

## ‘Policy Scandals’: A Spanish Case

THE STUDY OF POLITICAL SCANDALS IS OF SIGNIFICANCE TO STUDENTS of comparative government and politics for two related reasons. First, is the importance of scandals in understanding the evolution of the political system. As Moodie argues, ‘to explore the extent and nature of discreditable events . . . in any political system [is] instructive. In the study of politics, as of the human body, a pathology is one route to understanding how things work’.<sup>1</sup> Examples of such explorations can be seen in the aftermath of the Clinton–Lewinsky affair where scholars such as Miller were compelled to explain how, despite an earth-shaking scandal, Clinton emerged with approval ratings higher than before.<sup>2</sup> Secondly, as a result of the widespread attention devoted to scandal, scholars are offered the opportunity to examine how political actors have increasingly responded to scandals in order to offset their negative effects. The outcome may include the end of established political careers or the overturn of a government, an occurrence that may seriously challenge the foundation of representative democracy.

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<sup>1</sup> G. C. Moodie, ‘Studying Political Scandal’, *Corruption and Reform* 3:3 (1988), pp. 243–4.

<sup>2</sup> Arthur H. Miller, ‘Sex, Politics and Public Opinion: What Political Scientists Really Learned from the Clinton–Lewinsky Scandal’, *Political Science and Politics* 32:4 (1999). Also see *Political Psychology* 21:1 (2000) which is devoted to the Clinton–Lewinsky scandal.

Thompson's<sup>3</sup> recent work represents one of the latest studies in political scandals. It differs from its predecessors, including Miller and Moodie, as well as Doig,<sup>4</sup> Markovits and Silverstein<sup>5</sup> and Barker<sup>6</sup> by positing a working definition of political scandal and developing a theoretical classification, rather than simply compiling specific cases or incidents. Thompson defines a political scandal as that which involves 'individuals or actions which are situated within a political field and which have an impact on relations within that field'.<sup>7</sup> He contends that scandals fall into three theoretical categories: sex, money or power-related.

Key to his argument are concepts of trust and reputation. Thompson writes, 'Scandals do not necessarily destroy reputation or trust but they have the capacity to do so. And it is because of this capacity, this potential for damaging reputation and corroding relations of trust, that scandals are of such significance in the political field'.<sup>8</sup> Reputation and trust are the main forms of symbolic capital that political actors rely on in order to acquire and utilize symbolic power, which refers to the ability of an actor to shape or change the course of events as well as influence others.<sup>9</sup> The troika of 'sex, money and power' scandals are therefore particularly dangerous as they can almost instantaneously diminish the symbolic capital that a political actor may have previously built up over time; as symbolic capital diminishes so too does political actors' symbolic power. Nevertheless, there are cases when political actors may have enough symbolic capital and power to weather the storm of scandal and emerge unscathed.

<sup>3</sup> John. B. Thompson, *Political Scandal: Power and Visibility in the Media Age*, Cambridge, Polity Press, 2000.

<sup>4</sup> Alan Doig, 'The Offence that Dare not Speak its Name: Cash, Corruption and the Hamilton Affair', *Parliamentary Affairs*, 51:1 (1998); as well as Alan Doig, 'Sleaze: Picking up the Threads or "Back to Basics" Scandals', *Parliamentary Affairs* 54:2 (2001).

<sup>5</sup> Andrei S. Markovits and Mark Silverstein, 'Introduction: Power and Process in Liberal Democracies', in Andrei S. Markovits and Mark Silverstein (eds), *The Politics of Scandal: Power and Process in Liberal Democracies*, New York, Holmes & M Publishers Inc., 1988.

<sup>6</sup> Anthony Barker, 'The Upturned Stone - Political Scandals in Twenty Democracies and Their Investigation Processes', *Essex Papers in Politics and Government*, 1998.

<sup>7</sup> J. B. Thompson, *Political Scandal*, p. 96.

<sup>8</sup> *Ibid.*, p. 245.

