

ARGENTINA

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In the 1990s Argentina underwent a broad and profound process of market-oriented reform, which made the country the poster child of the Washington establishment. After some very encouraging macroeconomic outcomes in the early 1990s, in 1998 the Argentine economy entered into a long recession that exploded into a very deep crisis in December 2001. In the end, the 1990s turned out to be just one more cycle in Argentina's history of hope and despair. Most economists have blamed poor economic policies for Argentina's dismal performance. We tend to agree with that perspective, but instead of emphasizing the "content" of economic policies (for example, how market-friendly they are), consistently with the spirit of this book, we focus on some characteristics of policies. Argentine policies have been unstable in ways that have weakened their credibility in the eyes of economic actors. This weakened credibility have rendered them far less effective in bringing about the desired economic behavior (investment, saving, job creation, and the like) and the associated desired economic outcomes (growth, employment, and so on). Argentine policies have been not only unstable, but they have also been poorly coordinated among the different tiers of its federal structure, and within the national government. In many instances, Argentina has lacked the investments in policymaking capacity that would be needed to produce effective policies. Relatedly, the Argentine state has tended to be quite ineffective in enforcing its policies.

¹ This chapter is based on Spiller and Tommasi (2003), (2005) and (2006).

We argue in this chapter that these undesirable properties of Argentine public policies are the result of a non-cooperative policymaking process. Historical legacies and the constitutional context make the Argentine Congress a weak policymaking arena that lacks professionalization. Legislators respond to provincial party elites who care little about the quality of national policies. Furthermore, presidential proactive powers are too extensive in practice. As a result, the relevant policymaking actors, such as the President, the provincial governors, and interest groups, lack an institutionalized arena in which they can make intertemporal policy agreements. Additionally, they cannot delegate the implementation of potential policy agreements to a professional bureaucracy, because the Argentine bureaucracy has several weaknesses. Nor can they rely on enforcement of contracts by the judiciary, because it is weak and politicized. Therefore, policymaking becomes the outcome of a non-cooperative game in which each actor behaving opportunistically and tries to maximize short term benefits. This causes policy volatility, poor coordination, and poor enforcement. Both political and economic actors (domestic and foreign) distrust the Argentine polity's ability to deliver credible policies. In order to overcome this credibility problem, policymakers occasionally resort to very rigid mechanisms, such as the Convertibility Regime. Under adverse economic shocks, these approaches often turn out to be excessively costly.

In the first section below, we describe the features of Argentine policies. Section 2 summarizes the policymaking process. Section 3 provides a brief introduction to Argentine political institutions, and sections 4 to 8 look at some specific actors, arenas and interactions of the workings of these institutions. Section 9 brings us back to the general picture and concludes.

1. Public Policies in Argentina

Chapter 1 provided some evidence on the characteristics of Argentine public policy, drawing from some cross-national data sets. That preliminary evidence suggested that Argentina is a country of volatile policies and that such volatility adds unpredictability to business planning, and is costly for the workings of the economy. That volatility is occasionally curtailed via the also costly mechanism of tying policymakers' hands through heavy mechanisms such as the Convertibility regime. Also, Argentina is a poor enforcer of the policies it enacts.

Later work has tended to confirm those impressions, through the elaboration of more focused comparative indicators. Stein and Tommasi (2005) and IADB (2005) have constructed indicators of the dependent variable identified in chapter 1: policy characteristics that affect their quality and hence their effects. The features examined include stability, adaptability, coherence and coordination, quality of implementation and enforcement, public regardedness, and efficiency. In order to operationalize those concepts, we drew from two main sources of data: internationally available data such as the Executive Opinion Survey of the World Economic Forum *Global Competitiveness*

Report (GCR), and an opinion survey that was conducted by the IADB, questioning more than 150 experts in 18 Latin American countries, including public policy analysts, economists, political scientists, and former policymakers. Combining those two sources Stein and Tommasi came up with indicators of the above policy characteristics for those 18 Latin American countries. Table 1 summarizes that information. Notice that Argentina ranks among the lowest countries in terms of the aggregate index of policy quality (only Ecuador, Paraguay and Venezuela have a lower composite index), and quite low in several of the individual characteristics such as adaptability, enforcement and coordination.

<Table 1>

Argentina then, ranks quite low in the Latin American comparison in terms of the quality of its public policies. This is particularly noticeable once we consider the additional factor that Argentina is one of the most developed Latin American countries; and also when noticing the most of Latin America ranks relatively low in the international comparison. Figure 1 utilizes the sub-components of the index of quality of public policies in the last column of Table 1 that come from international data sets, and place the Latin American cases in the international context. Notice that Argentina appears quite low in the world context.

<Figure 1>

Chapter 1 briefly discussed one specific example of policymaking in Argentina, the privatization of the pension system in the 1990's. The example suggested that there are

some fundamental capabilities that the Argentine state seems to be lacking, such as the ability to commit, and the ability to enforce. In Spiller and Tommasi (2006, Chapter 7) we provide descriptions of Argentine policymaking in several other areas, including international trade policy, social policies, fiscal federalism and regulation. To give some texture to the description of policy characteristics, we synthesize here one example, that of international trade negotiations.

International trade negotiations are a crucial policy area for Argentina because access to international markets may hold the key to the country's development. Our summary of policymaking in this area draws on a recent assessment by one of the foremost Argentine experts in the field, Roberto Bouzas (Bouzas and Pagnotta 2003). As highlighted by Bouzas and Pagnotta, in international trade negotiations and international trade policy more generally, intertemporal capabilities—consensus building, policy consistency, capacity building, and institutionalization—are particularly important. These features, however, are lacking in Argentina.

