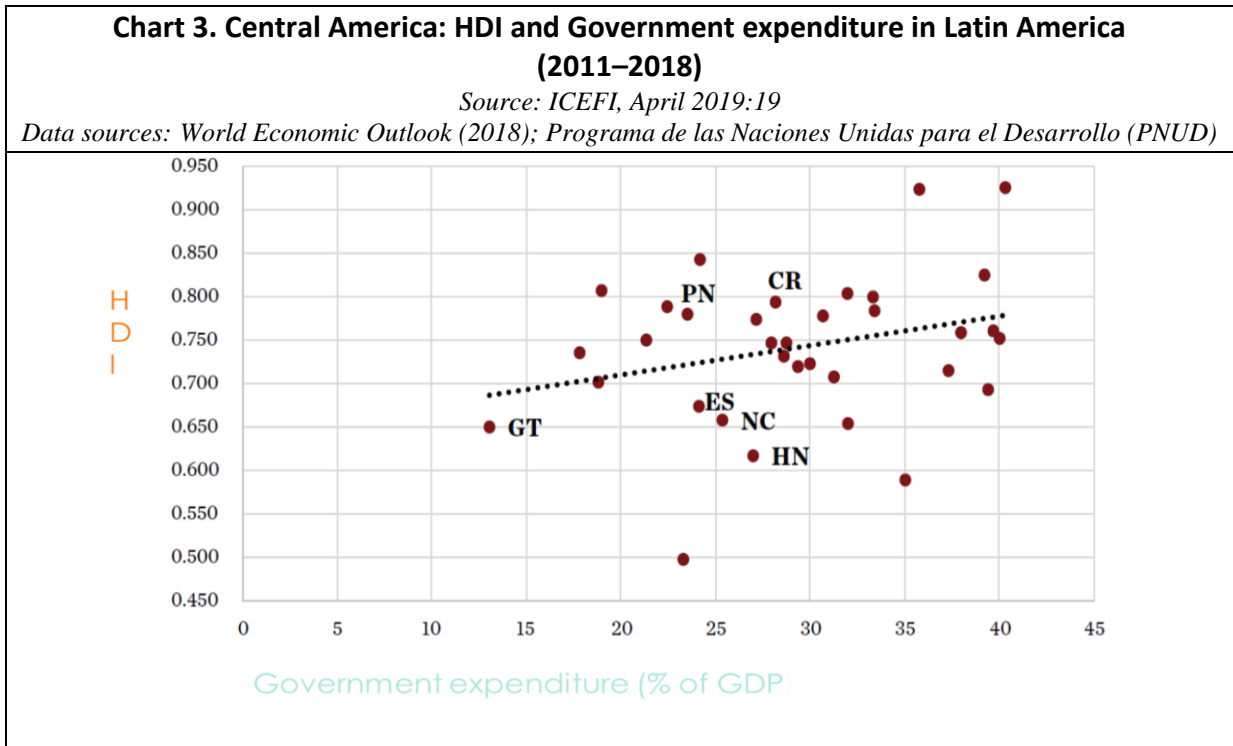
Chart 2: GDP, Purchasing Power Parity (US\$)	
Country Name	2018
Haiti	\$20,135,436,341
Nicaragua	\$37,717,217,525
Honduras	\$55,707,592,843
El Salvador	\$56,609,407,940
Costa Rica	\$98,801,203,452
Bolivia	\$100,661,209,147
Panama	\$132,966,634,973
Guatemala	\$149,287,012,257

Data source: World Bank Statistics Webpage

Furthermore, on top of reducing their tax burden—in contrast to what has happened in the rest of the Latin American region—Guatemalan elites have transformed their tax system into a more regressive one (ECLAC-AECID, 2016:45–46). As explained in this thesis, Guatemala’s tax burden rests on regressive taxes on goods and services and regressive direct taxes. The direct tax system is affected by above-average tax concessions (such as exemptions and exonerations, mostly for the rich) and tax avoidance. Tax concessions and avoidance rates represent more than double the total Guatemalan state expenditures on public health, food security, and education, according to estimates by the Central American Institute of Fiscal Studies (ICEFI) (CERS/ICEFI, 2009: 91). Indirect taxes have also diminished due to inefficient rules and controls after the 2012 reforms.

Guatemala is the smallest state in the region due to its low tax collection and its minimal state expenditure, especially on social policies. This other side of the coin, social policies, is not

explored in this thesis; however, it is briefly mentioned here to provide a sense of the size of the Guatemalan state and the challenges ahead. For example, according to chart 3, Guatemala (GT) appears as one of the countries with the lowest HDI ranking in Central America, only surpassed by Honduras (HN). Guatemala is also the state with the lowest government expenditure. In terms of social policies, Cornia et al. highlight the role of progressive and equitable social policies of left-wing governments elected during the 2000 decade to reduce poverty and inequality (e.g., in Ecuador, Chile, and El Salvador; see Cornia, 2014). Luis López-Calva and Nora Lustig explain the importance of welfare and wage improvements (specifically a decrease in the earnings gap between skilled and low-skilled workers in Brazil, Mexico, Argentina, and Peru) in their book *Declining Inequality in Latin America* (see López-Calva and Lustig; 2010). Guatemala’s poverty and inequality numbers contrast with those regional trends.



Lustig et al. have also demonstrated that redistributive social policies can be complemented, offset, or neutralized by tax policies (Lustig, Pessino, & Scott, 2014). Martorano (2016), Cornia et al. (2011), and Gómez-Sabaíni et al. (2016) note that *taxation* is a fundamental (and often ignored) explanatory aspect of the recent performance of Latin America: “Indeed, inequality started to decrease when tax revenue steadily increased... the ratio of tax revenue on the gross domestic product (tax/GDP) increased by 3 points over the period 2002–10” (Martorano 2016:3). Some academic works on taxes and inequality in Latin America conclude that taxation has a modest, though sometimes regressive impact on income distribution (Hanni et al. 2015) because of the neutral tax system and the poor performance in collecting revenue (Goñi et al. 2008 & 2011). Yet tax levels and the type of taxes emphasized, are important in terms of progressivity (Gómez-Sabaíni et al., 2016). For example, Cornia et al. (2011) show that the greater reliance on direct taxes during the recent decade has contributed to the reduction of inequality on average by 0.4–0.8 points (chapter 2 explores the relevance of the tax structure in explaining inequality).

In terms of direct taxation, all the Latin American countries analyzed by ECLAC showed an increase in their direct tax revenues, except Panama (ECLAC-AECID, 2016). Most countries focused their reforms on income tax, although in Argentina and Colombia revenue from property taxes showed an important growth. Various amendments affected income tax rates, and others expanded the tax bases, generating additional revenue (ECLAC-AECID, 2016: 47). However, in Guatemala, El Salvador, Honduras, Panama, and the Dominican Republic, one important objective of the direct tax reforms was reducing loopholes such as limitation of tax deductions and elimination of certain exemptions and other tax expenses (ECLAC-AECID, 2016:49). In this sense, Guatemala’s reforms, studied in this document, seem attuned with those of the region. However, those were precisely the most conflicted and resisted changes during the tax

negotiations. According to Bruno Martorano, the increasing contribution of direct taxes has promoted the progressivity and distributivity of taxation in Latin America (Martorano, 2016:11; to contrast OECD and LA countries see also Modica et al., 2018). However, as shown by this research, Guatemala’s income tax rules have become more regressive overall after the partial and failed tax reforms documented in this thesis.

Table 1: Central America: Tax Structure — Central Government
(Percentages; direct and indirect taxes) Source: ICEFI-Observatorio Estadístico Fiscal, web.

Year	Costa Rica		El Salvador		Guatemala		Honduras		Nicaragua		Panamá	
	Direct	Indirect	Direct	Indirect	Direct	Indirect	Direct	Indirect	Direct	Indirect	Direct	Indirect
2000	25,4	74,6	31,9	68,1	22,1	77,9						
2001	26,1	73,9	29,8	70,2	24,3	75,7						
2002	26,7	73,3	28,7	71,3	26,4	73,6						
2003	28,3	71,7	29,8	70,2	25,9	74,1			26,1	73,9		
2004	27,9	72,1	30,2	69,8	24,5	75,5			28,3	71,7		
2005	28,1	71,9	32,1	67,9	26,0	74,0			28,6	71,4		
2006	27,3	72,7	32,4	67,6	28,1	71,9			29,5	70,5		
2007	28,8	71,2	35,0	65,0	27,5	72,5			30,4	69,6		
2008	31,5	68,5	35,4	64,6	29,1	70,9			32,3	67,7	51,7	48,3
2009	33,8	66,2	36,9	63,1	30,5	69,5			35,6	64,4	55,3	44,7
2010	33,9	66,1	35,1	64,9	29,7	70,3	31,8	68,2	33,2	66,8	51,3	48,7
2011	33,1	66,9	35,8	64,2	31,5	68,5	35,0	65,0	35,7	64,3	45,9	54,1
2012	33,9	66,1	37,0	63,0	31,4	68,6	33,6	66,4	36,0	64,0	52,8	47,2
2013	35,5	64,5	40,0	60,0	34,6	65,4	35,4	64,6	36,5	63,5	53,9	46,1
2014	35,9	64,1	41,0	59,0	36,2	63,8	31,8	68,2	38,2	61,8	51,1	48,9
2015	37,0	63,0	40,0	60,0	35,3	64,7	32,4	67,6	39,4	60,6	50,8	49,2
2016	38,0	62,0	40,4	59,6	38,1	61,9	33,9	66,1	40,6	59,4	52,3	47,7
2017	39,7	60,3	39,9	60,1	36,6	63,4	34,8	65,2	41,6	58,4	53,1	46,9
2018	41,7	58,3	39,4	60,6	35,6	64,4	35,5	64,5	45,3	54,7	56,2	43,8
2019	42,2	57,8	39,2	60,8	34,9	65,1	35,8	64,2	46,4	53,6	51,2	48,8

Despite the importance of quantitative and statistical data showing moderate relative improvements in tax collection, the power dynamics and social realities surrounding the Guatemalan case allow for exploring the links between democratic institutions, taxation, and inequality, thus impacting absolute results. This doctoral thesis provides a closer look into this paradigmatic case to understand its particularities. The research strategy, discussed in chapter 3, is

based on in-depth empirical investigation of a case, which has been chosen, delimited, conceptualized, and analyzed empirically to develop theoretical explanations (see King, Keohane and Verba, 1994; Ragin 2000; Vennesson, 2008).

An In-depth Case Study: Structure and Content

In March 2012, during the first 100 days of General Otto Pérez's newly elected government, a comprehensive tax bill was finally approved. However, after only a few months, many of its key articles were modified or reversed by different means and mechanisms, in response to pressure from elite stakeholders. These actions resulted in a complex, incomplete law, arguably more regressive than the original proposal. The following chapters describe the details of the political negotiations undertaken during three different governments to create and approve this new law, and the resistance of economic elites, which marked the whole process from its conception until the final approval and reversal. The tax-related negotiations encompass four chronological periods. First, the creation and negotiation of the tax proposal (agenda setting) by the Group for the Promotion of the Fiscal Dialogue (GPDF) from 2006 to 2007, under the right-wing government of Oscar Berger (explored in chapter 4). Second, the creation of the tax bill, negotiation and failure of its approval during the centre-left-wing government of Alvaro Colom from 2008 to 2011 (chapter 5). Third, the rapid changes and renewed negotiations undertaken during the first 100 days of the *Patriota* party government (2012–2015), from the last month of its political campaign (November 2011) to March 2012. Fourth, the reversal and overruling of several chapters of the new law from 2012 to 2013 (chapter 6).

As discussed in the methodological chapter (3), this thesis contrasts four different negotiation periods pertaining to one tax reform process, from its conception to its approval and final reversal. During each of these periods, different decision-making arenas are analyzed, namely

the Executive branch and the cabinet, the Legislative branch, as well as other specific spaces of negotiation, such as the GPF. Additionally, the role of different stakeholders is carefully documented: the government (the president and its cabinet and the legislators), the political parties, the private sector, civil society, and other stakeholders, such as the IFIs. The variables observed to compare each period of negotiations, correspond to the concepts of structural and instrumental power as defined by Tasha Fairfield (2015). The methodological chapter also proposes a comparative chart which includes, adapts, and expands on some of the variables proposed by that author. Chapter 7 presents the comparative-longitudinal analysis and the conclusions.

Chapter 2 presents the full review of the relevant theoretical literature. Chapter 3 explains my theoretical and conceptual framework, as well as the methodology used to answer the research questions. This research is guided by several questions, discussed in chapter 3, which explore to what extent, in Guatemala, tax institutions are mechanisms that institutionalize specific (unequal) state-society relations of power, notably by reproducing patterns of exclusion and impunity. More specifically, this thesis explores how elite and wider state-society negotiations (and the lack of social participation) have shaped the Guatemalan tax system, especially from 2006 to 2012.

Non-democratic tax negotiations shape unequal tax institutions, which impact the distribution (and redistribution) of resources in any society (i.e., economic power). Ultimately, in a self-reinforced causality, taxes and economic resources also influence the existence of democratic institutions and the quality of social participation. Consequently, tax bargaining processes shape different types of interactions between the state and the different groups in society—such as economic elites, women, or indigenous peoples—by establishing patterns of domination and exclusion, institutionalizing them through specific types of (formal and informal) arrangements. In other words, taxes are shaped by, but also contribute to, shaping political,

economic, and social relations—providing a material link between the three spheres. Democratizing tax policy discussions and decision-making may offer an entry point to transform the political-economic reality of fragile democracies and unequal societies such as Guatemala.

CHAPTER 2: THEORETICAL DEBATES ON TAXATION, STATE-BUILDING, AND STATE-SOCIETY NEGOTIATIONS

If the state does not succeed in keeping the dysfunctional side-effects of the capitalist economic process within bounds acceptable to the voting public, it will lose legitimacy. This is marked by increasing conflict over the distribution of income and wealth between wages and profits —Jürgen Habermas 1991.

This thesis critically analyzes an idea widely repeated among contemporary tax theoreticians, namely that taxation improves state-society relations in developing countries and ultimately contributes to democracy (e.g., Bräutigam et al., 2008; Schneider, 2012; Prichard, 2015). This idea is the extension of the European experience, analyzed by Charles Tilly (1985; 1990), where “war made the state”, taxes financed war and enlarged the space for democratic participation. In Latin America, the most recent findings highlight the fundamental role of economic elites in shaping, fighting, or vetoing progressive tax reforms in at least thirteen countries. These studies established key determinants (not always causalities) of the limited progressivity of fiscal reforms in the region (e.g., Schneider, 2014; Flores-Macías, 2014; Fairfield, 2015; Ondetti, 2017). Yet, despite their valuable contributions, some of these works implicitly or explicitly assume that broader taxation will bring more democracy and equity (progressivity) to the region, without challenging the conceptual and ideological roots of that assumption.

This teleological perspective may be rooted in the unsolved macro-debates guiding the tax literature. These works persist in assuming the existence of idealized versions of the autonomous Weberian rational-bureaucratic state and liberal democratic regimes where social participation and contestation are possible, despite the strong veto power of the economic elites. Instead of acknowledging the different possible types of regimes which result from different state formation processes, as the neo-Weberian paradigm allows for (i.e., patrimonial, predatory, democratic, developmental, or even a captured state—e.g., Evans 1985; 1995; 2014), this tax literature adopts a series of assumptions, discussed here, that limit its explanatory potential. These assumptions may

help explain fairly stable liberal democratic systems in Latin America (such as Chile). However, they provide limited explanations for “outliers” such as Guatemala or even Mexico.

Academic debates about taxation and state-building in Latin America have moved from the literature on fiscal sociology, to rational choice approaches (including voting preferences), neo-institutional analysis, and, most recently, to power resource theory. Previously, fiscal analyses explored links between state resources and the type of political regimes (e.g., Cheibub, 1998) or tax regimes and the participation of voters (e.g., Cheibub & Przeworski, 1999; Boix, 2003; Bartels, 2008; Kaufman, 2009), which did not fully explain the tax reform outcomes in Latin America. Power resources theory highlights the role of economic elites in processes of tax negotiation.

However, state-society interactions can occur in different ways, partly depending on how both concepts, state and society, are defined (Ondetti, 2017). These definitions have clear implications in understanding the role of taxation and its implications for state-society interactions in Southern countries. State-society tax bargaining processes depend on elements such as power relations, political will, institutions, democratic participation and broader tax negotiations.

This chapter explores the contributions of the power resources theory to understanding unequal and elitist tax negotiation processes in the region. First, we revisit the debates around taxes and state-building, from their historical European Western roots to their implementation in the developing countries. Second, we analyze power resources theory and other approaches that explain the role of economic elites in tax negotiations in Latin America. Third, we analyze debates on taxation, democracy and broader state-society interactions by looking at the other side of the coin: civil society. After looking at the major debates analyzing the role of social stakeholders (elites and civil society), the fourth section explores the importance of institutions as mechanisms of interaction between structures and agents, and as key sources of power reproducing the

economic structure. Finally, the fifth section provides conclusions that guide the conceptual framework presented in the following chapter.

This chapter also shares some concerns recently challenging the Addis Ababa Agenda by questioning the idea that, in developing countries, more taxes are always desirable (Prichard and Moore, 2017). State resources are fundamental to building inclusive development. However, to reduce the risk of generalized biased assumptions, it is important to adapt and add nuance to some of the persistent traditional Western theoretical frameworks informing debates about problematic tax systems in highly unequal and fragile democracies, particularly in Latin America.

West Vs. South: State Formation Vs. Neo-liberal State Building

Some authors argue that the European lessons from state formation processes can be transferable to understand current states (Tilly, 1985; Moore, 2004), while others assert that this is not the case (Herbst 2000). The differences can be explained in terms of local and transnational power, rooted in material resources (such as sources of capital and military technology), political resources (such as violence), and ideologies. For some (Lottholz & Lemay-Hébert, 2016), the difference between Western state formation and contemporary state-building in the south reflects different historical processes guided by different actors and their distinct conceptions of the state.

Among several other definitions, state-building can be understood as “the process of increasing the administrative, fiscal and institutional capacity of governments, to interact constructively with their societies and to pursue public goals more effectively” (Bräutigam et al., 2007:2). State-building consists of the task of “building functioning states capable of fulfilling the essential attributes of modern statehood” (Dinnen, 2006:3). These two definitions follow the good governance approach, assuming, as fundamental premises, the desirability of modern economic and democratic characteristics of an already existing state. However, processes of liberal and

democratic state-building are difficult to achieve because they often clash with pre-existing political, social, and economic arrangements, both domestic and international (including global markets and financial institutions). Even when we accept the premise that the political will and desire to build modern economic and democratic states exists, it is fair to assume that the pursuit of state-building reforms will generate tensions by challenging existing power equilibria within the state and between the state and society. These tensions and negotiations within/between the state and society open possibilities for a wide range of hybrid state types.

Tilly (1985) emphasizes the similarity between the political contexts of Europe in the 16th and 17th centuries and many contemporary developing countries, pointing out their common domination by coercive, self-interested and violent rulers. Yet he and others also accept taxes as a fundamental element to the existence of the modern nation-state from a Western and Westphalian perspective (Schumpeter, 1918/1991:954; Tilly, 1985 & 1990; Moore, 2004). Tilly even proposes that warfare and capital accumulation (including through taxation) were the main drivers of state formation and the basis for the legitimacy of a social contract (Tilly, 1985).⁶

However, according to Mick Moore (2004; 2007), some important differences demonstrate that the relationship between taxation and governance is not automatic and is context-specific: new southern states or developing countries were born in the shadow of rich and powerful northern

⁶ In contrast to, and building on, liberal social contract assumptions, for Adam Smith, the key to popular acceptance may have been “the proper performance of those several duties of the sovereign”: national defence, justice and fair rules, and the duty of erecting and maintaining certain public goods ([1776], V: 687–688). Those duties “necessarily suppose[d] a certain expense” ([1776], book V), and posed the issue of taxation: “expense again, necessarily requires a certain revenue to support it” ([1776]: 688), then taxation and the sovereign’s performance were ideally linked (similar to recent ideas of accountability, “proper performance” or “performance legitimacy”). Then, the debate about state legitimacy is very relevant in terms of its links to democracy: legitimacy can be accepted by necessity or lack of choice, or by state violence in non-democratic societies (see for example Tyler, 2006); it may also imply voluntarily accepted legitimacy, based on accountable exchanges as suggested by the literature on taxes and governance (e.g., Moore, 2004; Scott, 2007).

states intervening in their development. As Moore (2004) proposes, military technology became accessible to developing states through international markets (imported) rather than relying on local production, labour, and technology. Moreover, the link between taxation and state-society interactions is also impacted by the availability of strategic resources such as aid (Moss & Van de Walle, 2006), military assistance, and natural resources, and it is not necessarily linked to national capital (Moore, 2004). These findings suggest that negotiations between the state and the (national and international) owners of wealth are more complex nowadays in developing countries.

Violence, coercion and domination have also taken different shapes in developing contexts. For example, according to Moore (2007), at local and agrarian levels, coercion—rather than negotiation—is a more likely strategy to be implemented to raise taxes. In contrast, in post-colonial Tanzania, since populations were mobile and could flee to avoid purely coercive local taxation, local revenue generation had to evolve from being mainly coercive and extractive towards being oriented to public-services (Fjeldstad, 2001; Moore, 2007:89). In Argentina, Gervasoni (2006) found that the provinces most dependent on broad taxation of their local citizens had historically been more democratic, whereas provincial governments with generous financial transfers from central government revenues had been able to buy off or suppress democratic competition. These cases provide nuance to the idea that more taxation means more democracy and accountability. They also suggest that context-specificity is fundamental to understanding the formation of tax systems in diverse developing countries.

State-building processes assume the prior formation of some state institutions. From a western state paradigm, the premise of an already existing state means that processes of violence or war have already established institutions to allocate power and capital, by imposition or through negotiation (Moore, 2007). The pre-existing state reflects a given social, economic, and political

structure that is the product of history and social struggles (Migdal, 2001; Scott, 1985 & 1998). However, this premise creates a paradox: regardless of the conditions of pre-existing states, for example whether it holds a monopoly of violence or not, developing states rarely disappear (Ottaway, 2012), unlike the European experience. In these cases, the accepted international order and the foreign recognition of southern countries' sovereignty play a fundamental role—especially in a region such as Central America, geographically close to the powerful North.

Additional to the domestic arrangements, in the international arena, during several decades, the policies promoting state-building processes in developing countries were highly normative and reproduced a neo-liberal agenda following the Washington Consensus (see Williamson, 2004) and liberal peace-building policies (see Paris, 1997 & 2010). They proposed the construction of liberal markets and liberal polities; most of the time, they ignored the specific relations of power in each society. Those normative agendas were highly criticized (e.g., Sacks, 2005; Easterly, 2007; Rodrik, 2007; Collier, 2007), and a new (post-Washington) consensus began emerging in the late 1990s (MacGinty, 2011 & Richmond, 2011). More specifically, the importance of the role of the state was now recognized, for example, as stated in the New Deal for Engagement in Fragile States negotiated between the G7+ grouping of fragile and conflict-affected states and donors from the global North (2011). However, some scholars, such as Harrison (2012) and Richmond & Pogodda (2016), suggest that this policy shift has not been fully implemented in practice. Similar gaps between policies and practice shaped tax reforms in Latin America; the consequences of the fiscal changes promoted by the Washington Consensus agenda are still visible in most countries, especially in their tax structures (Del Castillo, 2001; Schamis, 2002).

According to a document by the Organisation for Economic Co-operation and Development (OECD), most OECD countries developed as effective democracies within the last

70 years and, during that period, at least up to the past decade, many European countries strengthened their welfare states (OECD, 2012). In contrast, in Latin America during the 1980s and 1990s, the development of the public administration was “strongly influenced” and limited by neoliberal ideas “calling for small non-interventionist governments,” as well as by the new public management ideas which emphasize “efficiency and contractual relations” (OECD, 2012; IDB Panorama, 21). Furthermore, in that region, the Washington Consensus promoted efficient and horizontal tax systems (broad tax bases with moderate marginal tax rates), and taxation was seen as ineffective for redistribution (Martorano, 2016; see also Williamson, 2004; Bird and Zolt, 2005). Again, the lack of redistribution differed substantially from the historical European experience.

Although the previous paragraph describes convincing evidence on how strong tax systems preceded strong democracies and welfare systems in Western Europe, it is fundamental to avoid the ‘sequencing fallacy’ that argues that democratic participation should only be promoted after the rule of law has been established in a fragile state (Carothers, 2007). The origins of representative governments in Europe are linked to the evolution of war and taxation (Schumpeter, 1918/1991; Tilly, 1985, 1990). Contrary to the ‘sequencing fallacy,’ Bräutigam (2008) reminds us that taxation prompted the rise of parliaments, as well as the rise of capable and professional bureaucracies. “Popular resistance to war making and state making made a difference. When ordinary people resisted vigorously, authorities made concessions: guarantees of rights, representative institutions, and courts of appeal. Those concessions, in their turn, constrained the later paths of war making and state making” (Tilly, 1985:183).

According to Adam Smith, France and England provide good examples of the origins of representative governments:

Where the authority of the sovereign, though frequently very low, never was destroyed altogether, the cities had no opportunity of becoming entirely

independent. They became, however, so considerable that the sovereign could impose no tax upon them, besides the stated farm-rent of the town, without their own consent. They were, therefore, called upon to send deputies to the general assembly of the states of the kingdom, where they might join with the clergy and the barons in granting, upon urgent occasions, some extraordinary aid to the king... Hence the origin of the representation of burghs in the states-general of all the great monarchies in Europe ([1776] 895[11], III: 404).

Given the incentives to regulate the warfare expenses by the state via parliamentary participation, the bargaining processes between elite taxpayers and monarchs/states encouraged a relationship between tax contributors and the state (Tilly, 1985). Initially, the interest of those taxpayers was oriented to regulate and limit the expenses of the state; afterward, however, a more pro-spending attitude developed when rulers were able to raise bonds on private capital markets to fund warfare (Bräutigam, 2008:2). Here, a more complex problem arises: who are those taxpayers interested in limiting the expenses of the state, and who are those benefiting from the state deficit via state bonds and loans? Who has more influence over the state decisions? These questions would be conditioned by the breadth (inclusive or exclusive) of democratic participation and popular resistance, as discussed in the following sections. These issues may contribute to explaining more recent tax veto experiences in the Guatemalan case.

State Building and the role of International Financial Institutions (IFIs)

Following and expanding on Mick Moore's concern, expressed above, on how developing states are born and built in the shadow of rich and powerful northern agendas (2004 and 2007), Odd-Helge Fjeldstad and Mick Moore (in Bräutigam et al., 2008: Ch. 10) explore the role of multilateral institutions in the shaping of tax reform agendas for developing countries. Those authors prove the statistical connection between "the incidence" of tax reform and the "IMF performance conditions" in Latin America (2008: 238). According to those scholars, the liberal "global tax reform agenda" has been "set by the international financial institutions—the IMF, the

World Bank, regional development banks, aid agencies...” (2008: 238). They propose that the “number one driver of the global tax reform agenda” has been the International Monetary Fund (IMF). This organization has been a major source of “expertise, ideas and publications on tax reform for poor countries for several decades” (Fjeldstad & Moore, 2008: 238). These authors reinforce their argument using the evidence from Latin America from 1977 to 1995, quoting the work by James Mahon (2005), who proved the statistical connection between tax reforms and the role of the IMF (related to existent formal agreements and tax-related conditionalities).

This perspective emphasizes the role of multilateral agencies in southern countries; however, it disregards the agency of the Latin American states. A recent article by Diego Focanti et al. which, among other issues, reproduces Mahon’s exercise for more recent years (1990–2004), concludes that Mahon’s findings were correct for that period when the IMF was a strong force behind the tax reforms in line with the Washington Consensus (Focanti et al.). However, recognizing more agency from within some southern states, these authors propose that the IMF was not necessarily behind all tax reforms, especially in the most recent years, since some Latin American governments have undertaken, for different reasons, their own fiscal reforms. As discussed later, this may not apply to the Guatemalan case.

A relatively recent joint report by the Inter-American Development Bank and the OECD, on Latin America, reminds us that the orthodox approach is still influential: “Taxing consumption is preferable to taxing the sources of production since its impact on economic growth (especially in the growth of exports), and employment is less damaging” (OECD/IADB, 2014:22). This report also highlights that “while LAC countries have made progress in the tax field over the past decade, there are still important challenges. In general terms, the region collects less than what their level of development could suggest. Also, the tax structure has a bias towards non-progressive taxation,

and evasion levels are large” (Ibid.: 22, my translation). Considering more than a decade of structural adjustments promoting the efficiency of the market, the actual tax structure in Latin America and the Caribbean (LAC), compared to Europe, is not surprising:

In 2016, there was a further shift in the LAC region towards VAT [Value Added Tax] and away from taxes on income and profits. In 2016, VAT revenue was the principal component of revenue from taxes on goods and services⁷... At 29.3% of the total tax revenues, VAT is the biggest source of revenue on average in the LAC region⁸... On average, 43% of tax revenues in LAC countries came from taxes on income and profits and SSCs [social security contributions], compared with 60% in the OECD in 2015 (OECD, 2018:18).

Eduardo Lora highlights that the main objective of most Latin American governments has been to increase their tax revenues to preserve fiscal balance (Lora, 2007), even by sacrificing tax progressivity (Focanti et al. 2016)—echoing the old Washington Consensus discipline. However, for some South American countries (e.g., Argentina, Bolivia, Brazil and Chile), increasing tax revenues also became an instrument to gain more independence from the multilateral organizations, avoiding further structural adjustments and experimenting with more progressive social policy agendas (Cameron and Hershberg, 2010; Levitsky and Roberts, 2011). This is not the case for all countries: for example, Haiti’s (IMF, February 2018) and Guatemala’s governments still struggle to fulfil the conditional and technical ‘advice’ from the IMF and WB to reform their tax systems in exchange for further loans to finance budget deficits.

Similar to other critiques of ahistorical neo-Weberian, neo-institutional, or neo-developmental concepts of the state (Jessop, 2005; Brenner, Peck and Theodore, 2010; Cahill et al., 2012; Song, 2013; Cahill, 2014; Carroll & Jarvis, 2017), the lack of problematization of state-

⁷ Representing 58% of revenues from this category (OECD, 2018:18).

⁸ Followed by revenues from taxes on income and profits (27.3%) and from other taxes on goods and services (21.2%) (OECD, 2018:18).

building concepts leads to liberal and teleological modernization assumptions according to which state capacities need to be strengthened to “support marketization and reflect the transforming interests of specific classes and capital... aligned with international regimes of accumulation” (Carroll & Jarvis, 2017:9). For example, when studying the role of emergent transnational economic elites in Central America, Aaron Schneider suggests that a coherent modern state-building project supported by these elites would facilitate the implementation of progressive tax systems. However, his findings in El Salvador show that the liberal state-building plan of the transnational elites has not translated into more equity or progressivity (Schneider, 2014).

To conclude, southern “democratic” regimes were born under a liberal economy dominated by western states and differ from the European Western experience. The domestic and international markets are linked to the interests of local and global capital. Power relations between political and economic elites and the rest of society have intricate historical and material roots. For example, claiming a legitimate monopoly of violence was (and still is) a difficult task for many developing states, especially for those classified as fragile states (e.g., Carment et al., 2016) which, in many cases, lack autonomy from the national and multinational economic elites. In this same manner, the main characteristics of the state, such as the exercise of violence, protection, and taxation, did not occur the same way they were negotiated in western societies.

The existing literature on taxation also suggests that the financial and technical assistance provided by multilateral agencies, such as the IMF, has been a key determinant in setting tax reform agendas in the region. Although these arguments could be accused of disregarding the state’s own agency and ownership when dealing with fiscal policies, they bring back the idea of the state’s relative autonomy from local and international economic forces and its ability to decide

tax agendas (Moore, 2004). The local-global connection is therefore a fundamental variable in understanding power dynamics of poor and fragile countries and recent state-building processes.

Political and Economic Power: Elites and Oligarchies?

The analysis of power and social bargaining processes re-entered the arena of taxation and state-building studies relatively recently. These new attempts to explain tax systems through the power of the “owners of wealth,” moving away from “voters,” has also represented a shift from rational choice approaches to more historical neo-institutional analysis, and most recently, to power resources theory. The latter (mainly proposed by Tasha Fairfield, 2015) focuses on the economic (structural) and political (instrumental) power of economic elites in determining tax reform agendas, negotiations, and outcomes in developing countries. Implicitly, this literature also brings concepts such as economic elites and oligarchies back into to the analysis of tax systems. However, by direct reference or by omission, these studies also document the absence of non-business social participation in many tax decision-making processes.

Interestingly, the power resources literature was born emphasizing the importance of power resources for the working classes, especially unions and labour parties. These pioneer studies (see Korpi, 1983; Stephens, 1979), rooted in neo-Marxist perspectives, were exclusively performed in OECD countries, to explore the power of the working classes and their influence via labour parties in determining welfare state policies. Later, this scholarly literature also studied the impact of working classes and left-wing political parties in shaping redistributive practices (Robinson, 1994) through labour markets and government policies (Bradley et al., 2003). However, as proposed by Michael Kellermann (2005), the main flaw of the theory, at that moment, was that the studies were repeatedly focused on the same rich countries and used the same databases.

In other words, that literature analyzed how unions and labour parties influenced and changed state policies (including taxation) in developed countries. However, these studies were not extended to developing countries. As a result, the new power resources theory analysis focusing on economic and political elites bargaining processes also exposes the different arrangements and limited participation mechanisms that exist for other groups of civil society in many developing countries, such as Guatemala, and the need to understand the differences between more advanced and weak democratic institutions and societies.

Fairfield analyzes the power of the economic elites to influence democratic governments in the formulation of economic and fiscal policies using two categories: structural and instrumental power (Fairfield, 2015a:413). These categories are not new, as they go back to C. W. Mills's view of power elites' (1956) and to the Miliband-Poulantzas debate (Poulantzas, 1969; Miliband, 1970) on forms of power in advanced capitalist societies. Yet, Fairfield makes a theoretical contribution by narrowing down and applying these concepts to contemporary democratic systems in Latin America. "Structural power" refers to the economic power coordinated by the market: "firms and capital owners respond to government policies by changing their investment decisions in accord with their own individual profit-maximizing objectives... [,] influence policy decisions without need for concerted political action," and provoke "undesirable aggregate economic consequences," however, policies "create different signals for investors in different contexts" (Fairfield, 2015a:413–414). For that reason, Fairfield proposes that the perceptions of policymakers are the key element to understand "how and when structural power acts" (2015:415). Her analysis is centred on strong or weak perceptions of structural power, which belong to the realm of "economic expectations," behaviour, and decision-making analysis.

For Fairfield (2015), “instrumental power” includes traditional political mechanisms to influence political decisions, such as economic elites’ relationships with policymakers and political parties. Institutionalized sources of power, particularly institutionalized relationships between economic elites and policymakers, can be expressed as partisan linkages and government-business consultations (Fairfield, 2015). She proposes that institutionalized relationships “tend to be more stable sources of power than non-institutionalized relationships like recruitment into government and informal ties” (2015:29–30). Instrumental power can also be enhanced by material “resources” and “actions.” Resources refer to money, media access, or cohesion, while actions refer to lobbying, finance of political campaigns, or influence of public opinion (Fairfield, 2015). These arguments contribute to understanding, in a complex way, how national and international capital shape policy decisions in formally democratic regimes.

The elite-state interaction also highlights a complex connection between national and transnational capital. Tasha Fairfield documents the importance of understanding the role of economic elites in (most) Latin American countries and provides an evocative summary:

First, extensive if often incomplete market reforms in the 1980s and 1990s moved Latin America away from a statist model characterized by heavy public ownership, government planning, and state intervention, toward a neoliberal model that places the much greater agency in the hands of the private sector. Second, Latin America exhibits a hierarchical variety of capitalism dominated by large, diversified, family-owned domestic business groups. Not only is capital ownership tremendously concentrated, but a small number of wealthy families, in essence, chart the course of the economy from their perch atop the private-sector hierarchy. Third, Latin America has become increasingly integrated into the global economy and exposed to mobile capital (Fairfield, 2015:412).

Aaron Schneider (2012) studies the national-transnational capital connections by exploring the role of emergent transnational elites versus the traditional economic elites in Central America. He characterizes the different state-building projects that these transnational groups pursue in each

of these countries. However, he seems to view the influence, power, and coherence of the (liberal) transnational elites as positive elements to state-building and tax reform projects in the region. Assuming the existence of democratic states, Schneider ignores Zuercher and Barnett's (2009) warnings about the risks of particular elites' capture of state-building processes.

Gabriel Ondetti (2017) argues that there is an ongoing debate in the new literature on power resource theory, about the instrumental power of the economic elites, which disagrees on "whether they hinder or facilitate revenue-raising reforms." He juxtaposes the findings of Tasha Fairfield (2015) in Chile, Argentina, and Bolivia against those of Aaron Schneider (2014) in El Salvador, Costa Rica, Honduras, and Guatemala, concluding that they contradict each other. Fairfield's thesis proposes that economic elites' power tends to hinder tax policies, "which affect their interests," while Schneider initially (following collective action studies on elite cohesion) proposes that transnational elites support modern and progressive tax reforms. However, I propose that Schneider's strongest findings, in the end, support Fairfield's thesis (rather than contradict her). Furthermore, as explained below, Ondetti's thesis complements both of those analyses.

Schneider concludes that (transnational) economic elites' cohesion and partisan connections facilitate state-building policies, which "favour" their own state-building agendas and interests. However, different from what he initially assumed (that transnational elites support positive tax reforms), he shows that elites' agendas and interests may not necessarily include more taxes, nor more progressivity. For example, when explaining his strongest case of elite cohesion and state-building coherence in El Salvador, Schneider's findings demonstrate that the transnational elite's "coherent" tax reforms have increased taxation but have also worsened the regressivity of the tax system, favouring the transnational corporations' interests. In this sense, Schneider documents that the liberal tax-reform agenda is not necessarily favourable for all

societies. In a complementary manner, Ondetti proposes that instead of assuming tax preferences “as given,” historical preferences about the state (e.g., trust or mistrust) are key elements to understanding the role of economic elites in supporting or hindering tax reforms. Ondetti’s ideas especially help explain why economic elites support or veto tax reforms, depending on their relationship with the state, sometimes beyond their narrow economic interests. As this thesis will demonstrate, the type of relationship between the government and the economic elites and the elites’ preferences are also important to understand the power dynamics that contribute to support or hinder tax reforms. However, in contrast to Ondetti, this thesis proposes that the support or veto to tax reforms from economic elites is not necessarily beyond or despite their interests, but a fundamental part of their interest calculations, at least in the Guatemalan case.

The former discussion on elites’ preferences illuminates a specific micro debate on the importance of elites’ cohesion and direct taxation—analyzed from a collective action perspective (guiding Schneider’s analysis). These ideas, highlighted by Tasha Fairfield, propose that elites’ cohesion is positively related to stronger and more progressive direct taxation. This perspective assumes that cohesion facilitates “collective action” bargaining processes with the state, overcoming short-term fears, and allowing long term perspectives, which contemplate possibilities for wealth redistribution and better public services (Fairfield, 2015). Yet as Fairfield argues, collective action theory offers a limited understanding of tax negotiations. I also propose that the suppositions that the state is autonomous and capable of redistributing wealth and compensating with services “in exchange” of the paid taxes also ignore issues of power as well as material state capacities. They ignore the ability of the economic elites to use their cohesion and collective action to veto tax reforms, as signalled by Fairfield. These assumptions also overlook the possibility of these economic elites to use their cohesion to shift the tax burden towards other classes in society,

successfully negotiating exemptions and privileges, as demonstrated in the Guatemalan case in the following empirical chapters.

Additionally, assuming that the collective action problem represents an exclusive negotiation between the state and the economic elites limits the possibility of understanding broader power relations between the economic elites, civil society, and the state. Power resources theory provides more nuanced accounts on how state-economic elites negotiations occur in each country. The influence of economic elites yields more explanations of tax negotiations and tax outcomes than did voter preferences analysis. Fairfield contributes to identifying specific sources of power for business elites by documenting significant variations in the elites' abilities to block tax reforms. As she proposes, her study follows Winter's (2011) ideas on the fundamental importance of the concentrated wealth of "oligarchies" as the most powerful source of political influence; however, she differs from Winter's view about the existence of uniform and homogeneous oligarchic influence on key policies such as taxation (Fairfield, 2015:20). Fairfield's case studies suggest how even the extremely wealthy "tiny elites" (oligarchies) may have cohesion and "collective-action problems" when their political sources of power are weak in particular circumstances. However, Fairfield agrees with Winter's idea that "the only force that can challenge" the power of oligarchies and economic elites is "rare" and "sustained" social mobilization (Fairfield, 2015:20). Her studies on Bolivia and Chile document how, in those countries, economic elites were able to defeat tax reform initiatives they disliked "unless popular sectors mobilized in favour of the reform" (Fairfield, 2015:3).

From a more critical and historical perspective, when analyzing the revolutionary movements in Central America, Edelberto Torres-Rivas proposes that material conditions (structural power) do not always explain the power and motives of the economic elites. "In Central

American history, the cycles of economic crises alternate with political crises: ... phenomena that seem to assure the independence of the structural and the political, which thus denies the determinism of rustic historical materialism” (Torres-Rivas, 2013: 61; see also Torres-Rivas, 1982:28–30). For example, according to that author, the oligarchic liberal states who ruled Central America and particularly in Guatemala during the first half of the twentieth century, drove major efforts to “build the state” in the region. One of the main drivers for this state-building process was the rapid expansion of coffee agriculture for export. The most important characteristic of that liberal state, he continues, was the concentration of power in the hands of a small economic elite, thanks to the modernization of the army and a militarized bureaucracy. All these were accompanied by new constitutional laws that defined nationality and citizenship as well as new fiscal and financial systems, including a new currency (2013:60–62). Two other fundamental characteristics of this “modern” state were, on one side, the external supports, mainly from the US, favouring international investments and geostrategic interests (Torres Rivas, 2013; Mahoney, 2001; Dunkerley, 1999). On the other, the limited citizenship granted to indigenous peoples (which represented a burden for the new elites) was characterized by new duties, notably forced labour, forced military service, and religious obligations (Torres Rivas, 2013) contrasting with the growing privileges of a *quasi*-white—European descendant—minority ruling the state.

According to Medard, in a patrimonial state, “it is political resources which give access to economic resources” (Medard, 1982:181–2). This means that state violence becomes a fundamental resource for wealth allocation or distribution. As proposed by that same author, the core of patrimonial and neo-patrimonial politics is “the privatization of public affairs” (Medard, 1982:185), different from socialist or capitalist experiences. The patrimonial state then would allow the existence of concrete mechanisms and sources of power which guarantee the elites’

social domination. This thesis assumes the premise that the Guatemalan state is not rational and democratic (in Weberian terms), but responds to other core aspects of the state, such as the patrimonial or extractive state.

In their work, Acemoglu and Robinson propose that “elites dominating extractive institutions fear creative destruction,” which results from innovation when the old is replaced by the new and destabilizes power relations (2012:430). For example, the Central American societies went through revolutionary movements and civil wars opposing repressive states, which, at the end of the liberal period (between the 1930s and 1945), had degenerated into dictatorships led by military caudillos. The ruling classes perceived the demands for democracy as “a threat to order” and a direct “criticism to the oligarchy,” and the response was “state terrorism” and more repression (Torres-Rivas, 2013: 84). This argument highlights the importance of institutions and institutionalized sources of power, as discussed in the following sections.

Additionally, the idea that “external support” and foreign stakeholders were determinant in shaping states in Central America may add nuance to the idea that economic elites do not always possess strong instrumental and structural power, as Fairfield proposes. It is necessary to pay attention to context-specific distinctions, to understand how much the interests of transnational and global capital may differ from local or national economic elites’ interests. Winter’s idea about the fundamental importance of accumulation for a global—not local—oligarchy is also fundamental to understand tax negotiations and outcomes in fragile states such as Guatemala. Therefore, how the Global North imposes, supports, or contributes to set tax agendas in the Global South becomes relevant to power resource analysis, as discussed in the previous section.

Furthermore, the idea that historical preferences may shape a definitive “anti-state” or “pro-state” positions, as proposed by Ondetti (2017), can also be relativized by the fact that national

economic elites' interests have been shaped by either positive or negative experiences with the state. For example, in the case of Mexico, as Ondetti proposes, economic elites went through the “traumatic” expropriation process implemented by the state during the 1930s (Ondetti, 2018). However, they also benefited from the state actions in subsequent periods, especially during the liberalization period that took place during the second half of the 1980s and the 1990s (e.g., bank privatization, see Aspe, 1993; Ortiz Martinez, 1994). Similarly, in Guatemala, the economic elites suffered some traumatic experiences during the government of Jacobo Arbenz (1951–1954), with the expropriation and redistribution of idle lands. However, they also benefited from the state actions during most of the liberal and dictatorial regimes, especially post-1954.

It is proposed here that historical preferences are not fixed and can change over time, responding to particular interests, circumstances, and ideologies. Consequently, another way to explore Ondetti's idea about constructed anti-state preferences is through understanding how much it is in the interest of the economic elites to contribute to state strength or state weakness—for example, through taxation—depending on each historical circumstance. In theory, tax preferences and tax institutions may also vary to adapt to historical and economic circumstances (alongside power relations and economic interests). However, all those elite preferences cannot be understood without studying the resistance, participation, or lack of it, from other social forces.

Guatemala's Tax Negotiations: Power and Inequality

The characteristics of the Guatemalan traditional economic elite have been widely studied across time and different political spaces (e.g., Valdez and Palencia, 1998; Casaús, 2014; Valdez, 2015). Aaron Schneider defines the traditional economic elites as cohesive, dominant, and “with a single peak business association” (Schneider, 2012:18), while a few scholars have studied how the traditional Guatemalan elite's bargaining power has contributed to reproducing the structural

status quo during specific decades or even centuries (e.g., Lora, 2008; Sanchez, 2009; Schneider, 2012; Torres-Rivas, 2013; Fuentes Knight, 2014).

As previously discussed, Schneider’s assumptions propose that emerging transnational economic elites would support tax reforms to build more modern liberal states. He assumes that these transnational elites have more “coherent” state-building projects (promoting liberal markets), including more democratic and progressive tax agendas (Schneider, 2014). Additionally, Schneider treats emergent transnational elites as equally important in the Central American region and conceptualizes them as different from the “declining” traditional elites. However, in his documented analysis and characterization of the Guatemalan “tax regime,” Schneider (2012) proposes that, in Guatemala, “transnational elites” are “neither dominant nor cohesive, accommodated to traditional sectors within a single peak business association and a fragmented and volatile party system.” He concludes that “no single state-building project dominates” in the country while proposing that institutions set “high thresholds for change and encourage continued division among elites.” Then, he continues, “no coherent state-building project has taken shape,” and for that reason, the state-building process in Guatemala can be labelled as in “permanent” “crisis” (2012:18). This thesis challenges this conclusion.

In contrast, Lora proposes, following an IDB analysis (2006), that, in Guatemala, strongly organized economic elites “take advantage of the weak state institutions” to block fiscal reforms, especially through alliances with the legislative forces or through appeals to the Constitutional Courts (Lora, 2008:119). Similarly, Omar Sánchez argues that there are four main structural problems preventing the tax reforms in Guatemala from 1996 to 2006. He “blames” the “continued near-hegemonic status of organised business” and the “severe state weakness coupled with low state autonomy” as two of those main causes (Sánchez, 2009). Lora and Sánchez coincide by

concluding that the strong Guatemalan economic elites take advantage of the weak political institutions to impose their will and prevent any progressive fiscal reforms. However, in contrast with these conclusions, I propose that the weakness of the state institutions can be explained through more clear causal links: the Guatemalan state is weak by design. This means that the state cannot be assumed as autonomous (from economic elite's decisions); the relationship between traditional economic elites and the decision-makers becomes fundamental to understand the role of institutions framing tax decisions.

As documented by Piketty (2008, 2014/2013 & 2014), in developed countries (USA, France, and England), tax institutions, especially exemption policies, can create big inequalities among members of society by favouring the richest percentile of the population. More specifically, with respect to the case of Central American tax policy since 1976, Michael Best described it as essentially a “class” framework, “arguing that in principle changes in tax level structure (e.g., the degree of emphasis on income taxation) reflected largely the changing political balance of power between landlords, capitalists, workers, and peasants” (1976 in Bird et al., 2008:59). In other words, tax institutions are mechanisms that *express and reproduce* inequality, rooted in the unequal balance of power. This raises the question about how better tax mechanisms are possible without altering political and economic power. As proposed by Fairfield (2015), the possibility of implementing progressive tax reforms depends greatly on the relative power of economic elites and civil society – to which I add the importance of institutions as vectors of power.

According to some of the documents produced in Guatemala about tax institutions and tax reforms (ICEFI, 2014; Fuentes-Knight, 2011), tax exemptions appear as one of the most striking mechanisms protecting the privileges of national and transnational capital, and consequently, to reproducing inequalities. According to the Central American Institute of Fiscal Studies (ICEFI,

2015), the role of traditional economic elites is the cornerstone of that unequal and fragile tax system in Guatemala and elsewhere in Central America. However, although these more eclectic approaches provide a key analysis on the structural economic roots of the fiscal problems, their proposed solutions are generally attuned with the recommendations of the IMF, WB, and IDB: broader social bases, flat rates, more VAT, no exemptions to corporate income taxes, etc. In other words, they respond with problem-solving strategies that are limited by the (glocal) liberal economic paradigm. Like other mainstream problem-solving theories, those analyses assume the need to work within the system and do not foresee any long-term transformations of current political and economic structures. In contrast, this thesis draws on critical theory to explore if there exists social basis for changing the system from different social perspectives in the future (see Cox, 1976 & 1987), however the findings suggest the need to strengthen civil society to achieve meaningful changes.

An important problem with the documented cases from the power resources theory or from the analysis of elites' power, are the underlying assumptions that Latin American states are democratic and autonomous (Fairfield, 2015 and Schneider, 2014). Under these assumptions, social participation is expected to occur naturally and is barely problematized—except for the logic of intrinsic social collective action problems and historical legacies. For example, in his analysis of failed tax reforms in Guatemala from 1985 to 2006, Schneider concludes that popular sectors are “divided” and “relatively weak,” and their “organizational capacity” and “ability to articulate fiscal interests” are still “way behind the private sector” (2014:365 & 367). He continues, “this is the legacy of the civil war and the general dynamic of exclusion from the Guatemalan socio-economic structure, accentuated by ethnic differences” (2014:366). Although his analysis is accurate in explaining the causes of civil society’s weak organizational capacities, Schneider

doesn't explain how tax reform processes included or excluded the demands of the popular sectors after the Peace Agreements; neither does he suggest how these sectors' demands were included or excluded from the transnational elites' "state-building agenda." He concluded that alongside the state repression, their main characteristic was a lack of organizational capacity. Additionally, he argued that the organized groups of civil society have been co-opted by the traditional economic elites through different strategies. Although these powerful explanations are coherent with the weaknesses of the "democratic" system in Guatemala, they do not fully explore the agency of these groups and their interaction with economic elites, considering their structural and instrumental sources of power.

Additionally, when dealing with social participation in tax negotiations, the existing studies take for granted how democracy would automatically strengthen tax burdens. For example, in his study on Guatemala, Omar Sánchez "blames" the "fragmentation and underdevelopment of civil society" as one of the four main structural problems preventing the "lack of progress" of tax reforms, also aggravated by the "inorganic and non-representative nature of political parties" (Sánchez, 2009). Therefore, this important recognition of agency ignores the other structural and institutional barriers preventing broad participation of social groups in tax discussions and their potential acceptance or rejection of tax burdens, and the close interrelationship between lack of mechanisms for social participation and lack of progressive taxes.

Taxes and Democracy: Outcomes of State-society Interactions

Recent studies on taxation in southern countries conclude that the need to raise taxes could strengthen state-society relationships, favourably influencing state capacities, governments' responsiveness, and accountability (Ross, 2004; Bräutigam et al., 2008; Prichard, 2009 & 2014). Building on Tilly's arguments related to western state formation, from a historical neo-

institutionalist perspective, Bräutigam et al. (2008) explore the question as to when states and revenue-related institutions are more democratic and facilitate higher levels of social consent. For some authors writing about state-society interactions (e.g., Schneider, 2014), the causal link between more taxation and better democracy seems taken for granted. However, some others (i.e., Cheibub, 1998; Bräutigam et al., 2008; Prichard, 2015) have tried to establish whether the link between taxation and democracy exists in different times and places.

According to the classic fiscal sociology perspective,⁹ there is a causal connection between the dependence of governments on levied taxes and accountable, representative democratic institutions. As discussed, this fiscal (social) contract idea is supported by the literature proposing that the institutionalization of representative governments in Western Europe was driven by fiscal politics (Scott, 2007:35; Tilly, 1985, 1990). There is evidence to support these arguments in the tax literature, which explains how deficiencies in developing states' capacities are related to the origin of their rents: i.e., natural resources or strategic rents instead of tax revenues (e.g., Prichard, 2009 & 2014). This latter view proposes that developing-rentier states need to become “tax states” to improve “democracy” and “accountability” (Moore, 2004; see Scott, 2007:35).