<sup>9</sup> *Ibid.*

As Thompson notes, an individual's reputation may be significantly damaged by a scandal, even if not permanently or irredeemably.<sup>10</sup>

Despite the strength of Thompson's analysis in support of a study seemingly lacking in theoretical foundations, two insufficiencies remain. The first, relating to the exhaustiveness of his categorization of political scandal, is whether or not the troika of sex, financial and power scandals is complete. Of course, one may contend that several 'types' of scandals may exist and that it is impossible for one work alone to encapsulate all of them. Nevertheless, one may argue that there is a fourth, although more subtle, equally damaging contender that has not been fully developed in the literature: the policy scandal. This would refer to a negative event in the political field that is scandalous in nature, but is different from scandals generally mentioned in that an individual political actor is not directly implicated in the scandalous occurrence. It is an occurrence that the political actor did not set, but must deal with, including a loophole in a policy that surfaced only after a political actor has left their position, or an event related to policy that may have occurred under a previous administration.

Extending on ideas raised by Thompson, one may argue that policy scandals are particularly dangerous for political actors because pareto-optimal solutions may not exist. At the *individual actor level*, policy scandals bring a political actor's character, credibility and competence under the microscope in a hostile environment. Failure to adequately respond, as the public or one's peers see fit, may result in a loss of the symbolic capital that is required to be an effective player in the political field. Colleagues may dissociate themselves from someone involved in a policy scandal lest they too become implicated by association. Failure to adequately deal with the policy scandal and the ensuing loss of symbolic capital can ultimately result in political actors' demotion or removal from the scandal's vicinity (an action that can result in the continued loss of symbolic capital) or in the worst-case scenario, the failure to be re-elected. At the *institutional level*, a policy scandal, if severe enough, or if located in a contentious issue area (health, defence, agriculture, fiscal policy, or the environment) may tarnish the reputation and foundations of trust that citizens have in the political parties, governments or administrations that manage these policy areas.

<sup>10</sup> Ibid., p. 248.

With this in mind, one can find a second shortcoming in Thompson's examination in the need to develop a model whereby one can situate the strategies to deal with scandal not only at the individual level of analysis, but also at the institutional level. Thompson's archetypes suggest that political responses to control a scandal's effect are directed at the individual involved and entail some form of political sanction to remove the individual. This, in turn, insulates other political actors from the negative effects of symbolic capital depletion. However, because a political actor that launches or is directly implicated in a policy scandal has been removed, it remains unclear, based on Thompson's model, how political actors and governments should respond. Guidance may be found in what we argue is the 'two-level' hypothesis. At the first (individual) level, political actors may have enough symbolic capital and resources to weather the storm and emerge relatively unscathed as seen in the work of Capelos and Huddy<sup>11</sup> which demonstrates that a political actor's personality traits can offset the potentially damaging effects of a scandal. Alternatively, political actors caught in a policy scandal have a different strategy: as they have technically done nothing wrong, they can lay blame on another political actor as suggested lately by Barker.<sup>12</sup>

At the second (institutional) level, actors may then initiate formal mechanisms such as parliamentary committees or tribunals of inquiry that effectively insulate, and later kill, the scandal. The case is clearly different for individuals implicated in Thompson's troika of scandals where analysis is focused on the individual level. Assuming the political actor is not hiding any secret linkages that would transform the policy scandal into a personal one, this tactic can effectively remove the scandal from the actor's proximate vicinity while simultaneously demonstrating that action is being taken to resolve the situation. This strategy serves two other functions. First, it can insulate the political actor from any 'hard' decision-making and unpopular action that may be required to resolve the conflict by, for example, deferring blame to members of a commission. Secondly,

<sup>11</sup> Theresa Capelos and Leonie Huddy, 'Scandal Immunity as a Function of Candidate Gender and Personality Traits', *Paper presented at the Annual Meeting of the American Political Science Association*, Atlanta, Georgia, 2-5 September, 1999.

<sup>12</sup> Anthony Barker, 'Political Responsibility for UK Prison Security – Ministers Escape Again', *Public Administration*, 76:1 (1998).

by relegating policy scandals to third parties, political actors and governments may ensure that contentious issues die a slow and quiet death around a committee table as public indignation and interest ebb over time.

Elaborating on the recent literature, while attempting to transcend the insufficiencies in it, this article focuses on a policy scandal recently occurring in a West European state and examines strategies that were employed in response to it. The next section will examine the flax scandal in Spain during Popular Party rule in the late-1990s. The study of Spain can be justified on two grounds. The first is that the occurrence of this scandal in the late-1990s elucidates a general phenomenon in West European capitalist states such as the United Kingdom, offering similarities to previous works such as Thompson's that examine developments throughout the 1990s in liberal democracies with strong capitalist economies. As such, conclusions drawn from the Spanish experience are potentially transferable. Secondly, despite similarities to pre-existing works, a study on Spain (and particularly the flax scandal which represents the first major scandal of the PP) can be justified because it represents a southern European state that has hitherto received little attention in the literature. From this perspective, this study goes beyond Thompson's range because his examples are all from the English-speaking world.

