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# Justice for all? Spanish lessons on corruption and 'draining the swamp'

Luis Gomez Romero

*University of Wollongong*, [lgromero@uow.edu.au](mailto:lgromero@uow.edu.au)

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# Justice for all? Spanish lessons on corruption and 'draining the swamp'

## **Abstract**

Can Spain learn from a decade marked by high-profile political corruption scandals involving money embezzled from regional governments and mismanagement in urban planning and construction?

## **Disciplines**

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## Justice for all? Spanish lessons on corruption and ‘draining the swamp’

March 29, 2017 5:25pm AEDT

A civil guard informs people of an ongoing raid as part of a corruption probe in Torrejón de Ardoz near Madrid, Spain. REUTERS/Andrea Comas

## Justice for all? Spanish lessons on corruption and ‘draining the swamp’

March 29, 2017 5:25pm AEDT

Corruption has become a major issue in political agendas across the world, from Donald Trump’s promise to “drain the swamp” to the impeachment of South Korea’s president Park Geun-hye over cronyism claims.

No country gets close to a perfect score in Transparency International’s 2016 Corruption Perception Index (CPI), which annually ranks nations by their perceived levels of corruption, defined as “the abuse of entrusted power for private gain”. Last year, the global average score was 43, indicating endemic corruption in the public sector of more than half the countries in the world.

Spain is a salient example of this global trend. Over the last decade, the country has been plagued with high-profile corruption scandals involving money embezzled from regional governments and mismanagement in local-level urban planning and construction.

Clichéd cultural explanations do not sufficiently explain the breadth and depth of this crisis. As early as 1748, Montesquieu described Spaniards in his seminal work, *The Spirit of the Laws*, as naturally obedient and generally indolent as a consequence of Catholicism and the mild Mediterranean climate. But this prejudiced view muddles cause and effect, because a culture of corruption is not the ultimate factor that undermines legal and political institutions.

On the contrary, countries develop a culture of distrust and dishonesty between different branches of society as a consequence of high levels of corruption.

### A deceiving accountability

Spain is a good case study for understanding the institutional causes of corruption. In 2013, the country dropped ten places – to 40 out of 177 – in CPI. In other words, at the height of the Spanish financial crisis that destroyed over three million jobs, corruption rose faster in Spain than anywhere else in the world except war-torn Syria.

The economic debacle stimulated a debate about corruption, which became fierce amid austerity measures imposed by the Partido Popular (PP) government. Two new political parties, the leftist Podemos and the centre-right Ciudadanos made corruption a central issue in their platforms.



### Author



#### Luis Gómez Romero

Senior Lecturer in Human Rights,  
Constitutional Law and Legal Theory,  
University of Wollongong



Spain's Prime Minister Mariano Rajoy at a People's Party (Partido Popular) event. Albert Gea/Reuters

Spain's attempts to limit corruption have subsequently intensified, with corruption investigations, arrests and prosecutions on the rise. The high-profile convictions in February 2017 of Iñaki Urdangarin – former Duke of Palma and husband to Princess Cristina, the youngest sister of Spain's King Felipe VI – and Rodrigo Rato – former deputy prime minister under José María Aznar and former International Monetary Fund director – are seemingly landmarks in Spain's struggle against corruption.

Urdangarin was sentenced to more than six years of prison on charges that included fraud and tax evasion. He had been accused of embezzling around 6,000,000 euros in public contracts for conferences and sporting events through the Nóos Institute, a non-profit sporting company he ran.

Similarly, Rato was handed a sentence of four-and-a-half years for misusing corporate credit cards while in charge of savings bank Caja Madrid and its successor, Bankia, from 2010 to 2011.

### **The formula of corruption**

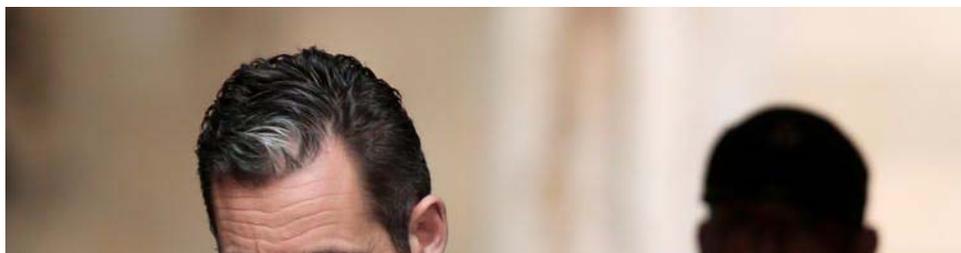
The appearance that Spain has achieved a great feat in transparency and accountability is deeply deceiving.