These arguments suggest a clear causal relation: taxes can improve democracy. However, what are the concrete mechanisms that allow or prevent increased state taxation from contributing to democratisation? Migdal (2001), for example, emphasizes how the dynamics between the state and society impact each other, expressing a mutual causality or interaction. Since democracy shapes and conditions the way society participates and interacts with the state, scholars have also explored whether democracy (or any other type of regime) influences tax outcomes. For example,

⁹ A field developed and coined by Goldscheid (1919) and Shumpeter (1956, 1976) (in Backhaus, 2001), which understands social evolution as a result of how states deal with revenue increases, and how societies respond to them.

José Cheibub's (1998) study of 108 countries concludes that between 1970 and 1990, the type of regime (democracy or dictatorship) had no effect on the government's ability to collect taxes. Additionally, the history of European states also shows that the ruling and economic capacities of the stronger states such as Great Britain and France, developed despite, and instead of, their populations' well-being and rights through highly unjust tax systems (e.g., see Tilly, 1985; O'Brien and Hunt, 1999; Vries, 2002;). In other words, more democracy does not necessarily mean more taxes, and more taxes do not necessarily lead to more democracy.

By assuming that more taxes will bring more democracy as well as economic and social development, the non-orthodox literature ends up endorsing state-building processes rooted in teleological-modernization perspectives. These perspectives are also found in the 2015 Third International Conference on Financing for Development (the Addis Ababa Action Agenda and Tax Initiative), which states that low-income countries should increase their tax-GDP-ratio. In international policy circles, it is widely accepted that at least 15% of GDP is necessary to achieve the Sustainable Development Goals. However, recently these commonly repeated ideas have raised concerns; for example, Will Prichard and Mike Moore (2017) challenge the Addis Ababa Agenda by questioning the idea that more taxes in developing countries (especially in Africa) are desirable and possible.

A different set of analyses proposes that the causality is reversed, arguing that democracy leads to more taxation when civil society and popular classes have more power to press or negotiate for more redistribution (e.g., Cárdenas, 2010; Besley and Persson, 2013; see also Sánchez, 2009). However, Ondetti proposes that those arguments do not explain cases such as Mexico, where, despite the transition from an authoritarian to a democratic regime, there has been no fundamental change in the tax burden (2017). Furthermore, some recent studies propose that several aspects

condition the possibilities for social participation in fiscal debates: the openness and transparency of the tax debates, the technical capacities of and support from political institutions, the characteristics of the tax institutions, among other issues (e.g., UN/ECLAC-Machinea & Serra, 2008). Additionally, it is important to take into account the historical and social characteristics of civil society, as well as their organizational and mobilization capacities (Tilly, 2006).

Will Prichard's most recent work on Sub-Saharan Africa (2015) concludes that taxation and democracy are strongly correlated in that region. Most importantly, Prichard's case studies provide nuance to the tax-democracy causality showing that tax policies do not necessarily improve democracy unless they are constructed to achieve that objective (Prichard, 2015). Prichard's argument also problematizes the issue of political will: democracy advances when political elites decide to build it. This reinforces the idea of the importance of the role of enlightened elites and good governance. Therefore, political will and collective agency are also key elements to explain the relationship between taxation and democracy in developing countries.

Furthermore, the type of political regime or the level of democratization of a state (as well as the income level) may impact its tax structure, expressing more progressivity and equity. Understanding tax structures may contribute to understanding the links between taxes and democracy because even efficient democratic regimes suffer from tensions between capital accumulation, economic growth, and social redistribution (e.g., see Piketty, 2014; Martorano, 2016). Then, tax equity and fairness require establishing ad hoc institutional and fiscal mechanisms to favour those goals (e.g., Zucman, 2015; Boushey et al., 2017).

For example, Emannelle Modica et al. (2018) consider the changes to tax structures over time for 80 OECD and non-OECD countries. They confirm previous findings in the literature, stating that there is a positive correlation between higher GDP per capita and higher tax-to-GDP

ratios. Additionally, they observe a correlation between the level of tax revenues and the structure of tax systems in the analyzed countries: “Higher shares of personal income tax (PIT) and social security contributions (SSC) are positively correlated with higher levels of total taxation, while the opposite is true for higher shares of value-added tax (VAT) and corporate income tax (CIT)” (Modica et al., 2018:33). However, they acknowledge this latter finding as preliminary, to be complemented with understanding “the drivers of tax structures and their suggested relationship with income levels and total taxation” (Modica et al., 2018:33). Among other things, this econometric and quantitative study may suggest that in middle- and low-income countries, VAT and CIT are less efficient ways of collecting taxes, and that including or increasing PIT and SSC could be fundamental for middle- and low-income countries to achieving more solid tax systems. This may indicate that more equity and progressivity are needed. However, another simple conclusion may be that the only important determinant is the need for increasing the GDP per capita to collect more taxes! The latter suggests looking into a different set of causalities and correlations, such as democracy and economic growth, level of taxation, and welfare states. In other words, tax structures and levels of tax collection (in terms of GDP ratio) contribute to explain inequalities, not *per se*, but as expressions of power and institutionalized inequalities. Furthermore, levels of tax collection are also correlated with the size of the economy (GDP).

This doctoral dissertation proposes that the type of political regime affects the quality and characteristics of the tax collection mechanisms, implying that the type of regime or level of democratization of a state may impact its tax structure and equity, as supported by recent data on the differences between OECD and non-OECD countries (Modica et al., 2018). Furthermore, it can be argued that even in efficient democratic regimes, the tension between favouring accumulation and economic growth versus redistribution requires establishing fiscal mechanisms

to favour tax equity and fairness (Piketty, 2014). Therefore, the liberal teleological assumption that the existence of taxes can improve democracy highlights the contradictions in the existing evidence on how concrete democratic institutions and tax mechanisms operate and interact to produce such democratic outcomes in only some developing countries.

State-society Negotiations and Social Participation in Latin America

The state-economic elite analyses have been fruitful in explaining how economic elites can influence and shape tax reforms in Latin America. However, their findings show the limited existence of democratic mechanisms facilitating broad state-society interactions. There is limited scholarly evidence on how the tax discussions exclude or include the rest of society (non-business groups) from the state-business equation in the region, especially in weak democracies. There are a few clear examples of inclusion and exclusion—see for example the analysis on tax demands and social protests in Chile and Bolivia (Fairfield, 2015), and the role of popular sectors in Central America (Schneider, 2014), and specifically Guatemala (Schneider, 2014; Sánchez, 2009). However, how state-society interactions are explored still presents problems when differentiating between working democratic systems and fragile and weak democracies.

Schneider's (2014) and Fairfield's (2015a, 2015b) findings assume the pre-existence of democratic systems where contestation is possible; yet, implicitly, their case studies illustrate how weak democratic mechanisms also constrain broad social inclusion. For example, Schneider's (2014) analysis on emergent and traditional economic elites' and their fiscal agendas, indirectly illustrates the absence of democratic participation and opposition in Guatemala. Since in fragile democracies mechanisms (such as voting and political party representation) are limited, and discussions can be highly secretive in extreme cases like Guatemala, the mechanisms to choose from any fiscal options through the political system are limited. For example, in the case of

Guatemala, the discussion on fiscal issues has been completely absent from the political electoral campaigns (e.g., Ortiz, 2008; López et al., 2008).

In contrast, Fairfield (2015) documents how, in the case of Chile, social protest was the key mechanism for non-elite citizens to change the tax outcomes at particular moments. She explored how the rallies in Chile pressured Bachelet's government to raise taxes to respond to social demands (Fairfield, 2015), perhaps following Argentina's example. However, when and how social mobilization has allowed societies to participate in tax-related decisions, is still a barely explored topic. As discussed in the previous section, exclusion and repression are still characteristics of weak or pseudo-democratic systems.

Tilly's (1985) argument that European states emerged despite extremely "un-enlightened" despotic leaders also supports Cheibub's (1998) findings that the type of regime does not affect states' capacities to raise revenues. According to these perspectives, equity or democracy do not always appear as a given goal. As proposed by Migdal, states can be characterized as weak or strong, depending on "social control," not on their democratic characteristics (Migdal, 1988:275). This would be the case of bureaucratic-authoritarian states (see O'Donnell, 1973). However, Tilly also highlights that popular uprisings were fundamental in shaping states and democratic social contracts in Western European democracies (Tilly, 1985; Moore, 2004). These ideas also point to the necessity of shaping institutions capable of controlling "un-enlightened" leaders.

Grassroots responses are important to processes of state-building (Carothers, 2007). Patterns of resistance are key to changing existing and predominant paradigms (e.g., Foucault, 1977–1979, in Burchell, 2008). The Gramscian school of critical theory also emphasize that social forces within state-society complexes are a potential catalyst to "transforming the forms of state and world order" (Cox, 1987: 387–91).

The previous reflections suggest that civil society's empowerment and agency are key elements to negotiate inclusive and progressive tax policies. However, they also raise some concerns about two different processes: protest and mobilization from below to pressure for change, versus the top-down creation of participatory mechanisms, institutionalized through democratic institutions to facilitate state-civil society interactions. The latter would differentiate a democratic society (a polyarchy) from a non-democratic one (see Dahl, 1972:3). Forms or models of participation are important, as also discussed in the section on civil society.

From a different set of literature on developmental states, Peter Evans (2014) proposes a top-down approach to social participation, where the state takes an active role in promoting and facilitating social organization and participation —promoting human development to achieve economic development (Evans, 2014). Echoing similar ideas, in a document published by UN-ECLAC, Eduardo Lora (2008), after studying successful (Chile in the 1990s) and failed (Brazil, Guatemala, Costa Rica) fiscal pacts in Latin America, proposes that the success of a fiscal pact “depends on the *incentives* that the parties have to participate and *the mechanisms available* to verify and make effective the agreements reached” (Lora, 2008:98—*emphasis added*). However, he also warns his readers that fiscal pacts are more difficult to achieve in societies that need them most: where tax systems are highly distorted by exemptions, special treatments, and evasion—all of which favour small, powerful groups, as in the Guatemalan case (2008:125). He argues that it is risky to promote fiscal pacts when there are political barriers, such as limited political decision-making mechanisms, deficient public administrations (incapable of providing key services), or key stakeholders favoured by the status quo with strong veto power (economic elites or unions). These failed attempts may increase political polarization since social pacts are only a small piece within a larger process of decision-making and implementation of fiscal policies (Lora, 2008:133).

In sum, to implement more progressive, fair, and democratic fiscal agendas, it is also necessary to understand how formal and informal institutions incentivize or limit democratic participation (top-down). Additionally, it is necessary to explore how much room exists for organized society to participate and influence public policy and what the potential risks are (bottom-up). Before setting out a theoretical framework to analyze those issues, it is necessary to clarify how this research approaches the meaning of civil society and social participation.

Civil Society

As proposed by Laura Macdonald, civil society is “one of the most frequently used” and “most elusive concepts in the contemporary study of politics and society in the Americas” (Macdonald 2020: 297). For the purpose of this thesis, the concept of civil society is understood as strongly rooted in the works of Antonio Gramsci.¹⁰ Gramsci’s definition of civil society was different from the original liberal postulates proposed by European intellectuals such as Ferguson (1767), Hegel (1820), or Tocqueville (1835), who viewed civil society as a realm completely separated from the state, defined by voluntary participation, freedom, self-expression, and self-organization (see Macdonald 2020; Patnaik 2012). Those conceptions also inform Dahl’s ideas on polyarchy and democratic participation (see Dahl, 1972).

According to Hegel, “civil society is the [stage of] difference between a family and a state” (1820, III, ii) in a modern capitalist world, where the state is a prerequisite. For Habermas (1996), the term civil society may be located between the private and the public spheres, contrasting with Marx’s (1859) idea that the material forces of production determine the consciousness of men and their existence, and constitute the economic structure of society, the real foundation to the “legal

¹⁰ His radical ideas traveled to Latin America and his works were translated into Spanish in the 1960s (Macdonald 2020).

and political superstructure.”¹¹ This former distinction between the state and the family suggests a society embedded in the market structure, contributing to capital accumulation.

Gramsci offered a different perspective from orthodox Marxism. The latter, rooted in deterministic assumptions, understood civil society as fundamental in preserving and reproducing the structures of the dominant class, blurring the line between state and society (opposite to liberal ideas). Proposing a more complex approach which identifies the importance of cultural institutions and ideological hegemony, Gramsci defines civil society as the location of consent, the other side of coercive power (Gramsci, 1971:52). The Gramscian tradition (like other strands of Critical Theory) emphasizes the potential transformative power of civil society (Cox, 1987 & 1995) as the place where democratic struggle and change occurs.

In Latin America the concept of civil society was adapted differently from the Western European or North American traditions, as noted by different scholars (Macdonald 2020; Avritzer 2006; Panfichi 2001). However, the differences across and among Latin American countries are also fundamental to understanding the Guatemalan case. According to Avritzer (2009) in the new left regimes there have been three forms of participation in the region: “direct, non-institutionalized participation” (e.g. the *cacerolazo* in Argentina), “institutionalized participation” (e.g. Brazil, Uruguay), “top-down semi-institutionalized participation” (Chavez’ Bolivarian Circles in Venezuela). Nonetheless, Macdonald highlights that there are countries in the region,

¹¹ “In the social production of their existence, men inevitably enter into definite relations, which are independent of their will, namely relations of production appropriate to a given stage in the development of their material forces of production. The totality of these relations of production constitutes the economic structure of society, the real foundation, on which arises a legal and political superstructure and to which correspond definite forms of social consciousness. The mode of production of material life conditions the general process of social, political and intellectual life” (Marx, 1859:2).

such as Mexico and Colombia, where neoliberal governments persist and “civil society movements remain outside of the state” struggling for basic rights (Macdonald 2020:303).

In each society the understanding of civil society can entail different degrees of complexity: for example, in Guatemala, according to Gladys Tzul, there is no separation between the private and public spheres for indigenous communities, where indigenous communal governments prevail (Tzul 2015, see also Macdonald 2020). The Guatemalan tax-negotiation case shows glimpses of a complex hybrid case, where state-civil society interactions may occur outside of the state, top-down, bottom-up, or completely alien to the state. A basic definition of civil society here would require distinguishing the subaltern groups of civil society from those groups and organizations linked to the market – the political society (as discussed by the Gramscian tradition) – subaltern groups are different from but complement the idea of class (Green 2007; Liguori 2011; Baratta 2011; Galastri 2017).¹² Among others, civil society would be composed of capital/business related groups, working classes, and subaltern groups which may or may not belong to the working classes.

Structure, Agency, and Institutions

In her introductory chapter to *Taxation and State-Building in Developing Countries*, Deborah Bräutigam (2008) distinguishes between five theories which identify key factors affecting a state’s taxation capacity. Although this author successfully categorizes each theoretical group by indicating its “rational perspective,” “historical,” “neo-institutional,” or “collective action problem” characteristics, she fails to recognize that all those theories come from different strands

¹² “The unity between political society and civil society in the form of an ‘integral State’ is only experienced in an organic way by the dominant and ruling classes...It is precisely for this reason that subalterns are ‘on the margins of history’... (Galastri 2017:76).

of the same neo-institutional approach—sociological, historical, or rational choice (see Mackay, 2010). Bräutigam’s categorization also allows me to go one step further, recognizing a division between institutions and agents, which clearly cross-cuts her categorization of states’ extractive capacities.¹³ This division is useful to identify the analysis of stakeholders versus the analysis of institutions either as frameworks for decision making or as outcomes of those same processes. Additionally, understanding institutions as frameworks and outcomes of power relations (and decision-making processes) also allows me to establish some clear connections between structures and agents, understanding institutions as mechanisms that crystalized and formalized power relations and facilitate, hinder, or hamper collective agency and structural changes – as per the power resources theory discussed in the previous sections.

From a historical institutionalist approach, most of the chapters in this edited book (Bräutigam, Fjeldstad & Moore, 2008), based on case studies from developing countries in different continents, address questions concerning state-society relations. The scholars criticize a modernization and teleological approach by showing how taxation contributions to state-building processes depend on a wide range of factors, from historical and economic contexts to tax policy implementation. This edited volume acknowledges that taxation was essential to the formation of strong states and democracy in Western Europe, and it is equally important for processes of state-building in modern developing countries, recognizing the importance of historical and economic differences between the Global North and the Global South. However, these approaches still assume a highly normative liberal economic and rational perspective in terms of the expected role of taxation in developing countries,¹⁴ attuned to the Addis Ababa agenda.

¹³ On the structure vs. agency debate, see e.g. Poulantzas & Miliband, 1972; Giddens, 1984; Unger, 1987.

¹⁴ For example, they explore questions such as how can taxation contribute to representative government and trust between states and citizens? Or when does it cause confrontation between the state and the taxpayers? Or what is the

Bräutigam’s categorization outlines how rules and institutions are at the core of a wide range of issues related to taxes and development, and identifies the main theories underlying recent studies of taxation in developing countries: a) Theories emphasizing autonomous working of economic development: economic structure, the level of economic development, and tax effort—a modernisation theory approach; b) Theories that emphasize taxpayers’ ideologies, values, and culture, explaining compliance with the state’s taxes—a mix between the rational/institutional and cultural/sociological perspectives; c) War and threat: explaining the incentives for rulers to modernize their revenue bureaucracies—a western historical and rational perspective; d) The structure of political institutions (constitution, electoral rules, etc.): which explain differences in state capacity and tax systems, often from a historical perspective; and e) The shaping of a fiscal contract through state-society exchanges: rulers wish to maximize revenue, while taxpayers try to minimize payments—framed as a collective action problem (see Bräutigam et al., 2008:4–14).

The neo-institutional approach, rooted in a liberal-rational perspective, where the idea of agency is predominant, expresses a permanent tension between structure and agency. A long-term debate, first expressed by Neo-Marxists (see Poulantzas vs. Miliband, 1972), remains present in the neo-institutional debate between the Sociological and Rational Choice schools (see MacKay, 2010). These approaches, among others, derived from Durkheim’s *Rules of the Sociological Method* (1895/1938) and Weber’s rational perspective, respectively. According to Durkheim’s classical sociological perspective, the social structure is determined by “collective habits,” which can be expressed in “definite forms,” such as “legal rules, moral obligations.... social conventions,

impact of taxation on state administrative and fiscal capacities? Or to create stronger and more effective states? And how global tax policy reforms have affected governance and state capacity in developing countries?

etc.” (Durkheim, 1938 [1895]:45) which guide and determine individual behaviour. In other words, social conventions and institutions condition individual rational decisions.

Later, neo-institutionalism proposed that institutions are the (formal or informal) rules that constrain and determine individual decisions, but ‘rational’ decisions (agency) occur within and may also modify those institutional frames—a reinforcing causality where institutions and actions influence and constitute each other, similar to the “mutual constitution” of structure and agency (e.g., see Giddens, 1984; Unger, 2004). Institutions—as defined later by neo-institutionalism (see North, 1990)—are a concrete expression of the modern socio-economic structure. However, as Douglass North (1990:16) proposes, formal (legal) institutions are not usually created to be socially efficient; rather, they serve the interests of those with the power to devise the new rules (through bargaining power or other mechanisms). According to neo-institutional theory, institutions are the outcome of rational and intentional human agency (Baert and da Silva 2010:127) and “deliberate political strategies” of “political conflict, and choice” (Thelen and Steinmo, 1992:10) constructed through processes of negotiation, conflict, and contestation (DiMaggio and Powell, 1991; see Mackay et al., 2010). According to Fiona Mackay et al. (2010:579), institutional “winners” try to maintain their privileged position, for example, through institutionalizing their privileges. As Acemoglu and Robinson (2012) have shown for different cases in the developing world, institutions can be characterized as “extractive” when they are designed mainly to benefit political elites. In contrast, what they call “inclusive” institutions and what North calls “efficient institutions” (1990:16) are the result of specific circumstances which allow those with bargaining capacity to modify institutions in ways that result in social efficiency.

It is assumed that institutions, as structures of coordination and constraint on social actors, can endure as mechanisms of coercion and domination (Lowndes, 2010; Moe, 2006) regardless of

whether they represent the most efficient outcomes of social interactions (see North, 1990). Wolfgang Streeck and Kathleen Thelen propose that “institutions do not survive by standing still” (Streeck and Thelen, 2005:24), “rather, they require active maintenance and ongoing mobilization of political support” (in Mackay et al., 2010:579). However, once a path is taken, institutions become self-reinforcing or path-dependent, and any reforms become difficult to undertake (North, 1990; Pierson, 2004). According to Mackay et al., the self-reproductive properties of institutions highlight “either the codes of appropriateness (sociological institutionalism), coordinating mechanisms (rational choice) or increasing returns to power (historical institutionalism) that sustain particular institutional arrangements over time” (Mackay et al., 2010: 577).

If we apply neo-institutional theory to understand tax institutions, paraphrasing the two previous paragraphs: tax institutions are the “outcome of (rational) human agency,” “choice,” “negotiation, conflict, and contestation,” and they express the institutionalizing of “privileges” of the “winners”—or powerful elites (following Thelen and Steinmo, 1992:10; DiMaggio and Powell, 1991; Mackay et al., 2010). Additionally, since institutions are “self-reinforcing,” “self-reproductive” and do not necessarily express the “most efficient” social arrangements, tax institutions would also depend greatly on the outcomes of social interactions (democratic or non-democratic), and the mechanism (or other institutions) which allow those interactions, either via negotiation or conflict and contestation. Consequently, it is proposed here that tax institutions can promote equality or privileges, depending on whose interests they represent.

Finally, since tax institutions are means to accrue state resources—Rawls proposes “income and wealth... are all-purpose means” (Rawls 366, note 37)—tax institutions are key mechanisms to achieve the ends of those who run the state, not only of those who succeed at negotiating specific tax rules. Then it is important to look at the bigger picture, namely, who is

negotiating the tax reforms and why, while avoiding any teleological assumptions about the role of tax institutions in shaping different models of the state.

In terms of theory, recognizing the agent-structure division contributes to the understanding that tax systems are affected by decision-making processes, regulated and mediated by political institutions, and bound by economic structures. In other words, specific institutions may regulate and shape non-democratic decision-making processes, creating unequal agency (veto players), and further unequal (tax) institutions. This perspective allows an understanding of institutions as clear bridges between structure and agency. More specifically, it allows us to understand unequal agency as a fundamental determinant of (lack of) institutional change, while decision-making institutions also appear as enablers or obstacles for change or structural transformation.

Tax Institutions as Expressions of Winners' Values

According to Dani Rodrik, in a democracy, self-interested policies need to be justified to be accepted. Elites “seek legitimacy” by stating that particular policies are in the “public interest” (Rodrik, 2014:194).¹⁵ Rodrik specifically mentions the role of ideas as incentives for human decisions, especially for politicians. Thus, Rodrik, from a historical institutionalist approach and beyond traditional orthodox economic perspectives, acknowledges the importance of paradigms and ideologies in explaining *homo economicus* and how he disguises the pursuit of self-interest.

Self-interest also expresses what we think has value in our society. Rodrik proposes that “immutable self-interest” is also an expression of ideas and values, “who we are, how the world works, and what actions are available” (Rodrik, 2014 p. 206). From a different theoretical and

¹⁵ For example, he proposes that the “argument in favor of financial deregulation was not that it was good for Wall Street, but that it was good for Main Street” (Rodrik, 2014:194).

philosophical perspective, Linda Sugin (2011) criticizes optimal tax models and proposes that those models generally overlook important distortions caused by taxes. Those “distortions” “affect fundamental life decisions,” such as the choices of type of occupation, work, and leisure time, which, according to this author, are fundamental to understanding and evaluating real “justice in taxation” (Sugin, 2011:236). Sugin also suggests that taxes, are expressions of what we value in our society (e.g., work, houses, family, childcare, etc.).

Beyond individual ideas and values, Gabriel Ondetti (2017) suggests that, instead of “taking [tax] preferences as given,” more historically oriented and context-sensitive approaches are needed—as proposed by Goodin and Tilly (2006). This will allow us to understand elites’ fiscal preferences, explaining causalities for each specific case, especially for “empirical outliers and paradoxes,” abandoning broad theoretical generalizations (Ondetti, 2017:69).

In conclusion, more than pure rational decisions, the composition of tax systems and tax structures are also an expression of what “we” value in our society. Alongside the correlation of forces and the institutional constraints, when economic elites dominate tax decisions, tax systems generally represent the values of the dominant groups (i.e., elites or oligarchies) rooted in specific interests and ideologies, which are, of course, historically and contextually determined. These arguments may contribute to explaining the design of tax institutions in Guatemala.

In theoretical terms, as already stated, institutions would shape and are also shaped by ‘rational’ decisions and values in any society. Agents, acting within those institutional frameworks, bring their interests and values to the table when proposing new, or modifying existing, tax institutions. Furthermore, since democracy can also be understood as a set of ideas, values, power relations, and institutions (e.g., see Dahl, 1991; 2000; Sen, 1999), then democracy may or may not underlie, frame, or accompany any tax bargaining process.

In Conclusion

This chapter has explored several debates around taxation, generally discussing binary relationships at the macro and meso theoretical levels, namely taxes-state formation and taxes-state building, state-society relations, elite-state relations, and taxes-democracy. Additionally, it explored institutions in the context of agent-structure dynamics. The following reflections and conclusions contribute to building the theoretical framework explained in the following chapter.

The debates about how taxes shaped states (state building) and democratic systems respond to historical experiences of European western fiscal and political systems, sometimes cautiously translated or explored in southern realities. Even so, their underlying assumptions are not always appropriate for developing countries, where taxation processes have evolved in different ways during post-colonial times, especially in contexts of extreme fragility. Here coercion, violence and their interaction with social forces, through taxation, play a fundamental role in explaining the different types of states and states capacities that result from this interaction.

State-society relations can be expressed in different ways and produce different institutional outcomes and policies. The recent literature, especially power resources theory, documents the importance of state and economic elites in tax negotiations and their outcomes. However, more nuance is needed to explore sources of (instrumental and structural) power in fragile and weak democratic contexts and how they contribute to produce different tax systems while also reproducing or reinforcing (more or less) democratic institutions. The fruitful analysis of state-economic elites' interactions (e.g., Schneider, 2014; Fairfield, 2015; Ondetti, 2017) exposes the existence of elitist and non-democratic mechanisms of power that shape fiscal policy decisions. Consequently, more evidence is needed about the (lack of) broad participation of civil society in tax negotiations in contexts of state fragility.

The literature exploring taxes and democracy, suggests that there is a close correlation between more tax revenues and democracy. However, the evidence shows that when there is an absence of democratic relationships, tax burdens can be imposed or skewed to favour certain privileged groups. Different from the traditionally explored causality that proposes that more taxes contribute to more democracy, this research explores the opposite causality, proposing that more democracy may contribute to more and better taxation. Better taxation means more just and more progressive tax structures. This different approach may contribute to nuance the understanding of the tax-democracy arguments, avoiding the teleological liberal perspective that taxation *per se* can improve the state's capacities and democracy. The work of Wilson Prichard (2015) starts to shed light on this causality, yet more nuance and evidence is needed to understand more concrete facts such as the lack of progressivity that characterizes some of the tax reforms in Latin America. That is especially true in extreme cases where tax reforms have sharpened regressive tax systems, as in El Salvador and Guatemala.

The agent-structure debate has been explored to complement recent power resources theory postulates and clarify their potential links with a completely different theory: neo-institutionalism. Agent-structure dynamics are understood as mutually self-constitutive but depending on the power of the agent and the available mechanisms to exercise power (e.g. tax institutions), the (capitalist) structure is preserved or modified to favour certain interests. On one side, neo-institutional theory proposes that institutions express and crystalize power arrangements. On the other, the power resources theory insists that there are concrete mechanisms that allow powerful groups to exercise their power, such as economic resources and institutions. In this sense, the agent-institution relationship may be the fulcrum of persistent structural relations, abidance, or change. This thesis, will explore whether, and how, the sources of power may (or not) rest heavily on institutions, and

what are the implications of more permanent institutionalized sources of (instrumental and structural) power.

Finally, at a macro level, this theoretical review explored how the existing tax debates around tax bargaining processes contribute, or don't, to explaining state weakness and economic inequality in poor and fragile democracies – while identifying institutional sources of self-reproduction of unequal systems. The next chapter offers a conceptual and methodological approach that builds on some theories and addresses the gaps identified in this chapter.

CHAPTER 3: THEORETICAL FRAMEWORK AND METHODOLOGY

What the economist typically treats as immutable self-interest is too often an artifact of ideas about who we are, how the world works, and what actions are available —Dani Rodrick, 2014:206.

The reduction of inequality that took place in most developed countries between 1910 and 1950 was above all, a consequence of war and of policies adopted to cope with the shocks of war. Similarly, the resurgence of inequality after 1980 is due largely to the political shifts of the past several decades, especially in regard to taxation and finance —Thomas Piketty, 2013/2014:20.

From a power resources theory perspective, this research contributes to drawing causal explanations of how much state-society relations define, and are defined by, power arrangements that are, in turn, normalized by institutions. The causality proposed in this chapter is that political institutions (more or less democratic) regulate state-society interactions (more or less inclusive), such as tax decision-making processes. More specifically, institutionalized sources of power shape key political decisions, notably tax policy. Tax decisions are fundamental because they can reproduce or change power arrangements institutionalized through political and tax institutions. In other words, the outcomes of state-society interactions (expressed as tax bargaining processes) have the potential to reproduce or change the existing power equilibrium by protecting or redistributing capital, sources of capital accumulation, and resources in general (Piketty, 2014).

As such, this research uses power resources theory complemented by a neo-institutional approach. This approach underlines the importance of institutionalized sources of power to sustaining and reproducing the (unequal) tax system. However, it also acknowledges the potential power of agents to change or transform those institutions.

This approach eschews neo-Weberian assumptions about the state being rational, autonomous, democratic, and legitimate. Instead, the clear-cut distinctions between the state, the economic elites, and the society are problematized to advance the understanding of inequality, particularly under conditions of state fragility and weak democratic institutions. Here the

traditional causality taxes-democracy is reversed to explore the implications of democratic participation on shaping tax institutions (and tax policies).

This chapter is organized as follows: the first section states the research questions and hypothesis explored in this dissertation. The second section proposes macro-theoretical concepts used to analyze state-society tax negotiations in developing countries, especially in contexts of extreme fragility. Section three discusses the operationalization of concepts at a meso-theoretical level, to analyze tax negotiations in the case of Guatemala, focusing on the concepts of instrumental power and institutions. Finally, the fourth section explains the methodological approach and specific methods used to study tax policy negotiations in Guatemala.

Research Objectives, Questions, and Hypothesis

Proposing that Guatemala is a weak state "by design" means that the different processes of political decision-making and the resulting outcomes have been highly (although not exclusively) determined by the foundational constitutional design, the incentives for change regulated by the fiscal and political systems, and the interests of power holders. The characteristics of the Guatemalan traditional oligarchic elite as cohesive, politically dominant, and "with a single peak business association" (Schneider, 2012:18; Casaús, 2014), is a constitutive element that contributes to reproducing the *status quo* (see Valdez and Palencia, 1998; Lora, 2008; Sanchez, 2009; Schneider, 2012). This thesis demonstrates how this happens through the institutionalization of mechanisms of exclusion that prevent changes to the tax system and limit wider social changes.

Responding to the main theoretical gaps explored in chapter 2 and explained in the subsequent paragraphs, the questions guiding this research project are the following:

1. If, according to fiscal theory, taxes express state-society interactions, to what extent are tax institutions in Guatemala mechanisms that institutionalize specific (unequal) state-society

relations of power, notably by reproducing patterns of exclusion and impunity? (This question emphasizes the role of tax institutions.)

2. How have elite and wider state-society negotiations shaped the Guatemalan tax system, especially from 2006 to 2012? (This question explores the agency of stakeholders in tax bargaining processes.)
3. Through what specific (more or less democratic) mechanisms do state-society negotiations occur? (This question draws connections between stakeholders' bargaining power and political institutions that frame bargaining, decision-making processes, and bargaining arenas).
 - 3.1. How do the quality and characteristics of political (decision-making) institutions affect tax creation and tax institutions?
 - 3.2. If institutionalized mechanisms for social participation reproduce privileges and inequalities or exclusion, how is "path dependency" socially constructed?

My main case-study **hypothesis** is that tax institutions in Guatemala reflect non-democratic state-society relations in a particular political and economic system, which shape and reproduce concrete mechanisms that perpetuate inequality. Tax decision-making mechanisms are elitist (reflecting differences of status, class, ethnicity, and "technical" knowledge); they reproduce privileges and impunity for those in power while creating barriers and exclusion for participation for the rest of society (greatly perpetuating gender, ethnicity, and class inequalities). Consequently, the existing Guatemalan tax institutions are an expression of inequality and democratic fragility "by design." This may change when political participation is wider. That is, if mechanisms of representation and decision-making are widely democratized.

My additional hypothesis is that the type of state which has endured in Guatemala since the transition to democracy in 1985, which, at first glance, seems chaotic and in constant crisis

(Schneider, 2014), is a state "weak by design," rooted in the strong political (instrumental) power of the traditional economic elites. Inequality, privileges, and impunity for some groups characterize this institutional design, rooted in weak rule of law. As such, the focus of this research is on the political institutions (decision-making arenas) favouring and protecting unequal tax policy negotiations and outcomes. Those unequal outcomes, namely in tax institutions, simultaneously influence and result from inequitable elite-state bargaining processes.

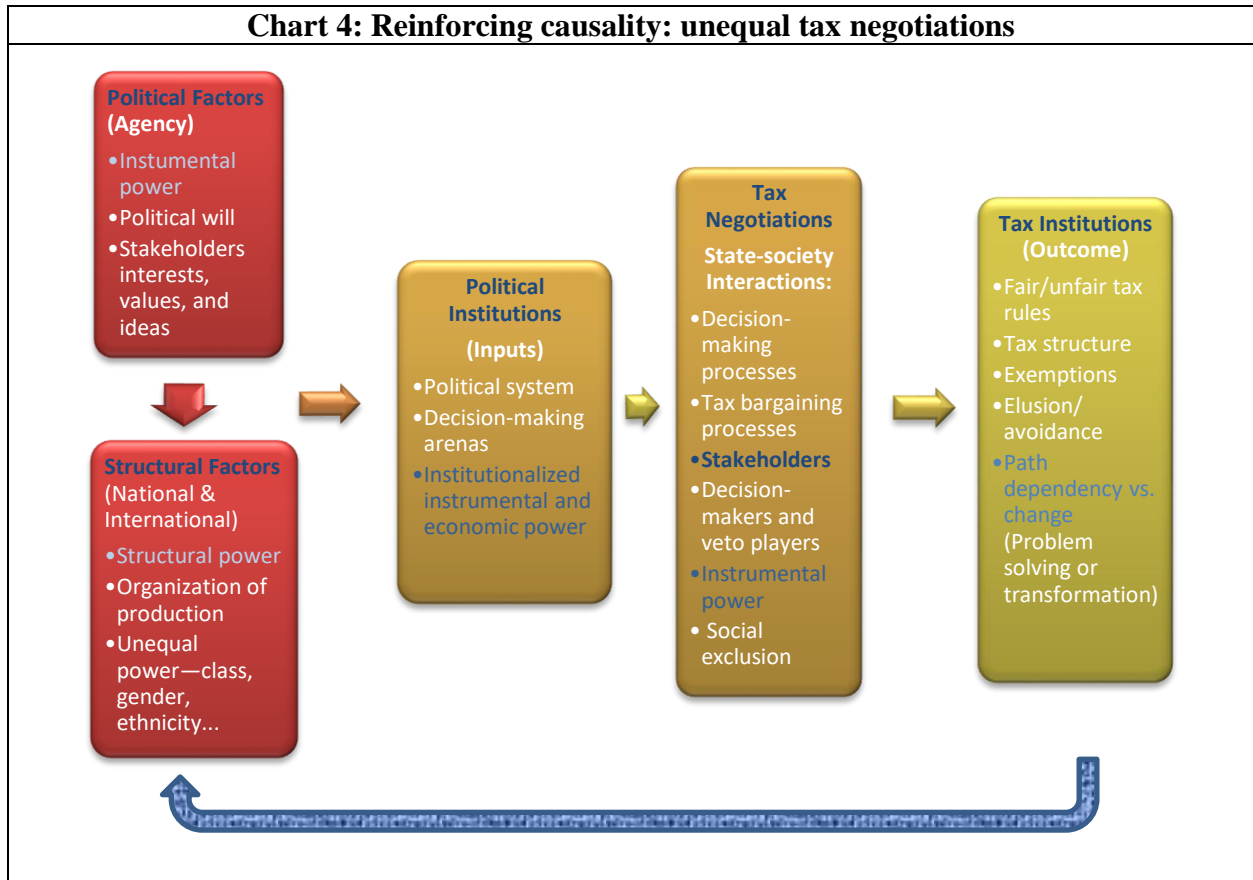
Core concepts

At a meso-level, this research proposes to explain regressive tax institutions in extremely fragile democratic systems. As shown in chart 4, this research explores causal relationships in specific decision-making arenas, between three variables: institutionalized sources of (instrumental/economic) power, stakeholder's actions (agency), and new tax policy/institutional outcomes. The research focus is on institutions framing and protecting spaces for tax negotiation, the characteristics of the tax bargaining processes, the stakeholders' (instrumental and structural) power, and the content of the tax reforms.

As shown in chart 4 below, agency and structure are fundamental variables to explain the design and existence of institutions. Institutions are analyzed at two levels:

- First, political institutions which allow, prevent, and regulate the participation of certain stakeholders in tax decision-making processes (input-institutions).
- Second, tax institutions which shape the tax system and their main characteristics, such as type of taxes, social bases, tax brackets, among others (outcome-institutions, including tax policies).

How are the two types of institutions connected?



- The first set of institutions provides the space or arena for state-society/elite negotiations, where stakeholders would express their interests and tax preferences. There, stakeholders perform particular *actions* and use *resources* to exercise their will and power using any available *instrumental or structural sources of power* (according to Fairfield's categories). Stakeholder participation would be highly determined by input and output institutions—formal and informal. It is important to note that the analysis of decision-making arenas will also allow us to focus our attention on institutionalized sources of power.
- The second set of institutions (tax rules) result from the tax negotiation processes and have a further impact in stakeholders' and non-stakeholders' realities and power (e.g., weak or stronger

budgets, allocation of resources, etc.), in sum, an impact on state fragility and equity. These tax institutions have a direct impact on societies' structure and agency, as discussed below.

Power Resources Theory: Taxes and Democracy

Power resources theory has yielded more explanation on how states and economic elites (the owners of wealth) interact, contributing to clarify the mechanisms through which economic elites exercise their power and advance their tax interests in several South American countries. This specific literature, as Fairfield's case studies show (2014), generally assumes the existence of democratic systems and autonomous states. Those assumptions may not be problematic when exploring middle- or high- income developing countries with strong institutions. However, they provide problematic foundations for understanding the "outliers," where tax negotiation processes occur in contexts of weak democratic institutions with low or no popular representation. To explore fragile and post-conflict affected states, like Guatemala, it is necessary to avoid general assumptions, such as the pre-existence of democratic institutions (which may formally/minimally exist), social representation, state autonomy, and bureaucratic rationality.

As discussed, more taxation does not necessarily mean more democracy, and the latter (at least formal democracy) does not necessarily translate into more taxes. Indeed, this thesis proposes that the type of political regime (more or less democratic) and especially the quality of the mechanisms that allow social participation in tax negotiations, directly affects the quality and characteristics of the tax systems. In other words, democratization and social participation may impact tax structure and tax equity, as suggested by Modica et al. (2018).¹⁶ However, it is

¹⁶ These authors show that OECD and non-OECD countries generally differ on tax structures, levels of tax progressivity, and state protection mechanisms.

fundamental to avoid the linear, teleological assumption that an increase in tax burdens will automatically improve democracy and tax progressivity. Prichard's (2015) arguments add nuance to that view, highlighting the importance of political will in building more accountable and responsive governments.

This later argument brings a new approach to understanding the Guatemalan case, different from Aaron Schneider's view of the state-building agenda of transnational economic elites. My approach contributes to understanding how in Guatemala, those elites (with traditional elites) also contribute to building a non-progressive and non-equitable tax system. Assumptions of progressivity are also challenged by recent findings, including Schneider's, that recent tax reforms in Latin America are characterized by their lack of progressivity, and, in more extreme cases, like El Salvador, they even accentuate regressive tax systems.

Power Resources Theory and Social Participation

Given the nature of state-society relations in Latin America, economic elites' power may overshadow the possibility of social participation (particularly by civil society) in decision-making processes. Yet a flaw of power resources analysis in Latin America is its weak analysis of the lack of participation of civil society in state-elite tax bargaining processes.

As discussed in the previous chapter, power resources theory allows analyzing civil society's active participation or deliberate exclusion from negotiations at key moments during tax negotiations processes. Accounting for civil society's participation or exclusion thus appears to be fundamental to understanding unequal negotiations and unequal tax outcomes as the Guatemalan case shows. For this thesis, civil society is understood as per Gramsci's proposal, where civil society can play a fundamental role either as supporting or challenging the economic structure (and

superstructure), depending on their own interests, class, or relationships/membership of other subaltern groups (Patnaik 2012; Macdonald, 2020).

Capital and labour mobility in the globalized market may be fundamental in determining tax bargaining outcomes. According to power resource theory, the possibility to exit from the bargaining process may generate different results for stakeholders. Michael Kellermann (2005) argues that capital mobility allows wealth owners to avoid social and political pressures, particularly from unions and labour parties. Fairfield (2015) also supports this argument in the case of economic elites in South America. However, for workers, Kellermann argues that the possibility to exit may have ambiguous results. On one side, the possibility to exit could be beneficial, as it is for capital "by providing a higher threat point;" on the other, it might incentivize workers "to leave rather than press for redistributive policies, even if organizations designed to express the views of labour already exist" (Kellermann, 2005:7). According to these ideas, exiting negotiations (e.g., migrating to other countries) is a potential outcome of failed policy bargaining processes when the social organization and negotiation capacities are low. In any case, labour mobility is hard to document at any particular negotiation process and will not be explored in this research. Even so, these arguments are useful to add nuance to state-society bargaining processes and to link them to pressing problems, such as migration.

Power Resources and Economic Elites in Guatemala

Following Winters's (2011) and Piketty's (2014) ideas, using Tasha Fairfield's (2015) approach, this research contributes to understanding the sources of power of the economic elites and the core oligarchies, which prevent progressive and democratic changes to the tax system in contexts of fragility and high inequality. I argue that, in the Guatemalan case, it is the institutionalized sources of power—which are the result of historical power struggles, experiences, and economic and

political interests and ideologies—which limit and prevent democratic participation and social counter-actions in the tax bargaining processes. Institutions matter as sources of power for all stakeholders. In Guatemala, institutions matter as crystallized expressions of power, and sources of power in modern "political" and highly unequal formal "democratic" systems (or "civil oligarchies"—following Winters concept, 2011).

This thesis studies Guatemalan economic elites' sources of power, with an emphasis on the "institutionalized" political sources of power, some of which Fairfield (2015) identifies and categorizes as "partisan linkages," "government recruitment," and "informal ties." This research explores formal and informal institutionalized sources of power (see table 3). By focusing on the institutionalized sources of power, I also avoid Fairfield's analysis of structural sources of power determined by behaviour and perceptions from decision-makers (Fairfield 2015). In sum, following Fairfield's conceptualization, this thesis explores how these institutionalized sources of power reproduce and perpetuate economic elites' ability to shape and veto progressive tax reforms over time and across different decision-making "arenas" or institutional frameworks.

As discussed in chapter 2, institutions are defined as the formal and informal rules that guide social action. Formal institutions refer here to the written laws and the formally and officially established procedures in the political sphere (following Douglas North's definitions, 1990). Informal institutions are understood as defined by Gretchen Helmke and Steven Levitsky as "socially shared rules, usually unwritten, that are created, communicated, and enforced outside officially sanctioned channels" (Helmke & Levitsky, 2006:5). They consist of shared expectations instead of shared values; hence, they are different from political culture. Additionally, informal institutions are different from weak formal institutions. Then, strength is a different characteristic of any type of institution, formal or informal (Helmke & Levitsky, 2006).

According to these authors, informal institutions may result from formal institutions; however, they can also be the bases for existing formal institutions. As Guillermo O'Donnell suggests, "particularistic practices in informal institutions have been central to the trade of many Latin American politicians before and during authoritarian regimes [so that] the formal institutions of democracy have been, as it were, plunged into a deep sea of pre-existing informal rules and institutions" (in Helmke & Levitsky, 2006:289; see also O'Donnell, 1996 & 1997).

Informal institutions can also be complementary, accommodating, competing, or substitute for formal institutions (Helmke & Levitsky, 2006). For this thesis, the two categories, complementary and accommodating informal institutions, are useful tools for analysing informal political institutions framing tax bargaining processes in Guatemala. Accommodating informal institutions may contribute to ease inflexible or inefficient formal institutions, enhancing cooperation (e.g., Siavelis, 2006; Mejia Acosta, 2006), while complementary informal institutions can contribute to the workings of incomplete or weak formal institutions (e.g., Stokes, 2006). However, this thesis proposes that, although this type of informal institutions can contribute and not necessarily obstruct the functioning of formal institutions, this does not mean that they work towards democratization.

This idea also attempts to contribute to theories on how tax policy bargaining processes occur in unequal and fragile democracies. This analysis proposes to differentiate fragile and weak democracies from the catch-all category of "developing countries" (WB, 2016). This differentiation will also avoid the use of broad regional categorizations such as "Latin American countries," which have resulted in generalizations that hide important differences and leave outlier countries, such as Guatemala, unexplained. Firstly, by focusing on the quality of state institutions, in terms of democratization and autonomy from particular interests, this research contributes to

adding nuance to the differentiation between "developing" and "fragile states," and goes beyond strictly economic categories such as "middle-income" or "low-income countries."¹⁷ As discussed, in the case of Guatemala, the change from low-middle income to high-middle income country categorization (as proposed by the World Bank index) is inaccurate and does not contribute to explaining the economic reality, and even less the social and political phenomena.

Secondly, many scholars addressing tax issues in Latin America from a comparative perspective, analyze the region as a homogeneous block, generalizing their findings and leaving outliers unexplained. For example, Martorano (2016) and Focanti et al. (2016) simply ignore why the Guatemalan indicators behave differently from the rest of the Central American region, not to mention the Southern Cone countries. Other authors (Fairfield 2015) analyze a few Southern Cone cases (Chile, Bolivia, and Argentina) and extend their findings to the whole region. Meanwhile, Schneider (2014) assumes the emergence of a powerful transnational elite, different from the traditional economic elites, in each country of Central America. Although it seems intuitive that tax mechanisms do not operate the same way in Chile and Guatemala, it seems less evident why tax reforms may be different between Guatemala, El Salvador, and Honduras. This research proposes to explore the relevance of the quality of "democratic" institutions as an important variable when studying tax reforms in contexts of fragility.

Thirdly, recognizing the limitations and relativity of the "state fragility" concept, this research also recognizes its usefulness to categorize states and draw potential generalizations.

¹⁷ On April 15th, 2016, Neil Fantom, Manager of the Development Data Group at the World Bank announced on his official blog, that the World Bank would no longer distinguish between "developed" and "developing" countries in its data and databases. According to Fantom, the term was becoming "less relevant" and useful since, under that category, it was possible to group countries as diverse as China, India, Syria, Belize, or Honduras (WB — The Data Blog, 4/15/2016). Then, the WB proposed that references to income (high, middle, or low) could be more useful, depending on the analytical purposes. For example, gross national income (GNI) can still be the best specific measure of economic development, according to this same official (12/01/2016).

According to their own proponents, "state fragility" is a relative term that measures the performance of states in relation to other states or to the same state at different moments in time (Carment and Samy, 2011:36). According to Carment and Samy, "all states are to some extent 'fragile'; this is, we believe, a closer representation of reality than an arbitrary line, however, drawn, between 'weak' and 'strong' or 'resilient' and 'vulnerable'" (Carment and Samy, 2011:37). However, besides avoiding dichotomic differences, this concept assumes a normative position measuring the characteristics and capacities of a state against idealized images of what a resilient, democratic, legitimate, and sovereign "modern state" could look like. I acknowledge that this research may be tainted by these normative assumptions, that more resilient, just, and democratic states are possible, yet I strive to avoid particular prescriptions until the last section of my dissertation, where potential policy changes and recommendations are identified.

Institutions and Causality

This thesis proposes to contribute to the analysis of the role of economic elites in developing countries by using a power resources approach. However, a few conceptual variations and additions to this perspective are implemented as discussed in previous sections. Additionally, I propose that documenting the actions and sources of power of the economic elites is not sufficient to explore exclusion by design. It is necessary to observe not only the institutionalized sources of power that allow and strengthen the elites' power but also those that weaken or control the power of other stakeholders (namely of civil society). By looking at the sources of power of the economic elites, as much as the data permits, this thesis also explores the implications of the institutionalized sources of power of the economic elites for civil society organizations directly or indirectly participating in tax negotiations.

Aaron Schneider analyzes the role of emergent transnational economic elites in Guatemala. He concludes that these new economic groups, a product of new global markets, have not been "dominant, nor cohesive," and their attempts to promote any state-building project "have been blocked by institutions which complicate policy-making" (2014:41). In the end, Schneider characterizes the state-building process in Guatemala as a "recurrent crisis," without a coherent program or "dominant social sector to promote it" and without "institutions capable of implementing it" (2014:43). This thesis agrees with Schneider's ideas, yet it also proposes that looking at emergent economic elites will only provide a partial perspective of a much more complex phenomenon. Precisely, I propose that the key explanation to the lack of domination and cohesion of emergent economic elites lies in the role of political institutions, which prevent fiscal reforms and are fundamental to protecting the broader *status quo*, which favours traditional economic elites (not transnational elites).

Omar Sanchez (2009) identifies four structural factors as the multi-causal explanation to the lack of progress of fiscal reforms: "the continued near-hegemonic status of organized business; the inorganic and non-representative nature of political parties; the fragmentation and underdevelopment of civil society; and severe state weakness coupled with low state autonomy" (2009:102). Accepting the fundamental importance of these structural elements, as proposed by Sanchez, this thesis goes one step further by establishing causal links between them, as discussed and summarized in chart 4. The empirical chapters (4, 5, and 6) present the evidence on those causal relations, according to the methodological approach discussed in the following section.

Research Methodology: In-depth Analysis and Longitudinal Comparison in One Case Study

By analyzing a case study, this researcher is choosing a research strategy based on the in-depth empirical investigation of a phenomenon or event chosen, delimited, conceptualized, and analyzed empirically to develop theoretical explanations that may also apply to a larger group of similar phenomena (King, Keohane, and Verba, 1994; Ragin, 2000; Vennesson, 2008). There is no unique definition of what a case study is, however, for this thesis I adopt Pascal Vennesson's proposal that a case study is a "theoretical category" (Vennesson, 2008; Hall, 2003), a product of theoretical constructs and conceptualizations (Rueschemeyer, 2003). Most importantly, Vennesson (2008)—following Bachelard's (1938, 1949) ideas—proposes that a case study may reflect a concrete epistemology through all the research stages, from its conception to its research outcomes (Vennesson, 2008). In other words, "the epistemological categories that we use, explicitly or implicitly, affect the ways in which we evaluate the social scientific contributions of research strategies and methodologies" (Vennesson, 2008:228).

Using Vennesson's categories, the Guatemalan case is both a "deviant" and "interpretive" case; using a theoretical framework to explain that case can lead to the refinement or adjustment of an existing theory (Vennesson, 2008:227–228). As the Guatemalan case represents a problematic case or outlier, exploring it opens the possibility of adjusting power resources theory to explain failed tax reforms in the context of political and democratic fragility.

This case study uses different types of data-gathering procedures. It is grounded in in-depth empirical research, which does not assume actors' and stakeholders' preferences (as per Ondetti's proposal, 2018), but rather draws on process tracing and chronologically comparative within-case analysis (Vennesson, 2008; George and Benneett, 2005). Process tracing means the empirical assessment of a theory "by identifying the causal chain(s) that link the independent and dependent

variables," going beyond correlations (Vennesson, 2008:231, 236). Process tracing may also be equivalent to systematic process analysis (Hall, 2003), such as decision-making processes (Elman, 1996, in Vennesson, 2008). This perspective allows us to explore (not assume) actors' preferences. This proposal to use comparative within-case analysis also allows this research to contrast different negotiation periods, during one same larger fiscal negotiation process in Guatemala. The time, historical depth, and micro-processes are determined by the selected tax reform process, which started in 2006 and concluded in 2012, under three different governments.

This thesis explores how institutionalized sources of power in Guatemala reproduce and perpetuate the economic elites' power to shape and veto progressive tax reforms 'over time' and across different decision-making 'arenas.' This research focuses on tax reforms from its agenda formulation to the outcomes of the reform initiatives. The three decision-making arenas or institutional frameworks are the executive, legislative, and judicial branches. This in-depth case study, then, also allows for the comparison between periods and decision-making arenas.