Following the case study, the conclusions highlight that in order for comparativists to fully understand political actors' responses to such 'negative political events', detailed analysis must be modelled around both the individual and institutional levels, the second of which is lacking in Thompson's framework. At the individual level, political actors may have enough political capital and resources to emerge relatively unscathed. Alternatively, they may try to pass the buck onto other actors. Secondly, at the institutional level political actors and administrations may initiate formal mechanisms such as parliamentary commissions, at the domestic level, and investigative enquiries, at the supranational one, that serve to insulate the policy scandal and allow it to die a slow death in committee behind closed doors. Such mechanisms inevitably prevent opposition forces from reacting in a way that one may have otherwise expected.

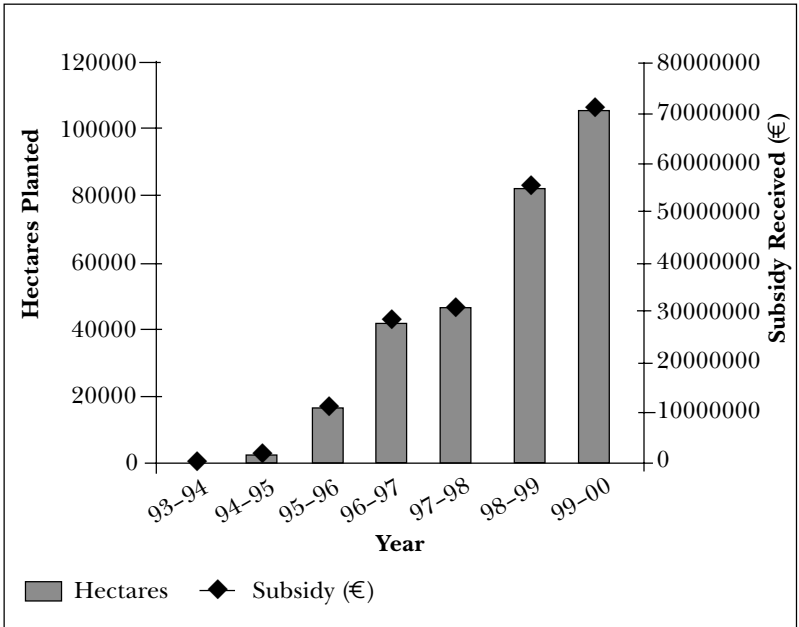
*EL CASO DEL LINO – LOYOLA'S GREAT ESCAPE*

Flax (*lino*) is a crop primarily used in the paper and textile industry as well as in the automobile industry in the manufacture of car seats. Although production decreased throughout the 1960s and 1970s, its resurgence in the 1990s was a consequence of both increasing demand and the generous subsidies given to flax farmers through the European Union's (EU) Common Agriculture Policy (CAP). Not only is it one of the EU's most heavily subsidized crops, but it is also not subject to quota limits. Such subsidies, which are administered and regulated in Spain by the state-central agency FEGA (*Fondo Español de Garantía Agraria* – the Spanish Agricultural Payment Agency) as well as agriculture officials at the regional level (*Comunidades Autónomas*), reached an average of €720 per hectare by 1999 (which is approximately five times the support that is available for cereals.) Subtracting potential costs of around €180 towards seeds and herbicides used in its production would lead to a take-home subsidy of approximately €540 per hectare. For example, a farmer owning approximately 1000 hectares would therefore profit by approximately €540,000 in subsidies. Of the 4,000 farmers dedicated to growing flax, the majority are located in the poorer regions in Southern Spain – Castilla-La Mancha, Andalucía and Extremadura – with others found in Castilla y León, Navarra, Aragón and Madrid.

Given the generous subsidies offered to farmers under the CAP, one can better understand the evolution of flax production in Spain (Graph 1), both in terms of the hectares planted ( $y_1$  axis; in columns) and total subsidies received ( $y_2$  axis, diamonds). Although the first three seasons of the time series (when CAP subsidies were introduced) saw modest cultivation of the crop, from 1996–97 on there was a sharp increase, both in terms of hectares devoted to flax and the amount of subsidies received. The evolution indicates a general exponential growth over the time series. In particular, the last year of the series (1999–2000) demonstrates that over €70 million were given, representing a 550-fold increase from 1993–94 levels.