Argentina participates in multiple trade negotiations with MERCOSUR, the World Trade Organization, and the European Union, and within the Americas in the framework of the Free Trade Area of the Americas. Roberto Bouzas and Emiliano Pagnotta describe Argentina's strategy this way:

The strategy of external commercial negotiations by Argentina has had diffuse aims and has been ambiguous. The negotiating position has been guided by multiple, and often contradictory, priorities and interests. This is the result of the absence of a domestic consensus that ensures the continuity of those aims over

time. Worse still, even for those topics on which there is consensus about the importance of the negotiation (as in the case of participation in the OMC), the ability to act in a consistent way has been very limited. (2003: 81)

In terms of institutional organization, Bouzas and Pagnotta describe the design and execution of international commercial negotiations as highly fragmented, with diverse public offices having overlapping functions and with little coordination (Bouzas and Pagnotta, 2003, pp. 90-91). The Ministry of the Economy is the executive office with the most extensive responsibilities, which include the design and in some cases application of several instruments of trade and related policies. Several secretaries under the Ministry of Production are in charge of the application of some of the instruments, and also participate in international commercial negotiations. The Ministry of Foreign Affairs is the main office in charge of international commercial negotiations and it also designs and implements commercial promotion policies. Other agencies linked to the executive also active in the area of trade policy are the National Commission of Foreign Trade, the Federal Administration of Public Revenues, the Investment and Foreign Trade Bank, and the Export-Ar Foundation. This complex organizational structure requires a high degree of coordination. Instead, according to Bouzas and Pagnotta, “there is no formal deliberative process in the elaboration of these policies.” They go on:

The participation of Congress is sporadic and reactive. Although coordination inside the executive branch has changed over time, ... the overlapping of functions, competition across offices, and interbureaucratic struggle have been

the rule. This means that the efficiency of the routines and procedures depends strongly on particular circumstances, leadership, and personalities. ... The bureaucratic structures are unstable, and there is high turnover among civil servants, as well as a low level of institutional learning. The high proportion of personnel under temporary contracts conspires against the accumulation of expertise, precisely in an area in which knowledge constitutes a strategic asset. ... The institutional fragility of the policymaking process spreads to the absence of mechanisms for the systematic and organic participation of the private sector, which has promoted lobbying, in a context of a lack of transparent procedures and a general absence of routines. (91-92)

Bouzas and Pagnotta's description of policy features and policymaking in international trade makes numerous points that are useful for the broader concerns of this chapter, and that are consistent with the insights glimpsed from several other policy areas in Chapter 7 of Spiller and Tommasi (2006). We provide below a selected summary of the characteristics highlighted by those policy examples, which we take as "stylized facts" to be explained.

The characteristics of the policymaking process illustrated include: deficiencies of the budget process, which gives excessive discretion to some executive actors; insufficient involvement by Congress; instability of the bureaucratic structures in charge of implementation; instability of top bureaucratic personnel; noncooperativeness of the interactions between national authorities and provincial authorities; noncooperativeness

of interactions among and within national ministries; provincial governors who appear as relevant actors in national policy; and promises that are not fulfilled.

Policies in Argentina, then, seem to present the following characteristics: They show a high level of volatility (they often change with low-level political rotation).

Paradoxically, other policies are too rigid, not being adjusted when circumstances change. Sometimes they respond to changing circumstances in the wrong direction.

They are poorly coordinated. They present poor qualities (in dimensions not captured by the previous points); and they are poorly enforced.

All of these policy characteristics are consistent with the predictions of the theory summarized in Chapter 1 for cases in which the equilibrium of the game of policymaking is characterized as non-cooperative. In the rest of this chapter we describe the workings of the political system in Argentina and we show that those interactions end up generating the conditions that the framework identifies as conducive to non-cooperative policymaking.

2. The Policymaking Process in Argentina

In a nutshell, the national policymaking arena of Argentina is populated by actors with short-term horizons who have little incentive and few instruments to engage in intertemporal policy agreements. In such an environment, non-cooperative short-term strategies are the norm, leading to the policy characteristics described above.

The framework presented in Chapter 1 suggests that efficient and effective intertemporal transactions require self-enforcement and/or institutional arrangements that facilitate enforcement. In the absence of either type of enforcement, political and policy actions will be characterized by short-termism, inflexible rules, inability to implement efficient policy changes, and underinvestment in capacities, all leading to low-quality policies. Argentina's historical political instability, basic constitutional features, electoral rules, and federal fiscal features are key determinants of its inability to develop efficient long-term public policies.

The theoretical discussion of Chapter 1 identified various elements that affect the capacity to knit efficient intertemporal exchanges. These elements include the number of political actors with power over a given decision, their intertemporal linkages (how long they are in office), the characteristics of the arenas in which they undertake their political exchanges, and the availability of enforcement technologies—such as an independent and capable bureaucracy or an independent Supreme Court. In most cases these features of policymaking in Argentina “took the wrong values.”

Argentina's key political actors have tended to have short political horizons. The unusual political instability of the twentieth century contributed to that history. Indeed, since the 1930 coup until the inauguration of President De la Rúa in late 1999 (nor afterwards), there was not a single transfer of power from one president to the next that strictly followed constitutional norms. Political instability has left an imprint through path-dependent behavior in Congress, the courts, the bureaucracy, and the federal fiscal system, as well as through the actions and expectations of nongovernmental actors.

Political instability, however, is not the only factor contributing to shortsighted behavior. Indeed, electoral rules that transfer power away from Congress and national parties toward provincial political patrons (who are not particularly interested in building a strong National Congress) contribute to the shortening of legislators' political horizons, and, in an institutional general equilibrium way, affect the incentives of the rest of the polity.

In addition, weak constraints (constitutional, judicial, and budgetary) on unilateral actions by the executive undermine political players' ability to enter into efficient intertemporal political exchanges. Weak constraints on some moves of the national government (the executive and Congress) on issues that affect the provinces have a similar impact on intergovernmental relations.

The history of political instability has contributed to the lack of judicial, and thus constitutional, constraints on executive action. A professional bureaucracy, well supervised by Congress, could be an alternative channel for the intertemporal enforcement of political agreements. But Argentina—in part because of its history of instability, but also owing to the current incentives of key political players—does not have such a bureaucracy either.