This concrete case study allows us to contrast three different presidential periods and tax bargaining processes of one tax initiative. First from 2006 to 2007, a comprehensive tax initiative was conceived, elaborated, and discussed during the presidential government of Oscar Berger and the *Gran Alianza Nacional* Party (GANA). Second from 2008 to 2011, the tax initiative was finished, presented to Congress, and negotiated during the Alvaro Colom administration and the *Unión Nacional de la Esperanza* (UNE) Party. Finally, in 2012 the tax initiative was approved during the first 100 days of the Otto Perez and *Patriota* Party (PP) government; yet that year, most of the key reforms were reversed or annulled by the same government (Executive and Legislative Branches) or Constitutional Court. Those three moments of negotiation within and between the government and the economic elites are explored in three different "arenas": the executive,

legislative, and judicial branches (see Table 2). These arenas represent particular formal and informal institutions framing the tax negotiations. Finally, these bargaining processes are also contrasted with previous documented experiences during the fiscal pact negotiations in 2000.

Table 2: Guatemala Tax Negotiation Processes — 2006 to 2012

Arenas Periods	Executive	Legislative	Judicial	Other
2006–2007 (GANA)		✓		✓
2008–2011 (UNE)	✓	✓		
2012 (PP)	✓	✓	✓	✓

Additionally, to observe the impact of the economic elites' sources of power on tax decisions, I also include the analysis of civil society as an agent with the potential to influence, reproduce or change the tax outcomes. That variable will be observed in terms of the existing formal mechanisms for participation or exclusion. Three categories are proposed: participation, absence/indifference, and exclusion. Those categories are contrasted among the same non-business social organizations and through different tax negotiation moments and arenas.

In Fairfield's view (2015), actions are different from sources of power. Sources of power are different from resources, as described in Table 3 below. Whether actions, lobbying, threats, or corrupted practices influence decision-making or not, depends on the power of the stakeholders performing those actions. The outcomes of these actions would depend on the real sources of power on which those actions take root. For example, the resources and relationships of economic elites with policymakers are fundamental to understanding when lobbying, threats, or corrupt practices may be more efficient in influencing tax decisions.

Given Guatemala's history and current circumstances, discussed in the following chapters, I have added another resource category to the list proposed by Fairfield: violence. Since the monopoly of violence is an assumed condition in modern democratic states, this variable seems less relevant in more democratic contexts. However, in contexts of post-conflict and extreme fragility, the capacity of private actors to directly exercise, control, or organize violent actions may also be a key source of power. In the case of Guatemala, the use of violence allows private groups to organize and exercise violent actions against any stakeholder using "parallel" non-state forces. Violence also allows the forces of the state (police or army) to protect personal or sectoral interests against broader popular demands, as argued by Edelberto Torres-Rivas (2016).

The following table lists the main variables that will be observed throughout the research process, to explain the main stakeholders and their sources of instrumental power across different institutional arenas at each different government period. This table will be used in the last chapter of this thesis (chapter 7) to contrast the three presidential periods analyzed throughout the empirical chapters (4, 5, and 6). The outlined variables allow to observe the most important sources of power (relationships with policymakers) institutionalized through formal and informal institutions (e.g. laws or secret practices) for each specific tax negotiation period.

Table 3: State-society Relations: Stakeholders and Sources of Instrumental Power
 (*Sources of power categories adapted from Fairfield, 2015:28–42)

Agent		Economic Elites	State Representatives	Civil Society
Institution				
Institution Type	Sources of Power Type & Definition	Levels of Power	Conditioned Response	Countervailing Power
Relationships with policymakers		–High –Low	–Electoral interests –Rent-seeking Autonomous/response	–Participation (high/low) Absence/indifference –Exclusion
Formal Institutions	Formal consultations*			
	Partisan linkages* (transparent)			
	Election to public office*			
	Recruitment Government*			
	Political financing/debts (accountable)			
Informal Institutions	Campaign financing/debts (non-declared/illegal)			
	Informal ties (includes family)			
	Informal/secret consultations			
	Normalized gender and ethnic relations			
Resources		–High –Low	–Electoral interests –Rent-seeking Autonomous/response	–Participation (high/low) Absence/indifference –Exclusion
Formalized Institutions	Cohesion*			
	Expertise*			
	Media Access*			
	Money*			
	Violence			

A Note on Tax Equity and Gender

In contexts of deep inequality and fragility, gender becomes a fundamental variable. Although it is a difficult variable to address, this thesis attempts to highlight any relevant data which may suggest how gender imbalances affect tax negotiation processes. For example, as proposed by different scholars and underlined by Grown and Valodia (2010), equity is one of the central cornerstones of tax policy. The key challenge for developing countries is how to improve their tax revenue capacity while minimizing the tax payment burden on the poor and marginalized (e.g., Grown et al., 2010). Here, women who are more vulnerable to poverty are major stakeholders. Grown et al. (2010) proposes that tax policies have the potential to challenge and transform existing gender inequalities, because, as they demonstrate through different case studies, most tax policies currently allocate, promote, incentivize, and reinforce policies which favour (certain) men. However, the power of transformation does not depend exclusively on the tax policies *per se* but in the power of agency, which transforms and allows the existence of more progressive policies.

This thesis proposes to explore the gendered character of tax policy, first by identifying the participation of women in state-society negotiation processes; second, by identifying concrete tax reform proposals that may contribute to social equity, including gender equity. Additionally, this research highlights any existent institutionalized sources of instrumental power, which may directly reflect and reproduce unequal gender relations.

Research Methods and Challenges

The data has been collected qualitatively and quantitatively. After seven months of fieldwork in Guatemala in 2016, the gathered research data is extensive. The qualitative data is based on primary documents, such as original tax bills, final decrees and tax laws, court resolutions, official documents, and secondary sources such as press articles, journal articles,

books, and reports. My formal affiliation as a visiting researcher at the Central American Institute of Fiscal Studies (ICEFI) was fundamental in getting updated quantitative and qualitative data and official documents. Additional to the access of ICEFI's databases, quantitative data was also gathered from official sources, such as the Bank of Guatemala, the Ministry of Finances, the World Bank, and other country data sources. This affiliation allowed me to participate in several relevant meetings, discussions, panels, conferences, and fora related to tax discussions. Additionally, more than 40 in-depth interviews were conducted with key informants, namely decision-makers, high-rank (former) government officials, and tax experts.

Finally, my knowledge of the field was complemented by my previous experience (and professional network) working as a researcher in Guatemala from 2003 to 2009, especially while working as a research team leader at the Latin American Faculty of Social Sciences in Guatemala from 2005 to 2009. I also kept learning about the tax issues during other trips to Guatemala in 2014 and 2018, while I was pursuing my doctoral program in Canada.

The data were analyzed in an iterative way, deductive and inductive, from theory to empirical data and vice-versa. The information collected through the in-depth interviews was mainly used to triangulate and complete existing data, such as dates, meetings, stakeholders' participation, positions regarding particular tax issues, and bills. Although perceptions were not included as a direct field of analysis, given the relevance of the interviewed stakeholders, their positions and statements (which may be biased) are taken as valid, especially when they played a relevant part in defining the outcomes of the tax reforms.

A Note on Interviews and Risks

Normally, in Guatemala, discussing fiscal issues and public resources with relevant stakeholders is a difficult topic, given the high levels of personal interests, rent-seeking, political campaign

implications, corruption scandals, and high degrees of polarization on the topic. However, during seven months of my fieldwork in 2016, discussing taxes became even more risky. Given the unforeseen circumstances described below, my risk management strategy (rooted in the measures approved by the University of Ottawa's Ethics Board in 2016) was considerably tightened.

In 2015, the president and vice president of Guatemala were forced to resign their positions due to social pressure. For the first time in many decades, Guatemalans took to the streets to demand justice. The newly established UN International Commission Against Impunity in Guatemala (CICIG) highlighted the existence of a strong corruption network linking the country's corrupted customs system with top government officials. By the end of 2015, Otto Perez and Roxana Baldetti, the former President and Vice President, were in jail facing corruption charges. The scope and size of the corruption networks implicated top-ranking government officials and politicians, "respectable" bankers, businessmen, and members of the traditional elite. In 2016, CICIG investigated and uncovered this and other major "fiscal" scandals related to embezzlement, misappropriation of state funds, illicit campaign funding, money laundering, and others.

Almost every week, the national news published a new list of accused and prosecuted politicians and businessmen. Many of the names on those lists were also on my list of potential interviewees. My former colleague in Guatemala made a sarcastic joke that I should organize a focus group in "El Mariscal Zavala," where many former financial officers were detained. The Military Brigade Mariscal Zavala was the improvised high-security jail for the high-profile prosecuted officials and businessmen who would otherwise have been killed in the "normal" (overcrowded) high-security prison. People also referred to it as the "VIP jail." Besides the sarcasm, this situation forced me to review and modify my research strategy. My personal security, as well as the security of any potential informant willing to discuss tax issues, were at stake.

I had to be clear and specific on my objectives when contacting potential interviewees, but I also only contacted people through personal contacts and networks. I purposely avoided anyone being prosecuted, at least, at that moment. The increased tension and potential risks associated with my topic had an impact on the number of my interviews, which turned out to be fewer than initially planned. However, this allowed me to interview people who were open and willing to talk frankly about a topic that, at that moment, seemed even more relevant and tinted with corruption. My local affiliation with the Central American Institute of Fiscal Studies, ICEFI, was a very positive aspect at that moment (and a requirement for my IDRC Doctoral Research Grant). I can say that most of my interviews were of great quality, providing concise and clear information about the tax negotiations from 2006 to 2012. I avoided any questions or comments related to the corruption scandals (despite the relevance of those issues). However, I also kept informed on these issues by reading and following the CICIG reports and court hearings.

To my surprise, I found that the CICIG reports extensively quoted my own publications on the workings of the political parties in Guatemala, especially related to the financing of political campaigns when they were tracking and uncovering the corruption networks. This fact, which may reflect a personal satisfaction, also made me think about my vulnerability. In sum, I had to keep a low profile to pursue my research objectives while safeguarding my security, that of my family and of my interviewees.

Further Policy Implications: Normative Changes?

As part of my personal commitment to advance democratic change in Guatemala, the last part of my concluding chapter adopts a more normative pro-democracy perspective. Although this attempt is limited, it highlights some potential paths to change the current state of affairs in Guatemala and advance equity and democracy. Given my theoretical arguments, recognizing the limitations of the

current political and economic systems is essential. Changing the balance of power that underlies those systems seems fundamental. But is that change possible? Alternatively, are Guatemalans bound by path dependency and current power arrangements?

The complementary questions guiding the final reflections are the following:

1. What are the implications of the current tax institutions for the reproduction of a weak or fragile state (by design)?

2. The potential for change: What are fiscal demands and tax policy alternatives that could reflect a wider social basis? What are the potential social bases and critical junctures for institutional change? (problem-solving vs. critical transformative perspectives)

From a critical constructivist perspective, no system is completely determined; all are prone to negotiation (Guzzini, 2000). It is on that basis that the thesis ends with some reflections on the agents and structures that could contribute to change, despite major constraints, in Guatemala.

CHAPTER 4: HISTORICAL BACKGROUND

That being the independence from the Spanish Government, the general will of the people of Guatemala, and without prejudice to the Congress that must be established ... the Chief Political Officer should have it published to prevent the consequences that would be fearsome in the case that the same people would proclaim it de facto (Independence Act of Guatemala September 15, 1821, my translation).

This chapter briefly reviews and reinterprets historical facts documenting the importance of political stakeholders (agency) and political institutions in shaping tax policies in Guatemala before 2008. The main objective of these pages is to highlight the persistent positions of the state and the economic elites, compared to absent or changing positions of civil society during tax negotiations. By documenting historic tax negotiations, this chapter highlights the unequal power structures, institutions, and relations that have determined the tax outcomes.

Additionally, as discussed in chapters two and three, Tasha Fairfield (2015) proposes that resources such as money, cohesion, expertise, and media access have been fundamental to enhancing the power of the economic elites. These resources are different from the structural and political sources of power which determine these groups' veto power. These pages also contribute to highlight some specific examples on the use of violence and argue that violence has been an important “resource” (presumably supported by the powerful groups) to veto tax decisions.

This chapter briefly explores four periods of Guatemalan history, divided into three sections. The first section contrasts the years before and after the transition to a democratic regime in 1985, up to the signature of the peace agreements in 1996. This part is documented through secondary sources. The following two sections explore two periods fundamental to understanding the failed tax negotiations after the Peace Agreements: the fiscal pact negotiations of 2000, and the initial negotiations and conception of the 2012 tax proposal under the leadership of the Group for the Promotion of the Fiscal Dialogue (GPDF—*Grupo Promotor del Diálogo Fiscal, GPDF*), from 2006 to 2007. Although the Fiscal Pact negotiations have been widely explored in the fiscal

literature, this chapter proposes a nuanced reinterpretation of some events, and updates the current tax literature by exploring the inception of the 2012 tax law, since 2006—from the creation of the GPFD. This later period has barely been analyzed in the literature, except for the detailed personal accounts narrated by one of the GPFD members, later Minister of Finance, Juan Alberto Fuentes Knight (2011). Additionally, the last two sections also present information from primary sources (documents and interviews). The last section presents an analytical synthesis and conclusion.

Tax Negotiations Before and After the Transition to Democracy: Institutionalization of Instrumental Power

The history of tax institutions in Guatemala has its origins in Pre-Columbian Mayan societies; however, according to some tax experts, the modern tax system derives from the taxes imposed on the indigenous populations by the Spaniard rulers during colonial times.¹⁸ Among other political issues, the independence of the colonial Provinces of Central America from Spain was, first, the result of the *Criollo* (Spaniards born in Guatemala) political elites' decision “to continue enjoying their privileged position” of imposing taxes on the indigenous populations while avoiding transferring them to the Spanish Crown (SAT-ICEFI, 2009, p. 15). Second, it reflected *Criollo* elites' decision to “prevent” a “de facto” declaration of independence by their people, which was not desirable and was even seen as “fearsome,” as stated on the Independence Act (Independence Act of the Province of Guatemala September 15, 1821).

It is important to remember that, in Latin America, land ownership was a privilege for the ruling settlers from colonial times. For example, the *encomiendas* and later the *haciendas* were a

¹⁸ During the first decades after independence, the tributes continued the same colonial pattern and were based on taxes to local trade (*alcabala interior*) and excise taxes on tobacco and hard liquor, among few others. This was until 1836 when a liberal government first attempted to impose a “direct” tax contribution on all male citizens between 18 and 46 years of age. However, this failed attempt contributed to the fall of Mariano Galvez's government, which also ended the Central America Federation project (SAT-ICEFI, 2009, p. XVI).

form of economic, political, and cultural power which expressed the power of the landlords (European descendants) to rule over those without land (native indigenous)—(on the role of Encomiendas, see Kramer, 1994; Yeager, 1995; or history of haciendas, Legorreta, 2006). These old direct ties between political and economic elites contribute to explaining the long-lasting links between the political and economic groups in countries such as Guatemala. This historical background also contributes to explaining other phenomena, such as the permanent inequality—as well as the limited existence of property taxes—in the region (e.g., see Martorano, 2016; Focanti, Hallerberg, and Scartascini, 2016).

State warfare and violence benefited the accumulation of the power of political and economic elites linked to land production during colonial times (from 1530), the liberal governments (19th century), military dictatorships (first half of the 20th century), and the post-second war authoritarian governments (Torres-Rivas, 2016). A reinforcing relationship state-capital created strong oligarchic groups. For example, according to different scholars, the powerful landed elite in Guatemala (established after the liberal revolution of 1871) have imposed their dominance on Guatemala's economic development since 1954¹⁹ partially through the fiscal policy (e.g., Marti, 1994; ICEFI, 2009). For example, Werner Marti (1994) shows how the opposition of the agro-exporters prevented any increases to the already “very low tax revenues” during that period. This fiscal veto deprived the state of the funds necessary to modernize the rural society in terms of infrastructure and human resources (Marti, 1994, p. viii & Ch. 5).

¹⁹ A conservative counterrevolution, supported by the US government and the CIA, overthrew the government of Jacobo Arbenz in 1954 and re-established the military governments until the democratic transition of 1985. However, an important turning point occurred in 1963 when, after a fierce opposition of a CACIF (created in 1957), the income tax was established by the military regime (Decree 1559) when the first armed uprising against them occurred (the beginning of the guerrilla movement). However, next to the new income tax system, generous and selective exonerations and exemptions were granted (SAT-ICEFI, 2009).

The Guatemalan elites' strategies and organizational capacity to negotiate and fight against tax laws have existed since colonial times and have been present during even the most violent times of authoritarian military repression. For example, the Development Plan 1971–1975 of the Military Government of General Carlos Arana contemplated the increase of several taxes (property taxes, vehicles' circulation, income tax, and the implementation of a sales tax instead of the stamp duty). However, this goal was never accomplished. Consequently, in 1974, when a new Military President took power, the need for state resources was urgent. This triggered a new attempt by the government to increase export duties given the “extraordinary growth of that sector” during those years (ICEFI, 2009: 169–170). However, the coffee producers were opposed to the initiative, and the Chamber of Agriculture (*Cámara del Agro*) led a fierce battle against the new tax law. The Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF)²⁰ and other industrial and agricultural producers supported this tax resistance (Prensa Libre 29 Mayo 1974 in ICEFI, 2009:170). The coffee producers threatened the government with not paying any taxes and starting an employer/business lockout (*huelga patronal*).

One of the proponents of the law, Gert Rosenthal, Secretary of Planning, had to leave the country due to a murder attempt (see ICEFI, 2009:169–170). Finally, the political pressure forced the government to accept a new tax proposal drafted by the private sector, which benefited their interests (see ICEFI, 2009:170; Marti, 1994:131). This form of operation of the economic elites,

²⁰ CACIF was created in January 1957, however, as their webpage explains, it has its roots in the Economic Society of Friends of the Country born after the country's independence: “From the first years of independent life, the economic sectors of the country were organized with the aim of helping to create an environment favorable to investment and economic growth. The first of these institutions, the Economic Society of Friends of the Country, incorporated in its bosom a group of prestigious and notable citizens, who with their vocation for progress and their long-term vision, contributed to the development of the productive apparatus of the country” (CACIF-Nuestra historia).

exerting pressure on the government to veto tax reforms, was repeated on many occasions as will be noted in the subsequent sections and chapters.

During the post-second-world-war military governments, the social conflict and repression from the military state became more acute, contributing to the transformation of the government opposition groups into an armed guerrilla movement—unleashing a civil war that lasted more than 33 years. Therefore, the use of violence by the state to “control” armed movements and social unrest was an open and recurrent resource until the signature of the Peace Agreements in 1997 (e.g., CEH, 1999).

According to different scholars, the violence of the state also served the interests of the economic elites. For example, Edelberto Torres-Rivas’s (2011) accounts of the failed revolutionary movements in Central America suggests that the power of the economic elites in Guatemala cannot be reduced to their material conditions. The political and economic powers of the oligarchic elites can be understood and accounted separately (Torres-Rivas, 2011). Then, even when the structural (economic) power of the elites was weak, their political power served to maintain and perpetuate their power and domination over the Guatemalan population. Following the arguments of Torres-Rivas, this thesis agrees with the idea that the power of the economic elites is historically rooted in the use of violence, as the following quote illustrates.

In short, liberal democracy, defined in the first lines of this analysis as a mechanism to organize relations (of domination) between social classes, has not been able to prosper. What we call a “state of force” has persisted, which in Guatemala seems consubstantial to its political life. During the last years, the different bourgeois factions of the country have finally had the opportunity to prosper at a juncture where power and economy have been totally at their service. Supported ideologically and financially from the outside, counting internally with the “pacifying” environment of the counterrevolution, first, and *counter-insurgency*, afterwards, they have been able to strengthen themselves as a class. In that climate, they have managed to organize themselves in a guild; defend against feigned, imagined, or real threats; fiercely defend their interests; and develop a defensive awareness of their status. The State, with the military inside,

has been aggressively put at their service, establishing semi-corporatist forms of control. The counterpart of this class-state idyll is a virtual war against the trade union movement, the peasants, the protesting students, in short, the political representation of the dominated classes (Torres-Rivas, 2016:554—*my translation*).

It could be argued that the previous Marxist analysis of the state could be applied to a previous non-democratic period. However, when looking at the current tax system, explored in the following chapters, it will be argued that the domination of society, especially the growing middle class, was formalized and institutionalized through tax policies. (Given its characteristics, one cannot call this a “modernization” or “democratization” process). For example, during the last years of the military regime, in 1983, the Value Added Tax (VAT) was created amid a deep economic crisis and the worst years of the civil war—the years of the genocide war against indigenous populations under the government of Efraín Ríos Montt (CEH, 1999). However, despite this fiscal reform and the strong alliance between the military and the private sector (see Rodríguez Pellecer, 2013; Valdez and Palencia, 1998:56) the tax burden fell to one of its lowest levels in history, below 6% of the GDP. It is important to remember that, despite the initial strong military-private sector alliance, the implementation of a VAT was also initially opposed by the economic sectors. The economic and political tensions, plus the failure of General Ríos Montt to implement the military-designed project to transition to a democratic regime, and more specifically, to call for elections, resulted in a new military coup in 1983. Additionally, considering the severity of war and genocide in those years, it is tempting to conclude that a tax based on consumption could not yield good results in those circumstances—when the state was killing the (rural) potential internal market.

Constitutional Padlocks: Low Taxes and a Minimal State

Under the new and last military government, ruled by a military council (*junta*) lead by General Oscar Mejía Víctores, the formal transition to a democratic government started with a call for elections to create a new Democratic Constitutional Assembly. In the meantime, also in 1983, a new complex package of fiscal reforms was proposed by the military government as an attempt, first, to solve their pressing fiscal needs and, second, to modernize the economic regime and comply with some of the demands of the International Monetary Fund (IMF).²¹ These tax reforms were, once again, strongly opposed by the private sector represented by CACIF. This opposition was echoed by the (private) press and the new “democratic” political leaders and candidates taking part in the political transition process. Due to growing opposition, that same year, the government abandoned the tax reform initiative and started a broad economic dialogue called: “the dialogue for the national economic salvation” of Guatemala (SAT-ICEFI, 2009, p. XXII). This circumstance is evidence of the increasing and pressing financial needs faced by the military governments which, since the times of US President Carter, had also been denied any other international aid or financial assistance as part of the sanctions against their violations against human rights (USA-PD 30, 1978). Most importantly, the lack of support from CACIF for any tax reform was also pushing the (now inconvenient) militaries out of power. These factors also explain some of the main motives that triggered the military plan to transition to a civilian government (see Ortiz Loaiza, 2007).

²¹ The negotiations between the government and the IMF to obtain a credit of USD \$125 million began in the first quarter of 1983. The Guatemalan Government pledged to (a) implement a program of stabilization via financial adjustments; (b) reduce public expenditure; and (c) implement a tax reform... These actions were the result of a program called “Short-term Economic Policy,” which resulted from the discussions between the President of the Republic—the public sector—and the private sector in July 1982 (Marti, 1993:68; see also Valdez and Palencia, 2013:42–43).

It is important to remember the international context of those years, what Jenkins calls the “neo-liberal fiscal policy revolution” (Jenkins, 1995) at the beginning of the 1980s. According to Jenkins (1995), this policy represented an emphasis on tax efficiency and horizontal equity at the expense of redistribution in Latin America. The World Bank (WB) and the International Monetary Fund (IMF) promoted a strong reduction in international trade and customs tax rates—which at that moment were seen as sources of inefficiencies in the local production and international resource allocation. These institutions also promoted the introduction of the value-added tax (VAT), the reduction of personal income tax, the reduction in the number of existing taxes, and the broadening of the tax bases (Gomez Sabaini and Moran, 2013:12; Mahon, 2004). In Guatemala, the IMF was promoting and negotiating structural adjustments and liberal reforms conditioned to financial aid and government lending (e.g., Valdez y Palencia, 1998; see also Del Castillo, 2001).

Once the military had been removed from the government, the power of the economic elites to veto tax initiatives would be tested and reinforced on many occasions throughout Guatemalan history.²² The real democratization and “modernization” of the country were at stake. One of the most important moments that would set the pace of future tax negotiations happened after the transition to a democratic regime, during the first democratically elected government. The transition to a non-military and democratically elected government, in 1985, came with hope and

²² The transformation towards a more modern liberal economic system based on the production of coffee occurred after the Liberal Revolution in 1871, during the government of Miguel García Granados, with the instauration of some export duties and, for the first time, direct taxes (at this moment also some other meaningful policies, which change the course of the political economy of the country, were implemented, such as the reintroduction of forced labour and the redistribution of dispossessed land belonging to indigenous communities (Marti, 1994)). Afterwards, in 1881, the liberal government of Justo Rufino Barrios implemented the first Tax Code (Decree 263). The consecutive governments of the 19th century kept this same legislation and barely modified the system only to create tax incentives for traditional products (such as coffee and sugar) and the two new industries: textiles and beer (SAT-ICEFI, 2009). However, the state always operated with a precarious and deficit budget (SAT-ICEFI, 2009).

huge expectations from society and the international community (e.g., see Lovell, 2010).²³ The newly elected government of Vinicio Cerezo inherited an economic crisis and an acute fiscal deficit which required urgent fiscal reforms. As with the previous government, the fiscal reforms were a part of the structural packages promoted by the IMF, tied to financial aid.

The attempt of the new democratic government to reform the tax system resulted in a national lockout-strike and the paralysis of the economic system, promoted by the private sector and business owners (*huelga patronal*). This failed attempt to reform the fiscal system marked the beginning of a long history of opposition and failed attempts to modernize the tax system under the new “democratic” regime in Guatemala. Nonetheless, the well-organized Guatemalan economic elites continued to use old (and tested) negotiation strategies to veto tax reforms and maintain their political and economic privileges.

Additionally, the new “democratic” constitution provided key legal mechanisms to protect the interests of the economic elites by preventing tax reforms. Initially, some of those legal obstructions (padlocks) were allegedly adopted to prevent authoritarian experiments—justified by the history of the country. However, this would also limit any possibilities of strengthening the central government, while protecting private property and economic interests over any other social rights or public goods.²⁴

For example, Fernando Valdez and Mayra Palencia document the justifications to introduce the second paragraph to Article 28 of the Guatemalan Constitution. According to one of

²³ After the call to create a new Constitutional Assembly in 1983, a few months later under a new constitution and electoral rules, new political parties were registered and democratic national elections were scheduled by a new Electoral Court in 1984.

²⁴ “In 1985, without there being historical reasons to justify it (as there were, for example, to create the institution of the human rights ombudsman), a disproportionate constitution defending individual property rights was approved, seeking to preserve the Guatemalans from a State that in Guatemala we have not known: the expropriating State, or the Welfare State or the socialist State” (Valdez and Palencia, 1998:426).

the stakeholders interviewed by those authors, this initiative resulted from “the abuses and the systematic corruption provided by previous legislation, in the face of real or supposed tax anomalies, under the principle that the citizen pays first (a fine for example) and only later could he/she request a review” (Valdez and Palencia, 1998:427).²⁵ Article 28 of the democratic constitution establishes that: “In fiscal matters, to challenge administrative resolutions in the files that originate in repairs or adjustments for any tax, *the taxpayer will not be required to pay any tax or guarantee beforehand*” (my translation). With a very slow and inefficient courts system, this article means that it is difficult for the state to force citizens to pay owed taxes—especially when they can afford “good” lawyers. This thesis agrees with Valdez and Palencia who argue that “by seeking to attack a certain and unobjectionable fact—corruption—a disproportionate measure was chosen when approving the Constituent Assembly, a constitutional article that narrowed the weak coercive capacities of the state in tax matters” (Valdez and Palencia, 1998:427).²⁶

Furthermore, according to more than one interviewee, James Buchanan’s theory and an extreme libertarian ideology were fundamental in shaping the actions of the constitutional legislators representing the interests of the economic elites in the Constitutional Assembly.²⁷ According to a fiscal expert who closely followed these negotiations in 1984, these measures were not fortuitous; from a liberal or libertarian perspective, “they [the Constitutionlists] said that

²⁵ They based this conclusion on a series of interviews, particularly that of Adolfo Menéndez Castejón —Director of CACIF, representative of the Sugar Producers Association, and in charge of the Fiscal Commission of CACIF at that moment (Valdez and Palencia, 1998:427).

²⁶ For example, Fernando Valdez and Mayra Palencia propose that Articles 24, 28, 39, 40, 41, 239, and 243 of the 1985 Constitution were fundamental in expanding “disproportionately the de facto power” of the “business leadership before the State” in the tax field (1998:425, *my own translation*).

²⁷ For example, James Buchanan’s *Public Principles of Public Debt* proposes that the cost of public activity and the state can be shifted onto future generations through public debt. According to these ideas, sources of public revenue may become irrelevant, and instead financing public debt may be perceived as a potential business.

democracy increases the size of the state, so you had to put [legal] padlocks to avoid this” (Interview, July 4, 2017).

In other words, from a neo-institutional framework, those constitutional rules known as “legal padlocks” (*candados constitucionales*), maintain weak state institutions, thereby reinforcing path dependence. The impossibility of reforming the tax system is the clearest example, as discussed in the following chapters.

Additionally, the persistent veto to tax reforms during the 1980s would also express an old fear of the economic elites of any potential agrarian reform and the nationalization of the banking system. This fear tinted the relationship between the private sectors and the government, at least between 1982 and 1991—including the last two military governments and the Presidency of Vinicio Cerezo Arévalo (1986—1987) (Valdez and Palencia, 1998). For example, Fernando Valdez and Mayra Palencia (1998:53) quote an “October Memorandum” issued by General Efraín Ríos Montt (seven months after taking control of the government in 1982) to document the fears of the economic elites. This memorandum constitutes a call for a “Government—Businessmen settlement agreement,” in which the Minister of Finance gave explicit assurances that the government would not undertake “confiscatory agrarian reform” and would “eliminate any possibility of nationalization of private banks” (1982). These real concerns of the economic elites were rooted in the history of the agrarian reform (i.e., 1954) and the real needs of land for peasants in Guatemala (Valdez and Palencia, 1998).²⁸ The cited memorandum also offered “to start, immediately, a process of privatization of public enterprises” where the private sector would determine the acquisition conditions of those companies. They also committed to “not increasing

²⁸ Additionally, these fears were exacerbated by the Salvadorian experience—the triumph of the left—developing at that moment.

the bureaucracy, neither cause redundancies.” Finally, the government offered to “ensure the constant and reinforced fight against [social] subversive actions to achieve their complete eradication” (Memorandum, October 11, 1982, reproduced in Valdez and Palencia, 1998:56–57). Therefore, understanding the fears of the economic elites is a fundamental step to understanding their preferences and negotiation strategies.

Despite the democratic elections, a violent war between the army and the armed groups continued shedding blood across the country between 1984 and 1996.²⁹ The new electoral “democratic” system was built without the participation of left-wing groups, in a violent, repressive environment. It was only after two democratically elected governments and several years of negotiations between the civil government and the guerrilla movement (represented by the Guatemalan National Revolutionary Union, URNG) that the Peace Accords were signed in 1996—ten years after the transition to a formally liberal democratic political system.

Democratic Negotiations: The Fiscal Pact of 2000

The signing of the Peace Agreements and the operationalization of peace renewed old hopes for democracy and economic development. Alongside the renewed expectations, new revenue from international cooperation came to Guatemala. A live and active civil society full of new projects, NGOs, and social demands began to participate and propose ways to achieve the goals established in the Peace Agreements. For example, in 1997, the presidential initiative of convening “open forums” allowed the gathering of government officials, political parties, and representatives of

²⁹ The hardest years of the genocide had passed, however, targeted violence, kidnapping, and killings (from the guerrilla and, especially, the army) were part of everyday life in Guatemala during the late 1980s and the 1990s.

different groups of civil society to discuss “urgent issues of national life” (MINUGUA 1997; ASIES 1997). This enthusiasm also shaped the tax reform discussions during those years.

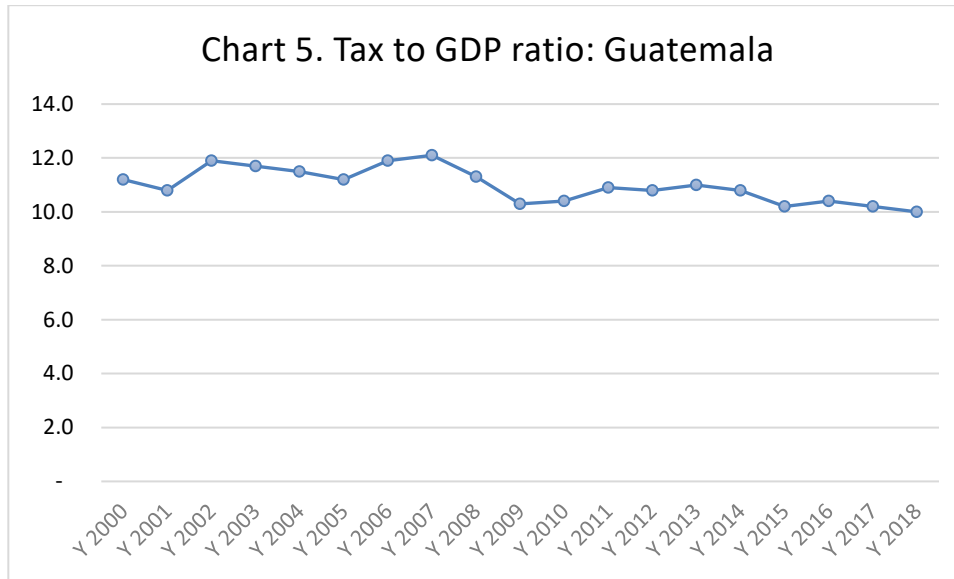
The peace negotiations allowed the signing of twelve comprehensive agreements dealing with a wide range of problems in the Guatemalan society.³⁰ One of those documents was the agreement on Social and Economic Aspects and Agrarian Situation (Socio-economic Agreement), signed on May 6th, 1996. That agreement included the government’s compromise to improve the fiscal system to achieve other important democratic and social policies. The most important fiscal objective was to increase the tax burden by 50%, thus reaching 12% of the gross domestic product (GDP), by 2000. According to the Guatemalan Ministry of Finance (1997), this objective meant “overcoming the barriers” that kept the average tax burden as one of the lowest in Latin America since the 1960s at below 8% of the GDP (MINUGUA, 1997).³¹

By 1998, the increase of the tax burden to 12% of the GDP had not advanced. For that reason, the government rescheduled the goal for the year 2002 (instead of 2000, as initially scheduled). Additionally, with the Commission for the Accompaniment of the Peace Accords, the

³⁰ 1. Acuerdo Marco sobre Democratización para la Búsqueda de la Paz por Medios Políticos (Querétaro, México, 25 de julio de 1991). 2. Acuerdo Global sobre Derechos Humanos (México, D. F., 29 de marzo de 1994). 3. Acuerdo para el Reasentamiento de las Poblaciones Desarraigadas por el Enfrentamiento Armado (Oslo, Noruega, 17 de junio de 1994). 4. Acuerdo sobre el Establecimiento de la Comisión para el Esclarecimiento Histórico de las violaciones a los derechos humanos y los hechos de violencia que han causado sufrimientos a la población guatemalteca (Oslo, Noruega, 23 de junio de 1994). 5. Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas (México, D. F. 31 de marzo de 1995). 6. Acuerdo sobre Aspectos Socioeconómicos y Situación Agraria (México, D. F. 6 de mayo de 1996). 7. Acuerdo sobre Fortalecimiento del Poder Civil y Función del Ejército en una Sociedad Democrática (México, D. F. 19 de septiembre de 1996). 8. Acuerdo sobre el Definitivo Cese al Fuego (Oslo, Noruega 4 de diciembre de 1996). 9. Acuerdo sobre Reformas Constitucionales y Régimen Electoral (Estocolmo, Suecia 7 de diciembre de 1996). 10. Acuerdo sobre bases para la Incorporación de la Unidad Revolucionaria Nacional Guatemalteca a la Legalidad (Madrid, España 12 de diciembre de 1996). 11. Acuerdo sobre el Cronograma para la Implementación, Cumplimiento y Verificación de los Acuerdos de Paz (Guatemala 29 de diciembre de 1996). 12. Acuerdo de Paz Firme y Duradera (Guatemala 29 de diciembre de 1996).

³¹ The agreements also established a 50% increase in public spending on education and health (as a proportion of GDP) between 1996 and 2000, other targets for increased expenditure on justice, and a moderate reduction in military spending. According to the Peace Accord, the United Nations (embodied by MINUGUA) would be responsible for monitoring the advancement of those goals.

government promoted the adoption of a National Fiscal Pact among all of the sectors in society (Fuentes K. & Cabrera, 2006; Sanchez, 2009).



Source: ICEFI, 2019 <http://icefi.org/observatorio-estadistico-fiscal/cifras-fiscales>

The fiscal pact proposal went through an intensive consultation process with different sectors, such as academia, the private sector, trade unions, cooperatives, and political parties. International cooperation also provided technical support, which was extended to diverse academic and social organizations, contributing to the preparation of fiscal proposals and extensive fiscal debates during the year. The (private) media gave broad and positive coverage of the issue. The final proposal was presented by the Preparatory Commission on December 29th, 1999 (on the second anniversary of the signing of the Peace Accords). The initial fiscal proposal was comprehensive and addressed issues beyond tax revenues (Pacto Fiscal, 2000).³²

³² The proposal included eight sections: 1) fiscal balance (vs. government deficits), 2) state revenues and the mechanisms to facilitate the increase of the tax burden, 3) the improvement of tax administration, 4) public (social) expenditure, 5) sustainable public debt, 6) public patrimony/property regulations (to avoid corruption and abuses), 7) monitoring and evaluation (ethics in the management of state resources), and 8) fiscal decentralization (including fiscal commitments from autonomous municipalities) (Fiscal Pact, 2000; ASIES May, 2000).

In February 2000, the Committee to Monitor the Fulfilment of the Peace Accords (Peace Committee)³³ invited nearly 150 organizations³⁴ to discuss and analyze the proposal and, in return, 48 documents, representing 131 organizations were received. A technical team appointed by the Committee identified the main points of consensus and dissent and then carried out a campaign to reconcile positions between the organized business sector and the social organizations (Fuentes y Cabrera, 2006:150). Peasants, indigenous peoples, women, business and the traditional economic elites expressed their concerns, facilitated by an active role of the international cooperation agencies. The fiscal pact was perceived as a strong mechanism for strengthening the role of the government and achieving durable peace and economic development in the post-war era.

At that moment, the strength of civil society, supported by international cooperation, was the perfect counterweight to balance the usually one-sided tax negotiations, as indicated by this former official:

There was much international cooperation, much presence of United Nations, MINUGUA [UN-Verification Mission in Guatemala], agencies of various governments, with investments, large investments in citizen participation, in learning from the experiences of the Spanish transition and the Moncloa Accords, etcetera. International support was extended to many groups of society. The fiscal pact, strongly supported by the [international] cooperation, managed to bring together a large group of social organizations, NGOs, trade unions, and peasants. They intended to be the social counterpart and counterweight to CACIF (Interview, June 30th, 2016).

³³ This Committee was composed of government representatives, the political party representing the former insurgent forces (Guatemalan National Revolutionary Unity - URNG), eminent citizens representing civil society, and United Nations representatives (with observer status) (Fuentes and Cabrera, 2006:150).

³⁴ Including cooperatives; churches; non-governmental organizations; peasant, indigenous, and women's organizations; trade unions; universities and research centres; small and medium-sized enterprises; business chambers; and others.

After the National Forum for the Fiscal Pact,³⁵ an agreement was reached and the Fiscal Pact was signed by more than 100 organizations and representatives from each of the three state powers—executive, legislative, and judicial (Fuentes y Cabrera, 2006:150; Pacto Fiscal, 2000).³⁶

However, the negotiations in 1999 had taken place during an election year. In 2000, at the very last minute, the consensual proposal was vetoed by the new Congress—now under the control of the newly elected Guatemalan Republican Front (*Frente Republicano Guatemalteco*-FRG). Ironically, the new government claimed strong electoral legitimacy because they had won the Presidency, and a majority of the National Congress, with 68% of the total valid votes, an unusually high percentage in Guatemala.³⁷

Political Parties and Personal Tax Agendas

According to several interviewees who were active players during the fiscal pact negotiations, the main mistake during those negotiations was the non-inclusion of the political parties and congress members at the negotiation table. Although the pact had been signed in by the legislative branch, only a few congressmen, especially from the outgoing government, had discussed the proposal. However, this participation did not guarantee party consensus, nor the participation of the newly elected Congress members. In words of one interviewee:

The errors in the process: not having involved the political parties, nor the Congress. [The pact] is made outside the Congress, between the private sector and social organizations and the Government, but without the Congress. It occurs during a call to new elections, within a scheme of negotiation [between] PAN-URNG [Partido de Avanzada Nacional and Unidad Revolucionaria Nacional Guatemalteca], the signatories to the peace agreements. But the FRG [Frente Republicano Nacional] with Rios Montt and Portillo breaks into [the process], it

³⁵ Which brought together the organizations that had sent the proposals.

³⁶ The official name of the document was “Political Agreement for the Financing of Peace, Development and Democracy” (June 20th, 2000).

³⁷ That represented 1,184,932 votes in the second round in 1999 (ballotage system) — See Ortiz Loaiza et al., 2008.

also changes the configuration of the Congress. Not having involved all political forces, that makes agreements and commitments to the fiscal pact impossible... the Portillo Government was not included. But in terms of social participation, this was the strongest! (Interview June 30th, 2012).

The new Congress not only rejected the fiscal pact in 2000, it also approved a new set of tax reforms. One day before the signing of the Fiscal Pact, the new president, Alfonso Portillo, presented a new tax bill to the National Congress, and his party (FRG,) a majoritarian force, approved it immediately. These tax laws started a new process of legal battles over taxes between the economic elites and the FRG government, from 2000 to 2003. Some refer to this process of legal battles as “the tariffs war,” from the end of 2002 to 2003 (see ICEFI, 2015:70). This war meant that every new tax bill presented and approved by the FRG government would be appealed before the Court of Constitutionality, by the private sectors, represented by CACIF. Generally, the Court would rule in favour of the latter, abrogating the bills and declaring them unconstitutional. The FRG government would hastily present and approve new laws in Congress, and the process would be repeated over and over. At least twelve different tax bills were approved by Congress between June 2000 and December 2001 (ICEFI, 2015: 64-71). Following the approval of these tax laws, the private sector, the media, and the social organizations challenged the government and, in the end, the Minister of Public Finances was replaced.

Two reforms in particular increased the polarized and confrontational environment: the increase of the VAT rate from 10% to 12% and the tax on assets and sales of commercial and agricultural establishments (IEMA)—a temporary, but direct tax. The private sector, the social organizations, and the non-government parties rejected these laws through media campaigns against the government, a lockout by the private sector (huelga patronal), mass demonstrations by social organizations, and more urban/middle-class protests, in which high and middle-class citizens would rally wearing black. However, the confrontation between the government and the

social organization's signatories of the fiscal pact also resulted in disadvantageous and incoherent measures for the society (ICEFI, 2015).

For example, the VAT increase had been consensually accepted by all of the social groups during the fiscal pact negotiations, and now it was being rejected under allegations of government corruption (Fuentes and Cabrera, 2006:153). In the end, all of the FRG's laws were rejected and contested, with at least 61 appeals of unconstitutionality.³⁸ In most of the cases, the Constitutional Court ruled against the government repealing the new laws (ICEFI, 2015:64–71). These experiences were also a learning process for the private sector and civil society: no matter the strength and discipline of the political party in government, laws can always be reversed.

Interestingly, despite the fierce opposition to the tax reforms, the third year of Portillo's government, 2002, reached one of the highest historic peaks in tax revenues (as a percentage of GDP). The tax burden increased from 10.31% in 2000 to 11.64 % in 2002 and continued at 11.36% in 2003, the last year of the FRG administration (to provide a comparative perspective, the only year when tax revenues surpassed the 2002 mark was in 2007 with 11.74% of GDP). After all, the polarized battles between the FRG government and the social and economic groups may have had the side effect of enforcing tax compliance of general tax rules (ICEFI, 2015).

It is important to add that more than a tax battle, the opposition between the FRG government and CACIF and civil society was a political battle, rooted in historical reasons. Former General Efraín Ríos Montt, founder of the political party and father-in-law of President Portillo had been "chief of state" during the worst moment of the civil war and genocide. This fact,

³⁸ According to Juan Alberto Fuentes and Mynor Cabrera, in 2001 a total of 41 legal complaints were filed: 31 by the business sector, three by political parties, and seven by other civil society organizations. In 2002, a total of nine legal complaints were filed, five by the business sector and four by civil society; and in 2003, 11 was the total: six by the business-economic sector and five by civil society (Fuentes and Cabrera, 2006:153).

combined with the social-populist ideology of the party, provided the perfect combination for fear and rejection from CACIF and the civil society organizations (especially those promoting post-conflict justice and human rights). These tense moments may have been also fundamental for the society in learning how the new democratic system was still carrying the burden of old anti-democratic political forces (e.g., the military). The political polarization, a fierce opposition to the FRG, prevailed until the change of government in 2004.

According to different interviews, in general, the year 2000 was a milestone in terms of concerted action but also disenchantment with political parties and lack of representativity. Most importantly, the failed fiscal negotiations are still perceived as a huge lost opportunity in the history of Guatemala. However, it is important to note that the signed Fiscal Covenant contained general agreements, not specific actions, which, as time has shown, have been interpreted in different ways by different political stakeholders (as discussed in the following chapters). Additionally, the mechanisms of legal contestation described above also set an important precedent for all future fiscal battles led by the private sector – institutionalized mechanisms to reject tax bills.

The GPF: Tax Experts Shaping a New Tax Agenda (2006–2007)

In 2006, during the government of Oscar Berger, the National Council for the Accomplishment of the Peace Agreements (CNAP-*Consejo Nacional para el Cumplimiento de Los Acuerdos de Paz*) prompted the government to advance the old fiscal covenant. The new attempt consisted in shaping a new tax agenda, providing a more coherent response (in terms of the Peace Agreements) to the constant low tax revenue problem—equal to 10.3% of GDP in 2004. After the 2000 experience, it was clear that a new process of negotiation was needed.

However, this more coherent approach was also a reaction to rapprochement and renewed tax negotiations between the Berger administration and the economic elites, in 2004, that resulted

in less progressive neoliberal reforms. The new government had to face extremely low tax collection as a result of the failed Fiscal Pact and the “war on excise taxes.”³⁹ In 2005, tax revenues reached its lowest trough at 10.93% of the GDP. Those tense circumstances contributed to the victory of the right-wing and pro-business candidate, Oscar Berger, and forced the new government to pass urgent tax reforms, with the approval of the economically dominant sectors—now widely supporting the new government.

The new regulations granted more room for negotiation and benefits to the economic elites. According to the four main approved amendments,⁴⁰ they provided: a) mechanisms to pay less income tax (by creating small enterprises), b) mechanisms to negotiate and pressure new governments via temporary (renewable) taxes, c) a stronger conviction on the effectiveness of complaints of unconstitutionality, and d) more room for the financial sector to benefit from providing loans to the central government. These amendments did not improve tax revenues, producing only half of the expected results: 10.3% of the GDP in 2004, equivalent to the 2003 level, but lower than the 10.6% achieved in 2002 during the FRG government (Fuentes and Cabrera, 2005:154; see also Sánchez, 2009; Schneider, 2013).

In the meantime, the Law for the Implementation of the Peace Agreements (Legislative Decree 52-2005) established the National Council for the Accomplishment of the Peace Agreements (CNAP), which resulted from the evolving work of its predecessor, the National

³⁹ Between the former FRG government and the economic elites, as discussed in the previous chapter.

⁴⁰ The 2004 reforms included: 1) changes in income tax (a streamlined payment regime of 5% on gross income tax was introduced in place of the 31% rate); 2) the creation of a special Temporary Tax in Support of the Peace Agreements (IETAAP): a tax on assets and sales, similar to the previous Tax on Mercantile and Agricultural Companies (IEMA), but with lower rates and on a temporary basis, responding to the position of CACIF; 3) a tax on alcoholic beverages—which had been declared unconstitutional during the previous government; and 4) the authorization to increase the central government debt (Fuentes and Cabrera, 2005:154).

Commission for Reconciliation, formed in 1987 on the basis of the Esquipulas II Accord.⁴¹ This National Council convened a new Group for the Promotion of the Fiscal Dialogue (GPF—*Grupo Promotor del Diálogo Fiscal*), and their members were sworn in by the National Congress in August 2006. This group worked consistently from that date until the end of 2007 (for a detailed account of the GPF discussions, see Fuentes Knight, 2011).

The GPF was integrated by recognized and eminent economists, lawyers, and technical tax experts, some of them long-term politicians,⁴² among other advisors and collaborators (see Fuentes Knight, 2011:16). The role of this committee was strongly supported by the international community, specifically the Inter-American Development Bank (IDB)⁴³ and the International Monetary Fund (IMF) through the provision of funds and technical support.

Juan Alberto Fuentes Knight, a former member of the GPF and later Minister of Finance (from June 2008 to 2010), revealed in his book, *Accountability (Rendición de Cuentas, 2011)*, that there were at least three different perspectives among the GPF members. Different interviewees corroborated these perspectives: First, Alma Quiñones, Carlos Barreda, Eduardo Velásquez, and Juan Alberto Fuentes promoted the need to reform the income tax, the most progressive approach. This group represented a more holistic approach, centred on tax justice and equity. Second, José

⁴¹ On August 7th, 1987, the Esquipulas II agreement (the antecedent of Peace Agreements) established the National Reconciliation Commission which promoted a national dialogue between the Government and the URNG (the leading guerrilla organization). After the Peace Agreements, signed on December 29th, 1996, a new National Commission for the Peace Accords was created on February 25th, 2004 (Government Agreement 86-2004) to achieve effective and timely coordination of the peace commitments and to develop the initiative of a framework law for the fulfillment of the peace accords.

⁴² Such as Alma Quiñones, Lizardo Sosa, Eduardo Velásquez, José Angel López, José Alejandro Arévalo, including some coming from civil society, such as Carlos Barreda, and Juan Alberto Fuentes. This group also included the Minister of Finance on duty (María Antonieta del Cid, Hugo Beteta, and Mefi Rodríguez, consecutively) and the Superintendent of the Fiscal Administration (SAT-Superintendencia de Administración Tributaria), Carolina Roca (Fuentes Knight, 2011:16)

⁴³ Alberto Barreix, from the Fiscal Direction of the IDB was perceived as a very active supporter of this process (Interview, April 4th, 2007).

Alejandro Arévalo and Carolina Roca (Superintendent -SAT) would emphasize the need to increase indirect taxes, specifically VAT collection, thus avoiding the income tax discussion. A pragmatic approach centred on the need to fund the government budget without tackling inequality. Finally, there was a more political perspective in favour of reaching conciliatory agreements with the private sector. This position was maintained by Lizardo Sosa, José Angel López, and the Ministers of Finance on duty (María Antonieta del Cid, Hugo Beteta, and Mefi Rodríguez, consecutively) who favoured stability and the status quo, which represented a non-progressive approach to taxation (Fuentes, 2011).

The creation of the GPFJ responded to the political dynamics to fulfill the commitments of the Peace Agreements, also signed during the right-wing government of Alvaro Arzú. As this thesis shows, the right-wing governments have been great supporters of creating groups and spaces to discuss the fiscal pact, maybe as a form to disarticulate conflict while advancing their economic interests with concrete reforms beyond those spaces of negotiation. Additionally, it is proposed here that these right-wing governments keep the negotiation spaces very close by providing like-minded experts and pro-business technicians (such as appointed ministers, think tank experts, political advisors, and political representatives).

According to a former member of the GPFJ, there was a clear difference between the agendas of the Ministry of Finance and the Tax Superintendent. “SAT had its agenda and Finance a similar one, but not the same. The overlapping at times was great, at others less” (Interview, April 29th, 2016). In the words of this participant, the political, not the “technical” content was the main issue under discussion:

We had several important moments of “technical work.” Thus, although everyone knew about public finances and the state, the technical work—I think—was related to building the political discourse that would accompany the [fiscal] reform. With many “work-confinement” days (*encerronas*) in Antigua

[Guatemala] and other places with the technocrats... It was like having a political objective which we had to clothe with technocracy (Interview, April 29th, 2016).

Part of the challenge to the GPFD was the political timing regarding the forthcoming election in 2007. According to the Law on Electoral Campaigns and Political Parties, the political campaign should only last three months (to elect mayors, congress representatives, president, and vice-president). However, it has been broadly documented and discussed in Guatemala that, despite the law, the political parties (especially prior to 2016) had started their political campaigns many months earlier. This has been called the “pre-campaign time,” which can last more than a year (See Ortiz Loaiza et al., 2008; Acción Ciudadana, 2012:94–95).

The political campaign was not a minor issue due to the long history of failed reforms and disagreements between the government on duty and the private sector, represented by its political arm, the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF). Therefore, part of the challenge was to know when to present the new bill: either before the government change in 2007 and during the campaign, or wait until the new government took power in 2008:

There were those who were more willing to bet on the reform and compel the outgoing government to take a more definite and clear position, to see how far it would allow us to go—a reality check! While the technical work was happening, there was a continuous measuring of the political climate, above all, of the chances of success at the (National) Congress. We did not know in which moment to do it. It was the last year of the [GANA] Government. If they were already there, why not assume the cost of the reform and leave some room for the new administration to maneuver? There were also some who said that it was necessary to take advantage of the first 100 days of the new government to make a larger reform: a trade-off between the depth of the reform vs. the political moment (Interview, April 29, 2016).