Yet, neither the fact that the EU subsidizes the production of flax, nor the exponential growth in subsidies received over the last seven years is scandalous. Indeed, the same occurs with other crops, such as sunflowers and olives, which have been supported by generous subsidies from the CAP for years. In the case of flax production,

**Graph 1**  
*Flax Evolution in Spain, 1993–2000*



Source: Elaboration of Data from Coordinadora de Organizaciones de Agricultores y Ganaderos (COAG) Consejería de Agricultores de Castilla-La Mancha and *Cambio 16* (4 June 1999), p. 17.

moreover, EU directives 1420/98, 2814/98 and 452/99 strictly regulate the collection of flax subsidies, precisely attempting to prevent potential abuses of the policy. According to these directives, there are three main requirements that each flax farmer must fulfil before any subsidy is received. The first is that in spring the farmer has to notify state-authorities (responsible for applying EU rules) of his/her desire for subsidy, indicating how many hectares of flax he/she wishes to sow. Secondly, in August, the farmer has to present a declaration stating how much has been harvested. Thirdly, in November, the farmer has to present an official application to the EU for the subsidy that is certified by one of the twelve plants in Spain that transform the flax into thread/fabric for industrial use (henceforth referred to as *transformadoras*). These *transformadoras* thus effectively act as a main regulator in the process. It is crucial to note, however, that the ultimate control and verification of flax subsidies

resides at the state level – namely, both FEGA and regional government authorities – which are ultimately responsible for managing the farm support system. Among other things, one of the main duties of the *transformadora* (which theoretically purchases the flax from the farmer) at this stage is that it must certify that at least 1,500 kg/hectare has been yielded. The farmer then forwards this completed certificate, and nothing more, and the CAP subsidy is received by the farmer come June of the next year.

The potential loophole in the policy and room for scandal is found in this third stage, where the focus of analysis rests on the activities of the *transformadoras* that have the power to give certificates to farmers. There are two main ways that the *transformadoras* can defraud the system. First, assuming that those acting as *transformadoras* are *not* also acting as flax farmers simultaneously, a contract can be made with the farmer in such a way that a large part of the subsidy is actually agreed to be given to the *transformadora*. This may be either by a lump-sum charge or a percentage of the subsidy received per hectare. This would be the case if the farmer actually produces less than 1,500 kg/hectare. Secondly, and assuming that those acting as *transformadoras* are *also* flax farmers, the person may simply give him/herself a certificate stating that ‘x’ amount of flax has been grown, without this amount ever being verifiable – person A in this scenario is effectively acting as the regulator and the regulated. The problem in this second option, however, arises when either FEGA or the regional authorities, which have the responsibility to monitor and verify the collection of flax subsidies, wishes to verify (on random checks) that this flax amount has been actually yielded and subsequently held in the plants of the *transformadora*. Yet, a simple solution for the *transformadora* is to have a convenient ‘fire’ and literally have the flax burned soon after the subsidy is received: this prevents state-regulatory authorities from seeing how much flax has been cultivated and if the subsidy already received can be justified. And if the same person acting as the *transformadora* and farmer were *also acting* as the state-official from FEGA or the regional government, he or she would know exactly when to set the fire.

Given the potential loopholes, it is not much of surprise that the Spanish flax scandal of 1999 erupted. It involved specific players who were simultaneously acting as high public officials in the Popular Party’s (PP) Ministry of Agriculture, owners of *transformadoras* and flax farmers. *El País* (the newspaper owned by the Prisa media group

which many believe supports the Spanish Socialists, PSOE) first became suspicious on 12 April 1999 after the flax fire in the *transformadora* Colisur 2000, located in Picon (Ciudad Real, Castilla-La Mancha); the suspicions then turned to 'scandal' after Colisur's second fire on 12 May 1999.<sup>13</sup>