In a classic work on corruption, political scientist Robert Klitgaard defines the formula that favours the proliferation of illicit behaviour among public agents in the following terms: *monopoly + discretion – accountability*.

In other words, corruption flourishes whenever agents have monopoly power over clients, because they enjoy discretion and accountability is weak.

Both Rato's and Urdangarin's cases fit Klitgaard's formula. Rato and other Bankia executives used uncontrolled corporate credit cards to rack up around 12,000,000 euros in undeclared expenses. This spending spree is particularly outrageous because Bankia was bailed out in 2012 for 19 billion euros, the largest corporate loss in Spanish history.

In relation to Urdangarin, the Spanish Constitution acknowledges the King (sic) as head of state and broadly defines his functions but issues no norms on central matters like the King's budget or which members of his family should be considered constituent elements of the Crown.





Iñaki Urdangarin leaves court after a hearing in Palma de Mallorca, Spain. Reuters/Enrique Calvo

This regulatory gap granted Urdangarin a discretionary power. Exploiting his royal connections, he siphoned off millions in public funds from local governments.

The 2012 scandal triggered calls for the abolition of the monarchy. King Juan Carlos was not implicated in the investigation, but it was causal in his 2014 abdication to make way for his son, Felipe.

The real problem, however, is that neither Urdangarin nor Rato is really facing the consequences of his actions.

### **Justice, equal but different for all**

In his 2011 Christmas speech, then-King Juan Carlos addressed Urdangarin's scandal by promising that "justice" would be "equal for everyone".

Today, his words amount to an insult for many Spaniards. Urdangarin and Rato have been formally convicted, but the lenient subsequent court proceedings in both cases have been perceived as a cruel mockery of justice.



A parody of Urdagarin's trial by Spanish comedians Los Morancos.

Though Urdangarin's prosecutors requested that he pay bail of 200,000 euros to avoid going straight to prison, the court decided that he should remain free without bail in Switzerland, where he currently lives, as he prepares to appeal his sentence.

Rato was similarly let free without posting bail because the anti-corruption prosecutor did not ask the

courts to take him into custody. Calling Rato's behaviour during the trial "completely appropriate", the Audiencia Nacional (National Court) saw "no need for precautionary measures".

Social media exploded in outrage after the judgements were published. Pablo Iglesias, the leader of Podemos, angrily contrasted Urdangarin's and Rato's impunity with the Spanish courts harshness toward individuals who oppose and resist the current political system, specifically referencing the plight of rapper Miguel Arenas Beltrán, aka Valtonyc, who was handed three-and-a-half years in prison for songs deemed to have insulted the Crown and to have promoted nationalist Basque terrorism.

"Injustice is different for each of us," Iglesias tweeted on February 23. "Songs will be written about this sentence and their authors will be condemned."

"Only poor people go to jail," declared 23-year-old Valtonyc to the Spanish online newspaper Público. It will be quite difficult for him to fight the court's decision. He now works at a grocery store and has spent all his savings in his legal defence.



**Fer Novato**  
@fer\_novato

Urdangarín entrando en la cárcel !

1:01 AM - Feb 24, 2017

461 551 people are talking about this

### **Corruption: the spirit of wild capitalism**

Corruption thrives on impunity, whose roots certainly reach beyond the Mediterranean. They can be traced to the binding forces behind privileged elites of a global capitalist system that increasingly runs wild.

Cultural critic Slavoj Žižek asserts that societies are bound together by their guilty secrets more strongly than by their public principles. Social acts of transgression "reaffirm the cohesion of the group" as "everybody pretends to know nothing" about them, or even "actively denies" their existence.

Corruption would therefore embody the "spirit" of wild capitalism. It binds us to the basic unwritten law of the system: anything is admissible if it helps you get richer. There are no moral or legal limits to the accumulation of capital. In the words of Richard Fuld, the former CEO of the now defunct Lehman Brothers: "Whatever it is, enjoy the ride. No regrets."

In his last international trip as US president, Barack Obama warned that populist movements from the left and the right have risen across the world from “a suspicion of globalisation, a desire to rein in its excesses, a suspicion of elites and governing institutions that people feel may not be responsive to their immediate needs.”

But in Spain the courts have once again confirmed that powerful individuals have nothing to regret as they pursue wealth. The longer state institutions keep capitalism's guilty secret, the harder it will be to break free. This Spain has now painfully learned.

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