The combination of lack of legislative incentives, the ability of the executive to act unilaterally, and the power of provincial leaders all have moved crucial political and policy bargaining away from the national legislature and into other arenas. Some key policy decisions take place in executive quarters (among the president, a key minister, advisers, and a few businesspeople), in meetings of the president with some governors,

or in other closed groups. Not only are those arenas not transparent, but they also lack the required institutional stickiness to enforce bargains over time.

The Argentine policymaking process can, then, be summarized in a number of propositions about the behavior of some of the main institutional actors and about the characteristics of some of the main institutional arenas. We set forth those propositions below, and we devote the rest of the chapter to explaining and supporting them.

1. Congress is not an important policymaking arena.
2. The executive has substantial leeway to take unilateral policy action.
3. Provincial political powers (especially provincial governors) are very important in national policymaking.
4. There is a symbiotic interaction between national and provincial policymaking that operates through political and federal fiscal channels.
5. Fiscal federalism considerations are a factor in almost every policy issue, adding transaction difficulties and rigidities to policymaking.
6. Given the incentives of the executive of the day, of legislators, and of provincial governors, there is little investment in policymaking capacities in several spheres.
7. The bureaucracy is not an effective corps to which to delegate the technical implementation of policy bargains.
8. The judiciary does not provide much intertemporal “glue” to political or policy agreements.

9. Nongovernmental actors in the policy process (such as business groups and unions), lacking a well-institutionalized environment for political exchange, usually follow strategies that attempt to maximize short-term benefits.

In the rest of the chapter we argue that some basic institutional characteristics of Argentina (including prominently some aspects of electoral rules), as well as some historical legacies at the return to democracy in 1983, are the deep determinants of the derived institutional characteristics and behavior summarized in the propositions above. In the next section, we provide a brief introduction to Argentina's political institutions and history, and in the rest of the chapter we bring into focus some of the components of that picture.²

3. A Brief Introduction to Political Institutions in Argentina

Like the United States, Argentina is a federal republic, with a presidential form of government and a bicameral legislature. Given these similarities in some basic constitutional features, and the fact that the U.S. political system is the one most studied by positive political theorists, we will follow the expositional device of describing some features of Argentine institutions and Argentine political behavior by contrasting them with their U.S. counterparts.

A key difference between the political organization of the United States and Argentina is the way legislators are elected. The members of the Argentine Chamber of Deputies (currently 257) are elected from multi-member districts (the 23 provinces and the capital

² Even though in our “general equilibrium” perspective the incentives of key political actors are the result of a combination of several interactive factors operating through the whole political system, for expositional concreteness we organize our exposition around specific “arenas” and actors.

city) for four-year terms.³ The deputies are elected from closed party lists using the d'Hondt divisor form of proportional representation. Half of the Chamber is renewed every two years, as each district replaces half of its legislators (or the closest equivalent). Unlike in the United States, where each state is represented by a number of U.S. Representatives proportional to its population, in Argentina the less populous provinces are highly overrepresented in the Chamber. While Chamber seats are technically allocated among the provinces on the basis of their population, each province has a minimum of five deputies.

Before the 1994 constitutional reform (and as in the United States) each district was represented by two senators. Unlike in the United States, however, senators were elected indirectly for nine-year terms by the provincial legislatures using the plurality formula. Since the constitutional reform of 1994, the Senate is composed of 72 members, with every province represented by three senators (elected directly since 2001 using the incomplete list electoral rule), with the stipulation that no one party can occupy more than two of a province's seats in the Senate.

The electoral connection in Argentina works quite differently than in the United States. In Argentina, electoral mechanisms make provincial governors (as provincial party leaders, with substantial control over party list formation) rather than individual legislators, powerful actors in national politics. At the same time, although provinces have large spending responsibilities, they raise little in taxes. Most of the provinces' funding comes from a common pool of resources collected by the national government for itself and for the provinces. These two features together—(1) control by governors

³ From now on we refer to these 24 units as “provinces,” for simplicity.

over their legislators, and (2) the importance of the national government in provincial public finances—are the backbone of a symbiotic criss-crossing of national and provincial politics and policies, which we describe in more detail later.

Argentina's first constitutional president took office in 1862. The formal machinery of democracy, elections, and checks and balances operated in Argentina until 1930, the first time that a military coup succeeded in removing a constitutionally elected president. Between 1930 and 1982 twelve presidents (both *de jure* and *de facto*) were removed from office by force.

Since the 1940s, the political scene has been dominated by two parties, the Peronist Party (Partido Justicialista or PJ) and the Unión Cívica Radical (UCR). The UCR, the oldest active party, emerged during the 1890s to challenge oligarchic rule. It first captured the presidency in 1916, after the democratizing electoral reforms of 1912. The PJ emerged in the 1940s under the charismatic leadership of Juan Domingo Perón (president from 1946 to 1955, and from 1973 until his death in 1974) and has since become the main political party in Argentina. Historically, the socioeconomic base of UCR has been the middle class, and the socioeconomic base of PJ has been the working class. Even though those associations have remained accurate to some extent until the present, both are considered catchall parties whose positions nowadays revolve around the political “center.” Peronism has traditionally combined a metropolitan coalition based in the urban working class with a peripheral coalition of provincial groups from the country's more “backward” interior (Gibson 1997; Gibson and Calvo 2000). Even though a majority of the voters in these peripheral provinces are poor, provincial PJ

party machines tend to be dominated by political elites with ties to provincial economic power.

While third parties (of the left and right) have on occasion achieved some political prominence, to date all of these parties have had an ephemeral existence, rarely lasting more than five years as a relevant political force. This failure is due primarily to the parties' inability to build a territorial reach like that of the Peronist and (secondarily) Radical parties in a country where national politics have a strong "subnational" drag (Torre 2003; Calvo and Murillo 2004). Recent events, like the disastrous ending of the De la Rúa government, have weakened the UCR.