There were five main players at the heart of the scandal, all of whom were accused of conflict of interests. All were senior officials (*altos cargos*) related to the governing Partido Popular; and all (save Ruiz Paz and Moreno as discussed below) were appointed by the then Minister of Agriculture between 1996 and 1999, Loyola de Palacio. The first player involved was Nicolás López de Coca, a person who wore three hats at the same time: he was from a family of flax farmers while he was a co-owner of the *transformadora* Colisur 2000 as well as the director of FEGA and a sub-secretary in the Ministry of Agriculture. After the fires in Colisur 2000 in April and May, the accusation was simple: the sub-secretary of Agriculture and director of FEGA, the regulatory body ensuring that EU flax (agriculture) aid was properly administered, had received with his family (which farmed and transformed flax) over €1.6 million in 1997–98. Within days of the accusation, he would resign his post on 14 May 1999. The second player was Pedro Antonio Linares, the General Secretary of FEGA. Linares would also resign two weeks after López de Coca because of accusations of his knowledge of López de Coca's activities while a member of the state agency.<sup>14</sup> The third player to resign was Gonzalo Ruiz Paz, an appointed director of the state enterprise Mercasa who had farmed flax since 1996 and also owned a *transformadora* in Guadalajara (Castilla-La Mancha). Shortly after López de Coca's resignation, *El País* revealed that Ruiz Paz had received over €300,000 in aid since 1996 and, in fact, had had a 'fire' in his plants in 1998.<sup>15</sup> The fourth and fifth players implicated were Quintiliano Pérez Bonilla, another sub-secretary in Agriculture who had received €144,000 in flax subsidies, and Carlos Moro Moreno, the (PP) Government's delegate (*delegado del gobierno*) in Castilla-La Mancha, who had received approximately €492,000 between 1995 and 1999.<sup>16</sup>

<sup>13</sup> *El País*, 13 May 1999.

<sup>14</sup> *El País*, 29 May 1999.

<sup>15</sup> *El País*, 19 and 21 May 1999.

<sup>16</sup> *Cambio 16*, 14 June 1999.

Even though the scandal did not break while Loyola de Palacio was still Minister of Agriculture – in fact, she had resigned her post in early April 1999, in order to lead the PP list for the upcoming European Parliament (EP) elections in June – the fraud nevertheless occurred while she was the minister and she was thus held accountable. There were also two other developments that put the heat on De Palacio and the PP government. First, because De Palacio was also rumoured to be one of Spain's next two nominees for European Commissioner, in light of the inevitable fall of the Santer Commission, the scandal was one that she had to escape from as effectively as possible, especially considering that the Spanish Socialists were accusing De Palacio of being a politician who was gravely negligent in the appointments she made and of activities for which she was responsible.<sup>17</sup> Secondly, because EP elections were to be held in June and general elections were due within 12 months, stakes were high for the minority PP government. Considering that the PP had hitherto remained 'scandal-free' compared to the PSOE administrations between 1982–96, failing to contain the flax scandal could have serious electoral consequences. In order to understand De Palacio's, and inevitably the PP's, great escape from this policy scandal, it is necessary to analyse developments at both the individual and the institutional levels of analyses as seen in the first section.

At the individual level, De Palacio employed a two-fold strategy of damage-limitation following the resignations of May 1999. The first step was to maximize her resources to weather the storm and take a firm approach to exiting domestic-level politics, allowing her to emerge relatively unscathed. Indeed, one may hypothesize that before the scandal actually erupted, De Palacio intended to distance herself from a potential time bomb in the Ministry of Agriculture of which she must have been aware. Evidence of her knowledge is seen as early as 1997 when Fausto Sánchez Cano, a low-level civil servant (*funcionario*) in the Ministry of Agriculture monitoring flax farming practices, notified De Palacio's cabinet of the deliberate burning of flax once subsidies were received.<sup>18</sup> De Palacio, however, did not react to his concerns. With increasing exposure of the seemingly suspicious activity coming to light in mid-April 1999 with Colisur 2000's first fire, it was in De Palacio's interest to leave the Ministry. Capitalizing

<sup>17</sup> *El País*, 20 May 1999.

<sup>18</sup> *El País*, 12 June 1999.

on Prime Minister Aznar's trust in and respect for her, she was able not only to leave the Ministry of Agriculture weeks before the scandal was reported by *El País*, but also to secure a position to head the PP list for the upcoming EP election; shortly after, she would manage to convince PP leaders that her technocratic skills qualified her to be the Spanish EU Commissioner. One may argue that although moving to the 'European' dimension of politics would not be sufficient to fully dodge the blame, the opportunity to leave domestic-level politics would sufficiently dissociate her from the corruption issue; she could remain out of the limelight while questions were tackled by other members of the PP, including Jesús Posada, Minister of Agriculture when the scandal erupted.