As discussed in the next sections, none of the political moments favoured the negotiation and approval of the new tax proposal, neither before nor after the government change. Additionally, while more broad and comprehensive discussions about tax reforms were starting to

develop within the GPFD, the urgent reforms and new tax regulations approved in 2004 had marked a truce and closer relationship between the right-wing government of Oscar Berger and the economic elites. However, the approved partial reforms granted more tax benefits and influence to the latter, strengthening the already regressive Guatemalan tax system. Additionally, they set new thresholds for the upcoming negotiation processes, for example, by establishing short-term income taxes (see Sánchez, 2009; Schneider, 2013), as discussed later.

The GPFD, Civil Society, and the Private Sector

The GPFD advanced some consultations and discussions with members of civil society during its first year of operations; however, officially, no negotiations took place. The fact that the GPFD was created and supported by the National Council for the Accomplishment of the Peace Agreements (CNAP) could have seemed like a major strength and support for the group's work, in term of the participation of broad civil society's representatives. However, as this section highlights, no real political discussions happened during those years, neither with the private sector nor with most relevant groups of civil society. As stated by some of the tax proposal negotiators, during the Berger administration, the discussions among the GPFD members were mostly "technical"—and, as we know according to the previous section, the "technical" discussions also represented a great deal of strategic political decisions on how to present and "negotiate" the content of the tax reform.

In terms of previous theoretical discussions, this section is key to understanding the importance of the "technical discourse" as an existing barrier to social participation.

According to article six of its by-laws (Government Agreement 86-2004; see also 21-2006 and 156-2006), CNAP was included by designated members from the three powers of the state (executive, legislative, and judicial), the political parties, and the different groups of civil society.

However, during the first year, there were three major characteristics identified in the process of CNAP-GPFD interactions: First, the stronger (in terms of electoral results)—mostly right-wing—political parties were not properly represented at CNAP. As a result of its role as negotiator and cosigner of the Peace Agreements, the URNG, the former guerrilla group and now a small political party, kept strong participation in this political space with other left-wing political groups. However, many social groups, especially the most radical social movements, were not represented at this institution. Second, the private sector was not part of this socio-political space to negotiate among the different groups of civil society, but was kept informed of the tax discussions through very loyal tax experts. Finally, the interest and capacity of the social movements and civil society to participate and directly propose specific fiscal issues to this group was very limited during those years, especially when compared to the fiscal pact experience in 2000.

As the following chapter will discuss, the work of the GPFD, which also extended its legacy to the Colom administration, was respected and trusted by the social organizations. This legitimacy may contribute to explaining the limited tax demands from the social organizations to this group of experts. Some of these experts had participated in the fiscal pact negotiations from the side of the social organizations, and were rooting their proposal in the Peace Agreements guidelines. All this may contribute to explaining the absence of tax proposals from the CNAP members to the GPFD. Additionally, it could also be argued that, given its lack of participation, civil society organizations represented at CNAP were entrusting the negotiations with the private sector, the National Congress, and all the relevant veto players, to the GPFD tax experts, without directly getting involved. As discussed in the following chapter, these power dynamics could have been deepened by the fact that these groups did not have the technical capacities, time, or resources to outline particular tax demands given the technical knowledge gap that separates them from the

tax experts. In other words, representatives from the organizations represented at CNAP seemed to have entrusted the whole fiscal reform process to this high-profile group of experts and government officials. In any case, this fact becomes more relevant when taking into consideration the high polarization (left and right), inequality, and history of the Guatemalan society. Additionally, at this point, the presidential support to this tax proposal was still uncertain.

In contrast, although the private sector seemed absent from the negotiation table at this point, they were aware of the GPFDD's discussions. In words of one of the group's participants, the private sector was indirectly present: "I realized that the private sector was not there yet. It gave me the impression that some people were talking with them bilaterally" (April 29th, 2016). A couple of interviewees suggested that some former ministers of finance and SAT superintendents were in contact with the private sector representatives and were representing their agenda in the GPFDD (April–May 2016). However, there were also "representative members, but not representatives of sectors, who were part of the group" (interview, May 2, 2016), who, in the end, were part of the economic sectors.⁴⁴ The following quotes from one of the GPFDD participants illustrate the nature of the discussions and negotiations:

In the promoter group (GPFDD), there was no negotiation, only discussion—from a more technical point of view, with vigorous support from the IDB, with a national and several international consultants...

Income tax is always the most complex issue: entrepreneurs were concerned about "bank secrecy" and the global income issue. Social interlocutors, such as unions, women, indigenous people, peasants, pro-human rights organizations, these groups were concerned about income tax reform for employees. But the

⁴⁴ Such as José Angel Lopez Camposeco from the banking and coffee sector, President of the Board of Directors of the Rural Development Bank, Banrural, and president of the National Association of Coffee, ANACAFE. Also, José Alejandro Sinibaldi, businessman, cattle rancher, coffee grower, and publicist, now a fugitive from justice accused of corruption during the Otto Perez administration. (Sinibaldi is accused of participating in the case "construction and corruption," an alleged network of illegal fees collection made to contracting companies at the Ministry of Communications, receiving payments from state projects. Sinibaldi, a former minister, is prosecuted for other corruption cases allegedly committed during the Patriot Party (PP) government) (Prensa Libre, July 12th, 2019).

technical proposal for the income tax was recommended by the IDB: middle ground, between world income and national income, called enhanced national income. It incorporated elements of international taxation...

Why there was no third chair for the civil society, [later] during the negotiations? Because they were only interested in what the Government thought and what CACIF thought. (Interview May 2nd, 2016).

The GPDFD proposal was not presented to Congress before the national elections, and the GANA presidential support was never stated. However, soon after the electoral results were announced in November 2007, the traditional private sector made its first move. Before the official presidential inauguration, a group of prominent CACIF members held a meeting with the incoming social-democratic president, Alvaro Colom, from the Unidad Nacional de la Esperanza party (UNE). They asked him to abolish a tax bill linked to the income tax: the Extraordinary and Temporal Tax to Support the Peace Agreements (Fuentes Knight, 2011, pp. 13-14), which they had negotiated and accepted temporarily during the Berger-GANA administration.

This informal and semi-secret meeting was a very significant starting point (symbolically and pragmatically) for the new government and the private sector. First, because it inaugurated and consolidated an old practice of the traditional private sector leaders, which consists of having an open-door and direct access to the president's office—regardless of how much money they invested in the electoral campaign or how much they liked or disliked the president. As former Minister Fuentes Knight accounts in his book, *Rendición de Cuentas*, the private sector was able to have private meetings with the president at almost any time, which at some point was not even possible for some of his ministers (Fuentes Knight, 2011). Second, this “non-official” meeting set the pace for the coming tax reforms discussions as the private sector made their initial rejection stance clear. Third, this meeting provides evidence of the importance of the temporary and extraordinary taxes as negotiation tools for the private sector to influence political decisions in a quid pro quo strategy, where the private sector agrees to pay temporary taxes if the government

responds to their interests (this had already happened during the Arzú and Berger administrations). That meeting certainly reminded President Colom and other UNE leaders of the political importance of the existing temporary taxes.

The Legacy of Failed Tax Reforms: A Weak and Regressive Tax System

The Western experience, as documented by Charles Tilly (1985), shows that the need of resources for making war (externally) and providing internal protection contributed to shaping parliamentary states where, in the beginning, democratic participation was restricted to those paying taxes (landowners). Later, democracy was extended to other groups with newly granted citizenships. However, in developing and conflict-affected states, such as Guatemala, the relationship between violence and taxes evolved differently. War and violence from the state were used against the indigenous populations to keep small oligarchic groups in power, shaping specific and exclusive economic means of accumulation (e.g., coffee or banana producers, see Torres-Rivas, 2011). In Guatemala, state violence has been fundamental to controlling and dominating large (“rebel”) groups of society during colonial and post-colonial times (e.g., Torres-Rivas, 2011). The contribution by larger groups of society to the tax burden (especially middle classes) was implemented, especially in 1983, as part of the military project to establish a democratic political regime. This change also allowed a shift from collecting small taxes and tariffs from traditional wealth owners to taxing middle classes. This remodelling of tax systems in the 1980s and 1990s was strongly supported by the international neo-liberal discourse operationalized through structural adjustment programs. However, instead of creating a more progressive tax system with the new “democratic” system, the tax burden shifted towards the working classes, creating a regressive system and granting generous tax exemptions to the economic elites (as discussed in the following chapters).

Later, during the years of the fiscal pact negotiations, the social movements' capacity to get organized, present proposals, and negotiate them was boosted by the international community's technical and financial assistance (ICEFI, n.d.). This active cooperation, participation, and organization was the result of the signing of the Peace Agreements and the implementation of peace after more than ten years of attempted peace negotiations between the government and revolutionary armed forces (see Porras, 2008). Many of the few fiscal experts in Guatemala were trained during this time, thanks to the support of the international community. Additionally, although these pages document the historical dominance of criollo and mestizo "European descendant" male stakeholders (non-indigenous) in the tax negotiating arenas; during the fiscal pact negotiations of 2000, for a brief moment, civil society and the "women's sector" (el sector de mujeres) gained relevance in the discussions, even presenting their own proposals.

However, through the years, many of civil society fiscal experts moved to other organizations, NGO's, multilateral organizations, or became government officials. During the 2006 negotiations onwards, civil society lacked tax participation and expertise. In general, the interviews showed a generalized taboo accepting tax technical discussions as too difficult and specialized, which prevented civil society from participating in the tax discussion processes. For example, in the words of one of the (highly qualified) civil society representatives:

The Group (GPF) was in charge of the technical discussions, but at what point can you argue? I believe in the need for participation, but the limits are the technical part. In the political spaces, there, yes, was a discussion, and also on the socioeconomic part... not the technical part (Interview, May 23rd, 2016).

In the end, there were new limited democratic circumstances, changing international sources of support for civil society, but the continuity of old veto strategies (i.e., business lockouts, threats, attempted coup d'état, among others) from the private sectors, as well as growing weakness and corruption of the government. Many of the resources and sources of economic elites' power had

been institutionalized through the new democratic laws; such as their links to the political parties and elected officials through the financing of political campaigns or the Constitutional Court. However, other, less democratic but important, resources and sources of power had been preserved and mutated into informal institutions and common practices; such as the use of violence. After the Peace Agreements' reforms, the military state was dismantled little by little, but violence also became less monopolized by the state, creating other challenges, including the use of violence paid by private resources (e.g., see PNUD, 2007). There were also other informal institutions, such as the private or secret negotiations, which persisted through the years. All these elements would determine the results of future tax negotiations, as discussed in the following chapters.

CHAPTER 5: THE UNE GOVERNMENT AND A NEW REFORM ATTEMPT

It is essential, both for the realization of the production potential of the Guatemalan society and for the achievement of greater social justice, that all sectors of society participate effectively in finding a way to meet their needs, particularly in setting public policies that concern them (Agreement on Social and Economic Aspects and Agrarian Situation, Guatemala, May 6, 1996, p. 1).

The following sections describe, in a detailed manner, the political negotiations undertaken by the Alvaro Colom administration and the Unidad Nacional de la Esperanza party (UNE) to approve the new tax proposal drafted by the Group for the Promotion of the Fiscal Dialogue (GPDF). This chapter is mostly an account of the resistance, mistakes, and failed negotiations which marked the process between the centre-left-wing government and the economic groups, especially between 2008 and 2010. Most importantly, the events and processes narrated in these pages highlight the interactions between the stakeholders (agency) and the structure, institutionalized through the existing political institutions, which would frame tax decision-making arenas. Additionally, these pages explore how the political will, interests, and existent sources of power (instrumental and structural) of the tax negotiators contributed to determining the outcomes of the tax reform.

The Social-Democrat Government and a Comprehensive Tax Law

A high-quality, progressive, and comprehensive fiscal bill, conceived by the GPDF and rooted in the content of the Fiscal Pact of 2000, was almost ready in November 2007 and finalized in January 2008, under a new government. The new circumstances seemed to favour the approval of the law, except for the opposition expressed by the private sector.

The two-round-national-elections took place on September 9 and November 4, 2007, and Alvaro Colom was elected president of the republic.⁴⁵ The new president appointed Juan Alberto

⁴⁵ Alvaro Colom won the presidency with 1,449,533 votes, 52.81 % of the total valid votes in the second electoral round against the *Partido Patriota*—PP (TSE, Memoria de las Elecciones Generales, 2007).

Fuentes Knight—a member of the GPF—as Minister of Finance. A few other former members and technical advisors of the GPF became Vice-Ministers (Carlos Barreda and Ricardo Barrientos) and legal advisors (Alma Quiñones). Fuentes Knight (from now on Fuentes) was one of the creators and faithful defendants of the new tax bill, and he believed that the final document was a sound and integral proposal with “great technical and political content” (2011, p. 17). With the appointment of the new Minister and his team, the fiscal reform seemed to have a big chance of success under the new, self-proclaimed, social-democratic government.

Yet the expertise of the Ministry of Finance team, their good intentions and the necessity of new financial resources, would not suffice to pass a fiscal reform. Some of the main reasons were as follows: The new government was very slow in presenting and negotiating the comprehensive tax bill. Additionally, during most of its mandate, the UNE party was fiercely opposed and questioned by the traditional private sector, weakened by constant economic and political crises, and undermined by corruption scandals. The tensions between the government and the private sector also accentuated the divisions among the presidential cabinet members and amplified the fragmentation of the UNE block in Congress—alongside the lack of party discipline conditioned by the legislators’ electoral interests. National political crises triggered by natural disasters and amplified by the world economic crisis of 2008, fed the arguments against the tax reform. All the previous arguments contributed to the progressive isolation of the pro-reform Ministry of Finance team, and later of the whole executive branch, which prevented the UNE government from passing the Fiscal Modernization Program proposed by the GPF.

The social-democratic ideology of the UNE party and the life trajectories of President Alvaro Colom and his wife Sandra Torres created a lot of tension and mistrust between the traditional economic sectors and the UNE government. This circumstance manifested in many

ways since the electoral campaign signified a constant and open opposition, mistrust, and accusations from the private sector against the Colom administration (see Fuentes Knight, 2011). These same characteristics of the UNE leaders opened the possibility for the existence of a government that could be more responsive to social demands. This responsiveness was true, at least regarding the new discourse about inclusion and the implementation of direct transfer programs in Guatemala, for the first time. However, the political links and motivations of the party were not exclusively socio democratic as the party claimed.

The UNE party had risen to power thanks to the financial support of emerging economic sectors—e.g., the *maquila* sector—to whom the party owed favours from the beginning of its government. Additionally, the disproportionate electoral interest of Sandra Torres and the personal economic and electoral interest of most UNE deputies in Congress prevented any progressive attempt to respond to social needs (as discussed in the following sections). These electoral interests created a complex cocktail of personal pursuits of state and private resources by legal or corrupted means. All these elements also provoked a stronger opposition discourse from the traditional economic sector, reflected in permanent anti-state media campaigns, discussed below.

Alongside the fierce opposition and resistance to the tax bills from the private sector and the lack of support in Congress, other key strategic reasons for the failure of the tax reform were the slow pace of the negotiations and the lack of decisive actions from President Colom to move the bill forward. Former Minister of Finance Fuentes would describe the failure of the negotiation process as the result of President Colom’s “lukewarmness and ambivalence” about the fiscal issues: “One of [the president’s] major weaknesses: he would make a decision and then change it, and he would give the impression of indecision” (Fuentes Knight, 2011, p. 72 & 15). These political struggles and the lack of support from the president to advance the fiscal reform prompted

the resignation of Minister Fuentes in June 2010 (Fuentes Knight, 2011; Central America Data Business, June 24, 2010).⁴⁶

The Colom administration also suffered strong challenges from many fronts. For example, oil and food price increases at the beginning of 2008; the world financial crisis, which also affected Guatemalan investors at the end of that same year; a steep drop in fiscal revenues at the end of 2009; and the political crisis triggered by the assassination of Rodrigo Rosenberg in May 2009, which many analysts also describe as a failed coup d'état (Rosenberg was a prominent banker and lawyer who, before his death, accused President Colom and his wife of his possible assassination). Finally, the government also had to face the Pacaya volcano eruption and the tropical storm Agatha at the end of 2009, among other issues (see Fuentes Knight, 2011).

The following sections explore the main stakeholders and institutions, as well as the political dynamics and negotiations which led to the failure to approve the comprehensive tax reform despite the active support by the Minister of Finance and his team. Although the Minister of Finance set the approval of the integral fiscal reform as the most important objective of his ministry, that goal was not achieved. According to Minister Fuentes, there were at least three failed attempts to negotiate the political support required to present and pass the bill during his time in office. Instead of approving the bill, after two years of negotiations, two partial bills were approved: the law reforming the value-added tax (VAT) (Decree 3874), and the Solidarity tax (ISO)—a temporary tax transformed into a permanent tax (Fuentes Knight, 2011). We will return

⁴⁶ The Central American Data Business Information website reported: “Juan Alberto Fuentes Knight resigned from the Finance Ministry; he is unhappy with the little progress made in tax matters. In a press release, Knight commented the positive things achieved in his tenure, which include the creation of a transparency vice ministry, four information websites, and improving Guatemala’s standing in the International Transparency Ranking by 12 spots. He also noted that Moody’s improved the country’s risk rating, and that they avoided an economic recession. He regretted the little progress made in tax matters, despite all their efforts. He added that little more can be achieved if he remains in the position” (June 24, 2010).

to those pyrrhic victories at the end of this chapter on fiscal reforms during the Colom administration.

The President, the Cabinet, and their Commitments to the Emerging Business Sector

In January 2008, Minister Fuentes presented a political strategy to advance the fiscal reform to the president. This strategy had been created by Vice-Minister, Carlos Barreda, a former social activist⁴⁷. It consisted of two main actions: first, *informing and consulting* the social and academic organizations, the international community, and some key government officials; and second, *negotiating* with the private sector and the Congress (Fuentes Knight, 2011, p. 13). That same month, the president had agreed to create a political-strategic committee to steer the process. However, President Colom officially approved the proposed strategy in March, too late to be included in his first 100-day actions.

The late approval of the political strategy to start the negotiations of the fiscal proposal elaborated by PGFD was the result of a clear tension between government objectives, electoral campaign promises, and different personal agendas among the members of the cabinet. Besides the good intentions of the Ministry of Finance to include the tax negotiations as part of the “First 100 Days of Government Plan,” the truth is that the initial government plan did not include anything about the tax reform (Ortiz Loaiza, 2007). Most importantly, during the political campaign, the president had committed not to raise taxes during his first presidential year (Fuentes Knight, 2011, p. 4). Contrarily, the UNE government platform,⁴⁸ launched during the electoral

⁴⁷ Carlos Barreda is former social leader and tax expert who also participated very actively during the Fiscal Pact bargaining process. Later, he became Vice-Minister of finance (2008–2011) and congressman representing the UNE party (2012–present).

⁴⁸ One of the few first comprehensive documents ever written by any political party in Guatemala.

campaign, did not include the possibility of comprehensive fiscal reform. Instead, it included a proposal to extend the duty-free zones (*zonas francas*), which had granted many tax exemptions to the *maquilas* (Fuentes Knight, 2011, p. 43) or any company able to register as a *maquila* in Guatemala (e.g., mining companies). From the beginning of the government, the tax issue represented a clear tension between the Executive Office and the Ministry of Finance, especially because it was known then that the president's wife, Sandra Torres—a strong party leader and powerful voice during Colom's administration—was a businesswoman who built her fortune in the *maquila* sector (Nuñez, 2008).

Additionally, the existence of the new steering committee did not guarantee presidential support for the fiscal reform project. The political-strategic committee was composed of the Minister of Finance, the Minister of Foreign Affairs (Haroldo Rodas), and the Banks' superintendent (Edgar Barquín). According to Minister Fuentes, the Minister of Foreign Affairs, though he did not oppose the proposal, was mostly abroad and so his support could not be counted on to advance the reform (Fuentes, 2011). The Banks' Superintendent is usually a functionary who is ideologically related to private sector interests, elected by the Monetary Board (*Junta Monetaria*), and highly influenced by and linked to the private banks owned by the traditional economic elites in Guatemala.⁴⁹ However, in this particular case, Barquín was also alleged to be

⁴⁹ According to the Constitution, article 132, and the Organic law of the Central Bank of Guatemala, article 13, the Monetary Board is integrated with the following members: a. the President, who will also be the president of the Bank of Guatemala, appointed by the President of the Republic and for a period established by law; b. the ministers of finance, economy and agriculture, livestock and food; c. a member elected by the Congress of the Republic of Guatemala; d. a member elected by the business associations of trade, industry, and agriculture; e. a member elected by the Chairmen of the boards of directors or policy of the private banks national council; and f. a member elected by the Superior Council of the University of San Carlos of Guatemala.

linked to the illegal and money laundering networks.⁵⁰ Unsurprisingly, those ministers did not support the advancement of progressive tax reform.

Furthermore, since the beginning of the government, the cabinet was divided between those closely related to the (non-traditional) private sector who were against the income tax and corporate dividends proposals, those who were indifferent to the proposal, and the few who supported the reform. Given the initial lack of decision from the president and the power dynamics in the presidential cabinet, including the role of the First Lady, the cabinet was very important adding up to the lack of direction by the Executive branch (see Fuentes Knight, 2011).

Besides the high cost of his political campaign, given the ideological characteristics of the political party and their links with the emerging private sectors, the president never had the open support of the most traditional and powerful members of the private sector: the oligarchy (Fuentes Knight, 2011). Instead, emerging businessmen (linked to the trade, export, and service sectors, see Schneider, 2013) were key in supporting the electoral campaign of the UNE. Since the beginning of his electoral campaign, Alvaro Colom had benefited from the support of a particular group of entrepreneurs, who also became part of the government (i.e., Private Secretary of the Presidency Gustavo Alejos;⁵¹ Minister of Energy and Mines Carlos Meany; Rural Development Program

⁵⁰ On September 16, 2016, Edgar Barquín was sentenced to 30 months in prison for influencing trafficking and money laundering of at least USD \$30 million, following a joint investigation by the Attorney General's Office, known locally as the Public Ministry (Ministerio Público—PM), and the International Commission Against Impunity in Guatemala (Comisión Internacional Contra la Impunidad en Guatemala—CICIG) (Prensa Libre, September 16, 2016).

⁵¹ Gustavo Alejos Cambara was described in the Political Financing in Guatemala report by the International Commission Against Impunity in Guatemala (CICIG, 2016) as a facilitator of business, political operator, and financier of parties. In his own words, he financed the parties UNE, GANA, and TODOS, and his assets were more than USD \$180 billion. Until March 18, 2015, he was the legal representative for Guatemala's J. I. Cohen, an intermediary of international pharmaceuticals, such as Roche. Since October 2015, he has been charged by CICIG with active bribery, traffic of influences, and illicit association. He is alleged to be one of the key players whose networks of corruption are so vast that have been implicated in several major corruption cases, with many investigations still ongoing since 2015 (Plaza Pública October 28, 2015). For example, Alejos was one of the main suspects in the Pisa corruption case, related to the Social Security Institute and its hospitals, which was one of the main corruption scandals uncovered by CICIG in 2015. He is also one of the main suspects in the recently opened case (March 2018) to arrest former President Colom and most of his ministers, including Fuentes Knight (Finance)

Roberto Dalton Aceituno; and Minister of Communications Luis Alejos). This meant that the Colom administration had no explicit links or political debts to the traditional economic elites, however, it was indebted to the non-traditional groups.⁵²

The relationship between the Colom administration and its close financiers and allies was complex and showed the tension between the social-democratic intentions of the president and the entrepreneurial economic interest of First Lady Sandra Torres. According to a former government official, during that time “there were many forces in Alvaro Colom’s government, for political or business reasons” (Interview, July 4, 2016). During the first months in power, the president asked the Minister of Finance to meet with the (emerging) private sector representatives, those close to and part of the government, to present the fiscal proposal. This group was summoned by Gustavo Alejos, Private Secretary of the Presidency, and included the other ministers from the private sector, as well as other members of this sector. Although some of them understood the need for resources for the state, and besides the attempt of Minister Fuentes to convince them, they were mainly opposed to the income tax proposal and, especially, any form of corporate profits tax (dividends) (Fuentes Knight, 2011).

Later, the cabinet’s dynamics shifted with the growing informal power of the president’s wife, Sandra Torres. Her support for the fiscal reform was never stated and, in the end, was overpowered by her presidential electoral interests. Torres, now the party leader and future presidential candidate, was already working on winning the next presidential election. The most important campaign promise from the UNE government was the new direct-transfer program “Mi

Salvador Gándara (Interior), Ana Ordóñez (Education), Abraham Valenzuela (Defense), Edgar Rodríguez (Labour), Erasmo Velásquez (Economy), Celso Cerezo (Health), Jerónimo Lancerio (Culture), Luis Ferraté (Environment), Alfredo Pokus (Energy and Mines), Mario Aldana (Agriculture), and Gustavo Alejos (private secretary). They are all accused of fraud and embezzlement.

⁵² Some of which were later accused of illegal practices and money laundering by CICIG and the Public Ministry.

Familia progresá” (My Family is Progressing—Mifapro), led by Torres. This program became the main priority of the government and many actions and budgets of other Ministries, such as Education and Health, were also linked to this program’s goals, supporting Torres’s social and political agenda. Sandra Torres’s controversial, non-institutionalized mandate gave her a lot of power and economic resources, above and beyond the president’s cabinet members.

Despite the—still invisible—increasing tensions within the executive branch, in March, President Colom approved the strategy to negotiate the tax reform with the traditional private sector. After the presidential approval of the lobbying strategy in March 2008, the Ministry of Finance team discussed and polished the fiscal proposal with the SAT superintendent, Carolina Roca (a former member of the GPF) and her team of tax experts. They undertook the task to transform the proposal into a bill. In words of a government official, “this reform was quite (legally) protected, thanks to Alma Quiñones,” a constitutionalist lawyer who was an advisor to the Ministry of Finance at the time (Interview, July 4, 2016). This bill was also approved by the SAT directorate, on May 23, 2008.

Parallel to these discussions with the SAT team of experts, the Ministry of Finance team had also organized several systematic meetings to discuss the issue with representatives of civil society in March. By April, the Ministry had also organized some meetings with the steering committee and representatives of CACIF, the political organization of the traditional private sector. However, as stated by several interviewed politicians and government officials, at the end of May, the political moment and the momentum to approve the reform had been already lost, and there was no decisive action yet, from the government, to move it forward. “There was no interest” (Interview, July 4, 2016). At the end of May, Minister Fuentes wrote in his notebook:

On Friday, AC [Alvaro Colom] gave me his approval to present the new legislation to Congress. It was difficult to get his explicit decision. He started

talking about Lula, Leonel Fernandez and... the UN ... however, my obsession required his approval and, finally, I got it. That same day I called... Mario Taracena and... Manuel Baldizon [the party block and Congress leaders]... Next Friday... we had a meeting with Pepe [José Pivaral], R. [Roberto] Ardon and Alvaro Colom, to which later, a broadened team from CACIF and MINFIN [Ministry of Finance] were invited... They [CACIF] presented their own proposal, very critical of the Income Tax, already ready to be presented to the Presi[dent], besides the fact that we had not talked about it. We did not discuss the technical issues. Instead, we insisted on the necessity to negotiate, and that was the decision that was taken, or which they accepted... (Fuentes Knight, 2011, pp. 33–34, my translation)

The following paragraphs narrate a long bargaining process that forced the UNE government and its Ministry of Finance to readjust the fiscal proposal and change the negotiation pathway on several occasions.

The UNE Government and the Traditional Economic Elites

This section analyzes the tax negotiations between the government and the traditional private sector—specifically through the CACIF representatives and its more powerful and traditional group of businessmen, the G-8. The Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF) is the political arm of the private sector, and the G-8, their most powerful representatives. This particular group is also identified as the ‘economic elites’ throughout this document. This bargaining process, which had started informally before the inauguration of the presidential mandate, proved to be increasingly difficult.

CACIF is not a homogeneous and monolithic block. In general, it responds to different coexisting interests, however, when there are real or perceived threats, this group seems to act and react, responding to hierarchical and concrete strategic interests. As this thesis shows, their strategic actions and positions about taxes can vary through different administrations depending on the political circumstances. For example, during the first year of the Colom administration, the fact that the president of CACIF, José Pivaral, had been one of the main negotiators representing

the private sector during the Fiscal Pact negotiations in 2000 (Fuentes Knight, 2011) seemed to be a positive sign for the advancement of the comprehensive tax reform. However, the conditions and pressures surrounding the negotiations in 2008 were very different. The tense relationship between the UNE government and the traditional private sector was the result of different political factors, exacerbated by, and going beyond, tax reform. Those factors included the long UNE campaign financed by particular non-traditional economic groups; the fears of the private sector raised by UNE's social-democratic ideology and specifically by its social cohesion program; the electoral and personal interests of Sandra Torres, boosted by her clientelistic approach; and broader difficulties like the global economic crisis. The complicated context facilitated the joint efforts of the private sector to oppose any major tax initiative. However, as expressed by the former Minister of Finance, they also showed an "extreme difficulty to articulate any joint position" to support any alternative tax proposal (Fuentes Knight, 2011, p. 3).

On March 3, 2008, President Colom had finally approved a detailed calendar to start negotiations on the fiscal bill, according to a strategy proposed by the Minister of Finance (Fuentes Knight, 2011, p. 27). According to that strategy, "negotiations" were exclusively reserved for the private sector, which was expected to veto the proposed bill. On the other hand, civil society representatives were invited for "information and consultation" purposes (not negotiations) since they were expected to support the reform (as discussed in the following section).

Besides the non-official and secret encounters, the official meetings between the government and CACIF started in March, first addressing political issues and later technical aspects of the proposal. The first meetings were between the steering committee⁵³ and CACIF's

⁵³ Which included the Minister of Finance, the Minister of International Affairs, and the Banks' superintendent.

representatives, including its president, José Pivaral. Later, two technical committees representing the government and CACIF met periodically and for several weeks to discuss the content of the proposal. At that point, although the private sector did not express any open disagreement with the proposal, according to the Minister of Finance, the detailed discussions of technical matters and the proposed ideas to reach political agreements seemed “as a delaying tactic... They needed time to understand the proposal; they had to study it and discuss it with us and among them. Skillfully they sought to delay the discussions and avoid agreements on the specific aspects of the proposal” (Fuentes Knight, 2011, p. 61). However, it was only after the Congress representatives’ meeting in Washington (explained later) that the private sector seemed to worry about the possibility that the bill could be approved in Congress. This worry was suggested by the new media attacks on the reform and the sudden intervention of the G-8 in the discussion processes in May 2008.

The G-8 represents the most powerful members of the traditional private sector in Guatemala. This elite (oligarchic) group includes Juan Luis Bosch (and Dionisio Gutierrez, not present in the meetings) from the Gutierrez-Bosch agro-food-real estate-financial conglomerate, Juan Miguel Torreviarte from the Industrial Bank (*Banco Industrial*), Mario Montano or Thomas Dougherty from Progreso Cements (*Cementos Progreso*), Rodrigo Tejada representing the beer brewery from the Castillo family (*Cervecería Centroamericana*), José Luis Valdés from the agro-commercial bank (*Banco Agromercantil*), and Fraterno Vila from the sugar sector (Fuentes Knight, 2011, p. 11). This group of powerful men also represent the big monopolistic conglomerates in Guatemala and the richest men in the country.⁵⁴ Although the G-8 is a core part of CACIF, the

⁵⁴ According to Forbes-Mexico, there are four Guatemalans among the twelve richest men of Central America. Dionisio Gutiérrez, former co-president of Multi Inversiones Corporation (CMI), a multinational holding company that brings together businesses in the agribusiness, fast food, financial, energy, and real estate sectors. Among his multiple companies there are King Chicken (Pollo Rey), Pollo Campero, Modern Mills, Telefonica-Centroamerica, Banco Reformador, the Realtor Multiproject-Multiproyectos, and the hydroelectric plants of Project Renace, located

latter is a coordinating body representing all the economic conglomerates and chambers, making for more complex political dynamics.

The participation of the G-8 consisted of a series of informal and secret meetings with President Colom and some of his closest collaborators (Interviews, July 2016; see also Fuentes Knight, 2011). In June 2008, President Colom, Minister Fuentes, and Gustavo Alejos, among others, met with the G-8 to discuss the fiscal reform. Although this was not the first nor the last meeting discussing this issue, it was certainly a very important one because it was the first time the G-8 clearly expressed its veto power. The following words written by former Minister Fuentes, summarize the meeting outcomes:

Juan Luis Bosch, one of the richest men in Guatemala, emphasized the apocalyptic perspective of the world economy, relying on the PowerPoint with eloquence and absolute self-assurance. His ideas reminded me of alarmist presentations by supposedly independent local analysts with very similar views, which the press usually liked. His style was congruent with that of the Guatemalan [Spanish descendant] creoles (*criollos*) who have power and who have had it for a long time; he was also a “maker of presidents,” as has been said before. The argument was simple: with such a crisis, *a fiscal reform cannot be implemented; it is not the time!* (Fuentes Knight, 2011, p. 11; translation and emphasis mine).

in Alta Verapaz. Gutiérrez, is no longer a co-president of CMI. He is now dedicated to his Foundation, which promotes initiatives such as the school of Government. The co-presidents of the Corporation are Juan Luis Bosch and Juan José Gutiérrez, members of his own family.

Carlos Enrique Mata Castillo, President of Central American Bottling Corporation (Cabcorp), a company that manufactures food and beverages, a partner of Pepsico, Ambev, and Livsmart, and whose emblem brands are Brahma and Pepsi. This corporation includes Cervecería Centro Americana S.A., which, according to Bloomberg, operates as a brewer in Central America. The company also runs its own supply chain and manufactures its own glass bottles and packaging materials. Its brands include Gallo, Monte Carlo, Moza, Gallo Light, Victoria, Cerveza Mariachi, and Dorado Ice. The company also offers bottled water under the brand Salvavidas. The company was founded in 1886 and is based in Guatemala City.

Finally, José Miguel Torrebiarte Novella, President of Grupo Progreso, a company which not only dominates the cement market in Guatemala, but also has businesses in real estate and banking. He is Vice-President of the Foundation for the Development of Guatemala (Fundesa), President of the National Meeting of Entrepreneurs (ENADE), President of the private Council of Competitiveness, and co-founder of the Cultural and Natural Maya Heritage Foundation (Fundación Patrimonio Cultural y Natural Maya).

(Forbes-Mexico, December, 2014; see also

<<https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=25576662>>).

Finally, the private sector had clearly expressed their disagreement with the comprehensive fiscal bill and its incapacity to hold serious open dialogues. They continued to lobby against the formal presentation of the bill to Congress through a succession of meetings with the president over the coming months.⁵⁵ President Colom responded by discussing the issue in his cabinet. This time most (though not all) of its members reacted against the proposal, and he officially decided not to send the proposal to Congress. The G-8 strategy to prevent the advancement of the fiscal reform had succeeded once more:

On July 3, the Fiscal Modernization Program was to be presented to the Congress. The previous Saturday a meeting requested by the G-8 with the president, and excluding me at their request, gave rise to the decision of the president to postpone it. The decision took the form of launching the issue for discussion in the cabinet ... the arguments against it sounded sadly familiar, equal to those that for so many years the private sector has expressed against any tax reform ... it was undeniable: we took a step back. The answer [from the G-8] was that the reform was untimely, unnecessary and immoderate (Fuentes Knight, 2011, pp. 70-71).

Facing all the opposition and criticism to the reform, after the Cabinet's meeting of June 16, Fuentes announced that they would moderate the bill and propose a new gradual reform to implement an auxiliary tax, instead of an income tax reform (the ISO tax). However, in June 2008, CACIF published a press communiqué stating that: "The graduality of the reform that has been announced contradicts the message of the existence of a fiscal hole, which has been mentioned would occur after the expiration of the Extraordinary and Temporary Tax to Support the Peace

⁵⁵ It is important to mention that the positions against the fiscal reform among the G-8 were not completely homogeneous. According to some interviewees, the G-8 is a much more challenging group to negotiate with compared to the most political representatives of CACIF: "the CACIF representatives behave in an open and friendly manner, but they are tough negotiators. Real negotiations are always secret; they are not known" (Interview, June 10, 2016). However, according to Fuentes Knight—one of the few participants in those secret negotiations with the G-8—businessmen like Rodrigo Tejeda and José Luis Valdes showed more openness when negotiating the tax reform; in contrast with the most conservative and even hardened positions (and personalities) of Juan Luis Bosch and Juan Miguel Torrebiarte. "I remember one time when Juan Luis Bosch, in the presence of the president [Colom], made a presentation and then left the meeting [room] without listening to any reactions" (Fuentes Knight, 2011, p. 65).

Accords (IETAP)” (Prensa Libre, June 18, 2008). Once again an old CACIF strategy to attack the government’s decisions publicly was in motion to weaken its image, even though the government was responding to the opposition of the G-8 and CACIF to the comprehensive reform. However, the government was also displaying mixed indecision, lack of will, slow-pace, and ingenuity, precisely because the tactics of the private sector have been repeatedly used during many decades.

After the presidential decision to postpone the presentation of the reform to Congress, a facilitation team⁵⁶ was created to start a new round of negotiations between the government and the private sector. Those negotiations ended with an agreement which established that any reform to the income tax could only be presented to Congress after an expressed agreement with the private sector (an agreement on conditions). The private sector also committed to discussing the issue only until January 2009 (a new delaying strategy). Additionally, the document included an agreement to immediately present to Congress the section of the bill related to indirect taxation (including VAT, vehicles, Tax Code, and tariffs regime), which mainly affected the working non-corporate sectors. The agreement was signed by members of the presidential cabinet, including the Minister of Finance and some CACIF representatives, on August 1, 2008.⁵⁷ Again, the main triumph of the traditional economic elite had been the neutralization of the income tax proposal.

⁵⁶ This facilitator team was conformed by members of the Ministry of Finance and some representatives of the private sector, including economist and banker Federico Linares.

⁵⁷ Other issues included in this agreement were the commitment to advance budget transparency and the international competitiveness agenda (Fuentes Knight, 2011).

Tax to Mercantile and Agricultural Companies	IEMA— <i>Impuesto a las Empresas Mercantiles y Agropecuarias</i> (Decree 99-98)	1998
Extraordinary and Temporal Tax to Support the Peace Agreements	IETAAP— <i>Impuesto extraordinario y temporal de apoyo a los Acuerdos de Paz</i> (Decree 19-04)	2004
Solidarity Tax	ISO— <i>Impuesto de Solidaridad</i> (Decree 73-2008).	2008

After the new agreement between the government and CACIF was signed, the ISO bill, designed by the Ministry of Finance, was presented in Congress. In theory, this new tax, the Solidarity Tax (*Impuesto de Solidaridad*), had been negotiated and accepted by CACIF. This partial and urgent reform responded to the need to renew an old temporary tax called IETAAP, in Spanish the Extraordinary and Temporal Tax to Support the Peace Agreements (Decree 19-04), which was created in 2004 and renegotiated each year (see Table 4). IETAAP was created to substitute the Tax to Mercantile and Agricultural Companies (*Impuesto a las Empresas Mercantiles y Agropecuarias*—IEMA—Decree 99-98) created in 1998 after the signing of the Peace Agreements to fulfill its social investment commitments. Initially, the UNE government proposed to set the ISO tax rate at 1.25%. However, during the negotiations in Congress, especially advised by the GANA and Unionist parties, it was set at 1% (over a quarter of the gross income of any legal persons who obtain a gross gain margin greater than 4% of their gross income), the same rate that private sector was already paying that year under the IETAAP regime. As a temporary tax, the IETAAP validity was about to expire at the end of 2008 (Fuentes Knight, 2011; ICEFI,

2015).⁵⁸ However, the main difference and success of the ISO was that it was not a temporary tax, as it did not need to be renegotiated and approved each year, since the new bill established that this tax would be valid until the approval of a new income tax.

Against all odds, including a surprising and fierce opposition by the private sectors, the ISO law was quickly approved at the end of November 2008. The private sector had agreed to support the partial reforms, on the condition that they would withdraw the income tax proposal. However, when the ISO and the Anti-Evasion II laws (a new bill to strengthen tax controls) were advancing in Congress, the private sector rejected them. The potential approval of these laws triggered a strong rejection campaign by the private sector in the privately-owned media (see Prensa Libre, 2008).

On September 2008, Thomas Dougherty, a member of the G-8 stated: “*Social investment does not make a country grow, does not create sustainable jobs or allows a healthy and dynamic economy so that people coming out of poverty can find jobs*” (Prensa Libre, September 20, 2008, *emphasis mine*). Keeping the same tone, on November 27, the private sectors, through CACIF, expressed their strong rejection and disagreement with the initiatives in a public declaration. They warned that the most affected sectors would be the micro and small businesses and the final consumers and that, before proceeding with tax reform, the government should fight against tax evasion and smuggling (Fuentes Knight, 2011, pp. 313-314), which the Anti-Evasion law proposed to facilitate. In the same way, the opposition to the ISO law was expressed by different chambers, including the Agro Chamber, the Industry Chamber, and the Commerce Chamber—this last one

⁵⁸ Instead of a progressive Income Tax, this tax proposes a flat rate of 1% calculated over a quarter of the gross income of any legal persons who obtain a gross gain margin greater than 4% of their gross income (Decree 73-2008).

is the only chamber that is not part of CACIF and generally not seen as part of the traditional economic forces, but the emerging ones (Prensa Libre, August–September 2008).

However, the opposition extended from CACIF to all the private media, including the libertarian radio programs, which are very active and widely heard in urban Guatemala. Although, this libertarian group claims to criticize CACIF for their monopolistic control of the market, their discourse, and permanent criticism to the government favours. Regarding taxation issues, their discourse is always aligned with the traditional sector arguments. For example, this blog quote from a famous radio journalist reflects some of the ideas expressed through different radio programs and written media that same day:

Borrowing and more taxes will be needed to cover the aberrations, that now this government decided to call “social justice” and “solidarity.” To cover a budget of this size will mean resorting to more borrowing, which is nothing more than future taxes, which is doubly impoverishing, because they will trigger [higher] interest rates, resulting in still more restrictive access to credit. They have barely finished approving it [the budget], and they are already thinking about increasing taxes and taking some more out of their sleeve to continue harvesting us, those who pay them [taxes] to feed the poor creature that while larger eats more [the government].

The budget is also insane since, again, the areas that should be given priority have been relegated far below the “social investment.” The justice and security [budget] assignments allow, again, that owners of the stolen goods, and those criminals and kidnapers who have us on our knees, to continue making mischief; knowing that no one will catch them because the security forces lack resources, and that in the unlikely event of being caught, justice will not do more than give them a little pat on the back, because it does not have the necessary resources. In any case, they already have the perfect excuse, because the blackmailer Colom said that if his Q53 billion budget was not approved, that we could forget about security...

Again, the Government approved a budget out of all logic and against all common sense. And unfortunately, it will be us who will pay the feast with the new taxes which, like the ISO, will make the investments and capital we need to create wealth flee, terrified, to other countries which have understood that a tax increase is not the best way out of a crisis... (Jorge Jacobs, November 27, 2008).

Also, on April 24, 2009, a new statement by the new CACIF president, Jorge Montenegro, expressed the rejection to any tax reform in times of economic crisis, and that the best way to go

would be to reduce taxation (Prensa Libre, April 24, 2009). The negotiations with the private sector related to the fiscal reforms continued for almost another year, but they proved that none of the commitments of the sector to support the partial reforms were true. After eliminating the possibility of an income tax reform, and strongly opposing the reforms to the ISO law, in August 2009, the partial indirect tax reforms, including VAT, were rejected by Congress after a long battle and opposition from all fronts.

Without the comprehensive tax reform and any advances in the partial reforms, the pressure for the government to increase its revenues continued rising during the following months. The failed negotiations to get the private sector's support to pass the fiscal agenda (especially the income tax reform) and the growing world economic crisis—constantly mentioned by the economic elites—increased the government worry of a steep fall in the tax burden at the end of 2009. In 2009, the estimates previewed a maximum collection rate of 9.9% in tax revenues by the end of the year, and the concern was real because the tax burden had fallen from 12.1% in 2007 to 11.3% in 2008 (ICEFI, 2015; Fernández & Naveda, 2011). In reality, the tax burden fell less than expected in 2009, to 10.3%, which was still problematic given the historically small budget of the Guatemalan state.

Responding to the critical fiscal situation and the ongoing opposition of the private sector to any comprehensive reforms, at the end of 2009, Fuentes proposed a new partial tax reform he called “the little reform” (*la reformita*). It included: the increase of the recently approved ISO tax (paid by companies on net sales or assets) from 1% to 2%; a change to the income tax (ISR), specifically to the “5% regime,” (for medium and small business and independent professionals earning Q.60,000 a year or less) proposing to increase it to 6%; the modification of a small tax, sealed paper for notarial registries (*protocolo*) from Q1 to Q10 per sheet; and doubling the stamp

duties from 3% to 6% (on any legal transaction). This proposal also contemplated the creation of a new tax for mobile phone calls (telephone traffic) which consisted on taxing Q0.15 cents per call minute from the companies offering that service (Fernandez & Naveda, 2011; ASIENS, 2010).

After almost two years of negotiations between the government and the traditional private sector, the new proposed bills triggered one of the tensest episodes between the Colom administration and the economic elites in November 2009. The actions of the private sectors, especially the traditional sector, were varied, rejecting and finally vetoing the new tax proposals. These actions included the use of media directly, by CACIF or the different private sector chambers, or through third parties: columnists, radio journalists, think tanks, foundations, and others. For example, on November 4, through different printed media (*Prensa Libre*, *El Periodico*, *Siglo XXI*), CACIF stated its opposition to any direct taxes claiming that taxation was not the right way to reactivate the economy. They insisted on the idea that “the government needs to tackle smuggling” first as a way to raise the state’s revenue (CLACSO, 2009).

Later, on November 15, representatives of the Chamber of Industry of Guatemala (CIG) had a meeting with the GANA party congress block, formed by 25 deputies. The CIG is one of the hardcore organizations of the G-8, represented by CACIF.⁵⁹ The message of Juan Antonio Busto, President of CIG, was clear: “smuggling and fiscal evasion must be tackled before changing taxes” (Fuentes Knight, 2011, p. 341). The GANA party had been part of the UNE-GANA coalition that led Alvaro Colom to the presidency. However, their alliance with UNE had been weak from the beginning and crumbled during the tax reform negotiations, especially during the UNE’s second year in power. The GANA votes in Congress were still very important for many UNE initiatives

⁵⁹ This Chamber represents the textile, beer, hydroelectric, and cement industries, among others (Camara de Industria de Guatemala, n.d.).

and, on several occasions, Sandra Torres was still able to negotiate and convince this block to support UNE initiatives.

Given this feeble UNE-GANA alliance, the meeting between the Chamber of Industry with the GANA representatives on November 2010 was very important and symbolic. Convincing the GANA congressmen to reject the “little reform” would mean neglecting the number of votes needed to present the bill to Congress for its initial sanction (not even for approval), vetoing the new bill from its inception. After the bill was proposed by the executive branch, the required steps to pass in Congress were: to present the bill at a plenary session in Congress; to be voted on and sent for approval to the Finance Committee; to be approved by the Finance Committee, with votes of the majority of its members; and finally, to return to Congress for three reading sessions, and get the votes for final approval or rejection. Along with all these processes, the UNE needed the votes of its ally, GANA, to guarantee the number of votes needed to pass the bill.

The strong animosity between the private sector and the government expressed in November 2009 had been growing since May 2009 when (after a series of violent assassinations) Rodrigo Rosenberg was murdered. Rosenberg was a prominent Harvard-educated lawyer with strong connections to the private sector. His murder generated a political crisis and weakened the government because, in a video recorded four days before his death, Rosenberg blamed President Colom, his spouse, Sandra Torres, and his private Secretary for his death.⁶⁰ The resolution of this

⁶⁰ In a viral YouTube video shared by one of his friends the day of Rosenberg’s funeral, he also accused the President and his wife of serious charges related to corruption and particular government trust bonds. However, after an arduous investigation, the International Commission Against Impunity in Guatemala, CICIG, solved its first criminal case and concluded that Rosenberg himself had planned his own murder. The evidence showed that with the assistance of two businessmen friends—fugitives from justice—Rosenberg hired his own assassins (CICIG, Press Conference, January 12, 2010).

case by CICIG, absolving the president and his wife from any responsibility, was fundamental for creating new conditions for negotiation between the government and the private sector in 2010.

In the meantime, the permanent veto and rejection by the private sector to pay more income taxes also prevented the approval of the “little reform.” This active rejection and anti-tax negotiations contributed to the polarization of the political forces. On one side, the opposition of some political parties resulted in the paralysis of Congress; on the other, some more active mobilizations of political forces were supporting it, including mayors and the teachers’ unions. This polarization caused a series of manifestations and clashes in the National Congress. At the same time, the press was accusing the president of all this polarization and tension, also pointing at Sandra Torres’s interests in getting campaign resources as one of the causes. In the end, the failed bills meant that no changes to the status quo had been possible during the Colom administration, and the state was, once more, weak and under attack by the private sector.

Finally, as pointed out at the beginning of this document, the economic sectors are not homogeneous and, although they are efficient uniting efforts to veto certain reforms, their strategies also contemplate separate actions. For example, the proposal of the “little reform” contemplated the creation of a tax for mobile telephones which prompted an active reaction from the telecommunications sector and inaugurated a series of secret meetings. In the words of former Minister Fuentes, those were “hidden, clandestine, dark, informal” meetings, of which “very few know, or which results are just the tip of the iceberg” (Fuentes Knight, 2011, p. 354). The constant negotiations in Congress and the fear of confrontation led the government to look for some rapprochement with the telecommunication enterprises. There was a relationship of friendship mediating these meetings, between one of the companies’ directors and President Colom, through Presidential Secretary Gustavo Alejos. There was an attempt to transform these informal meetings

into something official by creating a working group with representatives from these companies and a technical group from the Ministry of Finance. According to the former minister of finance, these meetings were positive and fruitful; however, parallel to these meetings, the personal private meetings between the president, his secretary, and other company presidents kept happening (a dual working of formal and informal practices). Finally, that led to the dissolution of the technical group and the president's sudden decision to remove the initiative from Congress. According to former Minister Fuentes, many months later he was told that the reason for that decision was that one of the presidents of the telecommunication companies had offered to finance Sandra Torres's political campaign in exchange for not paying any taxes. If those allegations were true, then the campaign money would have eliminated any possibility of taxes paid by the telecommunications companies. Although there is no tangible data to prove it, according to Minister Fuentes, these episodes prompted his decision to quit his position (Fuentes Knight, 2011, p. 356).

In the end, the divisions and tensions in the cabinet were deepened by personal interests and lack of party leadership, discipline, and cohesion. The formal and informal institutions working within the presidential arena (the executive branch) were also weakened by external forces such as private interests and the legislative branch, as discussed in the next section.

Party Fragmentation and the Electoral Interests

After three months in government, the Minister of Finance's team overcame the opposition from the government's cabinet and gained the final approval and explicit support from the president to present the new comprehensive tax bill to the National Congress. However, the fierce opposition to the tax bill by the private sector was accompanied by the weakness of the UNE's legislative support in Congress and the opposition of the *Patriota* Party (PP). As a result, it was not possible to approve the tax bill in Congress (officially called *Proyecto de Ley de Modernización Fiscal y*

Fortalecimiento del Sistema Tributario Guatemalteco, 2008); nor was it possible to secure two other modified tax reforms presented later, such as “the little reform” (Bill 3874). This section explores the dynamics that explain both failed attempts, rooted most notably in the weakness of the UNE party and the (formal and informal) National Congress dynamics. Therefore, this section explores a few different institutions, the Congress and the political parties, and the personal interactions and interests (agency) shaping the outcomes of the tax negotiations.

Several factors, discussed in this section, can contribute to explaining the weakness of the UNE party in the legislative branch. These included, the party’s numerical disadvantage and weak alliances;⁶¹ its rapid and growing fragmentation; the lack of discipline and coherence with the Executive’s agenda; and the diverse political agendas and electoral interests of the legislators⁶²—sharpened by the early electoral race started by the First Lady, Sandra Torres. Torres’s electoral intentions were quickly identified and fiercely opposed by the opposition parties, especially the *Patriota* Party (PP), blocking any potential collaboration among the leaders. Given the high cost of the political campaigns, especially during the first year of government, there was a strong

⁶¹ The weakness of the UNE party in Congress is explained by their limited number of elected legislators and weak alliances. In 2008, UNE had almost one third of the Congress votes: 51 legislators out of 158. However, the approval of the fiscal reform required at least a simple majority of the votes in Congress (80/158). Additionally, the electoral, legislative alliance with the Gran Alianza Nacional Party (GANAN) and the Guatemalan Republican Front (FRG) happened as a result of electoral negotiations to support the UNE during the second electoral round. This alliance led UNE to power, but resulted in a very weak alliance, with no clear agenda and opposite ideologies (between GANAN as a businessmen’s party, the FRG led by a former Army General and evangelical Christian, and the social-democratic UNE with historic ties to the left and former guerrillas). That short-term alliance required constant renegotiations (Ortiz Loaiza, 2008; See Ley Electoral y de Partidos Políticos).