4. Professional Politicians, Amateur Legislators, Weak Congress⁴

U.S. legislators enjoy long careers in Congress and have high reelection rates, they specialize in powerful committees, they tend to be high-quality politicians, and Congress is a central arena of policymaking. The Argentine Congress has exactly the opposite characteristics. Argentine legislators have very low reelection rates and tend to serve short terms in Congress; Congress is not a very important policymaking arena; it is not very institutionalized, and it is not the place where policy expertise⁴ resides.

The statement about legislator quality in the US comes from the extremely careful work of Diermeier, Keane, and Merlo (2005), who, using labor econometrics techniques, estimate the unobserved characteristics of U.S. legislators from 1947 to 1994. We have

⁴ This section is based in Jones et al (2002) and (2006) and references there.

no way of replicating such detailed work at this point, but in Stein and Tommasi (2005) we have constructed a preliminary indicator of the policymaking capabilities of 18 Latin American Congresses. That index, built from input from Saiegh (2005) and references there, attempts to capture some characteristics of Congress as an organization (whether there are some specialized technical capabilities) and of legislators which relate to the capacity to engage in substantive policymaking activity. Figure 2 plots that index for the Latin American sample; Argentina is one of the three countries presenting the lowest value of the index.

<Figure 2>

Legislators in Argentina have high turnover and low rates of tenure. Although political instability has contributed to high turnover, twenty-plus years after the return to democratic rule in 1983, high turnover still characterizes the Argentine Congress. Since 1983, turnover rates have always exceeded 40 percent, with very low reelection rates: only 20 percent of incumbents return to their seats. Of all the deputies elected from 1983 to 2001, 85 percent served only one term, 11 percent two terms, and only 4 percent three or more terms. These figures are similar to those of countries with term limits, such as Costa Rica – Jones et al 2006).

Looking at the determinants of high turnover, one discovers that it is not the result of voters' rejection. Most legislators simply do not appear on the provincial party list for the next election. Those that do, have a two-thirds probability of being reelected. That conditional reelection rate is lower than the 94 percent in the United States, but

comparable to that of many other countries that have, nonetheless, much higher unconditional reelection rates (see Table 2).

<Table 2>

The short tenure of Argentine legislators arises from the fact that those in charge of compiling the list of candidates (the “selectorate”) simply do not reappoint them. Given that electoral districts coincide with provinces, and given the mechanisms of internal candidate selection, this selectorate is constituted by provincial party elites.

As noted above, the 257 members of the Argentine Chamber of Deputies are elected from 24 multi-member districts, the provinces, for four-year terms, with each district renewing half of its legislators every two years. Deputies are elected from closed party lists that are controlled by provincial party leaders. De Luca et al. (2002) explore in detail the mechanisms of candidate selection and show that the provincial-level party leaders are the key players in the nomination process, with the national party leadership and rank-and-file members playing a decidedly secondary role.⁵

These *amateur* legislators are, however, *professional* politicians. After serving a term in Congress they are shifted to other political activities in the party, the province, or the federal government. Of the 108 deputies in the 1991–95 cohort, in mid-1998, 83 percent were in positions strongly influenced by party ties outside Congress. Congress is just a temporary stop in their political careers.

⁵ In Jones et al (2006) we explain why, in equilibrium, neither local party leaders nor legislators have much incentive to build long-term careers in Congress.

The high turnover limits the incentives of legislators to invest in their own policymaking capacities. They have little incentive to specialize, to acquire policy expertise, or to develop strong congressional institutions. As a consequence, Congress is not a source of strong oversight of the executive or the bureaucracy. Legislators tend to belong to a large number of committees, and they remain on each committee for less than one legislative period, even on the important ones. This is in sharp contrast with the situation in the U.S. Congress, where constituencies directly elect their legislators and legislators have long careers during which they serve lengthy terms on specialized committees and acquire substantial policy expertise.

Argentina's national legislators owe their allegiance to provincial party leaders. Their dependence on them is strengthened when the provincial party controls the provincial government. In comparison with provincial party leaders in the provincial opposition, those in provincial government have more currencies with which to reward and punish their representatives in the national Congress. Furthermore, they can pull their legislative strings to obtain benefits for their provinces from the national government.

The strength of provincial governors has been reinforced by electoral outcomes. During 1983–2001, the legislative contingent of the president's party oscillated between 45.1 percent and 51.6 percent.⁶ The fact that this number has hovered around 50% has given provincial governors commanding unified blocks of 5 to 10 provincial votes the power to block or to threaten to block executive agendas in order to obtain benefits for their provinces.

⁶ See Molinelli, Palanza, and Sin 1999, Table 2.121; and Calvo and Murillo 2005, Table 9.1

So, Argentine governors (unlike their US counterparts) are extremely important players even in *national* politics and policies. A crucial question then is what do Argentine governors care about? The next section analyzes the arena in which the main concern of provincial governors, the distribution of tax revenues, is determined.

5. The Federal Game⁷

In Argentina, national and subnational politics and policies are intertwined to a much larger (and convoluted) extent than in other federal polities. The main links are electoral and fiscal.

Provinces undertake a large fraction of total spending; yet collect only a small fraction of taxes. Provincial spending amounts to 50 percent of total consolidated public sector spending. This figure rises to close to 70 percent if we exclude the pension system and focus on “more discretionary” spending. Furthermore, the type of spending in the hands of provincial governments tends to be politically attractive (such as public employment and social programs) because it is close to the interests of territorially based constituencies. Yet, on average, provinces finance only 35 percent of that spending with their own revenues. The rest of their spending is financed from a common pool of resources, according to the “Federal Tax-Sharing Agreement.” In a large number of small provinces the proportion of funds from this common pool constitutes over 80 percent of their funding. Local politicians, then, enjoy a large share of the political benefit of spending and pay only a small fraction of the political cost of taxation.

⁷ This section is based on Saiegh, Spiller and Tommasi (2006) and Tommasi (2006) and references there.