De Palacio's second strategy at the individual level of analysis was to pass the buck to two other sets of actors. The first included those directly involved in the scandal: part of the responsibility, she claimed, should be borne by the implicated officials themselves, who had concealed information from her and pursued their private interests while holding public office. Evidence of this is seen shortly after López de Coca's resignation when she stated that that 'if I had known that the high officials involved [who were also in the flax business] received aid, I would not have appointed them', stating that it was 'unethical' for these officials to be responsible for 'administering subsidies while benefiting from such aid while being part-time farmers'.<sup>19</sup>

The second set of actors on which De Palacio placed the majority of blame was that from the *Comunidades Autónomas*. The dual effect of pursuing this strategy was to implicate not only another level of government, but also, most importantly, socialists leading these regional administrations, including José Bono from Castilla-La Mancha (where much of the flax affair took place.) The argument that De Palacio and the PP offered was simple: although FEGA offers guidelines on how to monitor flax subsidies, the *Comunidades Autónomas* are ultimately responsible for the control and payment of flax subsidies; as such, socialist political actors, such as Bono, were ultimately responsible. The explanation that the PP offered in June 1999 was all too familiar (and believable) for Spaniards accustomed to the socialist scandals of the past as discussed by authors such as

<sup>19</sup> *El País*, 2 June 1999.

Jiménez.<sup>20</sup> The socialists in power in Castilla-La Mancha, according to the PP, were involved in the fraud and had their own ‘conflicts of interest’ in flax farming. Three people were prominent: José Antonio de Arco, a former director of Agriculture in Guadalajara for the Junta de Castilla-La Mancha, who was also a flax farmer who made €90,000 in subsidies between 1996 and 1997; Manuel Rojo, the owner of the *transformadora* Celitex and card-holding member from the PSOE, who received large flax subsidies; and Francisco Vargas, a flax farmer and close friend of Bono.<sup>21</sup>

Despite the twofold strategy to move from domestic into supranational-level politics and to pass the buck on to the specific actors, De Palacio and the PP’s efforts at this (individual) level of analysis were insufficient on two main grounds. First, precisely because De Palacio sought a high position in Brussels, it was clear that her activities while a minister would be under greater scrutiny at the supranational level, keeping in mind that accusations of corrupt behaviour were the bane of Santer’s Commission. Secondly, De Palacio’s claim that PSOE had its own ‘flax scandal’ to worry about, while believable, did not account for her own role in the affair which was being heavily criticized not only by the Socialists, but also more significantly by the parties that offered legislative support to the minority PP government, namely CiU (*Convergència i Unió* – Convergence and Union) and the PNV (*Partido Nacionalista Vasco* – the Basque Nationalist Party). Nor was De Palacio’s argument that she was unaware of the private activity of her public officials believable.

Thus, in order better to understand how the PP escaped from this policy scandal and was able to silence potential opposition, it is necessary to analyse developments after June 1999 at the institutional level that resulted in support from key domestic-level political actors and the EU. The main strategy used here was to initiate Commissions and official investigations that effectively isolated the policy scandal and allowed it to die a slow death beyond the public gaze. Interestingly, the flax affair led not only to domestic-level investigations, but also to one at the supranational level. The end result of all three formal investigations, which together took over 21 months, was that De Palacio, and the PP, were exonerated of all responsibility.

<sup>20</sup> Fernando Jiménez, ‘Political Scandals and Political Responsibility in Democratic Spain’, *West European Politics*, 21:4 (1998), pp. 80–102.

<sup>21</sup> *El País*, 6 June 1999.

The first Commission was announced by the PP at the beginning of July 1999, to take place from mid-July until mid-August at the parliamentary level. During its first two weeks, the Commission interviewed 37 members involved in, or knowledgeable about, the fraud, including De Palacio, while the remaining two weeks allowed for writing up results. The Commission consisted of deputies whose party representation was proportional to that of the Congress of Deputies (the lower house). There are two main reasons why the Commission eventually cleared De Palacio of any wrongdoing. First, and based on informal negotiations before the talks, the PP had managed to convince the CiU of her innocence well before the Commission began its inquiry.<sup>22</sup> This was not unexpected, given what many considered to be suspicious and opaque deals between the two parties since 1996. However, this particular scandal had to be handled with kid gloves by the PP precisely because the CiU had openly admitted its dismay about, and distrust towards, the PP when the scandal first broke. More importantly, by the end of the investigation the other party offering legislative support to the minority PP – PNV – agreed with the main argument along with CiU: there was no generalized fraud during De Palacio's tenure, the senior officials involved in the fraud acted on their own volition, and central administration had little control over flax subsidies.<sup>23</sup> One may argue that the fact that the PP enjoyed the broad consensus of support of the major parliamentary players effectively stopped the affair from becoming a major issue in the domestic election in March 2000.<sup>24</sup>