⁶² It is common knowledge that in politics timing is fundamental. In Guatemala, the media and politicians repeat that, especially for sensitive issues. If Congress doesn’t pass a reform during the first year of government, the bill won’t pass at any other moment. This is believed because the government period is short, four years, without the possibility of re-election for the president. Then, the pressure to get re-elected as a congressman/woman highly depends on moving on to the potential presidential-winner’s party. The permanent interest in the electoral campaign and the re-election processes also creates a large number of party deserters (*tránsfugas*) each year (Fortin, 2008) (Mack & Lopez, 2005), which limits the possibility of pursuing unified party agendas, and constantly modifies the number of party votes and alliances necessary to pass any bill. For example, the UNE party started its government mandate with 51 legislators in January 2008, by June 2010 it only had 33 party members and, in 2011, since it was one of the strongest parties according to electoral opinion polls, it raised its numbers to 40 block members by April (Blanco, 2011).

alignment between the legislators and their private campaign sponsors. All the previous elements contributed to preventing any legislative advances to approve a coherent and sound tax reform.

The rapid fragmentation of the UNE party in Congress was due to different political reasons, especially linked to the rising power of the First Lady, Sandra Torres. Most of the time, Torres was able to influence the direction of the party block in Congress, but she also caused serious ruptures among its members. For example, the Finance Minister Fuentes and his Vice-Finance Minister Barreda had started informal talks with some of the elected UNE legislators since February—before the official date of approval of the negotiation strategy. In the words of Fuentes, the comprehensive tax reform “was discussed with the (Congress) Finance Committee in some detail, and even a seminar was organized at the headquarters of the IDB [Interamerican Development Bank] in Washington to discuss it, in 2008 [May 19–21], along with other issues of fiscal policy” (Fernández & Naveda, 2011, p. 20).

Furthermore, at that moment the president of the Committee was Manuel Baldizón, one of the UNE congressmen and party leaders who had a high degree of autonomy from the executive branch. However, Baldizón’s interest in becoming the next presidential candidate was more important than any of the government’s objectives, which was clearly expressed when he left the UNE a few months later (December 2008) to form his political party. After all, it was evident that Torres’s leadership was growing stronger and Baldizón was “clogging” the space (in words of President Colom, *Prensa Libre*, July 17, 2015).

Additionally, the lack of leadership of the UNE legislators and the corruption scandals in which many of them were involved (Fuentes Knight, 2011; see also CICIG different cases involving UNE) also aggravated the lack of party discipline. As Minister Fuentes would express later, these intense talks to discuss the fiscal bill did not help to the advancement of the reform

because, a few months later, several of these congressmen/women moved to another party (*tránsfugas*),⁶³ or were involved in corruption scandals,⁶⁴ which nullified their credibility in Congress (Fuentes Knight, 2011, p. 28). Furthermore, the degree of autonomy of the legislators from the private sector was limited.

While these complex tax negotiations between the executive and the finance committee were happening, other contradictory tax exemptions had been approved in Congress without the participation of the Ministry of Finance. These events are particularly important because they show the increasing lack of discipline and weakness of the government precisely because UNE legislators had proposed the new bill. This bill proposed specific tax exemptions which would directly benefit the Mexican media mogul, Angel González. This businessman possesses great power and influence among political parties because his support greatly determines the Guatemalan electoral results by granting in-kind media support to the political parties. This support consists of airtime, including commercials, advertisements, and infomercials in the local news, on all the national television commercial channels, several radio stations, and movie theatres (Acción Ciudadana, 2012; Nuñez, 2008). Since most Guatemalans cannot afford cable services,⁶⁵ and given the levels of literacy of the country, the existing four local television channels are highly influential in the political campaigns. On September 3, 2008, Congress approved an amendment to the income tax law which reduced the rate from 30% to 10% for television channels, radio, and movie theaters which would publish imported media material (such as movies, videos, radio novels, images, and

⁶³ In Guatemala, the party deserters, or *transfugas* in Spanish, are very common. Legislators who change from one party to another once they are elected as means to negotiate their voting preferences to support certain bills, in exchange of party benefits. These benefits can be lower party fees, support for next electoral processes, contracts, and projects for their constituencies, among others (see Fortin, 2008).

⁶⁴ See for example the case of Delia Back (El Periodico, June 17, 2018)

⁶⁵ E.g., Databis “Pay TV in Central America, 2012–2018” in Central American Data.Com, Trends in Consumption of Paid TV, August 2013.

sound materials, among others). The new bill was quickly approved with 113 votes, which is a very high level of endorsement by the legislators. According to Minister Fuentes, “there was a race to support the initiative... only a few courageous legislators opposed this bill,” which, by the way, nobody had consulted with him (Fuentes Knight, 2011, p. 309; Prensa Libre, September 3, 2008).

Furthermore, the personal aversion between Roxana Baldetti (leader of the PP block) and Sandra Torres and her Social Cohesion Presidential program made it almost impossible to negotiate any potential increases to the public budget (including the tax reform). The strong popular support for the UNE based on the government’s direct-transfer program also won Torres much opposition and many political enemies, within and outside her political party. The lack of transparency and increasing power gained through “her” program, without having any electoral or formal administrative mandate, triggered all kind of opposition from the political parties and the media. This element explains a great deal about the rapid fragmentation of the UNE block in Congress during Colom’s presidential mandate. These circumstances also help explain the fierce opposition by the *Patriota* Party—which was a more disciplined party at that moment—especially through its congressional block leader, Roxana Baldetti. Baldetti always opposed budget or tax initiatives which could benefit the presidential campaign of Sandra Torres. The fierce opposition and ill will between these two women overshadowed any political discussion during the Colom administration years. This example of strong personalities also exemplifies how strong interests and agency can overshadow institutional frameworks or mobilize institutional frameworks to benefit personal interests.

The political weakness of the UNE party in Congress resulted in the impossibility to approve the tax bill presented by the executive branch. This reality, at a moment of economic crisis and lack of economic resources, as discussed in the coming sections, also resulted in other urgent

and partial attempts to reform the tax system and increase tax revenues. The UNE party legislators and their lack of ideological coherence and discipline cost the UNE government any possibility of approving sound fiscal reforms.

The Congress and Institutionalized Filibuster Techniques

As previously discussed, after months of negotiations with the private sector and the opposition parties, only the Solidarity Tax (ISO) bill was approved in 2008. The new law, although a minor success regarding tax collection, was a major political triumph because it transformed the ISO into a permanent (not temporary) tax, removing an important political negotiation tool from the economic sector. Additionally, on November 5, the Finance Committee approved another bill complementary to the tax reform, known as the Anti-Evasion Law II, a separate bill to strengthen the tax rules to fight against evasion, also a by-product of the initial tax bill. The approval of these laws requires an explanation given the existing political situation, as well as the subsequent techniques blocking earlier reforms.

In this process of approval of the ISO law, the role of Mario Taracena, a UNE congressman and, at that moment, Chairman of the Congressional Finance Committee, was very important. Taracena's experience was key in creating political agreements and crafting clever discussion moments to surpass the common filibuster techniques at Congress. For example, the day after the PP legislators had abandoned the discussion, opposing the 2009 budgetary measures (discussed below), the UNE took advantage of the situation to approve the ISO bill (Fuentes Knight, 2011, p. 314) This example shows how strong leadership and personal negotiations can facilitate agreements even beyond ideological or electoral interests.

However, the ISO approval augmented the opposition and rejection from the traditional economic sector, and the opposition was transferred to their party allies. After the ISO law was

approved, the rest of the initiatives and bills related to the tax reform were strongly obstructed and opposed by most of the parties, especially the PP. The *Patriota* Party openly expressed its rejection to any of the fiscal bills, echoing the G-8 arguments, especially during the first two years of the Colom administration. For example, a few weeks after the rejection of the reforms by the G-8, Roxana Baldetti stated: “From the beginning, we said that we were not going to support it [the reform], due to the situation that the country lives” (Prensa Libre, June 17, 2008). Similarly, Otto Pérez affirmed: “We do not agree with tax reform, it is not the moment. About the budget expansion, we will not support any more loans” (Prensa Libre, June 27, 2008).

During one of the tensest moments about the fiscal reform, the PP and the LIDER party blocks showed their strong opposition using different filibuster techniques, including abandoning plenary sessions, discussing each issue unnecessarily, not attending sessions to prevent a quorum, mobilizing groups affected by taxes, among others.⁶⁶ At the moment of the possible approval of the partial “little reform,” these two parties repeatedly called the Minister of Finance for interpellation. According to the Guatemalan law (Article 166 of the Constitution⁶⁷), once a minister

⁶⁶ Besides opposing the UNE party’s agenda, PP legislators were especially against any changes to the customs duties regime, which was affected by the new taxes on vehicles, proposed by a new partial tax bill (initially part of the comprehensive tax reform). In 2009, the private sector, in partnership with the caucus of the *Patriota* Party (and supported by other parties), brought vehicle importers to Congress for several days so they were able to submit their complaints directly to the legislators. According to two journalists, this was “a method of pressure common among popular organizations but unheard of among entrepreneurs: the manifestations in Congress were direct, visible, massive pressure” (Fernández & Naveda, 2011, p. 21). The rejection and pressure against this customs duty bill were effective; the law was rejected (and later will also transform into a key source of corruption for the *Patriota* Government). A few weeks later, the President of Congress, Roberto Alejos, from the UNE party announced that Congress would withdraw the bill (Fernández & Naveda, 2011; Fuentes Knight, 2011, pp. 320–330).

⁶⁷ Article 166. (Interpellation) Questions to Ministers. The Ministers of State have an obligation to report to the Congress, in order to answer the questions formulated to them by one or more deputies. Except those that relate to pending military operations or diplomatic affairs. The basic questions should communicate to the minister or ministers concerned, forty-eight hours in advance. Neither the Congress in plenary, nor any authority, can limit the members of Congress, their right to question, qualify the questions or restrict them. Any Congress deputy can make additional questions that he/she deems appropriate relating to the topic or topics that motivate the interpellation and from this may arise the possibility of a vote of lack of confidence, which must be requested by four deputies, at least, and must be processed without delay, during the same session or in one of the following immediate two (Constitution of the Republic of Guatemala; see also Articles 141–145 of the Organic Law of the Legislative Branch Decree 63-94).

has been called to Congress, the legislative agenda cannot advance until the interpellation has finished, and not even the plenary of the Congress can prevent or stop a minister's interpellation—this can take weeks or months.

This practice—interpellation—has allowed non-majoritarian parties in Congress to veto key legislative reforms many times, and this is what happened in December 2009. In the words of Minister Fuentes, he was called to parliament hearings by different political parties and under different excuses, countless of times, which he saw clearly as a strategy to delay his efforts to negotiate and pass the tax reform, and to persuade him to abandon his efforts (Fuentes Knight, 2011). For example, Fuentes explained how the constant abandonment of the Congress premises by the legislators, to break quorum, was one of the main reasons why he decided to organize a seminar in Washington. In 2008, with the support of the IDB, this seminar had the objective to discuss the tax reform and keep the legislator's presence and attention to the matter at the beginning of the negotiations (Fuentes Knight, 2011). According to the Chairman of the Economy Committee of Congress in 2010, Mariano Rayo, during that particular “parliamentary term the endless and spurious hearings (for the Minister of Finance), foolhardy or inconsistent reasoned votes [to avoid voting in favor or against a bill], and ruptures of the quorum [required to pass the law] became much more common and obvious. A variant of this method is to put the initiative to sleep in the Finance Committee, without discussion or giving any opinion or returning it for review”. The latter also happened with the bill against tax evasion in 2010 (in Fernández & Naveda, 2011, p. 28).

It was clear that the interpellation was a strategy to delay and veto the reform, especially after the third time Minister Fuentes was called to Congress. Instead of discussing or approving the fiscal reform, the opposition party deputies exhausted the time of the extraordinary sessions questioning Minister Fuentes about the proposed reform. For example, in one of the interpellations

that lasted three days, the Minister was only questioned on the first day. The following two days, the *Patriota* Party deputies didn't show up to the session, so it had to be cancelled due to lack of quorum. Finally, on Wednesday, an altercation and shoving between PP deputies and mayors supporting the fiscal reform forced the suspension of the sessions (La Nacion, December 17, 2009). Also, the third interpellation of the Minister lasted until January 2010, when he was asked to explain the consequences of not approving the reform and not approving the 2010 budget (Fuentes Knight, 2011).

The interpellation of the Minister of Finance during the second week of December 2009 allowed PP and LIDER to veto the so-called "little tax reform;" it also prevented the approval of the new government budget for 2010. The ordinary sessions of Congress were almost over in December 2009; the time to approve the tax reforms was running out. Only a few issues, but not the reform, would be discussed in the extraordinary sessions in mid-December. The interpellation meant that no issue except the questions to the minister could be heard during the ordinary sessions. The battle to approve any tax changes was lost, because, due to the non-retroactivity of the law (Article 15 of the Constitution), any tax reform should be implemented at the beginning of the new fiscal year, in January. This fact was very clear to the deputies, as this press statement by deputy Roxana Baldetti from the PP shows: "Time is running out for them. If the reform is not approved this month, it will not enter into force in January, when the fiscal year starts" (Prensa Libre, December 2, 2009).

Interestingly, as shown in next section, the anti-tax discourse of the PP leaders changed during the last year of the Colom administration, when it was evident that they could be the next party holding the presidential power. The new approach and discussions between the UNE

government and the PP about the recently abandoned comprehensive fiscal bill, post-January 2010, became fundamental negotiations for the adoption of the fiscal initiative by the *Patriota* Party.

In sum, the formal and informal institutionalized practices in Congress can work either as mechanisms to expedite approvals of any reform or to block, change, or veto any law. Those practices are determined by personal interests and abilities, but greatly conditioned by the interests of the economic powers (institutionalized through the financing of political campaigns).

Budget Deficit and the International Financial Institutions

Congress's veto of a new proposed budget at the end of 2009 aggravated the fiscal situation, increasing the gap between revenues and expenses for the UNE government in 2010. In the absence of the fiscal reform and a worldwide economic recession, in a country with no other sources of state revenue, the only available option was funding the national deficit with debt (the usual practice). The following example of how the government managed the 2010 budget issue is a good example of how the anti-tax positions were played by the different stakeholders, including political parties, economic elites, and international financial institutions (IFIs).

The 2009 budget was the first designed by the UNE government because the budget for 2008 had been approved by the previous government during the electoral campaign. The 2009 budget included the expansion of the social budget and responded to moderate anticyclical measures proposed by the Ministry of Finance. However, given the imminent economic crisis, all other government expenses had been reduced. The funding of this relatively expanded social budget relied on support and loans from the multilateral banks, such as the Interamerican Development Bank (IDB) and the World Bank (WB). The budget was also to be funded by public bonds sold to private banks (national loans)—since the law does not allow the Central Bank to

finance the state. In sum, no revenues from taxation meant relying on international and private sources of funding.

At the end of 2009, anticipating a steep fall in the tax revenues for 2010, the government presented a more moderate budget for approval to Congress (except for the social component, which was claimed to respond to the Fiscal Pact agreements and countercyclical measures). Considering the tax revenue tendencies and assuming the imminent non-approval of the tax reforms, the Ministry of Finance proposed to reduce the national budget from Q.49,700 billion (2009) to Q.47,800 billion for 2010. That was the equivalent of \$6.659 and \$6.404 billion in USD, respectively. On that basis, the Ministry forecast a reduction of the deficit from 3.4% to 3.1% of the GDP.

This new budget also proposed an increase of resources for the Social Cohesion programs of the presidency, which caused many problems among the same UNE caucus and the political parties. The budget proposal included the allocation of Q1.500 billion for the direct transfer program, *Mi Familia Progresada* (or Mifapro), led by Sandra Torres. Torres wanted an allocation of at least Q2 billion for her program, yet the opposition parties strongly criticized the proposal.

The opposition of Sandra Torres to the Ministry of Finance budget project started in mid-2009 and was more evident in November 2009. Her strong power among the party caucus competed with her husband, the president, and the executive branch. During the last congressional session, while the executive branch was trying to push for the approval of the new budget, Torres and her team were pushing the UNE congressmen and allies to vote against the proposal. “There was no unified leadership” in the government (Fuentes Knight, 2011, pp. 254–255),⁶⁸ except for a

⁶⁸ “Sandra Torres’ opposition to the budget, which we had presented to Congress, was manifested clearly the last night available to Congress to approve our proposal, Monday, November 30, 2009, when we were gathered at the presidential house, at dusk. The President, with an evident nervousness that manifested itself in the fact that he smoked

serious fragmentation among the UNE party and a lack of coherence in their policies. Finally, the many amendments and the large debate exhausted the time to approve the budget. The ordinary sessions of Congress were over, and the extraordinary sessions would be used, among other issues, to interpellate the minister of finance to prevent the advancement of the “little reform” at that moment (Fuentes Knight, 2011).

Ironically, this time, the opposition parties seemed willing to support the more moderate 2010 budget proposed by the executive branch; however, opposition came from the same UNE party. Torres wanted a bigger budget to run her rural-based programs. However, the new budget gave her even less money than what had been proposed in 2010. As a result, she stopped actively supporting a comprehensive tax reform to finance the bigger deficit budget for 2010 (Fuentes, 2011), but it was too late, the time for the reform had passed. The clear interest of Torres in running for the next presidential campaign, plus the lack of transparency and accountability of her vast programs, as well as her rising unaccountable power, raised suspicion and accusations from the opposition parties. No political party would support the tax reform, even less when the public funds could be perceived as diverted to support Torres’s presidential campaign.

The following statement from CACIF, published in *Prensa Libre* on November 7, is a good example of the main arguments from the private sector, also echoed by some political parties:

cigarette after cigarette, maintained tense communication with the president of the Congress, the president of the Commission of Finance—then Mario Taracena [from UNE]—and other members... She [Sandra Torres] already had asked them not to approve the budget that we had proposed. And when the president finally gave the instruction [to the congressmen], in our presence, to do all the possible to approve the budget, with some modifications that had already been negotiated with various political parties caucus members, Sandra Torres left the local with apparent chagrin and departed.

In Congress, meanwhile, its members met in plenary session discussed the adoption of the budget. There was Erick Coyoy [Vice-Minister of finance], to support eventual revisions... But also Cecilia Palomo, she was passing on the instructions from Sandra Torres... some UNE deputies had other amendments that they also wanted to introduce... There was no unified leadership” (Fuentes Knight, 2011, pp. 254–255).

Financing the proposed budget with more taxes does not incentivize economic activity in times of severe world crisis, and it is adverse to the need to sustain employment. We believe that the better way to face the crisis is through austerity, the quality and transparency of public spending (Prensa Libre, November 7, 2009).

Ironically, this time Congress discarded a more moderate budget for a bigger one, against the discourse of the traditional private sector. Congress's veto against a new more moderate government budget for 2010 meant that, in addition to the growing deficit, the government had to continue implementing the expanded 2009 budget the following year. At the end of 2009, the government needed to find new ways to fund a deficit amount of around USD \$300 million (Q2 billion) (Fernández & Naveda, 2011). This amount only represented the deficit to cover the new budget expenses, without including other pre-existing state debts, which are not usually included in the new year budget, the so-called "floating debt" (*deuda flotante*). Specifically, the executive promoted a budget readjustment, the approval of several international credits, emission of Treasury bonds, and new tax adjustments to fund the 2010 deficit budget (Alvaro Colom, January 14, 2010). Echoing this call, in January, the first day of the Congress ordinary sessions, the new president of the Congress (Speaker), Roberto Alejos, stated that the priorities of the legislative agenda in 2010 would be security and justice (in line with CACIF's expressed concerns), as well as the tax adjustment promoted by the executive since the end of 2009 (ASIES, Analysis Mensual No. 1, January 2010).

Additionally, the large and pressing fiscal deficit also prompted a new round of urgent negotiations between the government, the international donor community, the local private banks (including the traditional economic elites)⁶⁹, and the Congress parties. It was necessary to approve

⁶⁹ According to the Guatemalan law, the Central Bank cannot lend any money to the state, and, until very recently (2017), access to treasury bonds was only allowed to big investors, i.e., the private banks.

new loans and treasury bonds to finance the budget. The good personal relationships between the Ministry of Finance and the IFIs were a start to guarantee some international loans.

I remember those years... coincided with the economic crisis, the election of [Barack] Obama, the capitalization of the IDB, and the [re]election of [Luis Alberto] Moreno. Hugo [Beteta, former minister of finance] and Juan Alberto [Fuentes] were always in dialogue with them [the BID]. They saw it as important. Juan Alberto asked for supplies; he wanted to do interventions, changes, etcetera. The international banks knew and recognized the administration that we had; they knew their toolbox. From the outside, they counterweighed the internal pressures (Interview, April 29, 2016).

According to different interviewees, the former Minister of Finance had built strong relationships with the multilateral banks and financial institutions, which were key sources of support for the Colom administration.

From where I sat in those years, this is what I saw, the interest of the Bank (IDB) to support with technical assistance and financial resources. I think Juan Alberto [Fuentes] relied heavily on that. I think that there were officials at the Bank, who had built relationships of trust with the country and these stakeholders (Interview, April 29, 2016).

Again, the problem was to reach agreements at the negotiation table with Congress and the private sector to authorize the loans and emission of bonds. This proved to be one of the most difficult tasks for the UNE government, or any government. In words of a former IDB official:

If the Bank [IDB] has the largest portfolio, not only in volume but the presence in other sectors, you can also add to your agenda the different debtors of that portfolio. The support of the Bank was an opportunity when you could build a discourse that others assume. The big problem is the final dialogue that happens at the level of Congress, the political dialogue with the private sector. It has not been possible to cross that bridge, almost with any Government [in Guatemala] (Interview, April 29, 2016).

Aware of the tense confrontations with the private sector and the political parties in Congress, during the last months of 2009, the government changed its negotiation strategies. On January 15, President Colom decided to start a new dialogue process with the private sector. For

that purpose, four dialogue tables were organized to seek agreements on four topics: a) the readjustment of the budget of the state, the negotiation of sources of funding, and a tax reform; b) the implementation of measures for economic recovery; c) discussing issues of governance, security, and justice; and d) developing actions for social development. The call for participation to this national dialogue was extended to the Secretaries of all the political parties, heads of the legislative blocks in Congress, social leaders from the cooperatives sector, unions, peasants, and other social organizations. Now, the executive assured, they would listen to their proposals and accept some of them. In contrast with previous occasions, they had invited the representatives of the Patriot Party (PP) and the Renewed Democratic Freedom legislative bloc (LIDER) (former UNE members) to the discussion. These two parties had maintained strong opposition to any official projects and had permanently blocked or vetoed the UNE legislative agenda.

This new battle to finance the national budget in 2010 was a direct result of the political and economic crisis, but above all, the absence of a tax reform. In November 2009, after many months of negotiations and six congress sessions blocked by the opposition of the PP and LIDER, Congress approved a loan to support the budget granted by the World Bank. This loan was mainly directed to cover the needs of the Ministries of Education and Health (Fuentes Knight, 2011). However, that same year, according to former Minister Fuentes, it was not possible to get non-reimbursable budget resources from the IMF (around USD \$273 million, Q2.2 billion) due to strong opposition of the president of the Central Bank, Maria Antonieta de Bonilla, who neglected the possibility to transfer the resources from the Central Bank to the Ministry of Finance (Fuentes pp. 246–247).⁷⁰

⁷⁰ The Bank was the intermediary of those resources from the IMF, but the president of the Bank claimed that those were reserves for the Bank, and that any interference from the Ministry of Finance was in violation of the autonomy of the Bank. And claiming the autonomy argument, any legal battle against the Central Bank was lost.

In the end, the new negotiation tables inaugurated in January 2010 also provided the right excuse to postpone the tax reform in exchange for tax discussions. At the end of January, the Chamber of Industry asked the government to remove the “little reform” proposal from the Congress agenda, to “create trust” among the dialogue tables’ participants (Fuentes Knight, 2011, p. 366). Once again, the possibility of passing any income tax-related reform was being eliminated. As a local newspaper reported: “Now the dialogue tables are installed, among them the fiscal table... and half the world talks about them, without mentioning that this represents delaying, leave for later the tax discussion” (Albizures, *El Periódico*, January 21, 2010).

Furthermore, besides the failure to advance the fiscal reform, it was clear how the urgency of the government to get international and local resources also backfired as a mechanism of pressure and negotiation favourable to the economic elites. The need for resources were expressed, not only in the direct government and private sector/private banks negotiations, but also at the level of Congress, politicising the possibility to get loans from the multilateral banks.

The good intentions and support from the IFIs, as well as their conditions for support of the fiscal reform, were diluted in the murky waters of negotiations among many domestic stakeholders’ interests. The interplay between agency and structure (and institutions) was fundamental in deciding the poor budget and fiscal outcomes. On the one side, good personal relations and good technical and political understandings were key to attract the institutional support of the IFIs. On the other, the possibility to authorize the loans from the IFIs became a new divisive process for the government, a negotiation tool for the legislators, and a pressure mechanism for the economic elites for the government to abandon the income tax reforms (rooted in formal and informal institutional frameworks).

The UNE and Civil Society

There were some successful attempts by the UNE government to discuss the initial fiscal reforms with representatives of civil society. However, these discussions did not provide the necessary legitimacy, representativity, and strength to counterweigh the opposition from the private sectors. Although these meetings with civil society cordially provided some feedback and legitimacy to the reform content, they were not successful in creating a platform to listen and collect further updated fiscal demands representative of the social movements and civil society's needs. It is proposed here that some of the reasons for this lack of representativity and strength of the government are historical and institutional, while others were strategic mistakes from the government authorities when building the support from other groups from civil society.

This section analyzes the processes of negotiation between the UNE administration and civil society (excluding the private sector) and some major miscalculations. This section also briefly contrasts the 2008–2009 experience with the year 2000, when the Fiscal Pact negotiations—and stronger social negotiations—took place, as discussed in Chapter 4. Among other issues, this comparison shows the strength, support, and capacity of civil society to create tax proposals in 1999–2000, and exposes the systematic weakening and fragmentation of civil society's groups by the time of the Colom administration

Different from the traditional centre-right parties, the UNE not only proclaimed itself as a social-democratic party but also built relatively strong support from rural bases and some groups in civil society, such as the unions and the cooperative movements.⁷¹ At the beginning of its

⁷¹ For example, in January 2009 the government would invite Rodolfo Orozco from the cooperative sector, as well as Rigoberto Duenas, a Union representative, to make part of the “Conjunctural Committee” to implement the National Program of Emergency and Economic Recovery, and to face the economic crisis. This committee also included Arnoldo Noriega, representing the President's office, Maria Antonieta del Cid, president of the Central Bank, Julio Hector Estrada, executive director of the National Program for Competitiveness (PRONACOM), Edgar Barquin,

mandate, Alvaro Colom enjoyed certain legitimacy among the left and social movements due to his family's past and his political trajectory during the civil war and armed conflict in Guatemala. The party built strong electoral support—with clientelist characteristics—from the rural country areas.⁷² However, as demonstrated in the previous sections, the UNE party was lacking, in practice and on paper, a unified and coherent agenda.

Additionally, the president's indecisive actions contributed to the weakening of the links and support from the non-business-related civil society. For example, the fact that President Colom took a long time to decide whether to approve the presentations of the comprehensive fiscal bill to the CNAP representatives (their sponsors) at the beginning of his mandate was a major sign of this initial disinterest. The official meetings between the Ministry of Finance and CNAP only happened in March 2008, three months after taking power (Fuentes Knight, 2011, p. 41).

Government Assumptions of Social Representation

This research proposes that the main mistake of the UNE government (and the Ministry of Finance) was the assumption that its proposed tax bill was already representative of the needs of civil society. This assumption was clearly expressed in the strategy proposed by the Ministry of Finance—to consult, not negotiate, with the non-business-related civil society. This assumption may have been rooted in facts, such as the electoral and political triumph of the UNE party, the social-democratic inclinations of the government, the origin of the fiscal reform at the GPFD, and the fact that this bill took into consideration the Peace Agreements and the Fiscal Pact guidelines.

Superintendent of the Central Bank, Minister of Finance Juan Alberto Fuentes and Marco Vinicio Cerezo Blandón, its coordinator.

⁷² Given the clientelist characteristics of the Guatemalan political parties (based on personal charisma and potential sponsors, Ortiz Loaiza et al., 2008), this electoral support was also evident in the number of municipal mayors subscribed to the UNE party and elected by their communities.

However, each of these assumptions, somehow also manifested through the different interviews, had weaknesses and flaws explored in the following paragraphs.

The assumption of representativity by government officials was expressed in the strategy to negotiate the comprehensive fiscal reform, proposed by the Ministry of Finance and approved by the president. This strategy only contemplated presentations (not negotiations) to representatives of civil society, different from the strategy of negotiations with the private sector. This assumption was based on the fact that this fiscal proposal was the result of the work of the GPF, which was initially supported by the CNAP and civil society organizations represented on that body. That was also one of the reasons why the presentation to CNAP was proposed as one of the first interactions with the civil society representatives (Interview, July 4, 2016).

Second, this assumption of representativity also had roots in the trajectory of the ministerial team negotiating the proposal for the government. Many of the ministry officials had a background supporting and negotiating fiscal reform since the years of the fiscal pact. For example, then Vice-Minister, Carlos Barreda—proponent of the government strategy—and Ricardo Barrientos (former technical advisor at the ministry and later Vice-Minister of Finance), both had represented the social movements and organizations of civil society, as part of the Social Organizations Group (*Colectivo de Organizaciones Sociales*, COS) during the fiscal pact negotiations in 2000. Both professionals are still widely respected as serious tax experts, former tax negotiators, and important proponents of the tax reform. This assumption was also legitimized by the fact that some of the members of the Ministry of Finance’s team had also been members of the GPF, a membership ratified by Congress. This included the Minister of Finance: “I went to many of these meetings... my collaborators and I already knew many [social] leaders who participated in these meetings since the Fiscal Pact negotiations and, in general, we found them quite receptive to the proposal”

(Fuentes Knight, 2011, p. 29). According to another government official, “when we started promoting the reform we met with many sectors, including unions, and there was understanding... they [the private sector] were not able to mobilize these sectors [against the reform]” (July 4, 2016).

Third, the proposed reform responded to the principles of the Fiscal Pact. Additionally, the comprehensive proposal also reflected the principles and goals set by the Peace Agreements, specifically the Socio-Economic Agreement signed in 1997. The assumed legitimacy seemed to have prevented the government from any attempt to collect any other new proposals from civil society (excluding the private sector). Instead, a process of presentations to discuss and validate (not negotiate) the existent proposal was undertaken. According to the interviews, for most of the government representatives negotiating the fiscal reform at different moments, their assumption of representativity was based on the fact that they were responding to the Peace Accords.

During several weeks at the end of March and April, the Ministry of Finance team presented and discussed the fiscal bill with several social organizations represented at CNAP; these were the groups who had supported the work of the GPFD. They also met with the General Union of Workers, the National Coordination of NGOs, the Office of Human Rights of the Catholic Archdiocese, the Ecumenical Council of the Catholic Church, the Agrarian Platform, the Catholic Social Ministry (*Pastoral Social*), different think tanks and research institutes, as well as women’s and indigenous organizations. Minister Fuentes, Vice-Minister Barreda, or Ricardo Barrientos⁷³ attended all of those meetings. They also met with different progressive intellectuals with the support of the Friedrich Ebert Foundation and the Latin American Faculty of Social Sciences (Interviews March 21, 2016, and March 22, 2018; see also Fuentes Knight, 2011, pp. 28–29).

⁷³ Director of Analysis and Fiscal Studies at the Ministry, and later Vice-Minister.

At one level, the assumptions of the government officials were correct, since the social organizations' representatives supported the new fiscal proposal without major questioning, trusting that it was coherent with the Fiscal Pact and the Peace Agreement guidelines. Both of those agreements were not detailed enough to assume that any particular tax proposal could respond to all the social groups' interests. The guidelines in both the Peace Agreements and the Fiscal Covenant are very general supporting progressive tax reform, including an income tax reform, without specific technical suggestions, leaving room for many possibilities. Additionally, the lack of concrete proposals from civil society also reflects weaknesses in the capacity and will of the non-business social forces to question and enrich the proposed reforms, especially when contrasted with the negotiation strategies and ultimate veto power of the economic elites.

All of these assumptions and broadly accepted reasons of legitimacy collided with the weaknesses, fragmentation⁷⁴ (IPS, June 13, 2006; Kurtenbach, 2010), and underdevelopment of civil society (Sanchez, 2009) and a general lack of support to the fiscal reform. The reasons for the weakness of civil society are complex and multicausal; many are rooted in historical and structural explanations. These include: the long history of violence and repression in Guatemala (Brett, 2016; Dudley, 2018); the extended poverty and the struggle for survival of the majority of the population (Torres-Rivas, 2011; EIU, May 29, 2018); and the evident and perceived domination and privileges of the economic elites, and their capacity to misinform and manipulate other social groups through their private media (Valdez & Palencia, 1998; Casaús Arzú, 2007). Furthermore, the actual characteristics of civil society have also been impacted by international community support, especially given the change in format and issues selected for the allocation of

⁷⁴ In Guatemala, “each organisation prioritises its own work over the common good” according to Sandino Asturias, former UNRG guerrilla commander and current Director of the Centre for Guatemalan Studies, a non-governmental policy research institute (in IPS, June 13, 2006).

resources (ICEFI, n.d.). None of these causes are explored exhaustively in this thesis. However, they are assumed as valid and illustrated by some of the stakeholders' (interviewees) statements.

The structural and institutional variables have shaped particular characteristics of the active groups of society, which reduce their power of agency and render them more fragile when attempting to participate in the fiscal reform negotiations. (Again, we see an interaction between institutions and agents here). Such characteristics are:

- A growing mistrust of the government and its institutions (especially from the more radical social movements and social organizations);
- A crescent disarticulation of the mobilized society, after the signing of the peace accords;
- The idealization, nostalgia, and complete social trust of the Peace Agreements and the Fiscal Pact—as maybe the sole guidelines, to achieve the fiscal objectives of the country. This would also mean the permanent neglect of the possibility to build new fiscal proposals relying on more diverse and evolving social needs—especially on the side of taxation;
- And the objective lack of tax expertise of the non-business-related civil society, combined with a subjective belief that taxation issues require high technical skills.

All of these reasons limited the participation of representatives of society (with a few exemptions)⁷⁵ in the tax discussions, and their ability to inform broader sectors of society, and negotiate tax policies under their terms, to counteract CACIF's organized actions.

In addition to the limited format provided by the central government to discuss the reform with civil society representatives, one of the main observed characteristics of this consultation was

⁷⁵ There are only a few social leaders such as Indigenous leader, Daniel Pascual, who have been part of the Fiscal negotiations for a long time, who can participate more actively defending their rights. However, there are under such pressure to address many urgent social issues, that concrete fiscal demands are usually absent from their agendas (Interviews, May and June 2016).

the lack of capacity of civil society to propose or support any particular fiscal reform be adapted closer to their necessities. The relationship of the UNE with the broad civil society was not exclusive of the fiscal reforms' negotiations; they kept some good allies and broader support in other issues. However, this closeness to some sectors on other issues also makes the lack of commitment and proposals related to the fiscal reform more evident. For example, although the relationship of the UNE with the cooperative movement was good, the pressing issue of the international economic crisis and the increase in food and oil prices kept the dialogue tied to how to solve the economic crisis and propose a rural development plan, ignoring any other issues related to the fiscal reforms or fiscal design demanded by these groups.⁷⁶

The government's assumption that the social organizations would accept and support their proposal was true, except for a couple of specific demands. One of them was a formal complaint by the unions that led to modifications of the income tax brackets affecting employees (ISR), broadening the first bracket, *exempted* from paying taxes, from 0.00-Q.3,000 to 0.00-Q4,000. The other demand was related to inclusive procedures by the tax administration body, SAT, related to the availability of services in Mayan languages:

The social organizations were concerned about topics such as whether the Tax Administration would offer bilingual attention in Mayan languages; but gender was totally aside from the proposal, extractive industries were also absent from the proposal... (Interview, May 2, 2017).

As the previous quote from a key participant in the tax negotiations shows, specific tax demands from other social forces were absent during the UNE negotiations, such as gender-related

⁷⁶ For example, Rodolfo Orozco, a historical leader of cooperatives in Guatemala, with some other representatives of this sector, made a presentation to the economic cabinet about the importance of boosting agricultural production, and the strengths of the cooperatives to face the crisis in 2008. Later in 2009, the cooperatives would propose to the government a rural development plan to face the crisis, (\$108 million investment to create around 150,000 or 200,000 jobs) (Central America Data Org., January 10, 2009).

demands. The interest and capacity of the social movements and civil society representatives to formulate their demands seemed very limited after more than two years of formal and informal consultations with the government. This was evident from the absence of tax proposals, as well as by the responses from the social leaders interviewed for this research project. The expression of surprise on their faces when this researcher asked them whether they had any particular fiscal or tax-related demands or proposal from their social movement or sector were clear signs of the lack of debate on these issues among their social organizations. Of course, their response was negative. By no means this may suggest a lack of understanding of the fiscal problem. On the contrary, social leaders broadly understand the structural, power, and economic problems of the country. “The fundamental issue is, who has more has to pay more. However, only VAT is discussed, and we are wrong!” (Interview, May 23, 2016). The lack of formal fiscal demands also expresses the complex needs and other urgent issues that the social movements in Guatemala must face.

According to a social leader and activist, most of the participation of civil society in the long negotiations of the reform, which concluded in 2012, occurred as part of the discussions with the GPF, at CNAP in 2006–2007, before the UNE administration came to power:

I have been on the [fiscal] subject either directly or indirectly, since the fiscal pact. We are taking part in the discussion. In the case of the CNAP, at the social level, there were indigenous peoples, trade union sector, women, NGOs. About women, it was discussed: the [budget] classifier, a budget with a gender approach, tags, the need for a census so that the state meets its obligations. Also, about the implementation of public policy, in the municipalities, how to invest it in programs and projects, attention and services for women, including education, health, safety, violence, economic recognition and projects. This was also part of the work of the CNAP congress deputies (Interview, May 23, 2016).

All of the measures mentioned by the interviewee correspond to social expenditures, not revenues or tax policies. According to a representative of the women’s movement, the only proposal related to taxes presented by women’s organizations was a petition for a tax *exemption*:

The proposal that has been made is the exemption from taxes for women's small business. We also questioned exemptions for large companies which give bad jobs. Many of the efforts that have been made only kill taxes. That was discussed at CNAP (Interview, May 23, 2016).

These proposals are different from what happened during the Peace Accords and Fiscal Covenant discussions, where the women's movement presented concrete proposals, for example, to implement the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and promote women's inclusion in rural development (Interview, May 23, 2016).

Additionally, according to more radical activists, such as those opposing the extractive industry projects, and also according to some political analysts, the link between CNAP and the social movements does not exist anymore. For some of these activists, CNAP is just a space to co-opt social leaders by giving them access to small state budgets. This argument would point out to an institutional problem related to the lack of representativity and democratization of some particular state institutions. This argument shows the complexity and different approaches among the social movements' and, at the same time, partially explains the absence of wider fiscal proposals from the most radical movements, such as those working on mining issues:

The link between CNAP and social movements does not exist. There is a pseudo representation at CNAP. Since peace was blurred—peace entered into crisis more or less since 2003 [during the FRG government led by former General Efraim Rios Montt]—its institutions acquired some autonomy but could not engage with the social movements. They saw themselves as betrayed. The CNAP became a position of revenue for meals [expenses], without any social projection, nothing. Very different visions, from those who have believed the path of transformation of the state, which passes through the peace agreements and by the state and through it.

I think there is a view shared today, more belligerent view from the movement; they know that inside of the state nothing will happen! Except for betrayed dialogues, inefficiency, lack of will, bad moves. Those who participate in the state arrive there by influence peddling. There is a contradiction at CNAP, an institution that ends up being co-opted by a state like this one, which is and is not a state, but the traffic of positions, influence, divisions, hierarchies, etc. not for the common good. There is a rupture between the state and the peace movement. They cannot rally us anymore! (Interview, March 21, 2016).

Academics widely accept the weakness of Guatemalan social movements and the organizations of civil society and recognize their lack of capacity to counteract CACIF's and the government's interests (see for example Sanchez, 2009; Fuentes Knight, 2011; Fernández & Naveda, 2011). As acknowledged by different politicians and social activists: "In those [developed] countries, one of the bases of power which can counteract the private sector, a bit like itself, are the unions, which are also very weak in Guatemala, democracy is weak" (Interview, July 4, 2016). "I do not see a consolidated socio-political force to direct a new path, system, or model. Things are moving on... but there is much confusion" (Interview, March 21, 2016). "They, the elite, are those who decide... The indigenous and union movements are weakened. We lack actions; not everything is solved with a new law (Interview, May 23, 2016)." These statements are better understood when contrasting the present situation to the fiscal pact negotiations between 1998 and 2000, explored in Chapter 4, when civil society actively participated in the negotiations.

During the negotiations of the GPF in 2007, the limited participation in the tax negotiation processes may also be explained as the result of years of disenchantment and failed fiscal negotiations between the state and the economic elites. These failed processes may have resulted in a lack of trust in the state and the economic elites from the non-business civil society and the most radical social movements.

The problem is that there is no confidence in the state. There is a deep political crisis of historical roots, a complex multi-dimensional crisis; it has no short-term solution. The arrangements we live in are inadequate. Except for the agenda of the international agencies who want to strengthen the state to re-establish certain rules of the game—to prevent the deterioration of this country in the international community (such as happened to Mexico). Facing... the institutionalization of the state versus mafias, capital, gangs, drug traffickers; against a perspective of the nation-state that finds no echo. The traditional oligarchy has power because its perspective has been the clientelist state, patrimonial—"I support you if you

support me.” With a logic of capital, each time more destructive, actions more destructive every day⁷⁷ (Interview, March 21, 2016).

There is, without doubt, a general understanding of the fiscal problem by organized society and the social movements’ leaders. However, there has not been any mobilization to support any particular reform after the Peace Covenant experience. Certainly, they do not want to commit to paying more taxes in the current circumstances: “For me, the dilemma is not the reform of the state; it is more complex than that. An amendment to the law will not solve the problem; they [the laws] are not fulfilled. Why not just change the law? It would be so easy!” (March 23, 2016). Although the social movements usually present long lists of social demands to the government, most of the time there is no reference to budget or tax issues to fund those demands, neither by the government nor by civil society (Fuentes Knight, 2011). In general, for most of society, not just the activists, there exists an anti-taxes perspective: “There is no culture of paying taxes” (Interview, May 23, 2016). Moreover, this is promoted and aggravated by the private media, especially whenever there is an attempt to reform the fiscal law that affects the private sector. Additionally, it is well known by the social leaders that even the most comprehensive and inclusive reforms have been dismembered and diluted in Congress, creating complex, incoherent laws, which fail to fulfill their original progressive commitments, as happened with the tax bill in 2012.

Under these previously analyzed circumstances, the lack of opposition and counter-proposals from civil society to the UNE’s tax bill could be interpreted in an alternative way: as an expression of resistance (or indifference) to political processes that are usually managed and vetoed by the economic sectors. The silence of civil society and social movements was not necessarily an expression of the recognition of the virtues of the fiscal project per se, or as the

⁷⁷ The interviewee is referring here especially to environmental and mining issues, given our long conversation.

acknowledgement of the representative character of the GPF's tax proposal, as most of its government proponents assumed. When salaries are barely or completely insufficient to pay for one's necessities, paying more taxes is never an appealing option, especially when no tax justice is expected and no mechanism for real participation is in place. This hypothesis would also explain why the only formal requests received by the UNE Ministry, in relation to the comprehensive tax reform, came from the union sector demanding the broadening of the lower bracket of the income tax to widen the income tax exemption; or the women's organizations' demands, again, for tax exemptions for small businesswomen. It is not just an extended culture of tax avoidance, but a historical resistance to the state that is inadvertently reproducing the private sector discourse: sometimes accepting regressive consumption taxes, rejecting any other direct taxes, and looking for particular exemptions. To contrast these ideas with other different moments of participation, the next paragraphs discuss the social mobilization that occurred during the discussions of "the little reform" initiative.

In terms of the proposed theoretical framework, the marginalization and exclusion of civil society (different from the economic elites and their organizations) from the state is also the result of the design of the state institutions, including agencies such as CNAP, which do not actively participate in the real discussions about taxes. Additionally, on one side, the disenchantment and search for more ethical ways of participation have taken many social movements and social representatives away from the state, insisting on anti-state fights, in a vicious cycle, that do not find echo and solutions through state policies. On the other side, those who participate within the state also are highly criticized, questioned, and delegitimized—given the lack of transparency, lack of accountability, and corrupt practices in the government institutions.

This limited participation of the broad civil society can be contrasted with the active participation of the economic elites defending their interests versus the limited actions from civil society protecting their tax interests, a contrast between class consciousness (“in itself” and “for itself” according to Marx and Engels). Therefore, institutions appear, on the one side, as key instruments to “regulate” and “normalize” society’s participation, i.e., the Peace Agreements and the Fiscal Covenant, where social participation is not expected or allowed to go beyond those demands. While, on the other, institutions provide the legal space where power is executed (i.e., institutionalized sources of power) and defended. As a result, two potential choices appear: negotiate according to the existing rules and power impositions, or simply exit negotiations (resistance against the state). Both ways seem dangerous as both support the interests of the groups in power and oppose the possibility of building a democratic and inclusive state.

The “Little Reform”: Teachers, Mayors, and Potential Social Participation

The following section highlights a different approach taken by the UNE government, more specifically by the Ministry of Finance, after the failure of the comprehensive tax reform to gain support from other social forces, to approve the partial reforms called “the little reform” in 2009. Once the strategy to consult and negotiate the main fiscal reform had failed, in a desperate attempt to get some resources for the state, the Ministry of Finance designed a partial reform and looked for other strategies to gain the support from wide civil society to counterweight the private sector’s veto power. These actions created a new circumstance that showed the potential power of social mobilizations to support more progressive tax reforms.

Fearing the approval of the new reform package, due to its quick advance in Congress, the representatives of CACIF expressed their disapproval on December 3, 2009. On December 8, they had a meeting at the National Congress with all the party block leaders to express their rejection

of the reform. As a counterattack, several Ministry officials, including Minister Fuentes, Minister of Agriculture, Livestock and Food Mario Aldana, Minister of Internal Affairs (*Gobernación*) Raúl Velasquez, Minister of Education Bienvenido Argueta, Minister of Public Health Ludwig Ovalle, (plus Edgar Rosales and Carlos Barreda from the ministry of finance)—had a series of meetings in different cities and towns in Guatemala (Huehuetenango, Quetzaltenango, Izabal, Escuintla, Suchitepequez, and Zacapa) to get the support from the mayors and school teachers during the first days of December 2009 (Fuentes Knight, 2011).

In the words of former Minister Fuentes: “this was not the typical association of a series of organizations with names, that pretend to be representatives of the wide civil society, but that in reality are only NGOs; nor an elite pact in which the government negotiated only with the top business sector and some notable citizens. Now we had the intention to have as allies, two social groups that had large political and social capacity to get mobilized” (Fuentes Knight, 2011, p. 339). Fuentes refers here to the government alliance with the National Teachers’ Association (ANM) and National Association of Municipal Mayors (ANAM), two of the few strong associations in the country that can also mobilize local communities nation-wide.

This alliance was one of the desperate measures to approve the last reform launched by the UNE government to keep the budget afloat. These meetings, explaining the virtues of the partial reform, generated active support from ANAM and ANM. This support transformed into different initiatives, such as public statements, local mobilizations, and letters from communities to pressure their district deputies in Congress to pass the reform (Fuentes, 2011, p. 351).

However, as discussed in the previous section, this bill (*La Reformita*) was truncated by the private sector and the opposition parties through filibuster strategies in Congress. They delayed

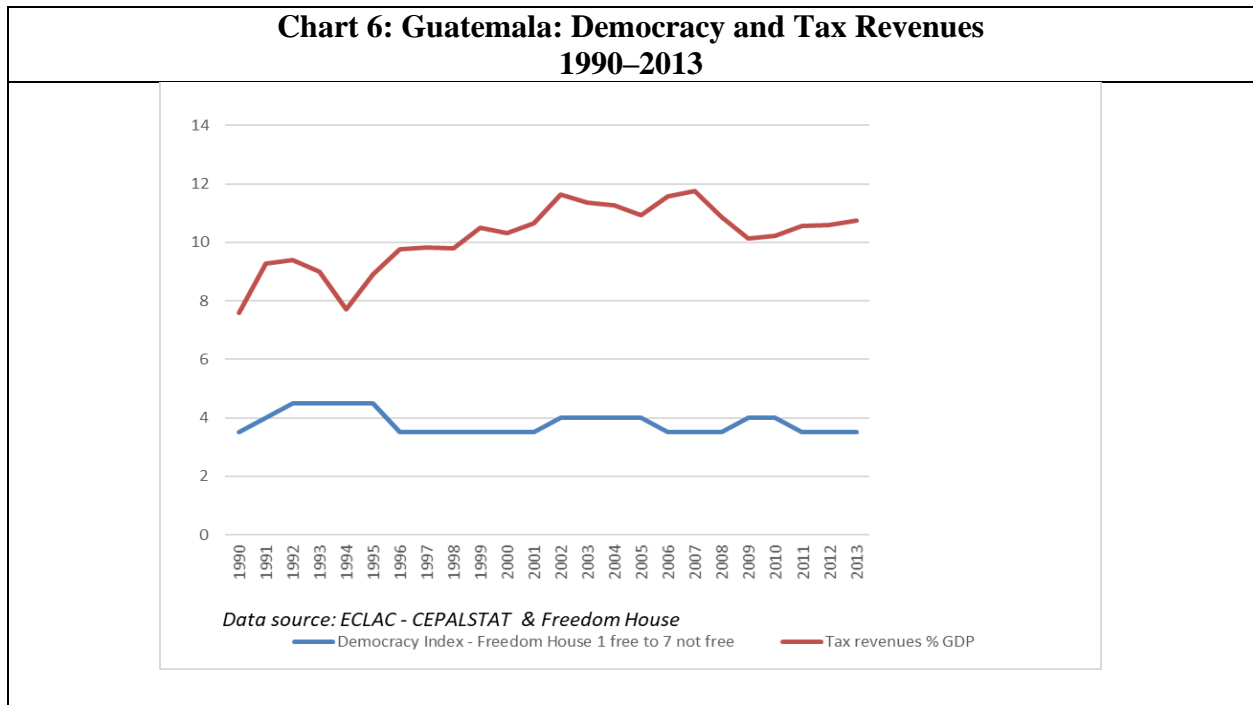
the discussion of the proposal until the end of the ordinary sessions period and, finally, called for the interpellation of the Minister of Finance, preventing approval before the end of 2009.

The important lesson from this experience is to highlight the central government's shift in strategy. Instead of presenting the proposal and consulting with some representatives of civil society about it, as they had done with the integral proposal in 2008, the government was looking for real mobilization to support the approval of the partial fiscal bill. The words of former Minister Fuentes are highly revealing because they confirm the perceptions of the social activists who saw no real representation or mobilization power among some of the organizations represented at CNAP, with a few exceptions. These words and actions also appeal to the importance of the communication and political mobilizations of the rural and municipal areas, which are usually ignored by the tax negotiations. This experience also shows that, on one side, local bases are fundamental to achieve real mobilization strategies, and highlight, on the other, the important role of the mayors and their teams to reach out to their communities. More fundamentally, this case demonstrates that any experiences which neglect grassroots participation also neglect and limit the participation of society, resulting in the adoption of partial or biased tax expert discourse.

In the end, former Minister Fuentes explains that negotiations with teachers and mayors were abandoned because of the potential risks to the “supporters” getting out of control. As he explains, once those strong forces are unleashed, they cannot be easily controlled, hence the caution (Fuentes Knight, 2011).

According to the theory discussed in Chapter 2, democracy and taxation are correlated; however the correlation does not necessarily show causality. The findings of this section, however, suggest that democratic participation may contribute to creating more progressive tax systems. In other words, democracy, tax structure, and progressivity could be more clearly correlated. As the

graphic below suggests, a poor democratic system may contribute to explaining the lack of fiscal progressivity of the system. The evidence also suggests the positive outcomes which could derive from a well-informed and active society, as opposed to attempts to mobilize ill-informed and manipulated communities. Democratic participation and mobilization can be destructive or creative when people are given the proper tools. The following chart may suggest a different conclusion. More democracy does not necessarily mean more taxation in Guatemala. However, looking specifically at how tax negotiations occur allows for a different perspective on how to understand democracy. This evidence suggests that more democratic participation is needed to build fiscal institutions (not only formal democratic institutions), however this evidence also suggest that more research on this topic is needed.



CHAPTER 6: THE PP GOVERNMENT AND THE NEW TAX LAW (2012)

The history of the distribution of wealth has always been deeply political, and it cannot be reduced to purely economic mechanisms (Piketty, 2014, p. 20).