This fiscal structure at the provincial level is one reason why many professional politicians are more interested in pursuing a career through appointments in the provincial government (or even the party at the provincial level) than in the National Congress. But the powerful provincial brokers—that is, the governors—depend heavily on the allocation of “central” monies to their provinces to run both their political and their policy businesses. That is, they need central money to deliver particularistic political goods, as well as to provide general public goods in their province. There are several channels for funneling funds to the provinces, the main ones being the geographic allocation of the national budget and the Federal Tax-Sharing Agreement.

The game in which these allocations are determined is the source of many political and policy distortions, at both the national and the provincial level. The game even affects the quality of democracy at the local level. The Argentine voter at the provincial level has an incentive to reward politicians who are effective at extracting resources from the center. These are not necessarily the most competent or honest administrators.⁸ Given the political mechanisms by which funds are allocated, this also adds uncertainty to provincial public finances, since it is not easy to project future allocations.

The history and evolution of the Tax-Sharing Agreement is fraught with examples of opportunistic manipulation, occasionally curtailed by fairly rigid and inefficient mechanisms (Tommasi, 2006, and Iaryczower, Saiegh and Tommasi, 1999) . Unilateral, bilateral, and coalitional opportunism (by the national government, by a province, or by a set of provinces that turns out to be pivotal for an important vote in Congress or for

⁸ Jones, Sanguinetti, and Tommasi (2002) show that voters in Argentina, unlike those in the United States, reward provincial spending in gubernatorial elections.

some other reason) has been common in the allocation of central government monies to the provinces. The national executive has enjoyed substantial discretion to allocate items in the federal budget geographically. In an attempt to prevent adverse changes in the future (for instance, a reduction in the amounts going to any specific province), political actors have tended to impose greater rigidity on the Tax-Sharing Agreement, reducing the government's capacity to adjust fiscal policy to changed economic circumstances. One example is the earmarking of taxes for specific programs with clear regional distributional effects. This earmarking led to a rigid and convoluted system of federal tax collection and distribution, which has been christened the "Argentine fiscal labyrinth."

Recent attempts to simplify that labyrinth, which also reflect the inability to strike efficient intertemporal agreements, led to the 1999 and 2000 "fiscal pacts" between the national and provincial governments. Those pacts generated a rigid commitment to a minimum of revenues from the center to the provinces, which turned out to be a very costly straightjacket for the De la Rúa government during the lead-up to the 2001 crisis. Similarly, the lack of cooperation from the provinces has been credited as the immediate cause of the country's move to default (see Eaton 2005, and Tommasi 2006).⁹

That episode of the Argentine federal fiscal drama, which led to one of the largest defaults in modern world economic history, was a clear manifestation of one of the central points in our argument. Provincial governors, who are crucial players in national politics and policymaking, have only secondary interest in national public goods (such as macroeconomic stability), in the quality of national policies, and (hence) in investing

⁹ The buildup of a very dangerous aggregate fiscal position in the late 1990s was also related to political gaming between the national government and the provinces (Tommasi 2006).

in institutions (a professional Congress, a stronger civil service) that might improve the quality of policies. The primary interest on the basis of which they grant or withdraw support to national governments and their policies is the access to common-pool fiscal resources.

6. Weak Judicial Enforcement¹⁰

The workings of judicial institutions have direct implications for the feasibility of private contracting, contracting among private and public actors, and arrangements among political agents. We focus here on the latter, emphasizing the role of the Supreme Court as potential enforcer of constitutional and legislative contracts. Over the past several decades, the Argentine Supreme Court has not been a strong and impartial enforcer of political agreements. The reasons for weak judicial enforcement lie more in politics than in a lack of jurisprudence. In Iaryczower, Spiller and Tommasi (2002) and (2006) we show that a strategic behavioral model similar to the one used to explain the U.S. Supreme Court explains quite well the behavior of Argentine Supreme Court justices. Furthermore, the fragmentation of the Argentine polity would suggest that the Argentine Supreme Court should be strong and independent. But Argentina's political history has resulted in a court with a much smaller role than the Supreme Court has in the United States.

In particular, since the mid-1940s, Argentine Supreme Court justices have had very short tenures—indeed, among the shortest in the world. From 1960 until the mid-1990s, the average Argentine justice lasted less than five years in his post. This short average

¹⁰ This section is based on Iaryczower, Spiller and Tommasi (2002), (2006), and (2006b).

tenure puts the country near the bottom of the ranking, alongside countries not usually associated with stability and the predominance of the rule of law (such as Malawi, Pakistan, and Peru), and a long distance from the United States, where Supreme Court justices serve an average of around 20 years, or Norway and New Zealand, where average tenure is longer than 15 years (see Table 3).

<Table 3>

Short judicial tenure is a feature of the past 50 years. Indeed, after World War I the Argentine Court was on a path of convergence with the U.S. Supreme Court. From the creation of the Argentine Supreme Court in 1863, the average tenure of justices increased systematically, reaching the same level as in the United States during the 1920s. Then during his first administration in 1946, President Perón impeached the sitting Supreme Court justices, an act that had a lasting impact. From that point on, the norm of not manipulating Supreme Court membership weakened substantially. The several military and civilian presidents who alternated in power appointed their own courts. In 1991, the first time since 1946 that a president might have faced an opposition court, President Carlos Menem expanded the size of the court from five to nine members, thereby granting him a “working” judicial majority. Indeed, control over the court was such that, since the mid-1940s until De la Rúa’s inauguration in 1999, no president faced a court with a majority appointed by a political adversary.

Courts with short judicial tenure naturally tend to be aligned with the sitting government, and hence are unlikely to strongly wield their power of judicial review. During a large part of the twentieth century—due mostly to de facto governments, but

also to the political alignment during the interim democratic spells—executives often enjoyed a high level of political support in the legislature. This alignment is also a variable that leads the Supreme Court not to challenge the government.

The dynamics of a court without much clout are perverse. Lack of clout and loss of public respect are self-reinforcing. Indeed, during recent presidential elections, several presidential candidates promised to remove (some or all of) the sitting justices, and current president Néstor Kirchner has managed to alter the composition of the court in his favor.¹¹

7. A Bureaucracy without a Long-Term Principal¹²

One possible way to enforce intertemporal political agreements is to delegate enforcement to a relatively independent, yet accountable, bureaucracy. Argentina, however, has not developed such a bureaucracy. Rauch and Evans (1999) rank the quality of Argentina's bureaucracy in the bottom five among 35 developing countries.