The second reason why De Palacio was cleared was that the parliamentary investigation was actually weak: more was said about the Commission than actually took place in it. This was undoubtedly a result of the PP's domination of the parliament and its subsequent ability to determine how deep the investigation could go. Although the PP had talked of the Commission for weeks before and after the fact, claiming that the parliamentary investigation was representative of their 'transparent method' of governing, the 37 interviews actually took place in the equivalent of six working days spread over two weeks, leaving many questioning the thoroughness of the investigation. Nor was any new evidence presented.

<sup>22</sup> *El País*, 7 July 1999.

<sup>23</sup> *El País*, 29 July 1999.

<sup>24</sup> Raj S. Chari, "The March 2000 Spanish Election: "A Critical Election"?", *West European Politics*, 23:3 (2000).

Despite its shortcomings, the Commission did serve as a foundation for a second, potentially more objective, investigation at the domestic level: that by the *Fiscalía Anticorrupción* under the direction of Juan Jiménez Villarejo. Although relying on materials previously presented to the parliamentary commission, this investigation nevertheless differed from the parliamentary one on three grounds. First, it was more prolonged: it started in September 1999 and concluded at the end of December 2000, lasting more than fifteen months. Secondly, there was more objective analysis. As well as interviewing key players involved, the *Fiscalía* analysed data both from Social Welfare (*Seguridad Social*) confirming hours worked in specific *transformadoras* and from companies supplying electricity to *transformadoras*. The *Fiscalía* concluded that both hours worked and electricity used were abnormally low compared to what would be necessary theoretically to process the flax for which subsidies were received.<sup>25</sup> According to their estimates, approximately 75 per cent of the supposed flax crop for which subsidies were received either never existed, or mysteriously disappeared. Thirdly, in contrast to the parliamentary Commission of 1999, the *Fiscalía* concluded that there was, indeed, ‘generalized fraud . . . in the Spanish application of community aid in the flax sector’.<sup>26</sup> Yet, in similar vein to the parliamentary commission of a year-and-a-half earlier, Jiménez Villarejo fell short of stating that either Agriculture, or the PP or even De Palacio was responsible. He stated instead that both producers and *transformadoras* had jointly committed the fraud. Effectively, Jiménez Villarejo left it up to the next investigation at the supranational level to decide which public officials, or level of government, were ultimately responsible.

Such a third investigation was immediately pursued in January 2001, to end in the third week of March 2001. Based on evidence presented by Jiménez Villarejo, the European Commission’s Anti-Fraud Office (Office Européen de Lutte Anti-Fraude, or OLAF) investigated the apparent flax fraud in Spain, attempting to determine where ultimate responsibility lay. Although stating that the potential criminal prosecutions in the flax affair had to be adjudicated in Spanish courts, the main conclusion from Brussels seemed a decisive victory for De Palacio and the PP: ‘the responsibility and com-

<sup>25</sup> *Cambio 16*, 1 January 2001.

<sup>26</sup> *Cambio 16*, 1 January 1999.

petence . . . to control and verify the (flax) aids . . . corresponds exclusively to the *Comunidades Autónomas* . . .'<sup>27</sup> There are two potential explanations for Brussels' conclusion. The first relates to rules under the CAP. According to this argument, the responsibility to manage 'direct aids' under CAP lies with local authorities who have the final say when monitoring and approving activities of both producers and transformers. Yet, this reasoning fails to consider that the monitoring and approval of CAP subsidies in the case of Spain was since 1997, in fact, legally centralized under FEGA.<sup>28</sup> The effects of this were most clearly seen in correspondence in one case between the Junta of Extremadura and FEGA in May 1998: the former, when having doubts regarding the validity of a flax subsidy, was simply told by FEGA that it would handle the issue.<sup>29</sup>