I was led by my studies to the conclusion that legal relations as well as forms of the state... are rooted in the material conditions of life (Karl Marx, A Contribution to the Critique of Political Economy, Preface).

Ironically, the comprehensive fiscal bill strongly supported by progressive political forces was not approved during the centre-left government of Alvaro Colom, but was renegotiated and approved during the first 100 days of the new right-wing government of General Otto Pérez Molina in 2012. Finally, after the signing of the Peace Agreements, for the first time in almost fifteen years of failed reform attempts, the Patriot Party (*Partido Patriota*, PP) government was able to negotiate and approve a fundamental fiscal reform—coherent with the Peace Agreements commitments. Allegedly, this happened with the support of the traditional private sector, the political parties, and strong electoral legitimacy.

However, this achievement was quickly reversed and dismantled by different groups of society, especially the traditional economic sector, via legal appeals before the Constitutional Court (CC) and through political pressure on the government. The law was immediately amended, some of its chapters were nullified by the same executive branch, others by Congress, and others by the CC a few months later. Although the initial approval of the bill was celebrated as a triumph for democracy and equity, the immediate reactions and counter-reform strategies, led by the private sector, caused political division and confusion. For example, the reactions and conclusions from the tax experts were contradictory. The political alliance between the PP and the private sector, which led the party to a strong electoral victory, crumbled after the failure of the fiscal reform. (In 2015, the *Patriota* government would end its mandate on a low note with unprecedented social mobilizations, corruption scandals, and the forced resignation of the president and vice-president.) Although the events of the PP government's last years are beyond the scope of this research, the

analysis of the negotiations, approval, and reversal of the new tax law (Decree 10–2012) during their first year in power may help us understand some of the main challenges and mistakes of Otto Pérez’s administration.

The following pages explore the negotiations, approval, and failure of the tax law in 2012, by analyzing two main issues. First, why did the reform fail? This thesis proposes that, different from the previous administration, the excessive (traditional and non-traditional) private funds poured into the political campaign—to prevent the triumph of Sandra Torres—resulted in massive electoral support for the PP. The political and economic support from the traditional sectors and the electoral victory gave the new government a sense of legitimacy, autonomy, and power. These perceptions on the part of the elected authorities collided with strong private sector interests, now ready to cash in on a huge electoral debt (as the CICIG would show later, this political campaign was also financed by organizations linked to organized crime). Second, what was the outcome of the reform? This thesis shows how the modifications and reversals to the law created a more regressive tax system than the one in place before the reforms.

Political Will: From Opposition to Government

During the years of the UNE government, especially in 2008 and 2009, the leaders of the *Patriota* Party (PP), namely Otto Pérez and Roxana Baldetti, kept a strong anti-reform position. As the leader of the PP block in Congress, Baldetti supported the arguments of the private sector, repeating mottos such as “we already pay enough taxes... the government steals what it collects or use it badly, and needs to be more efficient with its expenses” (Fuentes Knight, 2011, p. 4; Murga, 2012). However, the anti-tax discourse championed by the *Patriota* party started changing in 2010, and especially in 2011, when it was evident that the PP was leading the electoral race and could be the next party in the presidential office.

PP leaders suddenly became the defenders of a tax reform, and this change was facilitated, ironically, thanks to the previous work of the UNE government. After the UNE's comprehensive tax reform attempt had failed and major political and economic crises almost brought down the UNE government, the tension between the UNE and PP parties was at its peak. After a series of public demonstrations, anti-government media campaigns, etcetera, however, CICIG declarations about the Rosenberg investigations in December 2009⁷⁸ contributed to relaxing the tensions between the government and the PP-led opposition. These declarations also allowed for a rapprochement between the government and PP leaders on tax policy.

In February 2010, the then Minister of Finance Juan Alberto Fuentes, his Vice-Minister Ricardo Barrientos, and Roberto Alejos, Secretary of the Presidency, started a series of meetings with the PP caucus to discuss the fiscal problem. The strategy of rapprochement between the two parties was possible thanks to personal informal relationships, related to private funding “facilitators” from both political parties. In other words, there was a close business relationship between Gustavo Alejos (UNE deputy in Congress and brother of Roberto Alejos) and Alejandro Sinibaldi, a PP leader and close collaborator of General Otto Pérez (the founding leader and presidential candidate) and Roxana Baldetti (later elected vice-president) (Fuentes, 2011). It is important to highlight that, after the 2015 corruption scandals and social demonstrations that would end the mandates of Pérez and Baldetti, the CICIG and the Public Ministry brought to light the fact that the Alejos brothers and Sinibaldi were the key facilitators of an illegal network of financial funders of the PP's electoral campaign.⁷⁹ At that moment, Roberto Alejos and President Colom

⁷⁸ As discussed in the previous chapter, CICIG demonstrated that President Colom, Sandra Torres, and the Presidential Secretary were exempted from any responsibility in the assassination of the prominent lawyer Rodrigo Rosenberg.

⁷⁹ It is important to mention that now, the Alejos, Sinibaldi, Pérez, and Baldetti are now in jail following the successful prosecution related to the customs corruption network known as La Línea (see CICIG Comunicados, 2015–2018, especially see Caso la Línea) [www.cicig.org/comunicados/].

kept a conciliatory and open position towards the PP, while PP leaders took the opportunity to ask some favours from the government that would benefit their political campaign. For example, they asked the government to stop mentioning the case of the financial company that the Congress had illicitly contracted to manage its finances and to avoid associating Otto Pérez with past corruption cases to favour his electoral campaign (Fuentes Knight, 2011).⁸⁰ At that point, the rapprochement strategy was convenient for both parties.

PP leaders expected to win the electoral process, and they understood—too late—that approving a tax reform during the UNE government would be a politically expedient solution to the revenue shortfall that their government would face once in office. During February and March 2010, the UNE government representatives met with PP congress deputies Alejandro Sinibaldi and Roxana Baldetti, as well as Pavel Centeno—one of the PP founders, economic coordinator of the party, and later the first appointed Minister of Finance. They agreed to support a couple of measures proposed by the UNE Ministry of Finance: the “little reform” initiative and the establishment of a committee to continue the discussion of the initial integral reform proposal.⁸¹ However, the PP, through Sinibaldi, came up with the idea that, although they would not veto the “little reform,” they would vote against it, allowing the rest of the parties to approve it (Fuentes Knight, 2011). This shows a clear strategy to avoid the political cost of increasing taxes on the

⁸⁰ They also asked the government to stop mentioning the death of former guerrilla member Efraín Bámaca to avoid linking Pérez to the repression years. This is relevant in terms of the persistent pragmatism in the Guatemalan party politics, beyond ideological or transitional justice concerns. (Efraín Bámaca was a guerrilla fighter with the Unidad Revolucionaria Nacional Guatemalteca (URNG), who went missing on March 12, 1992 and was reported as killed by soldiers by the military. However, later a US Pentagon cable, dated July 1995, linked his torture and death to Otto Pérez Molina. At the time of Bámaca’s death, Molina was the head of military intelligence. Around the time of his electoral campaign, the Guatemalan attorney general’s office opened an investigation into Bámaca’s death—The Wall Street Journal, November 5, 2011; Human Rights Watch, 1995).

⁸¹ The integral reform would resume the income tax discussion, indirect taxation (this late issue had been included in the Anti-Evasion II law), and transparency of public expenditure measures.

business sectors, especially facing a new electoral process at the end of 2011, leaving the UNE to assume the political cost.

However, from an opposite and sometimes confusing perspective, the Patriot leaders also mentioned that they would be willing to support a negotiated integral reform. According to some politicians and tax analysts, it was evident that the party caucus decided to support an integral reform from that moment on (however, this would be contested by a few politicians after the fall of the *Patriota* government in 2015, as discussed later). For example, former Minister Fuentes describes how it was difficult for Alejandro Sinibaldi to articulate and conciliate his political and business perspectives: sometimes he had to agree with the party guidelines, even when he disagreed with the tax proposal.

For example, [Sinibaldi] did not like the dividends tax from his business perspective, although he claimed—reluctantly—to be in favour of applying it in light of the needs of the government to which he would belong to, for it to count on sufficient resources. This was for me very revealing of the political decision that seemed to have been taken by the leadership of the party regarding the [fiscal] reform (Fuentes Knight, 2011, p. 292).

Similarly, Roxana Baldetti seemed less enthusiastic about the proposals and participated less actively in those meetings. However, she also ended up approving an integral reform. According to some participants, she expressed doubts about the dividends tax and insisted on eliminating the idea of using the “blue book” [reference prices] to determine the taxable price of imported vehicles (Interview, July 4, 2016). Instead, she kept insisting on using “technical” criteria [based on the invoice price—although most of the times those invoices were false, according to

the Ministry of Finance]. “And she recommended starting some consultation process about the telephone tax issue, although she did not oppose it” (Fuentes Knight, 2011, pp. 293, 328).⁸²

The idea of a real commitment of the PP to support the tax reform was reinforced by Otto Pérez’s participation in the 2010 tax negotiations. While the UNE government was holding tense negotiations about the “little reform” and the Anti-Evasion II law with CACIF, they were also negotiating with the PP. These negotiations ended with a formal commitment of the PP to advance the comprehensive tax reform (Fuentes Knight, 2011). However, at the same time, the opposition from the private sector was evident and manifested through the increasing opposition to any tax initiative by the other political parties that had been part of the coalition supporting the UNE electoral triumph in 2007, such as the GANA party, as discussed in the previous chapter. This meant that, while the rapprochement between the UNE and PP was fruitful, the private sector had been successful in breaking the UNE-GANA alliance, eliminating the possibility for the UNE to get the required votes in Congress to pass any tax bill during its mandate.

The resignation of Minister Fuentes in June 2010 reflected the growing weakness of the government and the end of any official attempt to reform the tax system during the UNE mandate. However, as the last struggle, the proactive measures promoted by Minister Fuentes to convince the PP caucus about the importance of approving a comprehensive reform would prove effective after the first electoral round, which opened the possibility of electoral success for the PP. One interviewee stated: “I think that the relationship of Pavel [Centeno] with Juan Alberto [Fuentes], and other groups, allowed Centeno to take over the proposal left by UNE, but Centeno removed several chapters from the reform” (Interview, June 30, 2016).

⁸² She kept insisting on the idea of controlling any government expenses which could lead to increasing the budget for Sandra Torres’s programs, by keeping the same 2009 budget without altering it. She also wanted the same budget ceiling for the mayors. However those topics were not related to the integral reform negotiations.

Once more, instead of formal institutional channels we see the importance of the informal relations and negotiations (informal institutions and agency). Alongside the pragmatic political and economic interests of the stakeholders, the previously analyzed negotiations show that secrecy and non-disclosure are also important mechanisms to building trust, commitment, and, most importantly, political will.

The New Tax Bill: The PP and CACIF (Secret) Negotiations

As soon as the first electoral round was over (September 11, 2011) and it was almost clear that the PP would be the electoral winner in the second round of elections, the future Minister of Finance Pavel Centeno negotiated and got the support of the Inter-American Development Bank (IDB) to produce a new version of the comprehensive fiscal proposal. The goal was to transform the original document—given to them by the UNE government (based on the one elaborated by the GPF)—into a PP bill. The changes contained in the new proposal were irrelevant for many at that moment. However, they would be fundamental for the upcoming events and failure of the reform.

According to several interviewees, the funding from the IDB and the World Bank were key for the political parties' support of the adoption of the fiscal proposal: "José Larios from the IDB was key to funding the proposal,⁸³ which was commissioned in October, after winning the [first round of] elections" (Interview, November 17, 2016). In 2011, after a new right-wing government had been elected, the World Bank (WB) would participate more proactively in directing funds to re-shape and reactivate the fiscal proposal produced by the GPF (Interviews, June 30, April 24, and November 17, 2016).

⁸³ "Pavel already knew Chepe [José Larios] because he worked with Juan Alberto and Hugo Beteta. 'I need money,' he said to Chepe, 'to finance the fiscal reform revisions (by ICEFI)', and Chepe accepted" (Interview, November 17, 2016).

Centeno delegated the polishing of the new bill, to Ricardo Barrientos and Alma Quiñones, former members of the GPF and key advisors to former Minister Fuentes. Perhaps due to their previous affiliation with the UNE party, or maybe because the PP knew that the electoral cost of publicly supporting a tax reform could be high, these arrangements with Quiñones and Centeno were kept secret: “this was a secret issue, not mentioned, not stated, as we did not want anyone to find out about this work” (Interview, November 17, 2016). The new PP proposal was ready a few weeks later and, after a few more negotiations and changes, would be known as Bill 4447.

At the same time, after the first electoral round, the “informal” and secret negotiations between the PP and CACIF started. In November, after the second electoral round (November 6), Centeno formed a team to discuss the fiscal reform with the private sector. A week after winning the elections, he invited economists Dorval Carías, Marco Antonio Gutierrez, and María Castro to join his team and continue the negotiations with the private sector. Later, these three economists (initially not necessarily linked to the PP) would become the three Vice-Ministers of Finance when Centeno was appointed the first Minister of Finance for the PP government. At that moment, the discussions were about the content of the bill, as one of the participants to these meetings attests: “regarding the negotiation, they already had the whole reform proposal by then. CACIF began a counter-proposal to some chapters then” (Interview, November 17, 2016).

Among at least 25 CACIF representatives, Armando Boesche (director of the Sugar Producers Association of Guatemala, one of the G-8 sectors) stood out as one of the main negotiators and political operators. He possessed the fiscal expertise and political power to discuss and negotiate the proposal: “It was very intense, but I think, I have the impression that CACIF’s technical and political operator in any reform has been Armando” (Interview, November 17, 2016). The power of CACIF was expressed in the number of representatives negotiating with the

government, more than double the number of soon-to-be public officials, who usually were around ten. The meetings were also held at CACIF premises, in the building of the Chamber of Industry. These private meetings are a common practice for Guatemalan politicians (Interviews, July and November 2016).

Generally, these meetings were led by Centeno and Boesche, but on one occasion, probably the second meeting, Centeno was absent, and Maria Castro, the future Vice-Minister, lead the PP team. According to more than one of the participants,

It was a big battle. During that second meeting with CACIF, on the last floor of the Chamber of Industry, there were 35 men [except Maria], 25 men from CACIF in the negotiation. In that occasion, Maria led... Armando greeted “gentlemen and lady-one” (“*a todos y a toda*”). An act of condescension which became an act of intimidation... (Interview, November 17, 2016)

This particular event brings to light the unbalanced power relationship between the private sector and the government and the unbalanced gender situation in the Guatemalan political arena. There have been a few female ministers and vice-ministers of finance, as well as a few women in other key positions, such as tax superintendent, among others. However, the number of women in these positions has always been low and, usually, they are the same women moving from one position to another and they do not necessarily promote gender-sensitive agendas.⁸⁴ Additional to the fact that most government negotiators and “technical experts” were men, all of the CACIF

⁸⁴ “There are only a couple of female economists who began to shape fiscal reforms, who are in the ministry are Dora Viloleta, who is a Director, and also the Director of Public Credit [Rosa María Ortega]” (Interview, July 17, 2016). Additionally, until now, none of the minister-level or superintendent-level women have promoted any gender- or women-oriented reforms. On the contrary, most of these women have been key defenders of orthodox economic agendas, indirectly supporting the private sector’s status quo and anti-reform objectives. For example, very capable female economists such as Carolina Roca (former SAT superintendent 2005–2008) and Maria Antonieta del Cid (former minister of finance 2006–2010 and President of the Central Bank and the Monetary Board 2006–2010, among other important positions) benefit from the trust and support of the private sector, but have not changed the direction of state policies (in terms of gender and inequality).

representatives were men, reflecting the endurance of the patriarchy at the highest levels of the Guatemalan state and capitalist forces.

Additionally, the CACIF representatives were key experienced negotiators, different from the limited political experience of many of the soon-to-be-public officials [not yet appointed at that moment]. Some of the CACIF negotiators, such as Armando Boeige, had participated in key tax-related negotiations since at least the time of the Fiscal Pact in 2000.

As a result of the failed attempts to reform the law during the Colom administration, since March 2011, CACIF and the Foundation for the Development of Guatemala (*Fundación para el Desarrollo de Guatemala*, FUNDESA)—a private foundation led by some members of the G-8—joined efforts to elaborate a tax reform proposal to present to the new government. The meetings between CACIF and the newly elected president Otto Pérez, which started in November 2011, were also part of CACIF's interest to present this new initiative.

This document included many old demands from the private sector. For example, respecting the Constitution; fighting evasion and the informal economy; reducing the possibilities for arbitration between tax regimes; broadening the taxpayers base, including the fiscal reform as part of a state agreement and not a separate or distinct issue; improving the SAT's monitoring capacity and taking into account economic growth when establishing tax goals (FUNDESA-CACIF, July 2014). This tax proposal also included detailed work drawing from previous proposals and their estimated revenue-generating potential (FUNDESA-CACIF, July 2014).

This particular proposal served to inform the negotiations between CACIF and the newly elected government and provide key arguments to disregard particular issues proposed by the PP government (Interview, November 17, 2016). CACIF and FUNDESA claimed they never saw the last draft of the government initiative and, for that reason, they were not able to advise Minister

Centeno on the mistakes, unconstitutionality, and undesired consequences of the approved reform (FUNDESA-CACIF, July 2014, p. 65). However, that explanation does not reflect the complex political negotiations between the PP government and CACIF from 2011 onward.

In the words of an experienced political actor, the negotiations generally occurred at a political rather than a technical level, and the actors were (and have been) almost always the same:

The private sector has its team which has changed little. From lawyers, which are the same, there was one who had much weight who has died, but today there are Fredy Rodríguez Mahuad and Estuardo Ralón. Moreover, they also have political apparatuses, today they use a partnership called ATAL [Technical Alliance to Support Legislation—*Alianza Técnica de Apoyo al Legislativo*], which includes Foundation 20-20 from the Industrial Bank, directed by Diego Pulido, and Mario García Lara; Felipe Bosch's FUNDESA, and his technicians; and CIEN. They are ATAL, the people they call when it is time to negotiate these [fiscal] issues. At the technical level, there are the lawyers; at the political level, in the first line, there is Roberto Ardón, Armando Boesche, in the second line Marco Augusto Garcia Noriega. Then other heavier negotiators from the Chamber of Industry and the Agro Chamber, those are the most hegemonic. The others, in the end, do not have much weight; these are the ones who lead the hegemonic position of the private sector (Interview, June 30, 2016).

The reform was discussed under pressure because one of the most important issues for Centeno, soon to be minister, was the management of political timing. He wanted to present and approve the proposal during the first 100 days of the new government, immediately after assuming power on January 14, 2012. Centeno proposed a deadline as one of the conditions to the negotiations with CACIF and, in theory, they accepted: “One of the most important issues, the conditions, was to present the reform after the 14th when he [Otto Pérez Molina] would be invested [as president]. The negotiation was to last until January 13, no more than that. That was the mandate, and they [CACIF] accepted it” (Interview, July 17, 2016).

The reform was comprehensive and included provisions for all direct and indirect taxes. However, once again, during the negotiations, the income tax appeared to be an insurmountable subject for the private sector:

The reform encompassed several themes: VAT, customs, stamps, a total change to the dividend tax, vehicles, etc. There was a legal agreement that all these issues will pass together even though there was a new tax, for example, the income tax (ISR). Two weeks before the date, everything was more intense, but they [CACIF] were ambiguous, they said yes and no. One night, in a meeting, Roberto and Armando suggested that they agreed with everything except the income tax by January 14 and that the ISR reform would be presented in June. However, Pavel got angry and said that he was going to present the reform on January 14, anyway... “If you want, talk to the president!” So they called the president [Pérez], and Armando spoke with him, and he [Pérez] told them that negotiations were up until the 14th. Moreover, that was when they really began to make serious comments on the income tax... only then, they began to make true revisions to the broader reform (Interview, July 17, 2016).

According to some of the participants in those negotiations, CACIF representatives were not taking the reform timing seriously. They used delaying tactics to avoid concrete agreements, especially in regards to the income tax reform. Part of the problem seemed to be rooted in the incredulity of CACIF about the possibility that Centeno would present the tax proposal to Congress right after January 14, with the full support of President Pérez, and without the agreement of the private sector. The delaying tactics worked well during the UNE government, so the new determination of the PP administration found them unprepared:

CACIF never believed that the time imposed by Pavel was going to be fulfilled; that is my perception. Because no minister had acted with so much determination, nor power, nor support from the president, as he did. By contrast, the first ministers of President Colom, for example, Juan Alberto never really had the presidential support, because it was the “old lady” [Sandra Torres] who had the power... He was very weak politically. From there, back in time, all [finance] ministers had been from the private sector (Interview, November 17, 2016).

Despite the rushed negotiations and partial last-minute disagreements, the traditional private sector, represented by CACIF, accepted and publicly supported the fiscal proposal. On January 26, one of the national newspapers quoted Marco Augusto Noriega, president of CACIF stating: “We saw a very well-integrated tax reform” (Siglo 21, January 26, 2012). That same day, another newspaper quoted Noriega emphasizing the viability of the tax reform: “taxes are not only

for the business class but all Guatemalans. If we want to demand, we must fulfill certain duties” (El Periódico, January 26, 2012).

This open contradiction proves that CACIF is not a monolithic institution. Despite their historical capacity to negotiate agreements among members, there is some degree of heterogeneity and diversity of values among its members and main representatives. Some of CACIF’s negotiators understand the state fiscal problem vis-à-vis the economic growth concerns.

Finally, either by surprise or as a result of the support of the private sector on most topics (except the Income Tax), Tax Bill 4447 (*Iniciativa que dispone aprobar la Ley de Actualización tributaria*) was presented to the National Congress by the Executive branch on February 3, 2012.

The Approval of the Reform and the Discipline of the Political Parties

Despite the unclear private sector support for the new tax bill, there were different circumstances that aligned to allow the approval of the fiscal reform at a fast pace. These circumstances can be summarized as political timing, the electoral legitimacy of the government, the campaign support of the traditional economic sectors, the strong will and support of the President and Minister of Finance, and the intense pace of the negotiations. As a result, the new tax law was approved and formally sanctioned on February 16, 2012—a month after the new government was invested with power and a few days after the bill was presented to Congress.

The recent electoral triumph of the PP, especially the strong and open support for the newly elected president, General Otto Pérez, by the traditional private sector, gave the PP leaders a strong sense of political legitimacy. In the words of one member of the opposition: “I believe that the Minister of Finance and the President saw the political opportunity. They had won with great force, very forceful with the support of the private sector, media and that ideological block” (Interview, June 30, 2016).

Additionally, the Otto Pérez's strong support for the new Minister of Finance Pavel Centeno allowed the alignment of two strong (authoritarian) wills. Minister Centeno had the determination and support to put forward the new comprehensive tax bill. His role as one of the party founders and close ally to President Pérez also gave him a lot of political influence within the party block in Congress, which he was willing to use. In the words of one of his collaborators:

The former ministers [UNE] were not politicians... There were ministers who were only politicians or are only technicians. Pavel said, "today it [the law] will be approved," and he left very early that morning to the Congress, and it was adopted at 1:00 a.m., at dawn. They passed the [Congress voting] board photo to us, with more than 105 votes in favour (Interview, July 17, 2016).

The strong will of the new Minister of Finance Centeno, the quick pace of the negotiations, and the strong will of the government negotiators clashed with the previous strategies of the private sector. For example, the delay tactics used to repeal the reform before its official presentation in Congress were no longer useful. These circumstances gave no time or room for CACIF to delay or veto the tax bill, especially after two pressing facts: they had avoided real negotiations on the content of the law before January 2012, and they had invested many resources during the campaign openly supporting the PP. This implicit acceptance (or at least inexistent formal veto) by CACIF also translated into overt support for the bill by some of its representatives and gave the green light to their political operators in Congress. These political operators promoted the approval of the law initiative among different groups of congressmen and political parties, including the traditional private sector allies (e.g., the Unionist Party which is usually very disciplined in opposing progressive taxes).

The tacit assumption of the ministry team was that if CACIF did not oppose the bill during the initial negotiations, they were not going to veto it in Congress, allowing their political operators

to vote in favour the bill. Consequently, the PP guaranteed all the necessary votes to approve the bill. As one of the negotiators clearly stated it:

[The meeting ended] understanding that they [the private sector] would ask their political operators to approve the bill, for example, operators like Oliverio García [a congressman]. Moreover, it was approved, but they knew that they could reverse it in the CC [Constitutional Court]. I believe that the private sector told their political operators to approve [the bill], and they did (Interview, November 17, 2016).

In addition to the un-expressed opposition of the traditional private sector representatives in Congress, there was a key role of the political parties in the approval of the bill. There were three key elements which favoured the approval of the new law: the two major parties (PP and UNE), although ideologically opposed, were in favour of the reform, they had the discipline to vote accordingly immediately after the elections, and they had the necessary numbers to pass the law. The alignment of the political interests of the PP and UNE was possible given the previous battles led by UNE and the negotiation between the two parties. The UNE congressmen knew that this bill derived from the former proposal supported by their government, and the PP also saw it as a governmental and multi-party agreement. Additionally, from the last year of the UNE government, both parties understood the importance of approving an integral fiscal reform to implement any government decision. Finally, immediately after the elections, strong party discipline was evident:

The members of the UNE knew that this was the same proposal prepared by their Minister, the UNE members agreed and voted in agreement; they had around 30 or 40 [deputies]. Also, the PP had around 68 or 70 members—the qualified majority [necessary to pass the reform] was 105. It was very easy to surpass the qualified majority. At first, even the UNE was governed by the voice of the party. Also, in the PP, Otto [Pérez] and the vice-president had a strong voice, they supported and had meetings with all the party [Congress] block, and they sent it [the bill] for approval. There was no objection (Interview, November 17, 2016).

Pedro Muadi [a PP member of Congress]⁸⁵ is key. He tells me that there is an agreement and that “now we are already going to support the reform.” In the first month of Government, we supported the reform. However, it did not pass with all the votes... (Interview, June 30, 2016)

Given the many failed attempts to approve the law by the UNE party, this time it was clear for many participants that the circumstances were favourable and maybe unique to pass the reform. The approval occurred because of the right timing; the two major parties agreeing with the proposal; and the strong alignment among the executive power, the cabinet, and the Ministry of Finance. All this was different from the UNE experience:

Having a political operator who was minister, and an aligned party in Congress, the timing was key. Pavel and the president had it clear that it had to be soon... The PP members in Congress did not really know what had happened, and those from the UNE knew that it was the proposal of their former minister (Interview, November 17, 2016).

The alignment of circumstances during the PP government documents the importance of the interaction between agency and institutions. Most specifically, it demonstrates how personal and party interests (agency) could develop strong political will to mobilize formal institutions (party blocs) through party discipline and multi-party agreements. This experience also documents how informal institutions, such as secret meetings and personal connections, were key in approving, at a fast pace, a fundamental reform in Guatemala. However, the key element was the financial support of the traditional sector for the PP campaign, which allowed the alignment and discipline of the vote of many congressmen.

⁸⁵ Pedro Muadi was later (2013–2014) President of the National Congress and, at that moment, supported the fiscal counter-reform which modified the tax law to benefit many private groups. Now, he is in jail accused of crimes of conspiracy, embezzlement for theft, and money laundering or other assets, due to the creation of phantom work places at the Congress. The Public Ministry determined through the investigations that, during the period from 2013 to 2015, a total of Q4 million 739 thousand 729 were illegally seized from Congress by Muadi’s actions (Prensa Libre, January 4, 2016; see also Prensa Libre different articles on Pedro Muadi, 2016).

Finally, in less than a month after assuming power (on January 14), the PP government managed to pass the reform on February 16, 2012. However, the growing disagreement of the private sector would put the fragile political consensus to the test, showing, once more, the private sector's veto power, this time post-reform.

The Main Issues of the Reform and the Economic Interests

This section explores the tax issues negotiated and modified by the tax reform in 2012 (Tax Update Bill No. 4447). More specifically, this section analyzes each tax issue proposed, negotiated, and approved by the initial PP bill (4447), while also exploring how specific tax reforms responded to different stakeholders' interests, creating winners and losers. The following paragraphs also contribute to understanding the complex heterogeneity of CACIF members and its varied sectoral interests (claimed at the beginning of this thesis), related to specific taxes.

Bill 4447 introduced a new Income Tax Law (Book 1) to replace and “organize and systematize” the previous income tax system which, according to the tax initiative, was affected by previous partial and contradictory reforms (Bill 4447, p. 4). This section of the law did not include the world income proposal, included in the initial GPF. This meant that only rents produced and kept in the country could be taxed (not offshore investments or rents). The implications of this change were fundamental to the regulation of transfer prices, given that there were no provisions to include them (the transfer prices are the costs of the goods and services sold within an enterprise between two legal entities, for example, subsidiaries and parent companies). The lack of regulations on these matters facilitated the movement of income abroad, through different means, to avoid income tax payments. For example, through overpricing costs through backward linkages, or through investing the enterprise earnings abroad:

When working with affiliated companies, in Guatemala, as they are part of the group, costs rise, generally costs increase by 10 or 15% compared to the market price, but that cannot be adjusted because they argue quality, availability, and credit [from those companies] (Former SAT official, Interview, May 13, 2016).

The new income tax law redefined and regulated four sources of income: business income, employees' income, capital gains and losses, and non-residents' rents. The following analysis converges with that of Jorge Murga (Murga Armas, 2012).

1) The business income tax created two different regimes:

a) *The regime on the profits of lucrative activities* required taxes to be declared annually (although the approved law required the tax return to be filled quarterly), reduced the current rate from 31% to 25%, and established that 100% of the costs and eligible expenses (according to law) could be deducted from the gross income of the companies. This proposal was approved, and its most important change was the modification of the previous 97% tax-deductible expenses. This change also contradicted the initial GPF-D-UNE proposal, which proposed to reduce the deductible rate from 97% to 95% of the costs of production to compensate for the reduction of the income tax rate from 31% to 25% (GPF-D, April 11, 2008:16). This slight change completely modified a careful, studied mathematical balance to promote progressivity (Interview, May 2, 2016). Instead, the new law grants more benefits to bigger companies.

b) *The simplified optional regime on income from lucrative activities* required taxes to be declared monthly and proposed to increase the rate from 5% to 7% on the total income. These legal provisions apply to any individuals or companies, independent contractors and professionals who work in the lucrative sector. The original proposal of the GPF-D is also consistent on increasing the tax rate from 5% to 7%; however, the new law (Decree 10-2012) created two separate brackets: 5% on gross income for small taxpayers

earning from Q0.01 to Q30,000 monthly; and 7% on gross income for those earning more than Q30,000. The issue with this new division is that it increases taxes on medium-size enterprises as well as big enterprises registered under this optional regime while keeping the same rates for small contributors. However, when contrasted with the previously described regime (item a), in general, the new tax law reduces the tax rates for big companies if they adopt the *regime on profits*. Additionally, this mixed regime also opens new means for big companies to elude taxes by creating smaller companies, which is a common practice in Guatemala, according to some former SAT officials (Interviews, May 13 and July 15, 2016). For example, “basically, they increase costs with profits for this smaller partner company... Income continues to be generated across the corporate group and they pay less tax than if they were a large company. That is the most common practice: breaking the rent” (Interview, May 13, 2016). As a result, the new increased rate of 7% would mostly affect middle-sized companies. Additionally, this regime reduced the progressivity of the income tax by stating that “all taxpayers” should make an “additional effort” matching the contributions on tax profits of this regime to the regime on profits for big companies (the tax on profits is discussed in item 3, below).

- 2) Employees’ income tax. According to Bill 4447, this tax would affect pensions, retirement, and pension funds above Q5,000 (around USD \$660) and increase the acknowledged minimum vital income (exempted from the tax) from Q36,000 to Q48,000 annually (around USD \$6,336). It keeps the usual exemptions to salary benefits and eliminates the need to fill in a VAT form to reduce the taxable income amount (the minimum vital income, Q48,000, would be deductible in total without presenting any invoices to deduce VAT). Bill 4447 also proposed to simplify the tax brackets and its different rates (formerly 15–20%, 20–25%, 25–31%) to two

brackets: from Q0 to Q240,000 taxed at 5%, and from Q240,000.01 upwards taxed at 10%. This represented an important reduction of the tax rates and a reduction of income brackets from three to two.

Different to the initial bill, the final decree (10-2012) approved an increased minimum vital income of Q60,000, although it required taxpayers to fill in a form to declare a deductible VAT amount of at least Q12,000 (the difference between Q48,000 and Q60,000). These changes had two major implications. First, instead of widening the taxable income, as the GPFD intended, the increase of the minimum income exempted from taxes reduces the taxable income. Second, the elimination of the VAT declaration requirement to get tax exemptions weakened the VAT system, reducing the issue of invoices, as discussed later.

Additionally, when this amendment was introduced, the congress deputies also introduced a major regressive mistake. When several deputies amended paragraph 4 of Article 68, they eliminated the exception to the income tax payment for pensions below Q5,000 (an amount below the minimum vital income), affecting poor retired taxpayers. Additionally, Congress created two different categories within this regime. They widened the initially proposed brackets from Q0.01 to Q300,000 taxed at 5% and from Q300,000.01 upwards taxed at 7%. The most important change was the reduction of the tax rate applicable to the upper bracket from 10% to 7% (neither a 7% was applicable to all the taxpayers under this regime, as the GPFD proposed). In other words, this change widened the tax base of the lower bracket (5%) and reduced the initial rate for employees earning more than Q300,000 annually (from 10% to 7%), creating, in theory, a slightly progressive tax for employees, but less progressive than the initial bill.

- 3) Income from the capital gains and losses: alongside the reduction of the income tax rate, especially for big enterprises (from 31% to 25%), bill 4447 also established a new tax (5%) on dividends, earnings, and profits distribution. This new tax would eliminate and substitute the stamp duties (3%) necessary to pay dividends and profits to company shareholders and would exempt the reinvested profits from the tax. The bill also kept the same tax rate on financial products and other capital gains at 10%.

According to several members of the GPFD, the initial proposal of this group was to create a tax on dividends, earnings, and profits at 10% (not 5%). This would compensate for the elimination of the stamp duties (*Impuesto del timbre y papel sellado*) and create a more progressive system: “The most difficult was the dividends, we wanted 10% to make it equal for all capital income, but in the end they dropped it to 5%, those [the private sector] did jump, that hurt them! Because they are not used to paying taxes on dividends or shareholdings of their companies (Interview, July 4, 2016).” However, the final proposal of the GPFD already showed the tension and lack of consensus among the GPFD proponents: the final proposal of this group vaguely proposed to establish a rate “between 5% and 10%” for dividends and profits (GPFD, April 11, 2008).

The new law (Decree 10-2012) approved the integral proposal of bill 4447 on this issue (Chapter III of the Decree) and, in theory, only increased the tax rate on profits from 3% to 5%. This meant an effective increase of 2%.

- 4) Non-residents income: this chapter regulates several issues, however, for this thesis, it is only mentioned here that the bill proposed to keep the same income tax rates for transportation and loading services (5%); increased the rate from 3% to 5% for insurance, movies, and news; and established a 5% rate for telephone services and electricity. However, the approved law kept a

lower rate (3%) for the supply or transmission of news, movies, and other media (diffusion of images and sounds). Specifically, this amendment to the bill kept the privileges for the media companies, approved during the UNE government, discussed in the previous chapter.

- 5) Exemptions: Each of the previous regimes established that all exemptions granted by other laws would prevail and that in two years the government should present a new bill to eliminate or reduce exemptions. This means that all the exemptions granted by the *Maquila* Law, Decree 29-89, and the Mining Law were still in place. Among other big factories and enterprises, the *Maquila* Law grants total tax exemptions to the mining and oil companies in Guatemala. It was not a coincidence that at the end of January 2012, just before presenting the new tax bill, President Otto Pérez signed a new agreement with the mining companies to guarantee the continuation of their “voluntary” payments of royalties to the government (see *Convenio Marco de Implementación de Regalías Voluntarias*, January 26, 2012) (On this topic, see Deonandan & Ortiz Loaiza, 2016). In other words, the main exemptions granted to big enterprises were not eliminated, while some exemptions to middle-sized enterprises were eliminated or modified.

The tax on licences for owners’ first registered land motor vehicle (*Primera matrícula*)—which was fiercely opposed by the Patriot Party during the UNE administration—was included in the 4447 Bill, Book II. This section proposed to substitute the import duties and apply a tariff according to the market price of the vehicle, according to a pre-established chart or prices (and not according to the usually undervalued or fake invoices). This also regulated the import of vehicles older than seven years old. These provisions had different good intentions, relevant for the Guatemalan society because there is no local production of vehicles, all cars are imported, and the public transportation is precarious. The reforms were created to disincentivize the import and

acquisition of old cars for environmental reasons (Interviews, June 30 and July 4, 2016). However, these taxes would impact the low-middle classes who have fewer resources to buy new cars. This section of the reform was approved (and created much unrest among the working classes making the mixed justifications to repeal the law more appealing to many groups).

In Book III of the bill, a new National Customs Law was established. This law regulates infringements and sanctions related to customs, which are established by the Unified Central American Customs Code (CAUCA). It also establishes the mandate of the tax administration (SAT) for customs control. The main objective of the reform was to provide mechanisms to fight and minimize smuggling through customs. These approved regulations would impact illegal smugglers and, according to some interviewees, exporters, *maquilas*, and some semi-legal enterprises used to under-declare imports and exports, as explained below:

Some taxpayers, most in the *maquila* sector or free-trade zones, practice tax evasion through the subjects of inventories, raw materials, semi-finished products, etc. It is often like this: they say that they checked the product at customs, and then it turns out that the product is not in that warehouse, but they say that it is in another warehouse or with another free-zone user, and regularly the SAT agents do not find it. The same thing on the issue of production surpluses that are not re-exported, much more than 10% is not re-exported, as required by the law.

Although there are regulations, corruption exists, because they have the information, and nothing is done. For example, in theory, at customs' documents there says that a product left the country, but never entered to El Salvador, for example, there are no records. They, the exporters, say they paid an export bill, but the pieces never left the country, and the only way to corroborate it is with the tax authorities of other countries. If, as *maquila*, they say that they have already re-exported 75%, they can easily ask someone from [Guatemalan] customs to issue a document for the remaining 25% and say that they already sent the products to any other country. They pay the customs officer who issues the document, avoiding domestic taxes (Interview, May 13, 2016).

Book VI of the bill proposed reforms to the VAT system, keeping the same rate (12%). In general, alongside several other changes, the bill proposed to eliminate exemptions to private

education centres, including any profit-oriented activities such as book, uniform, and school supply sales, among others. However, that would keep the tax exceptions for registration, tuition, and exam fees. This reform also proposed to tighten up some controls to prevent the use of fake invoices by these institutions. This was a major change for schools and universities, given the weakness of the public education system in Guatemala and the privatization of the education system. This change would also favour the middle classes since an important percentage of the student population in Guatemala depends on the private school system.⁸⁶

Bill 4447, Book V, updated the annual fees for vehicle circulation (land, sea, and air vehicles). The regulations related to vehicles were progressive in theory since they would affect the middle working classes as well as the private companies' owners. However, the loophole in the law was that it allowed the expenses on vehicles to be registered as part of the costs (100%) exempted from income taxes for big companies. This means that most of these provisions would have a bigger impact on the working class and small enterprises registered under the optional 5% or 7% regimes.

The analysis of the tax reforms suggests that the changes introduced would advance more privileges for the traditional economic sectors and create more inequality in Guatemalan society. In general, the new tax system would affect the interests of the middle and small enterprises, as well as specific sectors such as private education institutions. The tax burden was, once more, unequally skewed towards the middle classes and vulnerable working populations, including

⁸⁶ For example, according to some of the available data, for 2004 the Student Registration in the Public and Private Education System was as follows:

	Central Government	Private Schools	Municipal	Cooperatives
Elementary	88,3%	11,5%	0,2%	
Middle School	27,2%	45,6%	0,8%	26,3%
High School	21,8%	73,1%	0,6%	4,5%

(Source MINEDUC, 2004 in Esquivel Villegas, Francisco, 2006).

retired people, while enhancing the privileges of bigger corporations. However, besides the regressive characteristics of the system, it did implement a new permanent income tax system and new mechanisms to control enterprises, which, from any perspective, was unthinkable for the economic elites. The nonconformity of these groups would be explicitly and immediately manifested through the legal appeals to the CC, explored in the following sections.

Repealing the Reform: Institutionalized Sources of Power

A fundamental task to respond to the questions posed by this thesis is to understand the reasons why the new fiscal law was quickly approved and then repealed. The multiple, and sometimes still unclear, reasons that explain these processes contribute to understanding how state-society interactions occur in Guatemala. The interplay of formal and informal institutions and personal interests (agency) is also a fundamental causal explanation of the tax outcomes.

The dismantling of the tax law created at least three important dynamics which prevent the elaboration of a crystal-clear explanation to why the reform failed. Firstly, they produce different partial political and technical explanations and justifications by the different stakeholders and tax analysts, depending on their interests and role on the initial tax approval process. Secondly, the fast pace of the negotiations created different perceptions and limited room to fully understand all the modifications to the content of the law and the concrete economic interests at stake. Thirdly, the opposition of the private sector to what had been briefly celebrated as a triumph (i.e., the approval of a comprehensive reform) changed the relationship between the private sector and the government. The approval unleashed a massive private media campaign against the government, which also produced an immediate rejection by society of the newly elected government (prior to the corruption scandals). The following sections explore these issues to propose an explanation for the failure of the tax reforms while also analyzing the subsequent process of counter-reform.

Attack or Defend?

The following paragraphs demonstrate how the fast approval of Bill 4447 resulted in a confusing situation for many stakeholders, but also in a clear rejection strategy from the economic elites. The surprise results prevented clear political perceptions and analysis for insiders and outsiders. Furthermore, the immediate legal attacks on the law also contributed to spreading mixed contradictory perceptions, which divided the opinions of defenders and attackers, further weakening the unclear tax rules. This section explores some of the political and technical perceptions regarding the new tax law in 2012, which contributed to its quick neutralization.

According to some participants in the tax negotiations in 2012, the quick approval of the reform, followed by its rejection and repeal by the CC and the executive power, were the result of Minister Centeno's mistakes. They propose that the failure was an expression of the lack of support from President Pérez for Centeno's quest and the lack of communication between them. These explanations also blame Minister Centeno for not listening to the private sector's real interests and for acting without the president's support. However, from an opposite perspective, according to other stakeholders close to the government negotiations, the quick approval of the reform was proof of the opposite: the initial strength of the government, the good communication and support between the Minister and the President, and their strong determination to neutralize the actions of the private sector. Furthermore, the quick approval of the reform may also show the initial support of the private sector to the PP government, manifested throughout the electoral campaign.

The president and his team knew the implications of the reform and were still confident of the support they had received from the private sector, shown during the electoral campaign through large amounts of money:

The president relied on Pavel. He knew the implications of the reform, that it was somehow progressive, that it would remove privileges and give resources to the

State, the president knew that. Before it was approved, there was a meeting where the reform was presented to the president, issue by issue to the president. Then to the Cabinet... (Interview, November 17, 2016).

The private sector support for the PP was clear from the beginning of the political campaign, especially to counteract any possible triumph by Sandra Torres. According to the words of the political campaign operatives, former President and Vice-President Pérez and Baldetti, (now facing trial for illicit enrichment and money laundering) received millions of legal and illegal monies to finance their electoral campaigns. (Allegedly, the amount of cash was so exorbitant that they had file cabinets, washrooms, and offices full of bills—see testimonies from Juan Carlos Monzon, Cooptation of the State Case, Highest Risk Court-B, 2016–2018).⁸⁷ The fundamental issue was an ideological one, the victory of a new right-wing government had been supported to avoid the triumph of another left-wing government.

However, maybe because the Patriot leaders had won with a large electoral and monetary support and their decisions were moving so fast, they never expected the immediate reaction from the private sector. According to several interviewees, the government negotiators believed in the initial commitments from CACIF representatives and did not expect the subsequent outcomes:

That moment was a very particular political moment, the way the Patriots won [the elections] and the convergence with the Chamber of Industry—[Pedro] Muadi and [Juan José] Porras (from the private sector) were deputies of the *Patriota*—they led the proposal [in Congress], it was the convergence of CACIF and PP, those who approved and then repealed [the law] (Interview, June 30, 2016).⁸⁸

⁸⁷ According to these testimonies, the money was generally given in cash or sumptuous gifts (such as luxury cars or helicopters) and justified (for legal big enterprises) with fake invoices from shell companies created by these same political operatives (see testimonies from Juan Carlos Monzon, Cooptation of the State Case, Highest Risk Court-B, 2016–2018).

⁸⁸ For example, Muadi was Director of the Chamber of Industry between June 2003 and May 2011, Vice-President of the Company Combex-In, and President of a plastic products company PSE (Prensa Libre-Barreto, 2013).

The quick pace of the negotiations and the lack of time did not allow the private sector to step back from their support for their candidate or reject or veto the law before its presentation to Congress or its quick discussion in Congress. The clear initial support for the government also took the many diverse members of CACIF by surprise. In this particular case, it was clear that the members of CACIF had time to react only after the approval of the law (and they knew they still could act post-approval). They were in complete disagreement with the idea of paying more taxes (especially after their generous pro-campaign donations): “CACIF, which was trying to give a boost to their new right-wing government, with the reform they felt a stab, now from the right. This reform was key; it kept the relationship between the president and the CACIF frozen for one year” (Interview, November 17, 2016).

Taking all the evidence into consideration, a mix of both proposed explanations seems more plausible: different from other experiences, during the PP government, the executive and legislative branches acted in an informed and coherent way (president, Cabinet, minister, and legislators). However, the highly disciplined and powerful executive branch miscalculated their legitimacy and power and the tax concerns of the economic elites. More than economic support for the PP, the funding of the political campaign expressed the economic elites’ support for a more conservative agenda (different from UNE’s), in which taxes had been absent from the electoral platform. In the end, the strong political will and discipline of the PP were fundamental in discussing and approving the tax reform at an extraordinary speed. The fast-paced negotiations, building on a recent victory and expensive alliance, took by surprise and disarmed the traditional veto strategies of the economic elites.

From a different, more technical perspective, according to its defenders, the reform was positive, even though some key topics were not included and some changes were introduced in

Congress. In general, the new fiscal proposal adopted by the PP had kept most of the topics proposed by the GPF and the UNE, except for a few key issues. The main issues changed in the initial PP proposal, in contrast with the GPF document, were related to the construction sector, the absence of the world income tax, and the transfer prices for domestic operations:

Centeno removed several chapters from the bill, especially the world income and transfer pricing perspectives, he severed all that area... the vision that a company no longer works as 50 years ago. The clearest example of transfer pricing, local or international, are the financial groups, credit cards, insurance companies, banks, financial companies... They move financial groups in the [Central American] isthmus to move their revenues and move losses, inward or outward. Centeno did not include all that part (Interview, June 30, 2016).

According to some of the negotiators, the rest of the reform was kept the same, nothing important was changed except for a little variation in some tax rates, which were negotiated in Congress: “and due to the hurry, there were many things left in the air, for example, the issue of construction... The proposal did not change much the rates or the initial concepts, but they [CACIF] pressed, and the reform was presented, and Pavel negotiated it only in Congress” (Interview, November 17, 2016).

However, according to some critical negotiators, the changes to the reform bill were fundamental game changers, and the number of variations were difficult to track due to the quick pace of the changes. These small changes negatively impacted the reform, favouring the interests of the private sector and making it less progressive, except for the income tax.

There is an original draft, worked by Alma Quiñonez and Pelayo, a Spaniard... This was the first version of the GPF, different from what was approved in January 2012. During the negotiations part of the content was removed, until what arose as the last [version]. They did not include all of what Alma and Ricardo delivered at the end, in the legislative decree either; and later in the Congress, they also made further changes (Interview, July 19, 2016).

Additional to the modifications in the proposal presented in Congress on January 2012, there were other modifications promoted by Congressional deputies during the discussion sessions.

With him [Pavel Centeno] we did talk about the components of the reform, and we convinced them [the PP leadership]... He changed the reform, with some steps back, then they entered posterior negotiations that diluted more things... When they entered negotiations with the PP then diluted it more [the reform], then more [changes] in Congress when making changes to the law, then the counter-reform—when changes were introduced to the already approved legislation (Interview, July 4, 2016).

[The UNE deputies] did not vote against it [the bill], but they took two dire measures: on the issue of income tax, they imposed an issue related to VAT return. A minimum VAT to reduce the income tax declaration, it is not much, so it is not worthy of presenting the form if it does not have much effect. Moreover, José Alejandro [Arevalo—from the Unionist party] also made another change... [they] imposed those changes and then said there were mistakes on the reform, but they put it there (Interview, July 17, 2016).⁸⁹

There were many honest defenders of the bill and its contents, but in reality, none of the analysts knew what the impact of the modified law would be. Most of the interpretations of the positive and negative aspects of the law were partial and incomplete. Contrast, for example, these statements by two knowledgeable tax analysts: one argues, “The changes were more related to the SAT [administration], *the weakening of the SAT and its capacities*. What is not tax administration was almost unchanged” (Interview, July 4, 2016, emphasis added). The other states, in contrast:

The problem will rather be for the micro, small, and medium enterprises; for the liberal professionals and the employees since the burden those [the traditional private sector] removed will fall on them from now on. *With better administrative controls, a more refined system*, and a 40% increase in the rate affecting their revenues (from 5% to 7%)... (Murga-IIES, 2012; my translation).

⁸⁹ These issues are discussed in the following section.

Interestingly, both analysts quoted above counterpose the efficiency of the reform contrasting tax rates and administrative capacity, praising one or the other.

There were also positive reviews regarding expected revenue collection under the new law. According to some experts, the changes to the tax bill were not important as long as the impact of the reform was seen as positive, regarding raising revenue for the state. Some insisted that the changes to the income tax had strengthened the revenue collection capacity of the tax authority (SAT), assuming tax income is always a progressive tax. For example, Schneider and Cabrera (2013, p. 19) provided a simulation analysis based on the reform approved in 2012, and concluded that if the reform was kept unchanged, there would be a slight progressive effect that could reduce the Gini coefficient by 0.006, a bit more than half point—a very small change. They also pointed out that there was slight progressivity in the income tax system by increasing the rate from 5% to 7%. However, in their analysis, they omitted the main division between the optional regime (that of 7%), and the regular regime, which applies to and benefits the bigger companies. In this sense, the progressivity highlighted by Schneider and Cabrera does not include the big enterprises, but only medium and small enterprises—at least in theory. Part of the problem of these perspectives is the fact that the counter-reforms were approved so fast that there was no real time to understand or test the original reforms approved by the PP and understand the relevant changes, contrasting them with the original GPDFD proposal.

Finally, it is important to remember that, from the beginning, the GPDFD omitted the most problematic taxes from its proposal, except for the income tax and the tax on capital gains:

The missing topics? There were several since the discussions in the [GPDFD] group, such as the tax reform to property, the property tax, which was left out to reach agreements with the economic groups. The Estate Tax is a very sensitive issue that would break any possibility of agreement. The tax on income from capital, yes, it was included, but there was no agreement around it, and it weakened the proposal (Interview, May 2, 2016).

The question that arises is why would CACIF oppose a law that was already less progressive and responded to some of their interests and demands? Despite the differences between the original GPFD proposal and the final bill, the new law was still slightly more progressive, created a new income tax regime, and increased the tax burden. In other words, the tax reform dared to increase taxes, which is unbearable for many economic sectors.

Economic Elites, the Constitutional Court, and the Legal Battles

According to historical evidence since the beginning of the democratic regime, the private sector has shown that, in Guatemala, the approval of a law is never the end of the discussion. During the creation of a new democratic constitution in 1984, the private sector supported the design of a strong mechanism to neutralize and veto any law, the Court of Constitutionality (CC). Unsurprisingly, the possibility of repealing any law through legal and private appeals to the CC has worked in favour of the private economic interests since the implementation of the new “democratic” Constitution (ICEFI, 2009). Since the first democratically elected government passed the first fiscal reform in 1987 after long negotiations, threats, strikes, etc., CACIF’s last recourse was to demand repeal to veto the new law via the Constitutional Court (Barrios, Herrera, & Rodas Martini, 1996). This successful veto would set an important precedent that would keep repeating during different governments, after every successful attempt to approve a fiscal reform. There have been many minor or partial tax-related reforms approved each year since 1985. However, there have been at least seven failed attempts to implement more comprehensive reforms, of which at least five have ended in legal battles at the CC (ICEFI, 2015, Ch. 2). The 2012 reform was no exception.

The two main Decrees approved by the National Congress in 2012, Decree 4-2012 (*Ley Antievasión II*) and Decree 10-2012 (*Ley de Actualización tributaria*), contain the whole fiscal

reform, a total of 258 articles. According to an extensive study by the Central American Institute of Fiscal Studies (ICEFI) in December 2013, 81 of those articles had already been challenged at the Constitutional Court by 168 separate legal actions, arguing different constitutional problems. Around one-quarter of the appeals (20 out of 81) were devoted to challenging the new Income Tax law (41 actions out of 168) (ICEFI, 2015, pp. 83–86). However, unlike the previous times when the private sector was able to have a complete law repealed and obtain a favourable sanction from the court, this time the results were very limited.