The absence of long-term principals hinders the building of a professional bureaucracy. Executives in almost all presidential systems are transient; but in Argentina, where the members of Congress also are not long-term principals, they are not motivated to control the administration either. As Krehbiel (1991) argues, legislators everywhere tend to undersupply public goods such as controlling the administration. That effect is magnified in Argentina, where legislators' key incentive is to attend to the interests of

¹¹ J. Miller (1997) provides an interesting sociological interpretation of the historical weakening of the Argentine Supreme Court by comparing its trajectory to that of its U.S. counterpart.

¹² This section is based on Bambaci, Spiller and Tommasi (2006).

provincial party leaders who, in turn, are not particularly interested in the quality (or in most cases even the content) of national policymaking.

When the bureaucracy, as a consequence, faces weak long-term incentives, its members tend to ignore their duties, and intrusive administrative controls to prevent corruption must be put in place, which further reduce the ability to generate timely and effective policies. Each new executive, unable to motivate (or fire) the permanent bureaucracy, nominates large numbers of additional political appointees, usually under much more flexible labor agreements: they can easily be fired, which they very often are after a change in their direct overseer. These practices have created a transient parallel bureaucracy. The parallel bureaucracy undertakes the same actions that the normal bureaucracy is designed to effect, but is unable (or unwilling) to undertake. The turnover at the ministerial and secretarial levels also implies turnover in the parallel bureaucracy. This turnover limits the extent of institutional knowledge and the development of cooperation across ministries and secretariats, deepens the heterogeneity in policy quality, and reinforces the lack of policy coherence.

It is well known that the parallel bureaucracy in Argentina is widespread, but its extent is difficult to measure. In Bambaci, Spiller and Tommasi (2006) we present some evidence that the parallel bureaucracy constitutes a large fraction of the top echelons of the public sector. The members of the parallel bureaucracy tend to be better paid, but shorter-lived than permanent civil servants at similar levels. They are hired under a variety of temporary contracts. (For that reason within Argentina they are known as *contratados*.)

Although in principle national parties could develop a cadre of potential bureaucrats, party fragmentation into provincial parties makes such cadre development ineffective in comparison with the practice of a parallel bureaucracy composed of individuals strongly aligned with the secretary or minister of the moment.¹³

8. The Leeway of the Executive

The previous sections have characterized a policymaking environment in which institutions (such as Congress) designed to facilitate political debate, bargaining, and the intertemporal enforcement of agreements are weak; in which some key political players (the governors) care little about the quality of national policies; and in which complementary enforcement mechanisms such as a strong judiciary or a strong bureaucracy are also lacking. These factors are reinforced by, and (in a general equilibrium way) reinforce, the capacity and tendency of the executive to act unilaterally.

The sources behind the executive's ability to effect unchecked moves and undo previous (say, legislative) agreements are various, including the Supreme Court's tendency to be politically aligned with the president, the lack of a strong and independent bureaucracy, and the "general equilibrium" result that Congress has not built strong technical capacities. The budget process manifests this feature. The inability of Congress to monitor and control the budget has given the administration substantial budgetary discretion. Since the beginning of the twentieth century, Congress has often failed to

¹³ Sometimes these loyalties correlate with the province of origin of the relevant political figure. A visible recent example is provided by the top echelons of President Kirchner's current administration, staffed by a proportionally large number of people from his sparsely populated province of origin, Santa Cruz. By the time of this writing, five out of eight State Secretaries under the presidential office have been from the province of Santa Cruz, which contributes less than 1% of the country's population.

approve on time the budget sent by the executive, which in practice has meant that the administration functioned independently of Congress. In years of high inflation the executive often did not even bother to submit a budget. Even in the low-inflation period of the 1990s, although budgets began to be approved on time, Congress did not exercise its *ex-post* control. Indeed, the budget verification process (“Cuenta de Inversión”) has not traditionally been initiated promptly enough to be an operational instrument for Congress to verify the fulfillment of the budget “contract” by the executive.¹⁴ Budget practices during the 1990s tended to overestimate revenues, and the (nonlegislative) follow-up adjustment mechanism gave substantial leeway to the secretary of the treasury to allocate scarce funds.¹⁵ Secretaries of the treasury have exercised this prerogative according to a mix of their own whims and pressure from the various ministries, occasionally arbitrated by the president.¹⁶

The unilateral power of the executive has also been based on constitutional capacities and practices that amount to granting proactive legislative powers to the president. These practices have evolved partly because legislators are not interested in direct policymaking; delegation of that act to the executive is a general equilibrium result. This tendency is exacerbated by the instability that has characterized Argentina. There are also explicit constitutional stipulations that have endowed the president with the capacity to “regulate” the laws from Congress; as well as constitutional vagaries, favorably interpreted by a weak Supreme Court, that granted the president the power to

¹⁴ Jones (2001) indicates that almost all of the substantial budget activity happens in executive quarters and not in Congress: “...relatively little modification of the budget proposed by the executive branch occurs at any time during the treatment of the budget bill in Congress” (p. 161). Furthermore, Jones indicates that while ministries and other entities submit detailed disaggregated budget plans to the (executive) National Budget Office, the draft finally sent to Congress contains expenditure only at a very macro level (p. 160). See also Abuelafia et al (2005).

¹⁵ A similar pattern has emerged during the Kirchner administration, with underestimation of revenues, leading to discretionary executive allocation of the additional funds.

¹⁶ Based on personal interviews by the authors with the then (1999) secretary of the treasury, Pablo Guidotti. See also Baldrich (2003), who in 2001 was secretary of the treasury, and Abuelafia et al (2005).

issue Decrees of Urgency and Necessity (Carey and Shugart 1998; Molinelli et al. 1999).