The second, perhaps more intriguing explanation, combines ideas that it was not in the European Commission's institutional interest either to implicate De Palacio, given her position as a Vice-President of the Commission (a post which she has held since the first domestic level investigation in mid-1999), or to undergo another humiliation at the hands of the EP as experienced in early 1999 when the corrupt activities of French Commissioner Edith Cresson and Spanish Commissioner Manuel Marín were exposed and caused the downfall of the Santer Commission. As seen earlier, in the wake of the fall of the Santer Commission, in the third week of June 1999 (after the EP elections and a strong showing for the PP), Prime Minister Aznar nominated De Palacio to be one of the two EU Commissioners along with Pedro Solbes of the PSOE. Although De Palacio would later face tough questioning from Members of the European Parliament (on her role in the flax scandal) during the 'confirmation hearings' in August 1999,<sup>30</sup> she eventually became a vice-president in Prodi's Commission, taking over the portfolios of transport, energy and relations with the EP. During her time she had proved an incredibly valuable asset to the Prodi Commission that was not seeking to jeopardize its position as 'scandal free'. As *The Economist* reported a year after her appointment, '. . . she is said to have a formidable gift for argument . . .' and she had embarked on innovative liberalization

<sup>27</sup> *El País*, 20 March 2001.

<sup>28</sup> *El País*, 23 July 1999.

<sup>29</sup> *El País*, 21 July 1999.

<sup>30</sup> *Financial Times*, 31 August 1999.

initiatives for which full Commission support was given, including proposing a single market in energy and a single EU traffic control system.<sup>31</sup> However, if OLAF had decided to implicate De Palacio, it would not only have lost a valuable commissioner, but it would also have opened the doors for further EP investigation of its commissioners and potential votes of ‘non-confidence’, as occurred with Cresson and Marín. This may have resulted in embarrassment for the Prodi Commission, or even its downfall. With these points in mind, it was not in Brussels’ interest to lose De Palacio or suffer institutional humiliation; and it thus seems not too surprising that OLAF, although theoretically independent arbiters, adopted a position favourable to De Palacio.

## CONCLUSION

Set in the context of the recent literature on scandals, while analysing recent developments in Spain, two main arguments of use to comparativists of industrialized states have been developed. First, attention must be paid to ‘negative events’ not hitherto elaborated in the literature, namely policy scandals. We have argued that policy scandals are different from the sex, financial and power scandals generally referred to in the literature because individual political actors and governments are not directly involved in the scandalous occurrences themselves. Rather, such an occurrence is one that political actors did not initiate, but that they must still deal with. The cause could be derived from a loophole in a policy that surfaced only after a significant time period, or an event that may have occurred under a previous administration.

Secondly, we have argued that that in order to fully understand political actors’ responses to such significant events, detailed analysis must be modelled around *both* the individual and institutional levels of analysis: developments at both levels effectively allow political actors and governments to sidestep the negative implications that might otherwise arise. At the individual level, political actors may have enough political capital (based on reputation and trust) as well as resources to weather the storm and emerge relatively unscathed. Alternatively, they may try to pass the buck onto other political actors

<sup>31</sup> *The Economist*, 27 July 2000.

(less or more capable political actors or bureaucrats). This was clearly the case in Spain where De Palacio had enough political capital to remove herself completely from domestic level politics (given the trust that Prime Minister Aznar had in her) while simultaneously passing the buck on to both the implicated officials in the scandal as well as officials at the *Comunidades Autónomas* level. Secondly, and given that political capital is lacking and that blame cannot be wholly transferred, at the institutional level political actors may initiate formal mechanisms such as a parliamentary commission or an institutional investigation that isolate the policy scandal and allow it to die a slow death around a committee table outside the domain of public scrutiny. This was seen in the case of Spain where two domestic-level investigations and one supranational one were pursued, all three of which were beyond public scrutiny and eventually cleared both the ex-Minister of Agriculture as well as the PP government.

Interestingly, for comparativists of EU politics, the existence of the supranational-level investigation in the Spanish case highlights the fact that such formal mechanisms are not necessarily confined to the domestic level, at least in EU states where there are two levels of governance. From this perspective, the 'two-level' hypothesis outlined in this article, where we have developed a model whereby one can situate the strategies to deal with policy scandal at both the individual and institutional levels of analysis, may add firm insights into how political actors and governments respond to policy scandal; but it should not be considered the final word of the story. Rather, further research on policy scandals in other EU member states, in particular, may add insights on the dynamics of the 'flow' of formal institutional mechanisms between the domestic and supranational levels of governance. Such work may not only help us better to understand, as Moodie's work has suggested above, the 'nature and extent' of negative events in the EU political system, but may also help us better to evaluate the effects of economic and political integration on both government and opposition members.