There are several important issues to highlight related to the number of appeals presented to the CC. The extensive analysis of the legal files done by ICEFI shows that 54 files (out of 168) were presented by some of the most traditional members of the private sector. This sector includes the Chamber of Industry, the Chamber of Agribusiness (*Cámara del Agro*), and the Chamber of Construction. There were also other files presented by other powerful sectors close to traditional capital, such as ANACAFE and the education sector (private schools and universities), while the rest of the files (114) were presented by a variety of private, independent, and other representatives of the society including private enterprises, churches, and NGOs (ICEFI, 2015, p. 84).

These numbers have three important implications. First, an important number of appeals came from the most traditional chambers linked to the G-8, represented by CACIF, although CACIF had, in theory, negotiated and approved the terms of the tax bill. Most of the actions of these traditional sectors were against the Income Tax and VAT regulations, followed by capital gains and vehicles. Second, the other important sector that opposed almost all the measures rejected by the traditional private sector was the education sector. They presented appeals opposing some of the Income Tax and VAT regulations affecting this sector. Third, although most of the appeals came from independent actors (68% of the files), most of them were dispersed and

ineffective efforts. Different to previous occasions when CACIF counteractions were able to veto complete laws (as happened in 1987 and 1994), two major characteristics prevented the complete reversal of the law via the CC. CACIF's actions were less coordinated and ineffective, at least through the legal channels and the government and fiscal experts' ability to learn from previous experiences taught the UNE and PP governments to formulate legally robust bills. After more than six years of negotiations and preparations, the bill was praised for its solid legal characteristics.

By the end of November 2013, the CC had dismissed five articles of the law as unconstitutional and temporarily suspended four more (out of 81 contested articles). The court also dismissed more than 95 appeals for different legal and procedural reasons, while at least 19 files were pending (ICEFI, 2015, pp. 83–85). By July 2014, ten articles were declared totally or partially unconstitutional and were eliminated; three articles were restored after being temporarily suspended (Bolaños, 2014). As one of the interviewees reminded us, “the legal negotiations reflect how power is exercised, by removing key pieces of the reform. This is the truth. It is part of the [political] business” (Interview, July 4, 2016). However, unlike previous occasions the bill was prepared for the legal battle. “This time they were not able to do so, this reform was quite reinforced, thanks to Alma Quiñones [the main legal advisor for these bills]” (Interview, July 4, 2016).

The articles eliminated by the CC did not modify any tax rates, but limited the capacity of the Tax Administration Superintendence (SAT) to keep taxpayers accountable. The court restrained the SAT's power to implement penalties and fines. These reforms mainly affected the advances of the law against tax evasion (Decree 4, 2012, *Ley Antievasión II*) but weakened the whole system. Prensa Libre published relevant comments by SAT controller Ariel Guerra :

It cannot be measured how much less we will raise [in taxes] due to such changes, and he commented that “that does not affect the decline in fundraising goals, but

yes impacts on the perception of risk for the taxpayer”... For example, by removing from them [SAT] the ability to perform preventive [business] closures—due to [business] lack of billing, not being registered, or other anomalies—the legal process [to sanction them] could last six months, one year or two years. Now longer processes [to control and penalize], which entail more costs, are required (Bolaños, 2014).

The changes resulting from the legal actions may seem minimal regarding tax regulations. However, they were fundamental in failing to improve the efficiency, justice, and progressivity intended for the Guatemalan tax system. Table 5 below summarizes the outcomes of legal appeals and counter-reforms.

Table 5 Changes to the New Tax Law—Court of Constitutionality Decisions

Unconstitutional Articles Eliminated or Modified by the CC (by July 2014)	
Decree 4-2012 Law Against Tax Evasion II (<i>Ley Antievasión II</i>):	
Article 2:	The court established that pensions, retirement, and mutual societies were not income from work, as proposed by the Income Tax reforms for employees. (Subsequent decrees, 10-2013 and 13-2013, regulate that they are not affected by the ISR).
Article 7:	Identified as partially unconstitutional, eliminates the part which refers to the base price to apply VAT to public entertainment tickets. There is still an obligation to issue invoices, but they may report a different price to that printed on the ticket. (This exclusively affects the entertainment sector).
Article 19:	It established that exports of agricultural products, handmade and recycled products providers must be registered at SAT, but the CC eliminated the power of the SAT to cancel registrations immediately after any transgression of the law. The amendment provides the taxpayer with the right of defence and hearing (yet it weakens tax controls).
Article 31:	The court suspended the capacity of SAT to penalize taxpayers who perform a fiscal simulation to impact their revenue; the tax administration cannot penalize it, only a judge. (According to Article 358 A of the Tax Code, tax simulation refers to concealing the type of business, false statements of the taxpayer, or transmission of rights to protect interested people).
Article 38:	Eliminated the part of the article establishing that the SAT will manage the issuance of fiscal solvency certificates since that competency rests solely with the Executive Branch (President). The rest of the article remained temporarily suspended. (Fiscal solvency is the document through which the SAT certifies that a contributor has fulfilled his/her tax duties).
Article 44:	Removed the part that stipulates that notaries be required to present their notarial protocol at the request of SAT, including a Q5000 fine. (This was a

	fundamental issue related to false statements, evasion, property taxes, among others.)
Article 49, Paragraph 10:	Eliminated the right of SAT to penalize businesses with temporary closure or blockage of their tax identification number (NIT) if they do not file taxes, present statements, or present financial movements. It was argued that this article violates free trade. (However, this also eliminates the possibility of an efficient and responsive SAT, now dependent on long-term court procedures).
Article 50:	Eliminated the capacity of SAT to preventively close down professional services operating without registration. It is argued that closure can only be sanctioned by a judge. (Again, the problem is the weakness and lack of efficiency of the justice system).
Decree 10-2012 Tax Update Law:	
Article 109:	Modified subparagraphs a and b concerning: vehicles' first registration tax (Iprima), also banning the import of vehicles more than 10 and 15 years old. The law changed to allow the import of older vehicles.
Article 180, Paragraph 4:	This article related to income tax exemptions had removed the exemptions for the payment of interest from banks abroad (taxing incomes from capital). Another decree completely modified this article, and exceptions are still in place.
Source: Data from ICEFI, 2015; Bolaños, 2014; and Court of Constitutionality.	

The previous table shows how most of the articles declared unconstitutional by the court were related to the intention of strengthening the SAT's mandate to monitor and sanction tax avoidance and evasion. These modifications were fundamental to the progressivity and efficiency of the system. In the end, without the capacity of deterrence and sanction, the new tax regulations were incomplete and weak, especially when dealing with the most powerful groups. Furthermore, the anti-tax battle was not over and had been extended to the executive and legislative arenas.

Economic Elites, Congress, and the Political Battle (the Counter-Reform)

Immediately after its approval, while the new law was being contested at the Constitutional Court, other legislative and political actions changing the law, such as new bills and decrees, were being negotiated in Congress and the presidential office. The legal battle to contest the new law was just one of the mechanisms of a wider political battle that forced the government to roll back its

decisions. The immediate political pressure exerted by the private sector also resulted in temporary or permanent suspensions of some chapters of the law approved by legislative or presidential decrees even before the Constitutional Court's official ruling. The changes to the law responded to two major legislative interests: to correct legal and political mistakes, and to open the door to political favours and negotiations to amend what was perceived as a political mistake (i.e., the approval of the reform). In sum, the new tax reform suffered important modifications and reversals a few weeks after its approval, even before the Constitutional Court rulings.

In January 2013, the President and the Congress (dominated by the *Patriota* Party) approved, as a matter of national urgency, a Decree to grant a general tax amnesty to taxpayers. This action defeated the main objective of the reform, namely increasing tax revenue. Decree 1-2013 established two main amnesties. First, it proposed to forgive 10% of any tax debt during the first two months after issuing the law and 5% during the third month. Second, the Decree granted a discount of 50% to the annual tax on vehicles in circulation, which had created unrest in the middle class. This amnesty nullified the tax revenue potential of the new law by applying the old rates to vehicles. Even before the rulings of the court or the negotiation of the counter-reform in Congress, the tax on vehicles and first registration had become null for that year. In other words, the PP government had unilaterally stepped backward in response to the pressure from the private sector and its allies.

These words from a legislator clearly explain some of the implications:

When the government gives one step back, the reform is lost. There is a game linked to the import of vehicles market, between new and used vehicles. In Guatemala, the market for new vehicles is small, and the market for used ones is enormous, old vehicles [imported from the US]. The intention was to disincentivize the importation of used vehicles and to make the first registration tax the fund for the public transportation system. The logic behind this is that we must build an efficient public transportation system with decent conditions and that it will become increasingly more expensive to have a vehicle and to circulate

the vehicle—because the road network of the city cannot take any more cars.⁹⁰ It is a public policy decision. The issue wore down the Government, there were protests, actions, by both groups, both importers of vehicles and citizens, against paying the circulation tax, and a new proposal to reverse the reform was brought to Congress three or four months after its approval (Interview, June 30, 2016).

This step back by the *Patriota* government not only limited the potential for tax collection, but also opened the door for more pressure from the private sector, and more unaccountable negotiations in favour of a counter-reform at the National Congress. In December 2013, almost a year later, after a long period of negotiations, Congress approved Decree 19-2013, known as the counter-reform package. Although this Decree was presented as a way to correct legal mistakes from laws approved in 2012, this new law also granted more deductible expenses to companies and reduced the legal mechanisms to control the fulfillment of the tax laws, again erasing many of the legal advances achieved by the Anti-Evasion Law (Decree 4-2012).

Additionally, this new law re-established the 100% deductible expenses for real estate builders for works benefiting the company's employees and allowed the companies to issue invoices for only 70% of the real state property value, granting exceptions for common areas and real estate services. This last exception directly affects income tax, VAT, and ISO revenues from real estate properties and keeps the door open for evasion and avoidance when claiming reduced invoices amounts (see ICEFI, 2015).

A former high-ranking government official highlights the fundamental role of the Congress and the presidential office in shaping the final modifications to the tax law:

Then there are always these games where a Chamber comes out and protests. I believe that this reform did not come down using the CC but by the negotiations and weakness of the Congress. They are negotiating and at the same time seeking

⁹⁰ According to SAT records, updated to October 31, 2016, there are 3,198,990 vehicles circulating in the country (for a population of 11.xy million persons at the time).

support from the private sector, they, the Congress members, know that if they do not have the approval of the private sector, it is not possible [to implement the reforms]... if not, you will have to deal with the market (Interview, July 4, 2016).

In the end, the objectives of the law were never tested or achieved since it was quickly contested and many of its key elements were immediately repealed:

About the income tax (ISR), there were plenty of aspects reviewed that made it possible to strengthen the collection despite having cut the themes of world income and transfer pricing. There was a game for the gradual reduction of certain rates, others were increased, but the problem is in the expenses and costs deductible from the income tax, and the increase in the total rate. In the end, I can reduce your [income tax] rate, but if I remove many costs and deductible costs, the tax rate applies to a greater amount. That topic in some way affected several important sectors such as the sugar mills, mining companies, *maquilas*, call centers... At the same time, the counter-reform led by FUNDESA begins to take shape, with 37 changes to this law. Right after approving the reform, the counter-reform had already started (Interview, June 30, 2016).

The counter-reform was led by the PP legislators, the same ones who approved the reform.

Now they were responding to the demands and pressure from the traditional private sector:

In 2013, during the Presidency of Pedro Moadi [in the National Congress], the counter-reform was approved, which benefits the sugar mills, *maquilas*, Fundazucar, foundations and others; with which the cost of education, training and everything that make corporations reduce their income tax are justified. That was the counter-reform. This also benefits the real estate sector, headed by Felipe Bosh (Interview, June 30, 2016).

Additionally, the counter-reform re-opened the door for tax avoidance by extending the tax exemptions to private philanthropic foundations. As a tax expert reminds us, “another important issue is that of tax exemptions for philanthropic works. That was one of the modifications implemented once the new legislation was already adopted, in the counter-reform. So, I can create my foundation, and with my unpaid taxes, I create my foundation: part of the perversion of the system” (July 4, 2016). The counter-reform, therefore, represented a huge step backwards by maintaining legal loopholes that enabled evasion and avoidance.

In the end, it was precisely the closeness and alliance between the PP and the private sector in Congress that allowed the counter-reform to pass so fast and easily:

These reforms passed as national emergency laws, and the only party which opposed them was the UNE ...they passed the law as national urgency. This moment was a very particular political moment, how the Patriots won [the elections] and the convergence between the Chamber of Industry, and of [Congressmen] Moadi and Porras, who were members of the Patriots, like Ceña. They led the approval of the initial proposal [of the tax law], it was a convergence of CACIF and PP, who approved and then reversed [the law]. Additionally, they [CACIF] presented 14 or 17 resources of unconstitutionality. (Interview, June 30, 2016).

These dynamics in Congress also ended the alliance between the PP and UNE and weakened the leadership and discipline of the PP party, as history would show during the years of the PP administration. Most importantly, the counter-reform closed the chapter of comprehensive fiscal reforms during the Patriot government, and perhaps for many more years.

The CACIF-PP Fracture and the Power Imbalance

The process that led to the counter-reform approval was complex and marked by institutional and personal divisions, animosity, and personal interests. The main and evident fracture was between the PP government and CACIF, who ceased to communicate after the approval of the tax laws in 2012. Additionally, many important ruptures happened among and between the *Patriota* elected officials in Congress, who were also trying to please and compete for the support from the private sector (as past and potential campaign sponsors). Additional to the reversals of the law, it was clear that the relationship between the government and CACIF was damaged, and the pressures which led to modify some articles of the law did not solve all the complaints, animosity, and mistrust between the government and the private sector.

Most importantly, the new government had just learned that their field of action was limited, and that—either by mistake or thanks to other allies—a most powerful player had won the

final battle, and it was not just about taxes. Once more, the most important stakeholder had been absent and would suffer the consequences of the battle: civil society (other than the economic elite's organizations). This section reviews some of these issues in a summarized manner.

As a former government official reminds us, the legal battle against the fiscal reform truncated the communication between President Pérez and CACIF:

With the complaints of unconstitutionality in 2012, President Pérez and CACIF ceased to speak to each other. Andrés Castillo [president of CACIF] came out in a lot of public meetings quarrelling against the president; there were great distance and animosity (Interview, November 17, 2016).

The distance between President Pérez and CACIF was publicly evident and especially noticeable after the close relationship they had during the political campaign period. For example, the following public declarations by Andres Castillo, president of CACIF, are two good examples of the tensions between the private sector and the Pérez administration after the approval of the tax laws in February 2012:

It is regrettable that some people with public voice have no idea how a company works. They do not know the mechanics required to pay taxes in the country, and they have never had to pay a payroll in their lives; and yet, continuously, with great irresponsibility, but above all, with vast ignorance, they attack companies, entrepreneurs and the concept of entrepreneurship in general. Without noticing that in these three elements resides the reason for the creation of wealth, the generation of employment, and the construction of a more prosperous future (Castillo, Discurso ENADE, 2012).

About the first year of the Pérez Administration, in January 2013 Castillo stated: “about mistakes: we see a tax reform with too many doubts, it is generating more doubts than certainties, we saw a threat during the negotiation, on the issue of attempting to change the rules of the game.” (Castillo, January 15, 2013). Similarly, the president of the Chamber of Commerce (CCG), Jorge Briz, declared that the new tax law was “irresponsible”:

In my opinion, the informal economy has grown, Guatemala is still in debt, and the fiscal divide continues to grow. We have always believed that income tax is inefficient... We propose one [reform] that simplifies and incorporates all sectors of the economy, with low and competitive rates, that attracts more investment and generates more jobs... They would be laws of general application, with a tax reform that treats us all equally, easy, simple and that responds to our economic and social reality (*Pacto Fiscal para el Cambio*, July 22, 2014).

According to some of PP's close negotiators and collaborators, the political abilities of Minister Centeno were both the key to the reform's success and the reason for the strong opposition from the private sector. "Pavel was the first [Minister of Finance] that was not from the private sector, who had much power, a political animal with technical knowledge, with power. From there comes so much hate from the private sector. This was an important political aspect of why the political reform passed" (Interview, November 17, 2016). However, in the case of Minister Centeno, more than a personal hatred based on his political actions and abilities, this thesis proposes that the conflict between the Minister of Finance was the expression of a major political and economic conflict between the PP and the private sector. Centeno [and his prompt resignation] was the scapegoat to respond to the increasing mistrust between the Pérez administration and CACIF after the tax reform.

The analysis of different government periods shows that the economic elites have always feared politicians with the capacity to oppose and act against the interest of the private sectors. Those strong-willed politicians represent a challenge when the private sector does not have a way to control them through economic resources and when these political players show independence from the traditional sector, as was the case of the Alfonso Portillo (FRG) and Alvaro Colom (UNE) administrations (ICEFI, 2009). This dynamic was different between the PP and CACIF because the private sector felt betrayed by the government's actions after it poured millions into the *Patriota* Party's electoral campaign. That generous support for PP aimed to counteract the

“populist” menace of the UNE party and avoid the continuation of their “socialist” policies (such as the comprehensive tax law) (Fuentes Knight, 2011). In this sense, the approval of the tax law by the *Patriota* Party caused CACIF to distance itself from the government and provoked a fierce attack on the Minister of Finance. The Minister was called to interpellation after only one month in power, after the approval of the law, and was forced to resign from his post.

Minister Centeno resigned from his position on March 20, 2012, after more than a month of congressional hearings, which had started on February 16. According to Centeno, “a minister cannot be questioned within 15 days of assuming office. It is a waste of time, and I came here to do a technical, non-political job. It is a congress with no sense at all” (Central America Data, March 20, 2012).⁹¹ However, his resignation was not accepted by the president at that moment. However, he resigned again on October 17, 2013 because of ongoing legal battles.

CACIF’s pressure to reverse and change the tax law was successful in shaping the law to fulfill their interests and neutralizing new government actions. The strong will and decisions made by the government during its first months were dismantled so fast that the government seemed to have lost its agenda. Different from the previous UNE experience where there was a permanent, coherent opposition, the PP lost its discourse and support. In the words of a congressman:

At some point, there was support from a certain group from CACIF, which approves the reform, but then the strategy was reversed, which ends up wrecking the reform. In part, the Patriot government also had no conviction of strengthening the State or anything like that. From that point on, the government departed from the agenda in that regard and focused on how to build a network that would allow them to rule or make agreements. They put to action their lawyers, and to seek consensus in a counter-reform led by Felipe Bosh [CACIF], and the government was already pressured by the citizens’ protest. The

⁹¹ According to Pavel, “the first thing you should be clear about is that deputies are shit, but they survived an election, and because of that we owe them respect!” Pavel treated them with respect. In the 2012 negotiation, including the budget, the internal, and the reform, he was there (Interview, November 17, 2016).

Government had no agenda to defend the reform that it had approved. These were not their plans (Interview, June 30, 2016).

According to some of its collaborators, the main reforms promoted by Otto Pérez were the tax law and the rural development law. However, neither was successful. In that sense, after the fiscal reform battle was lost, the Patriot government seemed left without direction. As we would learn a few years later, most of their efforts were centred in building networks of corruption to benefit from state contracts and custom duties (see CICIG Comunicados 2015–2018). “The tax reform and the Rural Development Act were the two reforms of Otto Pérez. The second never passed [either], because they [the Congress deputies] wanted to [limit social] development with this reform” (Interview, November 17, 2016).

Although the relationship between the president and CACIF was re-established a year later, the rupture between them was irreparable. Most importantly, the legal battles left a more regressive and incomplete tax reform, and a weakened government without political direction:

Later there was a meeting where they [CACIF] met every Tuesday with the president, but only after 2012. This was so because, in Colombia, Uribe told CACIF that they could not be estranged from the president and that they needed to approach each other, and then they began those meetings. I think that at that point nothing was of interest to the president [Pérez]... (Interview, November 17, 2016).

Once again, the government had been overpowered by CACIF and their support structure: the tax experts, campaign funders, different chambers, statements, press, and mobilization of society. The asymmetry between the government (officials) and the traditional private sector was as evident as it has been since 1986 during the first attempt to reform the tax law: “There is a grand asymmetry. The correlation of forces has not been favourable to a deep progressive fiscal reform... the UNE never had the votes in Congress... The Patriot passes the reform and then reverses it, or loses it, or let them win, the tax reform falls” (Interview, June 30, 2016).

The asymmetry in the correlation of forces can be explained by the structural economic issues and the strong institutionalization of the political power of the economic elites. These institutionalized private forces compete with the low institutionalization and weakness of the political parties, and the low autonomy and lack of social agendas of the elected officials. The personal and campaign agendas of the public servants are used as vehicles for the advancement of the strong sectorial agendas of the economic elites, as discussed in the final chapter. Additionally, the private media has been a strong platform supporting CACIF interests, capable of mobilizing certain middle and upper-class sectors in the Guatemalan society. Ironically, the government has not been able to mobilize and gain support from the strongest force in the country, the only one that could counteract the private sector's power: the social forces.

The assumption of legitimacy and representation of social expectations, discussed in the previous chapter, was also present in the discourse of several government officials interviewed for this research (elected or appointed) regardless of the political party or government period they represented. In other words, government officials felt entitled to represent Guatemalan society when negotiating fiscal reform. However, this assumption also seemed to have served as the perfect excuse to many former Ministry of Finance functionaries during the PP government to avoid or overlook the need to negotiate the fiscal bills with the organizations of civil society.

Indeed, interviews with some former PP government officials showed that they assumed their legitimacy to discuss the fiscal reform “for the good of society” from their experience or the electoral process. Assuming that they represented the interest of the population, they did not need to negotiate the proposal with civil society representatives. For example: “Who was representing society at the [2012] negotiation table? We, the government functionaries” (Interview, December 2016).

A strong electoral triumph like the one granted to the PP could serve as a valid source of social legitimacy in a strong democratic system. However, given the weakness and lack of democratic practices of the Guatemalan political parties, the electoral triumph must have misled the government functionaries—especially since the tax issue was never presented as part of the PP political platform during the electoral campaign (Ortiz Loaiza, 2011, 2008, & 2007; Blanco, 2011).

The fast pace of the tax negotiations during the PP administration did not even consider any consultations with other groups of civil society. The experiences from the previous round of negotiations of the UNE made it clear for the PP leaders that the negotiations only needed to be undertaken with the private sector. This way, the channels of negotiation between the state and society were once again closed.

In the end, the economic and political institutionalized forces have determined who sits at the negotiation table to discuss taxation: businessmen, mostly male tax experts, and some government officials. The resulting non-progressive tax system skewed against employees (through income tax) and workers (through VAT) is not an accident.

CHAPTER 7: GUATEMALA, WEAK BY DESIGN: CONCLUSIONS

Expanded social participation is a bulwark against corruption, privilege, distortions of development and the abuse of economic and political power to the detriment of society. Therefore, it is an instrument for the eradication of economic, social and political polarization in society (Peace Agreement on Social and Economic Aspects and Agrarian Situation, Guatemala, May 6, 1996, p. I.A.2).

Indeed, the distribution of wealth is too important an issue to be left to economists, sociologists, historians, and philosophers. It is of interest to everyone, and that is a good thing (Piketty, 2014, p. 2).

Through studying failed tax reforms in Guatemala, this thesis has used power resources theory and neo-institutional theory to explain the path dependence of regressive tax institutions in a fragile democratic system. This approach has avoided rigid neo-Weberian assumptions about the state being rational, autonomous, democratic, and legitimate, allowing us to observe and explain other state characteristics (for example, of coopted, dependent or extractive states, with more or less relative autonomy from other elites). Avoiding rigid concepts of the state allows us to understand it as a series of institutions and relations reflecting the continuities and changes between the state, society, and capital.

The main conclusions about the Guatemalan case are as follows:

- In Guatemala (2006-2012) the institutionalization of key sources of instrumental and structural power have prevented key progressive changes to the tax system by two main mechanisms: keeping close control of the elected officials and reproducing social exclusion (in terms of class, gender and ethnicity).
- Consistently, through the three political administrations analyzed, those two mechanisms -namely, cooptation of elected officials and elitist/exclusive tax negotiations - are protected and institutionalized through formal and informal institutions.
 - Formal institutions refer to constitutional padlocks, the political parties financing law, the Court of Constitutionality and other legal mechanisms.

- Documented informal institutions include secret meetings, unreported (illicit) political financing, informal ties with political party leaders, permanent exclusion of subaltern groups, misinformed media campaigns, among other strategies.
- Formal and informal institutions are force multipliers, and some give shape to sources of instrumental power for the economic elites, as discussed in the following sections.
- Structural veto mechanisms (e.g. business lockdowns) are less frequently used, however structural power provides resources which instrumental power. These key resources are: strong organization and cohesion (CACIF), media access, tax expertise, violence, knowledge and knowledge mobilization against taxes and tax reforms.
- Despite being a formal democracy, in Guatemala, elitist tax negotiations and lack of social participation (especially at the level of institutional and policy design) are the most critical constraints on more progressive tax reform outcomes.
 - Lack of popular engagement reinforces weak state responses, state capacities and accountability, as the state responds mostly to the interests of the economic elites.
 - One of the most concerning limitations to broad social participation is the commonly accepted idea that tax discussions are exclusively for tax experts. The myth of tax expertise and the use of high technical knowledge become key mechanisms against broad social participation.
 - Other key resources from the economic elites (such as media access, knowledge and mass mobilization against taxes) are also used to prevent broad social engagement in tax discussions.

Broader conclusions:

- The outcomes of elitist tax negotiations, namely non-progressive tax institutions, are key elements reinforcing and reproducing existing sources of structural power and inequalities. Changing the tax system becomes one of the most fundamental negotiations to fight against inequality in any society.

Further conclusions on how potentially improve tax progressivity:

- These constraints on more progressive tax outcomes could be addressed through broader and more meaningful social participation in tax negotiations. This requires the development of tax literacy, safe and inclusive spaces for tax discussions and tax learning, and transparent information about tax reform processes.

At a theoretical level, some of the contributions of this thesis to tax theory are the following:

- Understanding institutions which regulate and control key negotiation processes, such as tax reforms, is fundamental to understanding the mechanisms of reproduction of power and inequality. However, tax reform processes (negotiations, institutions and stakeholders) cannot be understood separately from the structural factors.
- On the discussion about what is needed, more taxes or more democracy, a nuance is added: Formal political democracies do not guarantee more and better taxation. Broad social participation (popular engagement) in tax negotiations is necessary to tax more, shape better and more just tax systems, and to create more accountable and capable states. Therefore, the causality (according to this particular case) can be rewritten as: more democratic tax negotiations may bring greater and more equitable taxation.

- As proposed by several scholars discussed in chapter 2, tax systems are the outcome of historical and political explanations. This thesis also adds nuance to the idea that deficiencies in developing states' capacities are related to the origin of their rents (i.e. natural resources/strategic rents vs. tax revenues) (e.g. Moore, 2004; Prichard, 2009). Guatemala is a 'tax state' but poor tax revenues and lack of state capacities are mainly explained by institutionalized sources of power and exclusive tax negotiations.

To respond to the research questions stated in chapter 3 and explain how state-society relations define and are defined by power arrangements, this thesis has explored the fundamental role of political institutions and its influence on tax outcomes. The causality observed is self-reinforcing, between political (non-democratic) institutions, stakeholders' agency and negotiation capacity (power), and (non-progressive and apparent in coherent) tax policies. In other words, formal and informal political institutions (more or less democratic) regulate tax decision-making arenas and shape tax decision-making processes (state-society interactions). More specifically, in each formal decision-making arena, such as the National Congress or the Presidential Cabinet, causality flows from historical political decisions and institutionalized sources of instrumental and economic power, conditioning decision-makers' actions (agency) and shaping new policy/institutional outcomes (i.e., tax policy). In the end, these institutionalized decisions also reinforce path dependency.

In Guatemala, since colonial times, structure and agency of the powerful have been fundamental in creating political institutions to dominate and control society using violence as one of its main resources, as proposed by Edelberto Torres-Rivas (2016). This thesis demonstrates that economic elites also exercise their agency through non-democratic political institutions (e.g., the Constitution) through which they have created and protected elitist spaces for negotiation and

decision-making. Those elitist and non-democratic decision-making processes have allowed the creation of other non-democratic institutions to protect privileges and maintain the status quo—namely, through regressive tax policies.

In Guatemala, state-society interactions are exclusive state-economic elite interactions, which exclude other forces of civil society. Tax decisions are fundamental because they reproduce and avoid changing existing power arrangements institutionalized through political institutions. By keeping the existing tax institutions and avoiding change, tax bargaining processes reproduce the existing power equilibrium. Tax policies contribute to allocating/accruing resources according to specific economic interests and avoiding redistribution (e.g., through limiting the redistribution of capital and the sources of capital accumulation, such as the income tax). In sum, tax institutions contribute to reproducing the inequality that lies at the heart of the Guatemalan domination system.

This research has validated the main hypothesis stated in the methodological chapter:

Tax institutions in Guatemala reflect non-democratic state-society relations in a particular political and economic system, which shape and reproduce concrete mechanisms to perpetuate inequality. Tax decision-making mechanisms are elitist (regarding rank, class, ethnicity, and “technical” knowledge); they reproduce privileges and impunity for those in power while creating barriers and exclusion for participation for the rest of society (greatly perpetuating gender, ethnicity, and class inequality). Consequently, the existing Guatemalan tax institutions are an expression of inequality and democratic fragility “by design.”

Additionally, as proposed in the methodological chapter, this thesis has shown that:

The type of state which has endured in Guatemala since the transition to democracy in 1985, which, at first glance, seems chaotic and in constant crisis (Schneider, 2014), is actually a state “weak by design,” rooted in the strong political (instrumental) power of the traditional economic elites. This institutional design is characterized by inequality, privileges, and impunity for some groups (lack of the rule of law).

In sum, political institutions (decision-making arenas) favour and protect unequal tax policy negotiations and outcomes. The following sections discuss the main findings and respond to the initial questions posed by this doctoral research.

Guatemala: Structural and Instrumental Power

In Guatemala, the negotiation of tax policies demonstrated that sources of instrumental (political) power are more relevant than sources of structural power (economic) for economic elites to veto tax policies. The analyzed periods of negotiation, which refer to one long reform process, showed that the economic power of the Guatemalan elites is strongly linked to, and institutionalized through, their political power. Instead of referring to productive investments or capital flight, concerted economic-political actions against taxes by the economic elites mean two basic strategies: lock-outs (*huelgas patronales*) and (legal and illegal) financial support to political parties. The first strategy, business lockouts, has a more structural character, which impacts the economic system, especially the working classes. The second strategy is linked to money as a resource that enhances political power. However, it is a resource that emanates from the structural economic differences and that is strongly institutionalized through the political parties' system (i.e., Political Parties Law, including the political parties financing and the weakness of the rule of law and the judicial system).

The most important characteristic of the instrumental sources of power is its high degree of institutionalization (for example, when compared to previously studied cases such as Argentina, Chile, and Bolivia, see Fairfield, 2015). The most solid example is the design of the “democratic” Constitution of the Republic adopted in 1985, under military rule, without the participation of the opposition (which was fighting a guerrilla war at the time). The Guatemalan Constitution prevents any fiscal reform that may strengthen or give more power to the state. Private property is protected

by the Constitution, even above the common good. Another fundamental example is the formal and informal institutionalization of political parties' campaign financing. The documented weaknesses of the party system, the design of the political parties' laws, the limited rule of law, and the expensive political campaigns allow the private monies to control elected officials and policy decision-makers through campaign debts. These debts are transformed into political favours, which have influenced the political agenda, in this case, the fiscal agenda.

The financing of political campaigns appeared to be the strongest source of instrumental and structural power for the economic elites. At the same time, it also appeared to be a destructive institution, harming democracy and the rule of law. On the side of formal institutions, this practice highly determines the political parties' life, lack of democratization, party coherence, and discipline, among others, as shown in the case of the UNE and PP. While on the side of informal institutions, this mechanism—campaign financing—represents, sustains, and “enforces” informal institutions (according to Helmke & Levitsky's definition, 2006) in several manners. For example, as a facilitator of other informal practices, when campaign money enables secret meetings and open access to the presidential and legislators' offices, according to the terms of the economic sponsors. Another way that money facilitates informal institutions, which has been systematically shown in the previous chapters, is as a source of illicit practices when campaign money comes from unclear, undeclared, or illicit sources (e.g., organized crime or money laundering).⁹² In other words, campaign money (licit or illicit) establishes political debts between the powerful financiers and the decision-makers, and creates informal channels to keep the communication between those two groups, current and open—facilitating veto strategies.

⁹² Another manner could be as an informal/legal avoidance practice when financial support is not registered and not declared (or underdeclared) to the electoral authorities (a topic beyond this thesis, but clearly outlined through the document).

The economic structure and strong institutionalization of the political power of the economic elites explains the asymmetry in the correlation of forces between them, the state, and other sectors of society. On the one hand, the structural and instrumental sources of power have explained the power of the economic elites to threaten the government with strikes and lockouts, (*huelgas patronales*) but mostly with withdrawing political campaign financing when opposing tax policies. On the other, the long-term and strong institutionalized forces of the economic elites have shown its strength when compared to the low institutionalization and weakness of the political parties and the low autonomy, campaign interests, and lack of social agendas of the elected officials. In other words, economic resources (and lack of them) have determined the strength of the political institutions of the economic elites and the weakness of the government. As demonstrated in Chapter 6, the CACIF's support structure is highly institutionalized, such as its own organizational structure, the chambers, the private financial support to political parties, the private media, the tax expertise (including specific organizations and think tanks), and the direct access to the presidential office and congress. Additionally, state institutions support the power of these economic elites. Furthermore, all these institutionalized practices have supported permanent ideological media campaigns, characterized for their anti-government, anti-tax discourses, which have also impacted the fragmented organizations of civil society.

The sources of power and correlation of forces were slightly different during the three tax negotiation periods analyzed by this research. The most constant informal institutions and resources were the main determinants of the veto capacity of the economic elites, namely: the financing of the political campaigns; the informal ties and the secret consultation with policymakers; and the strong cohesion, access to money, expertise, and media. For example, during the tax reform approval in 2012, the correlation of power had slightly and momentarily

changed in favour of the newly elected PP government. This momentary change was explained by the characteristics of the political party leaders and the electoral dynamics: strong formal consultations between the PP and CACIF; solid support from the economic elites for the new government; and a strong autonomous presidential office with a coherent, disciplined, and efficient political party (see Table 8). However, all these sources of power were quickly modified (in a few months) given the political debt from all the party elected officials to their campaign financiers, and through the use of a complex set of resources by the economic elites. Among those resources, there was: a fast reaction with strong cohesion and solid tax and legal expertise, including access to the Constitutional Court, media access, threats (verbal violence), and money to pay for all those resources. Despite that, CACIF's legal actions were not as concerted as they were on previous occasions. The opposition was clearly expressed in a cohesive way (see Table 9), attacking the key anti-privilege and most progressive elements of the law.

In the following sections, tables 6, 7, 8, and 9 show the main sources of the economic elites' power, represented by CACIF and institutionalized through a series of formal and informal institutions. These institutions favoured the relationships between the economic elites and the policymakers in the executive and legislative arenas (or other specific decision-making spaces, i.e., the PGFD). Additionally, these institutions also contributed to determining the possibilities or impossibilities of participation for civil society (through either non-business-related social organizations and social movements). Alongside the formal and informal institutions, there were key resources, most of them highly institutionalized, which also enhanced the power and negotiation capacities of the economic elites to deal with policymakers and, sometimes, the rest of civil society. The following sections discuss and compare the differences among each presidential

period and among the three main stakeholders (economic elites, government, and civil society) according to the variables discussed in the methodological chapter and summarized in each table.

Guatemalan Civil Society and Inequality

The tax negotiations in Guatemala told us a story of inequality at different levels and from different perspectives, in terms of economic inequality, lack of tax knowledge, and ethnic and gendered inequality. The unbalanced and patriarchal gender and ethnic relations are shown at the negotiation tables between the economic elites and the decision-makers, and they illustrate how power is held and exercised in Guatemala. For example, during the PP-CACIF negotiations, most of the government and all of the private sector negotiators and “technical experts” were men (non-indigenous). These high-level expert circles reflect the endurance of gendered and racist power relations and patriarchy at the highest levels of the Guatemalan society, namely the state and the private sectors. This characteristic is even more relevant when contrasted with the fact that around 51% of the Guatemalan population is female and more than 40% of the total population constitute the indigenous peoples (WB and official data, 2018). Therefore, tax negotiations have been elitist spaces, reserved for male and non-indigenous economic elites, elected officials, and tax experts (with few exceptions).

Echoing previous studies, this thesis has shown that civil society has been barely present in the tax bargaining processes. However, beyond arguments such as weakness, lack of organization, articulation, and expertise of the non-business civil society, these pages have shown that the capacity of civil society and social movements to participate in the tax negotiations has not been static. Civil society’s capacities have changed over time, they have been strongly boosted and promoted after the Peace Agreements signature and severely weakened and diminished after

the consequent and persistent failures of the Peace Agreements commitments as discussed in Chapter 4; hence, the importance of understanding violence and fragility in a post-conflict state.

The disenchantment of the organized social forces with the promises of democracy and peace contributed to its fragmentation and polarization, causing the most radical groups to distance themselves from the state and its policies. The lack of state capacities, services, public policies, and state resources and the persistent corruption and non-accountability of the elected and public officials provide serious and strong arguments to mistrust the government and adopt anti-tax postures. However, ironically, the anti-state discourse of some of the most radical social movements has inadvertently supported the most conservative agenda of the economic elites and the libertarian groups: no taxes and a minimum state. (Strong anti-state fights hypothetically would reinforce a vicious cycle: the disenchantment and search for more ethical ways of participation of many social movements and social representatives who did not find echo and solutions through state policies and then fight against the state.) In the end, the anti-state fights have also missed the opportunity to build a stronger democratic state.

Thus, the economic and political institutionalized forces have determined who sits at the negotiation table to discuss taxation: businessmen, mostly male tax experts, and some government officials. The non-progressive tax burden is skewed towards the employees (through income tax) and workers (through VAT). Inequality is not a coincidence, the fiscal system is designed to accrue resources from a reduced number of contributors, not the enterprises, but the working middle classes. It is those paying income tax and VAT who support and finance the state and its policies, leaving out the well-off economic groups (corporations, *maquilas*, private foundations) and the big informal markets (including the “legal” pretending exporters). The voluntary royalties paid by the mining companies is a good example of this disparity.

The real forces that can counteract the power of the economic elites, the social forces, have been kept aside and sometimes partially mobilized (sometimes misinformed or manipulated). The mobilization in favour or against tax policies has been led by CACIF and the private media, the political parties, or in an autonomous manner. Nonetheless, the example provided by the mobilization of mayors and teachers by the UNE party, during the “little reform” negotiations in 2010, showed the dormant power of more autonomous and authentic social forces. The desperate measures that moved the Ministry of Finance to demand open support from the mayors and local communities, during the UNE government, are clear examples that political will and open discussions can awaken powerful social forces. However, this experience also showed that formation, capacity building, informed discussions, and basic knowledge is needed to allow the participation of civil society representatives beyond traditional misinformed and manipulation campaigns. Education and open discussions about taxation are fundamental for the advancement and development of Guatemalan society—and any society.

**Table 6: State-Society Relations: Stakeholders and Sources of Instrumental power
2006–2008—GPF (Agenda Setting)**
(Sources of power categories* adapted from Fairfield, 2015, pp. 28–42)

Agent		Economic Elites	State Representatives GPF	Civil Society
Institution				
Institution Type	Sources of Power Type & Definition	Levels of Power	Conditioned Response	Countervailing Power
Relationships with Policymakers		–High –Low	–Electoral interests –Rent-seeking Autonomous/response –PP discipline	–Participation (high/low) Absence/indifference –Exclusion
Formal Institutions	Formal consultations*	N/A	High (Autonomy)	Low
	linkages* to GPF	High	Low (to GANA) High (to CACIF)	High/Low
	Election public office*	High	Low (no links to executive office/ appointed by legislative)	N/A
	Recruitment GPF*	High	High (legitimacy from expertise)	Low (CNAP)
	Political financing/debts (accountable)	N/A	N/A	N/A
Informal Institutions	Campaign financing/debts (non-declared/illegal)	N/A	N/A	N/A
	Informal ties (includes family)	High	Low (to most members) High (SAT/Finance)	Low (to some experts)
	Informal/secret consultations	High	High	Low
	Normalized gender and ethnic relations (experts)	G: low E:exclusion	G: low E: low	G: low E: low
Resources		–High –Low	–Electoral interests –Rent-seeking Autonomous/response	–Participation (high/low) Absence/indifference –Exclusion
Formalized Institutions	Cohesion*	High	Low	Low
	Expertise*	High	High	Low
	Media Access*	High	Low	N/A
	Money*	High	High–Autonomy (IDB/IMF)	N/A
	Violence/threats	N/A	N/A	N/A
(Negotiations)	Speed	Slow	High (internal)	N/A

Comparing Sources of Power During Different Government Periods

Table 8 summarizes the sources and levels of power of the economic elites in 2012 during the tax reform approval discussed in Chapter 6. Some important institutionalized sources of power were the formal consultations, which had started as informal, and semi-secret meetings, before the official investiture of the new president. Although these meetings were open and friendly, responding to the terms of the new president, they did not last enough and limited the possibilities of the economic elites to express their true opposition and discomfort with the tax proposal. While the CACIF representatives were welcoming the new government and trying to delay and push forward the tax negotiations (as had happened many times before), the PP policymakers were getting ready and aligning forces to present and approve the reform in record time. The strength of the PP came from the real and perceived fact that the economic elites were campaign allies and supporters of the new government. This perception was strengthened by the autonomous political will, determination, and leadership of the party leaders, the party discipline, and the alliance with the biggest opposition party, UNE.

Comparing how the formal consultations worked as sources of power for the economic elites during other governments, it is possible to say that the combination of circumstances in 2012 was rare and unusual. For example, in 2006–2007 during the GPFD discussions, CACIF never participated formally in any consultation. However, the private sector was kept informed about the “technical” discussions by some like-minded tax experts participating in the GPFD. The original GPFD proposal—the initial agenda—omitted certain problematic topics discussed by the group to avoid direct opposition from the economic elites.

**Table 7: State-Society Relations: Stakeholders and Sources of Instrumental Power
2008–2011—UNE’s Failed Tax Reform Process**
(Sources of power categories* adapted from Fairfield, 2015, pp. 28–42)

Agent		Economic Elites Trad/Emrg	Government Representatives UNE	Organized cCvil Society
Institution				
Institution Type	Sources of Power Type & Definition	Levels of Power	Conditioned Response	Countervailing Power
Relationships with Policymakers		–High –Low	–Electoral interests –Rent-seeking Autonomous/response –PP discipline	–Participation (high/low) Absence/indifference –Exclusion
Formal Institutions	Formal consultations*	High	High (E, A)	Low
	Partisan linkages* (transparent)	Low (Trad) High (Emrg)	Low (party strength-coherence)	Low
	Election public office*	Low (Trad) High (Emrg)	High (legitimacy-initial) Low (anti-gov campaign)	Low
	Recruitment Government*	Low (Trad) High (Emrg)	Low (PP discipline)	Low
	Political financing/debts (accountable)	Low (Trad) High (Emrg)	High (E, R, PP) (Colom, Torres & legislators)	N/A
Informal Institutions	Campaign financing/debts (non-declared/illegal)	High	High (E, R, PP) (Colom, Torres & legislators)	N/A
	Informal ties (includes family)	High (Emrg)	High (also creating tensions)	Low
	Informal/secret consultations	High	High (hidden/contradictory actions)	Exclusion
	Normalized gender and ethnic relations	G: Low–unequal E: Exclusion	G: High E: Low	G: low E: low
Resources		–High –Low	–Electoral interests –Rent-seeking Autonomous/response	–Participation (high/low) Absence/indifference –Exclusion
Formalized Institutions	Cohesion*	High	Low (PP)	Low
	Expertise*	High	High	Low
	Media Access*	High	Low	N/A
	Money*	High	Low (seeking resources)	N/A
	Violence/threats	Low/High (verbal)	N/A	N/A
Negotiations	Speed	slow	slow	N/A

Additionally, just before the appointment of the GPF members, the partial and pro-business reforms proposed by the GANA government had taken place, granting more negotiation spaces and tax benefits to the economic sectors. Differently, during the UNE government, the Ministry of Finance created a strategy to open formal spaces to consult and negotiate with the economic elites, respecting the terms of the latter. Despite the tensions and opposition between the government and CACIF, and also because of those tensions, CACIF used those formal consultation spaces to oppose, delay, and negotiate new terms for the tax reforms. These formal consultations were key to allowing an early veto and defeat of the tax reforms, before they were presented to the National Congress. Finally, after 2012, during the reversal and partial derogation of the tax reforms, the formal consultations between the economic elites and the presidential office had ceased; instead, more active informal and individual negotiations with the elected officials (i.e., legislators) and the courts' system were key to vetoing the new law.

As proposed by Tasha Fairfield (2015) and other scholars (e.g., Korpi, 1985; Hacker & Pierson, 2002), the process of agenda formulation is a key moment to observe the influence of the economic elites on policymakers at the inception of a tax reform initiative. The discussions and tax proposal that emerged from the Group for the Promotion of the Fiscal Dialogue (GPF), analyzed in Chapter 4, provide solid evidence that the main guidance to the content of the reform was provided by the Socio-Economic Peace Agreement, the Fiscal Pact, and the tax expertise of its members, including the IDB experts (and IDB recommendations). However, this process also showed that the policymakers were concerned and informed about the economic elites' tax preferences (and favouring a pro-market tax agenda). These concerns led to the elimination of several issues (such as property taxes and world income taxes) to avoid open confrontations with these groups, creating a relatively less progressive tax agenda. Additionally, the GPF discussed

serious political strategies to prepare for difficult negotiations over the proposal. However, they were mainly concerned about negotiations with CACIF and government officials. Although the attempted progressivity of the law and the previously failed reforms can explain these concerns about the opposition and veto power of the economic elites, the absence of broad social forces society can also show a main weakness in the process. The consultations with civil society were minimal, and the negotiations nonexistent during the agenda formulation process and over five years of tax bargaining processes and two presidential periods.

In terms of partisan linkages, the PP had some entrepreneurs among its members, and some became elected officials; however, one of the main characteristics of the party was its relatively strong discipline and coherence. This initial discipline, linked to the strong party leadership, provided a high degree of (perceived) relative autonomy to the party. However, this party discipline was visible only during its time as an opposition party and at the beginning of their presidential mandate. That would change immediately after the approval of the 2012 reform with the opposition from the economic sectors. Contrasting the partisan linkages as sources of power for the economic elites during other presidential periods, those were completely different during the UNE government when their relationships were antagonistic. However, the close relationship between the UNE party and the *maquila* sector and emerging economic groups provided a different and complex source of economic support (and dependence) to the party. As Chapter 5 showed, some of the clear coincidences and links between the emerging and traditional sectors were expressed by their anti-tax positions.

Additionally, the UNE was constantly negotiating with the traditional private sector to create some spaces for consensus and governance. These efforts created different types of links and relationships between UNE and CACIF, able to destabilize and veto the UNE tax reforms.

This experience contrasted strongly with the CACIF-GANA partisan links, election, and recruitment to government. During that time, it was easy to observe the pro-business character and links of the party members. Interestingly, although CACIF was formally absent from the GPFDF creation and initial discussions, a few members close to the economic elites had been present at the heart of the GPFDF discussions and agenda-setting, among the tax experts, from the beginning.

During the PP and UNE governments, the formal partisan links, election to public office, and recruitment to the government of CACIF representatives were weak compared to the GANA government. However, the real strength of the links between CACIF and the PP government existed through the financing of the political party and the electoral campaigns. Similarly, even though the UNE was not openly linked to CACIF through campaign donations, its dependence on the emerging economic sectors and other groups' (including illicit) money also made this administration vulnerable, with low relative autonomy from private capital. Given nature, lack of controls, and under-declaration of campaign contributions, as well as their un-clear origin (licit or illicit), the political campaign financing has been categorized as a formal and informal institution in the analytic tables (6, 7, 8, and 9). As demonstrated by this thesis (and coherent with some of my previous publications), political financing has been the defining element to persuade elected officials, presidents, and congress members, to reject, change, abort, or veto tax laws. Campaign money has been a key element reinforcing informal ties between private groups and the political parties. In all the studied periods, these informal links were constant. Additionally, they also facilitated and promoted informal and secret consultations between CACIF representatives and government decision-makers, among other phenomena.

**Table 8: State-Society Relations: Stakeholders and Sources of Instrumental Power
2012—PP’s Tax Reform Process (APPROVAL)**
(Sources of power categories* adapted from Fairfield, 2015, pp. 28–42)

Agent		Economic Elites	Government Representatives PP	Civil Society
Institution				
Institution Type	Sources of Power Type & Definition	Levels of Power	Conditioned Response	Countervailing Power
Relationships with Policymakers		–High –Low	–Electoral interests –Rent-seeking Autonomous/response –PP discipline	–Participation (high/low) Absence/indifference –Exclusion
Formal Institutions	Formal consultations*	High	High (E, A)	Exclusion
	Partisan linkages* (transparent)	High	High (party strength)	Absent (populism)
	Election public office*	Low	High (legitimacy)	Absence
	Recruitment Government*	Low	High (PP discipline)	Absence
	Political financing/debts (accountable)	High	High (E, R, PP)	N/A
Informal Institutions	Campaign financing/debts (non-declared/illegal)	High	High (E, R, PP)	N/A
	Informal ties (includes family)	High	High (plus PP)	Absence (mistrust civil war)
	Informal/secret consultations	High	Low (open actions)	Exclusion
	Normalized gender and ethnic relations	G: Low–unequal E: Exclusion	G: Middle E: Exclusion	N/A
Resources		–High –Low	–Electoral interests –Rent-seeking Autonomous/response	–Participation (high/low) Absence/indifference –Exclusion
Formalized institutions	Cohesion*	High	High (PP)	Low
	Expertise*	High	High	Low
	Media Access*	High (slow)	High (timing)	Absence
	Money*	High	High (illegal/transferred)	N/A
	Violence/threats	N/A	N/A	N/A
(Negotiations)	Speed	Low	High	N/A

During each presidential period, there were constant resources that allowed the economic elites to exercise their power and institutionalize certain political (instrumental) sources of power. Those resources were: money; economic elites' cohesion, tax, and legal expertise; media access; and negotiation and reaction speed. Violence (and threats) was also included in this list. Each of these resources appeared in each bargaining process and are also underlined along the different sections of this chapter. The use of violence is a recurrent historical resource for the state, but it has also served the purposes of the economic elites and has benefited them directly or indirectly since colonial times. However, given the high degree of unsolved crimes and impunity in Guatemala, it is extremely difficult to prove direct links or benefits from violence to any particular group.

Notwithstanding, violence is still a widely used recourse with unclear links to economic resources, corrupted forces, organized crime, drug dealers, and bad politicians. In any case, it is widely used in political battles. For example, the Rosenberg case, during the UNE administration, is an extreme example of how violence can destabilize and mobilize against “unwanted” governments and politicians. Similarly, all the corruption scandals linking illicit campaign sources with elected politicians unveil other stories of political violence during the political campaigns (e.g., murders). For this research, however, the only violence addressed are the open threats and opposition between the economic elites and the government, to illustrate antagonistic and tense relationships. This perspective is limited for such a serious topic; however, a different research process would be needed to address this issue—a research agenda that might be pursued in less risky times.

Chapter 4 highlighted the importance of a process of fear and domination through violence and legal mechanisms in a context of racial, ethnic, gendered, and economic inequality. The

transition to a democratic political regime happened amidst violence, civil war, mistrust, and tensions between the state and the economic elites, with limited or null participation from other sectors of society. Strict new constitutional “democratic” rules were now protecting the economic elites, in the detriment of a long-term violent and increasingly poor state. The new constitutional rules, now without the strong military controls, changed the correlation of forces in favour of the most empowered economic groups. However, since colonial times, a violent state had been fundamental to protecting the economic and political interests of the economic elites, and now, in a democratic system, new “legal” ways to protect those interests had been institutionalized. However, violence also got off state boundaries through black markets, illicit practices, and organized crime, bringing new challenges to the new “democratic” political system. There was a mix of new democratic circumstances and the continuity of old veto strategies (i.e., business lockouts, threats, attempted coup d’état, among others). Many of the resources and (economic and political) sources of power of the economic elites had been institutionalized through the new democratic laws (such as the financing of political parties), while other ways continued and expanded through informal channels (such as the secret negotiations or the use of threats). According to the neo-institutional approach, all this has forged a path-dependence from constitutional “padlocks” to systematically failed tax negotiations (and growing corrupted practices).