The ability of the executive to “purchase” policies (through fiscal federalism and other political channels) also depends on electoral results. Institutional actors such as Congress and crucial political actors such as governors tend to follow one of two strategies: one is confrontational, making the life of the president as hard as possible; the other is to cooperate “blindly” with the executive in exchange for short-term favors. The choice between those two strategies tends to be guided by a combination of partisan and resource availability considerations. When the party in executive power does not coincide with the colors of governors (and congressional majorities), and when the (fiscal) resources in the hands of the executive are low and declining, a confrontational strategy (like the one used by Peronist governors and leaders during the demise of the De la Rúa government in 2001) is more likely. In other (more “normal”) times, exchanging votes for cash is the most common strategy.¹⁷

9. Concluding Remarks

Our observations in this chapter about the policymaking process in Argentina can be recapped using the game theoretic language of Chapter 1, which indicates the conditions conducive to noncooperative policymaking. We summarize that discussion in a proposition here.¹⁸

¹⁷ Calvo and Murillo (2004) provide a more detailed analysis of the partisan channels for such exchanges.

¹⁸ See also Spiller and Tommasi (2006), Chapter 2.

Proposition: Political cooperation leading to effective public policies is more likely if:

- (1) the short-run payoffs from non-cooperation are low;*
- (2) the number of political actors is small;*
- (3) those actors have strong intertemporal linkages;*
- (4) policy and political moves are widely observable;*
- (5) good delegation technologies are available;*
- (6) good enforcement technologies are available; and*
- (7) the key political exchanges take place in arenas where properties (2)-(6) tend to be satisfied.*

Argentina has a relatively large number of political actors with the ability to block policy decisions. Many have either short horizons or wrong incentives, or both. Some potentially important actors such as legislators, justices, and key civil servants, have very short time horizons. The powerful, and potentially more long-lived, governors have only marginal incentives to work for the provision of national public goods. Because the executive has had excessive leeway to undo previous agreements, legislators and others have had little incentive to work toward those agreements in the first place. Third-party and other enforcement technologies (such as courts or bureaucratic delegation) have been missing. The interaction of the capacity for unilateral moves, history, and the lack of institutionalization of Congress (and of legislative careers) has moved the center of policy decision-making away from the national legislature and into other arenas. Crucial policy decisions are negotiated in

informal arenas that are not adequately structured for the institutional enforcement of bargains.¹⁹

In such a scenario, interest groups such as business and unions also follow noncooperative short-term strategies, trying to maximize short-term payoffs whenever they have access to state resources. This was clear during the “reform” experience of the 1990s, in which many reform measures amounted to a front-loading of payoffs to many key actors, such as local business groups favored by privatizations, key unions favored by reforms in the health and pension system, and pension funds that charged high up-front commissions.²⁰ So, socioeconomic actors also undertake shortsighted political strategies. Short-term maximization of political opportunities also shortens their horizons as economic actors. The short-term nature of most policy and institutional arrangements seems well understood by economic agents, who, for instance, did not contribute much to the “privatized” pension system. Some short-term credibility in monetary and exchange rate policy was bought through the rigid (and in the end, costly) convertibility system.²¹

In the 1990s Argentina undertook a rather surprising sharp turn toward market-oriented policies. According to the logic of policymaking described here, that turn was not the outcome of reasoned public debate in which most relevant political actors considered whether this policy shift was the most desirable course of action. It was a decision of

¹⁹ It is worth noting that none of these aspects of the policymaking process provides accountability to the citizens or improves the quality of democratic agency more generally.

²⁰ See Etchemendy 2002; Murillo 1997 and 2001; and Kay 2003.

²¹ See Acuña et al. (2005).

the executive of the day, approved by Congress through votes that were largely purchased through the federal fiscal system and related mechanisms.²²

The implementation of these reforms carried the imprint of the noncooperative policymaking process described here. This was reflected in several peculiar characteristics of the policies of the 1990s, such as the rigidity of the convertibility regime, the inefficiencies of federal fiscal arrangements, the lack of enforcement of some policies, and the incoherence of privatization and regulatory policies across sectors. The overall experiment, including the convertibility regime, did not end well, at least as evaluated by the Argentine public at the time of this writing. The current Kirchner administration is fairly outspoken against several aspects of the reform process of the 1990s. It seems clear that unless some fundamental changes in the rules of the political game take place, we will continue to observe low quality policies, independent of their political orientation.

²² See Acuña et al (2005)

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Table 1.
Features of Policies in Latin American Countries

Country	Stability	Adaptability	Enforcement / implementation	Coordination and coherence	Public regardness	Efficiency	Policy Index
Chile	3,0	3,4	3,0	3,0	3,0	2,9	3,0
Brazil	2,7	3,0	2,2	2,6	2,2	1,9	2,4
Costa Rica	2,3	3,0	2,4	2,3	2,5	2,1	2,4
El Salvador	2,6	2,7	2,2	2,2	2,2	2,1	2,3
Uruguay	2,5	3,0	2,3	2,1	2,2	1,9	2,3
Mexico	2,5	2,8	2,2	2,2	2,2	2,2	2,3
Colombia	2,7	2,8	2,2	2,1	2,1	1,9	2,3
Honduras	2,4	2,6	2,0	2,1	2,0	1,7	2,1
Peru	2,2	2,3	2,1	2,0	2,2	1,7	2,1
Bolivia	2,5	2,1	1,9	2,2	2,1	1,7	2,1
Dominican Republic	2,4	2,2	2,0	2,1	1,9	1,7	2,1
Guatemala	2,3	2,0	1,7	1,9	1,9	1,6	1,9
Nicaragua	2,3	2,0	1,8	1,6	1,8	1,8	1,9
Panama	1,9	2,4	2,1	1,4	1,9	1,5	1,9
Argentina	2,3	1,8	1,7	1,7	2,1	1,5	1,9
Ecuador	2,2	1,9	1,8	1,8	1,8	1,6	1,8
Paraguay	1,8	2,1	1,6	1,8	1,6	1,5	1,7
Venezuela	1,9	1,6	1,8	1,2	2,1	1,2	1,7

Source: Stein and Tommasi 2005

Table 2.**Reelection Rates in Selected Countries**

Country	Percent Seeking Reelection	Percentage of Candidates Reelected	Total Percent Reelected
Argentina (1997)	26	67	17
Brazil (1995)	70	62	43
Chile(1993)	76	78	59
Mexico (1997)	0	N.A.	0
U.S. (1996)	88	94	83
Italy (1953–72)	n.a.	n.a.	82
Great Britain (1950–74)	n.a.	n.a.	81
West Germany (1957–76)	n.a.	n.a.	70–75
Panama (1999)	n.a.	n.a.	49
Colombia (1990)	n.a.	n.a.	48
Japan (1963–90)	91	82	74
Turkey (1950–80)	n.a.	n.a.	56
Portugal (1991)	n.a.	n.a.	57.8

Source: Morgenstern 1998; Archer and Shugart 1997; Molinelli, Palanza, and Sin 1999.
N.A. = not applicable; n.a. = not available

Table 3: Supreme Court Justices' Average Tenure in Selected Countries, 1960–1990 (number of years)

Country	Judicial Tenure
USA	18.8
Norway	16.2
New Zealand	15.3
Malaysia	14.7
Ireland	14.7
Australia	14.6
Singapore	14.5
Canada	14.2
Belgium	13.2
Guyana	12.7
Germany, FR	12.2
Netherlands	12.1
Italy	11.1
Jamaica	10.9
Trinidad&Tobago	10.6
Nigeria	10.1
South Africa	8.3
Bangladesh	8.1
Brazil	7.2
Nicaragua	7.1
Sudan	6.8
France	6.6
Israel	6.5
United Kingdom	6.4
Sri Lanka	5.8
Chile	5.7
Zambia	5.6
Ghana	5.5
India	5.4
Botswana	5.2
Philippines	4.9
Zimbabwe	4.6
Kenya	4.6
Malawi	4.6
Pakistan	4.4
ARGENTINA	4.4
Peru	4.0
Dominican Rep.	3.6
Cameroon	3.3
Mexico	3.3
Honduras	2.8
Colombia	1.9
Ecuador	1.9
Guatemala	1.8
Paraguay	1.1
Total	8.0

Source: Henisz (2000)

Figure 1.

**Quality of Policies – Latin American Countries in the World Context
(International Components of the Policy Index)**

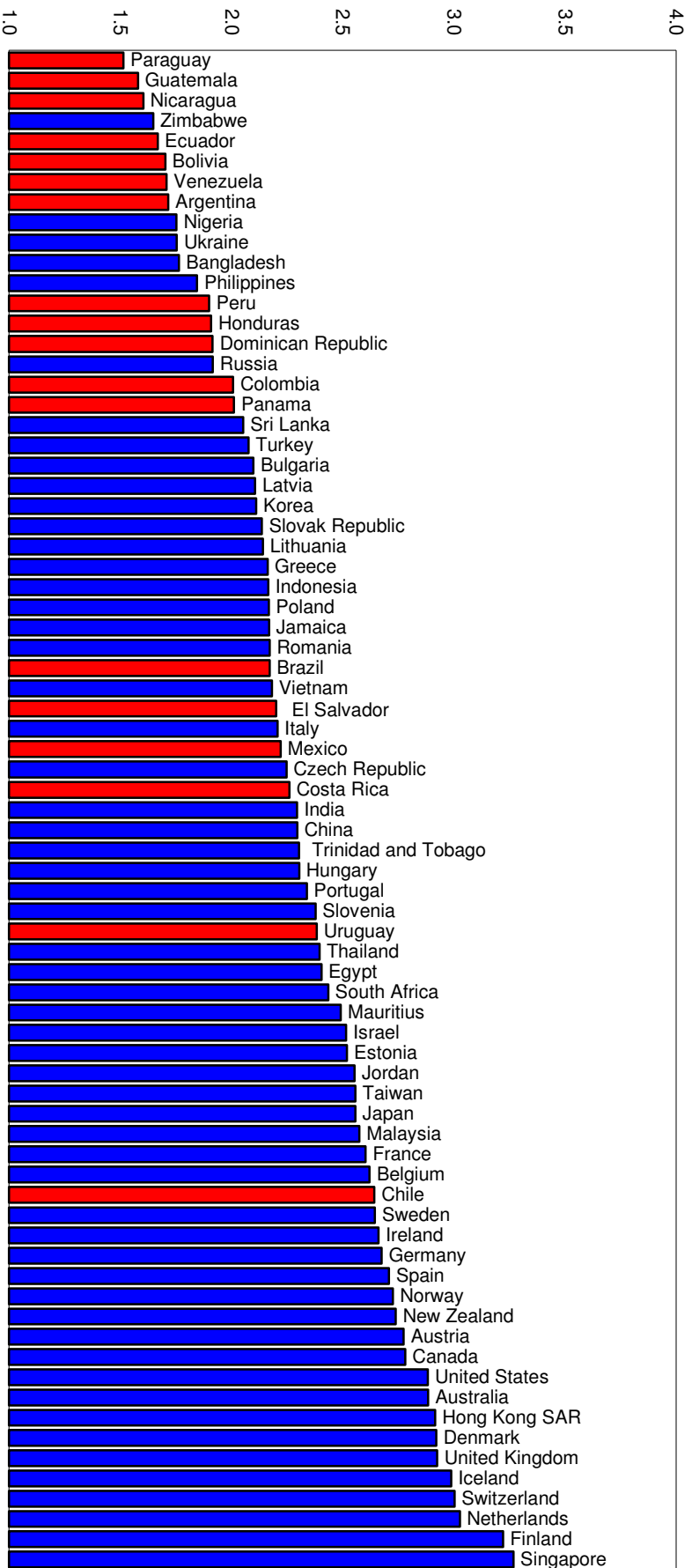


Figure 2.

Congress Capability Index