**Table 9: State-Society Relations: Stakeholders and Sources of Instrumental Power
2012—PP’s Tax Reform Process (INVALIDATION)**
(Sources of power categories* adapted from Fairfield, 2015, pp. 28–42)

Agent		Economic Elites	Government Representatives PP	Civil Society
Institution				
Institution Type	Sources of Power Type & Definition	Levels of Power	Conditioned Response	Countervailing Power
Relationships with Policymakers		–High –Low	–Electoral interests –Rent-seeking Autonomous/response –PP discipline	–Participation (high/low) Absence/indifference –Exclusion
Formal Institutions	Formal consultations*	Low	High (E, A) (Reversal of decisions)	Exclusion
	Partisan linkages* (transparent)	High	Low (party strength)	Absent (populism)
	Election public office*	Low	High	Absence
	Recruitment Government*	Low	High (PP fragmentation)	Absence
	Political financing/debts (accountable)	High	High (E, R, PP)	N/A
Informal Institutions	Campaign financing/debts (non-declared/illegal)	High	High (E, R, PP)	N/A
	Informal ties (includes family)	High	High (plus PP)	Absence (mistrust civil war)
	Informal/secret consultations	High	Low (reaction)	Exclusion
	Normalized gender and ethnic relations	G: Low–unequal E: Exclusion	G: Middle E: Exclusion	In counteractions: G: low E: low
Resources		–High –Low	–Electoral interests –Rent-seeking Autonomous/response	–Participation (high/low) Absence/indifference –Exclusion
Formalized Institutions	Cohesion*	High	Low (PP)	Low (reaction of High some groups)
	Expertise*	High	Low (negotiators)	Low
	Media Access*	High	Low	Low (Vehicle’s law)
	Money*	High	High (illegal/transferred)	N/A
	Violence/threats	Low(verbal)	N/A	N/A
	Legal expertise & Courts Access	High	Low (slow)	N/A High (some groups)
Negotiations	Speed	High	High	N/A

Agency and Institutions: UNE's Electoral Interests and Party Weakness

The tax negotiations that took place during the UNE government, analyzed in Chapter 5, provide the best example of how personal interests and political agendas of party leaders (shaped partially by economic and social circumstances) were also determinants of the outcomes of tax negotiations—surpassing formal rules related to party and congress institutions, most of the time. The lack of institutionalization and respect for the existing political institutions, which provide the arenas for decision-making, were twisted at will by elected officials and political representatives of the economic elites alike, to favour their interests. For example, Sandra Torres contradicting Alvaro Colom's instructions to legislators during the final approval of the 2010 budget in Congress is a good example of the clashing of strong agency and weak political institutions (i.e., government agenda, party discipline, coherence, ideology, among others). Besides the strong opposition from CACIF, the personal interests of the presidential duo (Colom and Torres) and the cabinet, and the lack of party direction impeded the Ministry of Finance and his team to negotiate and present the tax bill at a quick pace to Congress. Once in Congress, the lack of political will and the campaign interests were stronger than any national budgetary needs. (In the end, the lack of budget was solved, as usual, with national and international loans, without affecting (personal) political campaign commitments). After all, the tax reforms had not been included or discussed in the presidential campaign and there were no formal commitments toward the issue, except Minister Fuentes Knight and his team's commitments—a matter of political will, after all.

The clashing of strong personal agendas (agency) and weak political institutions (such as the political parties) in the legislative battles caused incoherent political decisions, poor institutional outcomes, and some exceptional achievements. Notwithstanding the critical situation, the need for resources, the insistence of the Ministry of Finance team, and a critical alignment of

forces in Congress (while the PP representatives were absent) favoured the approval of a partial income tax bill—the ISO law—during the UNE government. This approval, without the support of the economic elites, added more tensions to the existing opposition and mistrust between the UNE government and the economic elites (and their political allies—their sponsored elected legislators). It is also important to mention that, besides its many flaws and corruption scandals, at that particular moment, only a political party non-dependent from and opposed to the traditional economic elites' interests could have passed a permanent partial income tax bill. This experience was completely different from the previous pro-business governments (such as the GANA government, discussed in Chapter 4) which had negotiated and agreed on temporary taxes with the economic elites, providing more leverage to the latter to negotiate and influence the government budget. In this case, the fundamental importance of who finances political parties, the relative autonomy of the decision-makers, the leadership of the negotiators, and their abilities to forge alliances appeared as fundamental abilities to negotiating and approving the tax law.

The formal and informal institutionalized practices in Congress also appeared either as mechanisms to expedite approvals of any reform or to block, change, or nullify bills. More than lack of ability or knowledge of congress representatives, these pages have shown great political abilities and knowledge, but a lack of political will, commitment and (moral) responsibility. Bargaining outcomes were greatly determined by personal interests and motives of congress deputies. (Maybe in some few cases we can doubt the actual knowledge of congressmen/women about the implications of their legislative decisions). These experiences at the legislative arena would repeat during the Patriot administration and the approval process of the tax bill.

The UNE party was lacking, in practice and on paper, a unified and coherent agenda. The government goals were divided between social, electoral, and personal interests, spread among the

executive power, the cabinet, the first lady, the congressmen, and the party donors—specifically the emerging private sector, also part the government. The fierce opposition of the traditional private sectors and the right-wing parties completely disrupted UNE’s already inconsistent agenda. Additionally, the president’s indecisive actions contributed to weakening any support from the wide civil society and misused the opportunity to take advantage of the support provided by the international financial institutions.

The fierce rejection and opposition of the economic elites to the Colom administration had historical and ideological roots but, most importantly, were based on pragmatic and perceived ancient fears (discussed in Chapter 4): fears toward any left-leaning or social ideologies that could awaken a long-term repressed people—a threat to the rule of a small oligarchic elite; the fear of an educated, participative, and democratic people.

The PP Tax Reform: Political Will Vs. Institutionalized Veto Power

The PP’s change of position, from fiercely rejecting the tax bill to urgently approving it during the first 100 days of their government, provides several important lessons. The informal relations and pragmatic (political and economic) interests took relevance over the formal institutionalized channels of communication. In other words, informal institutions and agency interplayed to respond to particular objectives, showing the existence and potentiality of strong political will, which, as in the case of the UNE government, was only limited by the economic elites’ veto power.

In this more efficient and expedited negotiations, secrecy and non-disclosure also appeared as relevant mechanisms to building trust and commitment between the political parties (UNE and PP), even bypassing the economic elites’ interests. The alignment of circumstances during the approval of the comprehensive tax reform by the PP government documents the importance of political will, agency, and (formal and informal) institutions to advance tax reforms in Guatemala.

The personal interests and political will of the party leaders allowed the political parties' agreement and discipline in congress and facilitated the fast and easy approval of a complex tax law. This experience proved that informal institutions and personal decisions (agency) played and continue to play a major role in Guatemala's politics. However, on the side of policy recommendations, those experiences also highlighted the fundamental need to institutionalize some informal practices, such as party coherence, party discipline, content and knowledge-based negotiations, socialization and understanding of the policy proposals, and open legislative discussions independent from secret sectorial negotiations, among others.

Although President Pérez and Minister Centeno made informed decisions about the tax negotiations, their main mistakes may have resulted from false perceptions and miscalculations. These miscalculations were related to the power and autonomy of the government, the changing support of the economic elites, the fundamental importance of the opposition to (income) taxes in the ideology of the economic groups (at large), and the relative electoral legitimacy from their supporters. This last point is fundamental when dealing with taxes, a topic which was not openly discussed during the electoral campaign—tax negotiations were secret—so tax information was easily manipulated by the private sectors and private media, given the lack of tax knowledge among the voters.

Alongside the political hits and misses, the outcomes of the tax negotiations were determined by the economic elites' actions, before, during, and after the negotiation period. Before and during the tax negotiations, either through secret meetings or open press releases, the G-8 and CACIF representatives showed their inconformity with any income tax law. Additionally, different economic groups continued to pressure the legislators to get more specific laws and tax exemptions (for example, the television and the telephone laws discussed in Chapters 5 and 6). Despite the PP

law approval, the economic elites kept a coherent agenda of rejecting and vetoing any income tax-related initiative.

Although a detailed analysis of the 2012 law showed a regressive tax law still granting exemptions and privileges to big companies, a more efficient system and new taxes represented a threat for the economic sectors. The law created a new income tax system, correcting the pre-existing system and tightening controls over taxpayers, including companies and corporations. Despite granting more privileges to the big companies, the new law affected middle and small-sized companies, including private schools and universities. As discussed in Chapter 6, establishing controls over medium and small-sized companies also had an impact on big companies, and corporations, especially those practicing tax avoidance and fraud through price transfers or breaking rent through smaller enterprises. In the end, the tax reform was inconvenient and unacceptable for many economic groups and the economic elites, and its inconformity was expressed through a series of legal battles at the Constitutional Court.

The anti-tax battles at the Constitutional Court were not new, as discussed in Chapter 4. The economic elites had previously proved their institutionalized veto power through the Constitutional rules as their last resort. The appeals and legal actions in 2012 resulted in a weaker law, diminishing the modest advances and progressivity of the reform. The Constitutional Court dismissed several articles as unconstitutional, creating a more complex law without enforcement capacity. In other words, the resulting law left many loopholes and potential areas for avoidance and evasion (e.g., the differentiated income tax regimes), disincentivizing tax compliance, and without an administrative body capable of deterrence and efficient disciplinary mechanisms.

Furthermore, when the legal battle at the Constitutional Court started, the president and the Congress, dominated by the PP, decided to step back from the reform. These actions were a

response to the private sector's pressure and the opposition from society. An urgent Decree (1-2013) granted a general tax amnesty to taxpayers, eliminating the possibility of collecting more tax revenues, thus defeating the main objective of the reform. The Decree reduced any tax debt (from 10 to 5%) and discounted 50% to the annual tax on vehicles in circulation. Ironically, even before the rulings of the Constitutional Court, the tax increase on vehicles' registration had been neutralized.

An important opportunity to create coherent policies to regulate carbon emissions had been lost with the invalidation of the tax on vehicles. The unrest and disagreement with the law by vehicle importers and middle classes was understandable, given that those issues were never discussed with these groups. Once more, lack of information and biased media campaigns were able to mobilize some social groups against potential solutions to pressing problems in Guatemalan society, such as taxes, traffic, and environmental issues.

The battle to abrogate the tax reforms also extended and returned to Congress. The negotiation of the counter-reform in Congress opened the door to the most traditional economic sectors to exert more pressure on legislators to obtain more tax exemptions. The stepping back from the PP government and the battles in Congress ended up weakening the party's discipline and favoured the agenda of the economic elites. Once more, the direct negotiation with Congress members allowed for political campaigns and personal interests to dictate policy outcomes, beyond state policies. Additionally, these negotiations and fractures in the National Congress also broke the PP-UNE tax alliance.

From a neo-institutional theory perspective, the lack of clarity and the impossibility to enforce the new law favoured a situation where the opportunity costs of transgressing the law are low and, as a result, there are few incentives to fulfilling the law—a free-rider situation. The

incentives to trespass the law are bigger for the taxpayers with more taxes at stake, who would gain more from tax avoidance, despite the possibility of long legal battles with tax authorities. As a result, enforcing the existing regulations is a key element for minimum compliance.

Despite the good intentions from elected government officials, among all stakeholders, only CACIF has been able to maintain a coherent agenda, keeping its privileges (i.e., tax exemptions or no taxes) and preventing major changes that may affect their interests (i.e., redistribution and tax progressivity).

Tax Knowledge and the Dormant Power of Civil Society

Technical knowledge and tax expertise can work as leverage for democracy or as a tool for exclusion. The previous pages have shown that the discussion of taxes is a political matter for which knowledge and clear and open information are necessary. However, basic knowledge can be sufficient to discuss and negotiate tax issues while avoiding the exclusion supported by exclusive “technical” negotiations.

For example, the different issues reformed through Decree 10-2012 (many of them repealed that same year) built a regressive tax law that also made the tax changes more vulnerable to the rejection of civil society—especially the formal employees paying taxes under the new regime. For instance, the tax on licences for owners’ first registered land motor vehicle (*primera matricula*—discussed in Chapter 6) was intended to disincentivize the import and acquisition of old cars to reduce carbon emissions. This reform would have directly impacted the low and middle classes who usually buy used cars (generally imported and driven in from the United States—*carros rodados*). These specific issues negatively affected the possibility of passing a more comprehensive and progressive tax law, given the lack of participation, information, and open

discussions with civil society and social movement representatives. The potential benefits of this reform, such as a better public transport system, were never openly discussed or achieved.

Consequently, in Guatemala, it is necessary to promote and facilitate open and informed discussion on why taxes are important, and what types of taxes are fundamental for the existence of more just policies. In the end, the state and civil society need to openly discuss, understand, and share the responsibility—in an equitable manner—to build better tax institutions and social policies. Acknowledging the need to fight corruption and implement transparency is fundamental to improve tax collection. However, it is not enough to advance democratic and social development goals in one of the most unequal and poor states in Latin America.

Additionally, as proposed by Kellermann (2005), when social organization and negotiation capacities are low, a potential outcome of failed policy bargaining processes is exiting negotiations. In the case of citizens, that can represent migrating to other countries. Although the purpose of this thesis did not allow for demonstrating this fact, the high migration numbers in Guatemala are compelling enough to suggest that this is a potential research agenda that would add nuance to the theory on state-society bargaining processes.

Finally, as stated by Acemoglu and Robinson (2012, p. 430) on the idea of states as extractive institutions, “elites dominating extractive institutions fear creative destruction” or innovation, and in Guatemala, as history has shown, democratic participation has been perceived as a threat to order (see Torres-Rivas, 2013). For that reason, the possibility of creating a more progressive tax system also requires the possibility to strengthen the democratic system, eliminating the possibility of state violence and repression.

IFIs, Taxes, and Civil Societies in Developing Countries

This thesis briefly explores the role of another important group of stakeholders present in the process of tax reforms in Guatemala: the international financial institutions (IFIs). Despite their good intentions and support of the fiscal reform process, their methods of providing assistance and results have been mixed and diluted in the domestic power dynamics. Personal relations, political abilities, and technical knowledge proved fundamental to establishing good relationships and support from the IFIs, while poor capacities and selfish interests proved destructive for building positive synergies. The interplay between domestic stakeholders' agency and institutions was fundamental to poor tax reform outcomes. However—different from the time of the fiscal pact negotiations when international cooperation agencies supported the role of civil society—during the UNE administration, the economic expertise and support of the economic agenda provided by the IFIs also, indirectly, contributed to excluding other groups of civil society from participating in building a tax agenda in Guatemala.

The technical, financial, and capacity-building support from the international financial institutions, during the fiscal pact negotiations, were key to the formation of experts and organizational capacities among civil society. This support opened the possibility to wider discussions and proposals from different groups of society, as the fiscal pact negotiations have shown. This financial support to civil society's organizations and social movements was different from other, more permanent financial support to specific think tanks or research institutions with high-profile tax experts. In many cases, these top-profile experts tend to support more orthodox economic perspectives and tax reforms. With a few exceptions, those think tanks end up supporting the non-reform tax agenda of the economic sectors. Several interviewees suggested that the diminishing international support for civil society and social movements shifted towards more

formalized NGOs whose views aligned with those of the private sector. That issue also merits future research.

Broader Conclusions: Implications for Other Fragile Democracies

The findings of this thesis cannot be generalized to other countries; however, they can point us in the right direction towards building more fair and progressive tax systems in poor and fragile democracies. The main conclusion is that democratic institutions matter. Institutions are the key to the existing sources of power that allow powerful economic elites to define and veto tax policies, and which exclude civil society from the tax bargaining process. Therefore, democratic participation, socialization of knowledge, and true state-society interactions are fundamental to reforming and transforming existing tax institutions in contexts of fragility.

This doctoral research complements previous research findings, such as the political will of government officials, which is fundamental but not sufficient to change the tax structures. Sources of structural and instrumental power are key (Fairfield, 2015) to measure and understand the power of the owners of wealth; however, most of these sources of power, especially those institutionalized within the political system, have also been shaped by political and economic stakeholders (agency) and structural conditions. The preferences of the economic elites (Ondetti, 2018) have been shaped by previous experiences with their governments, but also by their economic interests. Their money and other forms of structural power allow this group to shape institutions and perpetuate path dependence.

This thesis also supports the idea that taxation is not itself a positive outcome unless it develops more accountable and stronger states capable of implementing improved service delivery for those who need it (ICTD—Prichard, 2016). Additionally, the evidence presented here also suggests that the previous statement is only one side of the coin, the other side points out at the

importance of the fairness and progressivity of the taxation system per se: who pays taxes, on what, and how much. In other words, raising more taxes is not sufficient if the tax system aggravates inequality and if the taxes collected are not used to promote growth AND justice. The democratic variable remains fundamental to understanding how fair or unfair, unequal or democratic systems prevail at both levels.

In other words, in theory, sources of power can be reshaped and modified through changing specific institutions, such as the tax rules. Positive changes may only happen when there are other stronger (democratic) forces fighting the right battles, with sufficient knowledge (not necessarily expertise) and spaces for negotiation to influence the tax agenda and tax outcomes. More participatory tax negotiations (“disembedded” or with expanded embeddedness, see Evans, 2014; Carroll, 2017) would open the possibility to change the self-reinforcing causality cycle of inequality to a growing democratic and just cycle, with time.

As explained by Winters (2011), it is important to differentiate between the oligarchy and the economic elites. In a more general manner, for the Guatemalan case, it is easier to differentiate between capital and the traditional economic elites. The tax reforms have favoured the free market and international capital investment agendas, eliminating any contributions or responsibilities from the investors towards the working classes and domestic social agendas (see, for example, the *maquila* law, the mining law, the tax on capital gains, or the world income, discussed in Chapter 6). However, more than support to free market and free competition, the tax laws have favoured the creation and preservation of a system of privileges that facilitate capital accumulation and allocation of resources for a few groups—not necessarily those most efficient at market competition, but those better equipped to benefit from the state resources and institutions. The old free-market agenda supported by the financial system and the IFIs in the 1990s has been adapted

to avoid the taxes on capitals and big corporations. As shown in the previous chapters, the exclusive capital accumulation can be favoured through tax exemptions, regressive income taxes, vetoing taxes, benefiting private banks from public debt, and other mechanisms such as government contracts to pay political favours or corrupt government money to finance new political campaigns, among others. As a result, the allocation of resources from the state also denies redistribution and limits capital accumulation for the rest of society. These dynamics create a structure of economic and political domination that has survived thanks to the institutionalization of specific rules, such as the institutions analyzed in this document (political and fiscal).

One of the preliminary conclusions of this research, which also needs further research, is that, despite increasing globalization of economic processes and capital accumulation, the state became more important for national economic elites. The economic elites take advantage of the state to protect their interests against bigger global competitors and disadvantageous rules (i.e., financial, economic, labour). In this sense, the less democratic and less autonomous states, such as Guatemala, would become relevant arenas and relationships to protect the privileges of the local elites resisting (when possible) international stakeholders and local democratic forces. In sum, non-autonomous and non-democratic states become more complex institutions using tax policies to preserve domestic structural privileges that aggravate inequality.

The previous chapters, especially Chapter 6, have demonstrated that other different non-tax laws also regulate the Guatemalan tax system. This interconnection of the laws means that to implement serious and coherent tax reforms, it is not enough to reform the fiscal laws. It is also necessary to reform and harmonize other general laws, such as those related to the justice system, government accountability, and the Constitution, as well as other specific laws such as the *Maquila* Law (Decree 29-89), the Mining Law, and even those related to investment or remittances, among

others. For example, Chapter 6 showed how the tax exemptions established by the *maquila* and mining laws were not modified, while the tax law eliminated certain other exemptions. This situation created a more regressive system for some companies and the Guatemalan society in general (without any clear investment or industrial policy rationale).

The Guatemalan state cannot be characterized as a rational-Weberian state, nor a democratic polyarchy; thus, tax analysis needs to avoid rigid assumptions and prescribed solutions. The problem with a state responsive to the economic interest of the most powerful groups, and which allocates resources according to specific campaign debts and the capacity to coerce, is that it has opened the door for a state captured by licit or illicit capitals, namely economic elites and organized crime networks. The latter topic—corruption—which has not been directly addressed by this thesis, has been a recurrent topic in each chapter and the data collection. Corruption has been presented by highlighting some political scandals and fugitive and incarcerated politicians who directly participated in tax negotiations, among other issues described in this document. These examples, some during the PP administration, have shown that the line between licit and illicit money can be blurry. When there is an absence of clear controls and sanctions, and when there are institutions which facilitate the co-existence of legal and illegal money—or money laundering—there are other institutions which also impact directly tax institutions in disproportionate ways (e.g., bank secrecy, non-controlled off-shore capitals, lack of world income controls, among others). The state needs to be understood in more complex and hybrid ways, where its power and autonomy are defined, touched, or shaped by local and international forces, economic resources, rules, practices, and institutions (e.g., other tax-related institutions corporate taxes, mining taxes, remittances, commercial laws, deterrence penalties, among others).

Another issue, that appeared as fundamental through the evidence, is that corruption and smuggling suggest a direct impact of tax regulations on informal markets. Although informal markets are beyond the scope of this thesis, the relevance of this topic to fight corruption and to create a more progressive and just tax system has been increasingly demonstrated by other studies (e.g., Cimoli, et al., 2006; on the shadow economy see OECD, 2017). This topic, informal markets, is also part of the agenda for the reform of tax systems in developing countries (see Moore & Prichard, 2017). For example, the interviewee quoted in Chapter 6 on corruption in Guatemala's customs reminds us that the tax laws represent a door between the formal and informal market, and the quality of the laws may allow for an open or closed door. In other words, formal and legal enterprises may play fundamental roles in the informal and illegal markets when legal controls are not properly in place or when corruption can easily surpass those controls. For example, in Guatemala, the lack of mechanisms to cross-check the exit and entrance of products through national customs and into other countries facilitates the corruption and bribe of customs officials to document fake exports. In the end, these false exports by "legal" enterprises facilitate the creation of a black and informal market of non-taxed goods. Therefore, the informal markets are also incentivized by the differences between domestic taxation and exempted "exported" goods. Furthermore, the huge tax exemptions for corporations through the *maquila* law also act as incentives for these common corrupted practices to sell in the local market, impacting informal markets directly.

By no means is it suggested here that changing institutional rules would suffice to bring about social equity. As discussed in the theoretical chapter, tax institutions are a product of power interactions. According to Neo-Marxist and critical theory thinkers, changes in the structure of production may trigger changes in the distribution of power and "sometimes the nature of the state

and the authority over the market” (Strange, 1988, p. 62; Cox, 1987). However, as the Guatemalan case has shown, the structure of production has also been strongly influenced by political power and use of violence. This political-economic interaction has created weak economic players, dependent on the state protection, monies, and resources. Therefore, the participation of civil society becomes fundamental to transform the unequal political and economic structure into a more democratic and just order.

This thesis has explored the negotiations and tax reforms from 2006 to 2012. However, it is important to mention that some other minor fiscal reform processes have also occurred after that period, which would require more in-depth research to evaluate any real impact. In general, some minor advances have improved the capacity and controls of the tax administration, while some other exemptions and credits have been granted to certain taxpayers. Nonetheless, the charts and table in the introduction of this thesis show that the tax revenue as a percentage of GDP has slightly decreased after 2012. Additionally, although Table 1 showed a minor, non-relevant change in the tax structure in favour of direct taxation, these changes cannot be explained by the modification of the tax laws alone (e.g., a reduction in VAT declaration). As discussed throughout this document, many other political and economic factors have impacted tax contributions, avoidance, and evasion: the role of CICIG, corruption scandals, the responses of the tax administration (SAT), the change in elected administrations, among others. The socio-political dynamics, then, are fundamental elements to any tax reform.

Tax inequality in Guatemala may change when political participation is wider, and when mechanisms of representation and decision-making are widely democratized by social forces. This idea may contribute to question and nuance the easy prescriptions which pretend to create a fairer tax system by orthodox economic methods. In the end, yes, tax systems are an expression of state-

society interactions. Finally, some key questions for future research projects could be: Who is dictating or negotiating those arrangements? Who is represented at the negotiation table? What is the purpose of taxes and their final use? Who pays and benefits the most? How can taxes contribute to building more fair and richer societies? What is certain, for now, is that in Guatemala, dramatically unequal power relations, biased institutions and problematic fiscal laws have contributed to perpetuating a weak state and an unequal society, by design.

BIBLIOGRAPHY

- Acción Ciudadana. (2012). *¿Cuánto costó la campaña electoral?* Guatemala: Acción Ciudadana - Magna Terra Editores.
- Acemoglu, D. and Robinson, J. A. (2005). *Economic origins of dictatorship and democracy*. Cambridge University Press.
- Acemoglu, D. and Robinson, J. A. (2012). *Why Nations Fail: The Origins of Power, Prosperity, and Poverty*. New York: Crown Publishers.
- Altig, D. and Carlstrom, C. T. (1994). The efficiency and welfare effects of tax reform: Are fewer tax brackets better than more? *Economic Review*, (00130281). 4th Quarter, Vol. 30, Issue 4:30 - 43.
- Altman, D. and Luna, J. P (2012). "Introducción: El Estado latinoamericano en su laberinto." En *Revista de Ciencia Política*, Vol. 32 (3):521 – 543.
- Altomonte, H. J. (s.f.). *Recursos naturales en UNASUR: Situación y tendencias para una agenda de desarrollo regional*.
- Amsden, A. H. (2003). *Beyond late development: Taiwan's upgrading policies*. Cambridge: Cambridge University Press.
- ASIES (2012). *Monografía de Partidos Políticos de Guatemala 2012*. Guatemala: Asociación de Investigación y Estudios Sociales-ASIES, Departamento de Investigaciones Sociopolíticas: Guatemala.
- Aspe, P. (1993). *Economic Transformation the Mexican Way*. Cambridge, MA: MIT Press.
- Barnett, M.; Kim, H.; O'Donnell, M.; Sitea, L. (2007). "Peacebuilding: What Is in a Name?." *Global Governance*. 13: 35–58.
- Barrios, M., Herrera, C. A., & Rodas Martini, P. (1996). *Recientes reformas tributarias en Guatemala: la experiencia externa, las reformas legislativas recientes y las declaraciones de inconstitucionalidad*. Guatemala: ASIES.
- Blanco, L. (04 de April de 2011). *El transfuguismo, una práctica adversa a la democracia*. Plaza Publica. Guatemala, Guatemala, Guatemala: Universidad Rafael Landivar.
- Blankart, C. B., & Fasten, E. R. (2011). "Knut Wicksell's Principle of Just Taxation Revisited." In V. Caspari (Ed.), *The Evolution of Economic Theory. Essays in Honour of Bertram Schefold*. London: Routledge.
- Bobek, D. D.; Chen, J.C.; Hageman, A. M.; Tian, Y. (2016). *Are More Choices Better? An Experimental Investigation of the Effects of Multiple Tax Incentives*. *The Journal of the*

- American Taxation Association, American Accounting Association Vol. 38, No. 2 DOI: 10.2308/atax-51478 Fall 2016 pp. 111–128
- Bolaños, R. M. (14 de July de 2014). Corte de Constitucionalidad elimina 10 reformas fiscales. Prensa Libre.
- Boushey, H.; DeLong, J. B.; Marshall S. (2017). *After Piketty: the agenda for economics and inequality*. Cambridge: Harvard University Press.
- Bräutigam, D.; O. H. Fjeldstad and M. Moore (eds.) (2008). *Taxation and state-building in developing countries: capacity and consent*. Cambridge: Cambridge University Press.
- Brenner, N., Peck, P., and Theodore, N. (2010). Variegated neoliberalization: geographies, modalities, pathways. *Global Networks*, 10(2), 182-222.
- Brett, R. L. (2016). *The origins and dynamics of genocide: political violence in Guatemala*. London: Palgrave Macmillan.
- Cabrera, M. (2012). Análisis de la implementación de la reforma tributaria de Guatemala, 2012. (AEC/11/002).: CEPAL/AECID.
- Cabrera, M.; Lustig, N. and Morán, H. E. (2014). “Fiscal Policy, Inequality, and the Ethnic Divide in Guatemala.” *Commitment to Equity (CEQ) Working Paper Series 20*, Tulane University, Department of Economics.
- Cahill, D. (2014). *The End of Laissez-Faire? On the Durability of Embedded Neoliberalism*. Cheltenham: Edward Elgar Publishing.
- Cahill, D.; L. Edwards, and F. Stillwell (eds.), (2012). *Neoliberalism: Beyond the Free Market* (pp. 110-30). Cheltenham and Northampton, MA: Edward Elgar.
- Camara de Industria de Guatemala. (s.f.). CIG. Recuperado el 19 de March de 2018, de Historia: <http://cig.industriaguatemala.com/institucional/historia/>
- Carment, D. and Samy, Y. (2011). Engaging Fragile States: Closing the Gap between Theory and Policy. *Global Dialogue*. Volume 13, Number 1, Winter/Spring
- Carment, D.; Langlois-Bertrand, S.; Samy, Y.; Assessing state Fragility, With a Focus on Climate Change and Refugees: A 2016 Country Indicators for Foreign Policy Report, www.carleton.ca/cifp
- Carroll, T. & D. S.L. Jarvis (2017). *Asia after the developmental state: disembedding autonomy*. Cambridge: Cambridge University Press.
- Casaús Arzú, M. E. (2007). *Guatemala: linaje y racismo*. Guatemala: FG Editores.

- Chang, Ha-J. (2004). *Globalization, Economic Development and the Role of the State*. London: Zed Books.
- Cheibub, J. A. (1998) Political regimes and the extractive capacity of governments: Taxation in democracies and dictatorships. In *World Politics Journal* Vol 50 (3), pp. 349-376.
- Cheibub, J. A. and A. Przeworski (1999). Democracy, elections, and accountability for economic outcomes. In *Democracy, accountability, and representation Journal* Vol 2. Cambridge: Cambridge University Press.
- Colclough, C. (1991). “Structuralism versus neo-liberalism: an introduction.” In C. Colclough and J. Manor (Eds.) *States or markets? Neo-liberalism and the development policy debate*. Oxford: Clarendon.
- Collier, P. (2007). *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It*. Oxford: Oxford University Press.
- Cornia, G.A. (ed.) (2014). *Falling Inequality in Latin America: Policy Changes and Lessons*. Oxford: Oxford University Press.
- Cornia, G.A; Gómez-Sabañi, J.C. and Martorano. B. (2011). “A New Fiscal Pact, Tax Policy Changes and Income Inequality.” WIDER Working Paper 2011/70. Helsinki: UNU-WIDER.
- Cowen, M. and R. W. Shenton (1996). *Doctrines of Development*. New York: Routledge.
- Cox, R. W. (1976). On Thinking About Future World Order. *World Politics*, 1 January 1976, Vol.28(2), pp.175-196.
- Cox, R. W. (1987) *Production, power, and world order: social forces in the making of history*. New York: Columbia University Press.
- Dahl, R. A. (1991). *Democracy and its Critics*. Yale University Press.
- Dahl, R. A. (2000). *On Democracy*. Yale University Press.
- Del Castillo, G. (2001). Post-Conflict Reconstruction and the Challenge to International Organizations: The Case of El Salvador. *World Development*, Vol. 29, No. 12.
- Deonandan, K., and Ortiz Loaiza, P. (2016). Mining, Taxes and Development in Guatemala: The State and the Marlin Mine. *Latin American Policy*, 288-310.
- Dudley, S. (2018). Public security in private hands: the case of Guatemala’s Carlos Vielman. *Crime, Law and Social Change*, Vol.69((4)), 519-531.

- ECLAC – AECID (2016). *Panorama Fiscal de América Latina y el Caribe. Las finanzas públicas ante el desafío de conciliar austeridad con crecimiento e igualdad*. Santiago de Chile: CEPAL/ECLAC.
- EIU, V. (2018 May 29). *Guatemala economy: Poverty and tax in focus*. New York: The Economist Intelligence Unit N.A., Incorporated.
- ENCOVI (2014). *Encuesta Nacional de Condiciones de Vida*. Guatemala: INE.
- Evans, P. B. (1989). “Predatory, Developmental, and Other Apparatuses: A Comparative Political Economy Perspective on the Third World State.” *Sociological Forum* 4:3 Special Issue (December), 561-587.
- Evans, P. B. (1995). *Embedded Autonomy: States and Industrial Transformation*. Princeton: Princeton University Press.
- Evans, P. B. (2010). “Constructing the 21st-century developmental state: potentialities and pitfalls.” In O Edigheje (Ed.), *Constructing a democratic developmental state in South Africa, potentials and challenges*. Cape Town, HRSRC Press.
- Evans, P. B.; D. Rueschemeyer and T. Skopcol, (eds.) (1985). *Bringing the State Back In*. Cambridge: Cambridge University Press.
- Fairfield, T. (2015). *Private Wealth and Public Revenue in Latin America: Business Power and Tax Politics*. New York: Cambridge University Press.
- Fairfield, T. (2015b). “Structural Power in Comparative Political Economy: Perspectives from Policy Formulation in Latin America.” *Business and Politics*, 17 (3). pp. 411-441.
- Fernández, D., and Naveda, E. (2011). *Cuarto Informe: ¿Truco o trato? Mecanismos para la obstaculización de las reformas tributarias en Guatemala*. Guatemala: Programa Estado de la Region.
- Flores-Macías, G. (2014). *Financing Security Through Elite Taxation: The Case of Colombia's “Democratic Security Taxes”* *Studies in Comparative International Development*, Vol.49(4), pp.477-500.
- Fortin, J. (2008). *Transfuguismo parlamentario en Guatemala: algunos casos*. Cuadernos de información política No.15. FLACSO.
- Fritz, V. (2007). *State-building: A Comparative Study of Ukraine, Lithuania, Belarus, and Russia*. New York: Central European University Press.
- Fuentes Knight, J. A. (2011). *Rendición de Cuentas*. Guatemala: F&G Editores.

- Fukuyama, F. (1989). "The End of History?". *The National Interest* (16): 3–18. ISSN 0884-9382. JSTOR 24027184.
- Galastrri, L. (2018). "Social classes and subaltern groups: Theoretical distinction and political application. In *Capital & Class*. Vol. 42(1), 43-62.
- Giddens, A. (1984). *The Constitution of Society*. Cambridge, England: Polity Press.
- Gómez-Sabaíni, J.C.; Martorano, B. and Morán D. (2016). "Taxation and Inequality: Lessons from Latin America." *World Social Science Report on Inequality*. Paris: UNESCO.
- Goñi, E.; Lopéz, J. and Servén L. (2011). "Fiscal Redistribution and Income Inequality in Latin America." *World Development*, 39(9): 1558–69.
- GPFD (11 de abril 2008). *Propuesta de modernización fiscal en Guatemala*. Guatemala: Grupo Promotor del Diálogo Fiscal.
- Gramsci, A. (1971). *Selections from the Prison Notebooks*. London: Intl Pub Co Inc.
- Granovetter, M. (1985). "Economic Action and Social Structure: The Problem of embeddedness". *American Journal of Sociology* 91 (November): 481-510.
- Hanni, M., Martner Fanta, R. and Podestá A. (2015). "The Redistributive Potential of Taxation in Latin America." *CEPAL Review*, 116(August): 7–26.
- Helmke, G. and S. Levitsky (eds.) (2006). *Informal Institutions and Democracy: Lessons from Latin America*. Baltimore, MD: Johns Hopkins University Press.
- Huntington, S. P. (1968). *Political order in changing societies*. New Haven, CT: Yale University Press.
- Huntington, S. P. (1991). *The Third Wave: Democratization in the Late Twentieth Century*
- ICEFI (2009). *Historia de la tributación en Guatemala, desde los mayas hasta la actualidad*. Guatemala: SAT- ICEFI.
- ICEFI (2015). *Politica fiscal: expresión del poder de las élites centroamericanas*. Guatemala: ICEFI-CLALS American University - F&G Editores.
- ICEFI (2017). *Perfiles Macrofiscales de Centroamérica*. Guatemala: ICEFI.
- ICEFI (2018). *Perfiles Macrofiscales de Centroamérica*. Guatemala: ICEFI.
- ICEFI (2019). *Perfiles Macrofiscales de Centroamérica*. Guatemala: ICEFI.

- IDB - Funaro, R.; Lora, E. (2010). Ideas for Development in the Americas (IDEA): Volume 21: January-April. Inter-American Development Bank (IDB): The Age of Productivity.
- IDB (2011). Development effectiveness overview 2010. Washington: Interamerican Development Bank.
- IDB News, March 4, 2018 [<https://www.iadb.org/en/news/webstories/2010-03-04/tax-burden-and-evasion-in-latin-america-idb-study%2C6619.html>]
- IMF (February 2018) IMF Staff Reaches Staff-Level Agreement with Haiti on a Staff-Monitored Program. February 25, 2018 [<https://www.imf.org/en/News/Articles/2018/02/26/pr1868-haiti-imf-staff-reaches-staff-level-agreement-with-haiti-on-smp>] Jan 2019
- Jessop, B. (1982). The Capitalist State: Marxist Theories and Methods. Oxford: Robertson.
- John W. (2004) "A Short History of the Washington Consensus" Working Paper. Available from: <http://www.iie.com/publications/papers/williamson0904-2.pdf> Paper commissioned by Fundación CIDOB for a conference "From the Washington Consensus towards a new Global Governance," Barcelona, September 24–25.
- Johnson, C. (1999). The Developmental State: Odyssey of a Concept. In Woo-Cummings, M., ed. The Developmental State. Ithaca, NY: Cornell Press.
- Jürgen G. B. (2001). Fiscal Sociology: What For? Rede in verkorte vorm uitgesproken ter egeheid van het afscheid van het ambt van Gewoon Hoogleraar Economie van het Overheidsgedrag en de Publieke Sector aan de Universiteit Maastricht op vrijdag 19 januari 2001. Web.
- Kellermann, M. (2005). Power Resources Theory and Inequality in the Canadian Provinces October 1, 2005. Paper prepared for the Harvard Comparative Political Economy Workshop, October 7-8, Cambridge. http://www.people.fas.harvard.edu/~ces/conferences/cpeworkshop/can_inequality.pdf
- King, G.; Keohane, R. O. and Verba, S. (1994). Designing Social Inquiry: Scientific Inference in Qualitative Research. Princeton: Princeton University Press.
- Kirkpatrick, J. (1979). "Dictatorships and Double Standards," Commentary Magazine Volume 68, No. 5, November, pp. 34–45.
- Kohli, A. (2004). State-directed development: Political power and industrialization in the global periphery. Cambridge: Cambridge University Press.
- Kramer, W. (1994). Encomienda Politics in Early Colonial Guatemala, 1524-1544: Dividing the Spoils. Latin American Studies, 31. Boulder, CO: Westview Press.

- Kugler, A. (2011). Is there an Anti-labor Bias of Taxes? A Survey of the Evidence from Latin America and Around the World. Inter-American Development Bank Department of Research and Chief Economist. TECHNICAL NOTES No. IDB-TN-299, August.
- Lal, D. (2005). Ch. 11. The Economy under Planning and After. The Hindu Equilibrium. India c. 1500 B.C.-2000 A.D. Oxford: Oxford U Press.
- Legorreta Díaz, M. del C. (2006). Organización política de las haciendas de Los Valles de Ocosingo, Chiapas en el Siglo XX. Estudios Sociológicos, Vol. 24, No. 72 (Sep. - Dec.), pp. 601-635.
- López-Calva, L. y Lustig, N. (2010). “Explaining the Decline in Inequality in Latin America: Technological Change, Educational Upgrading and Democracy” in López-Calva, L. y Lustig, N. (eds.), “Declining Inequality in Latin America: a Decade of Progress?”, Brookings Institution Press and UNDP.
- Lora, E. (2007). "Public Investment in Infrastructure in Latin America: Is Debt the Culprit?" IDB Publications (Working Papers) 1600, Inter-American Development Bank.
- Lora, E. (2007). *The State of State Reform in Latin America*, IADB, Stanford University Press.
- Lora, E. (2008). “El futuro de los pactos fiscales en América Latina”, Documento de trabajo #650, Departamento de Investigación, BID, Washington DC., diciembre.
- Lottholz, P. and N. Lemay-Hébert (2016). Re-reading Weber, re-conceptualizing state-building: from neo-Weberian to post-Weberian approaches to state, legitimacy and state-building. Cambridge Review of International Affairs, 29:4, 1467-1485, DOI: 10.1080/09557571.2016.1230588
- Lovell, G. (2010). *A Beauty That Hurts. Life and Death in Guatemala* (Second Revised Edition ed.). Texas: University of Texas Press.
- Lustig, N., Gray Molina, G., Higgins, S., Jaramillo, M., Jimenez, W., Paz, V., Pereira, C., Pessino, C., Scott, J. y Yanez, E. (2012). “The Impact of Taxes and Social Spending on Inequality and Poverty in Argentina, Bolivia, Brazil, Mexico and Peru: A Synthesis of Results,” Working Papers 1216, Tulane University, Department of Economics.
- Lustig, N., Pessino, C., and Scott, J. (2014). The Impact of Taxes and Social Spending on Inequality and Poverty in Argentina, Bolivia, Brazil, Mexico, Peru and Uruguay: Introduction to the Special Issue. *Public Finance Review*, 42(3), 287-303.
- Macdonald, L. (2020) “Civil Society,” in Kaltmeier, O; Tittor, A.; Hawkins, D. and Rohland, E. *The Routledge Handbook to the Political Economy and Governance of the Americas*. London and New York: Routledge.

- MacGinty, R. (2011). *International Peacebuilding and Local Resistance: Hybrid Forms of Peace* (Basingstoke: Palgrave Macmillan,
- Mack, L., and Lopez, M. (2005). *El transfuguismo parlamentario*. Cuadernos de información política No. 1. FLACSO.
- Mackay, F.; M. Kenny and L. Chappell (2010). *New Institutionalism Through a Gender Lens: Towards a Feminist Institutionalism?* *International Political Science Review / Revue internationale de science politique*, Vol. 31, No. 5 (November), pp. 573-588. Sage Publications, Ltd.
- Mahon, J. (2004). “Causes of Tax Reform in Latin America, 1977–95”, *Latin American Research Review*, Vol. 39, No. 1, February, University of Texas Press.
- Marti, W. (1994). *The private sector, the state, and economic development: The Guatemalan experience* (Ph.D. Dissertation). Austin: The University of Texas at Austin.
- Martin, I. W.; A. K. Mehrotra, M. Prasad (Eds.) (2009). *The New Fiscal Sociology: Taxation in Comparative and Historical Perspective*. Cambridge: Cambridge University Press. Web.
- Martorano, B. (2016). “Taxation and inequality in developing countries. Lessons from the recent experience of Latin America.” WIDER Working Paper 2016/98, September. Helsinki: UNU-WIDER - ICTD.
- Mccaffery, E. (2009). *Where’s the Sex in Fiscal Sociology? Taxation and Gender in Comparative Perspective* in Martin, Isaac William; Ajay K. Mehrotra, Monica Prasad (Eds.) (2009). *The New Fiscal Sociology: Taxation in Comparative and Historical Perspective*. Cambridge: Cambridge University Press. Web.
- Miliband, R. (1969). *The State and Capitalist Society*. New York: Basic Books.
- Mills, C. W. (1956). *The Power Elite*. Oxford: Oxford University Press
- MINUGUA. (1997). *First verification report of the Guatemalan peace agreements*. United Nations Verification Mission in Guatemala. Guatemala: United Nations.
- Modica, E.; S. Laudage and M. Harding (2018). “Domestic Revenue Mobilisation: A new database on tax levels and structures in 80 countries”, *OECD Taxation Working Papers*, No. 36, OECD Publishing, Paris. <http://dx.doi.org/10.1787/a87feae8-en>
- Moore, M. (2004). “Taxation and the political agenda, North and South,” *Forum for Development Studies*, No. 1. Brighton: IDS.
- Moore, M. (2015). *Tax and the governance dividend*. ICTD Working Paper 37. Brighton: International Centre for Tax and Development.

- Moore, M. and A. Schneider (2004). "Taxation, governance and poverty: where do the middle-income countries fit?" IDS Working Paper, No. 230. Brighton: International Centre for Tax and Development.
- Moore, M. and Prichard, W. (2017). How Can Governments of Low-Income Countries Collect More Tax Revenue? Working Paper No. 70, November. Brighton: International Centre for Tax and Development.
- Morales-Gamboa, A. and S. Baranyi (2005). "State-building, national leadership and "relative success" in Costa Rica." In Chesterman, Simon; Ignatieff, Michael; Thakur, Ramesh (eds.) Making States Work: State Failure and the Crisis of Governance. International Peace Academy/United Nations University Press.
- Mosca, G. (1939). Ruling Class. New York: McGraw-Hill Book Company.
- Murga Armas, J. (mayo de 2012). Lo "no dicho" de la reforma tributaria del gobierno de Otto Pérez Molina. Boletín Economía al Día, No.5, 1-28. Guatemala: Instituto de Investigaciones Económicas y Sociales Universidad de San Carlos de Guatemala, IIES.
- North, D. C. (1990). Institutions, Institutional Change and Economic Performance. Cambridge: Cambridge University Press.
- Núñez, E. (coord.), *et al.* (2008). Siete Claves para el Cambio. Análisis técnico, político y normativo del proceso electoral. Guatemala 2007. Guatemala: SOROS/NDI/NIMD/FLACSO/ASIES/DOSES.
- OECD/CAF/ECLAC (2018). Latin American Economic Outlook 2018: Rethinking Institutions for Development, OECD Publishing, Paris. <http://dx.doi.org/10.1787/leo-2018-en>
- OECD/IADB, USA (2014). Panorama de las Administraciones Públicas: América Latina y el Caribe 2014. OECD Publishing, USA.
- Ondetti, G. (2017). The Power of Preferences: Economic Elites and Light Taxation in Mexico. Revista Mexicana de Ciencias Políticas y Sociales. Universidad Nacional Autónoma de México, Nueva Época, Año LXII, núm. 231. Septiembre-diciembre pp. 47-76.
- Ortiz Loaiza, P. (2007). Campaña electoral: planteamientos sobre pobreza y desarrollo en los programas de gobierno de los partidos políticos. En O. (. López, Análisis de los programas de los partidos políticos ante la pobreza. Elecciones 2007. Guatemala: FLACSO.
- Ortiz Loaiza, P. (2008). Partidos Políticos en Guatemala: Entre Institucionalidad y Pragmatismo Político. Guatemala: FLACSO.
- Ortiz Loaiza, Paola (2011). "Financiamiento de los partidos políticos en Guatemala." In Zovato, D. and P. Gutierrez, Funding of Political Parties in Latin America, International IDEA-OAS-UNAM. https://www.oas.org/es/sap/docs/deco/Financiamiento_partidos_s.pdf

- Ortiz Martinez, G (1994). *La Reforma Financiera y la Desincorporacion Bancaria*. Mexico City. Fondo de Cultura Economica, 1994.
- Oxfam- Cañete Alonso, R. (2018). *Democracias Capturadas el Gobierno de Unos Pocos*. Oxfam-CLACSO.
- Patnaik, A. (2012). The Contemporary Significance of Gramsci's Critique of Civil Society in Working USA: *The Journal of Labor and Society*. Volume 15, December 2012: 577–588.
- Peres, W. and A. Primi (2009). "Theory and Practice of Industrial Policy: Evidence from the Latin American Experience" *Serie Desarrollo Productivo*. Santiago: UN ECLAC, February.
- Piketty, T. (2014). *Capital in the Twenty-First Century*. Cambridge and London: Harvard University Press.
- Polanyi, K. (1944/1967). *The Great Transformation*. Boston: Beacon Press.
- Polanyi, K; Arensberg, C. M; and H. W. Pearson (eds) (1957), *Trade and Market in the Early Empires: Economies in History and theory*. Glencoe, Ill.: Free Press and Falcon's Wing Press.
- Prichard, W. (2015). *Taxation, Responsiveness and Accountability in Sub-Saharan Africa. The Dynamics of Tax Bargaining*. Cambridge: Cambridge University Press.
- Prichard, W. (2016). *What have we learned about taxation statebuilding and accountability? Summary Brief Number 4*. Brighton: International Centre for Tax and Development.
- Przeworski, A.; M. E Alvarez; J. A. Cheibub; F. Limongi (2000). *Democracy and development: political institutions and well-being in the world, 1950-1990*. Cambridge Studies in the Theory of Democracy, Vol 3. Cambridge: Cambridge University Press.
- Ragin, C. C. (2000). *Fuzzy-Set Social Science*. Chicago: University of Chicago Press.
- Rawls, J. (1999). *Social Unity and Primary Goods*. In Samuel Freeman (ed.) *Collected Papers*. Cambridge: Harvard University Press.
- Reno, W. (2000). 'Shadow States and the Political Economy of Civil Wars,' in Berdal, Mats & David M. Malone, (eds.) *Greed and Grievance: Economic Agendas in Civil Wars*. Boulder, CO: Lynne Rienner (43–68).
- Richmond, O. P. (2011). *A Post-liberal Peace: The Infrapolitics of Peacebuilding*. Abingdon: Routledge.
- Richmond, O. P. and Sandra Pogodda (eds.) (2016). *Post-liberal Peace Transitions: Between Peace Formation and State Formation*. Edinburgh: Edinburgh University Press.

- Rodriguez Pellecer, M. (21 de Agosto de 2013). Los militares y la élite, la alianza que ganó la guerra. (U. R. Landivar, Ed.) Plaza Publica: 1-19.
- Rodrik, D. (2007). *One Economics, Many Recipes: Globalization, Institutions, and Economic Growth*. Princeton University Press.
- Rodrik, D. (2008). 'Normalizing Industrial Policy.' Paper prepared for the Commission on Growth and Development. Washington DC: World Bank.
- Rodrik, D. (2014). When Ideas Trump Interests: Preferences, Worldviews, and Policy Innovations *Journal of Economic Perspectives*, Volume 28, Number 1, Winter 2014: 189–208.
- Ruggie, J. (1982) International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order, Volume 36, Issue 2, *International Regimes* (Spring): 379-415.
- Ruggie, J. (2008). *Embedding Global Markets: An Enduring Challenge*. Aldershot, Hampshire, England: Ashgate.
- Sánchez, O. (March 2009). Tax Reform Paralysis in Post-Conflict Guatemala. *New Political Economy*, 14(1): 101-131.
- Schamis, H. (2002). *Re-forming the State: The Politics of Privatization in Latin America and Europe*. Michigan: University of Michigan Press.
- Schneider, A. (2012). *State-Building and Tax Regimes in Central America*. Cambridge: Cambridge University Press.
- Sen, A. K. (1999). "Democracy as a Universal Value." *Journal of Democracy*. 10 (3): 3–17.
- Song, H.-Y. (2013). Marxist critiques of the developmental state and the fetishism of national development. *Antipode*, 45(5): 1254-76.
- Streeck, W. and K. Thelen (eds.) (2005). *Beyond Continuity: Institutional Change in Advanced Political Economies*. Oxford, Oxford University Press.
- Sugin, L. (2011). A Philosophical Objection to the Optimal Tax Model. In *Tax Law Review* Vol. 64 (2): 229–281.
- Tilly, C. (1985). War Making and State Making as Organized Crime, in Evans, Peter; Dietrich Rueschemeyer, and Theda Skocpol (eds.). *Bringing the State Back In*. Cambridge: Cambridge University Press.
- Tilly, C. (1990). *Coercion, Capital, and European States: AD 990-1990*. Cambridge, MA: Basil Blackwell.

- Tilly, C. (2003). "When Do (and Don't) Social Movements Promote Democratization," in Ibarra Pedro (ed.) *Social Movements and Democracy*. New York: Palgrave MacMillan.
- Tilly, C. (2007). *Democracy*. Cambridge: Cambridge University Press.
- Torres Rivas, E. (2011). *Revoluciones sin cambios revolucionarios*. Guatemala: FG Editores.
- Torstendahl, R. (ed) (1992). *State Theory and State History*. Sage. London.
- Tyler, T. R. (2006). *Why People Obey the Law*. Princeton: Princeton University Press.
- Unger, R. M. (2004). *False Necessity: Anti-Necessitarian Social Theory in the Service of Radical Democracy* (rev. ed.). London: Verso.
- Valdez, F., & Palencia Prado, M. (1998). *Los Dominios de Poder: La Encrucijada Tributaria*. Guatemala: Flacso.
- Venesson, P. (2008). Case studies and process tracing: Theories and practices. *Approaches and Methodologies in the Social Sciences: A Pluralist Perspective*. 223-239. 10.1017/CBO9780511801938.013.
- Wade, R. (1993). "Managing Trade: Taiwan and South Korea as Challenges to Economics and Political Science," *Comparative Politics* 25:2, January: 147-167.
- Williams, M. (Ed.) (2014). *The End of the Developmental State?* New York: Routledge.
- Williamson, J. (2004). *A Short History of the Washington Consensus*, Paper commissioned by Fundación CIDOB for a conference "From the Washington Consensus towards a new Global Governance," Barcelona, September 24–25.
- Winters, J. A. (2011). *Oligarchy*. New York: Cambridge University Press.
- Wood, E. M. (2003). *Empire of Capital*. London: Verso.
- World Bank, (2011). *Conflict, Security, and Development*. World Development Report 2011. Washington, DC: World Bank.
- Yeager, T. J. (1995). *Encomienda or Slavery? The Spanish Crown's Choice of Labor Organization in Sixteenth Century Spanish America*. *The Journal of Economic History*, Vol. 55, No. 4 (Dec. 1995): 842-859.
- Zucman, G. (2015). *The Hidden Wealth of Nations*. Chicago: University of Chicago Press.