

THE 'SUB-NATIONAL' CONNECTION: LEGISLATIVE COALITIONS, CROSS-VOTING, AND POLICYMAKING IN ARGENTINA

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In the 1990s, Argentina witnessed a sweeping process of market-oriented reforms. This programme focused on privatising a large portion of state-owned companies and on liberalising trade and capital flows. At the same time, the country put an end to a period of extreme price instability and achieved a strong growth recovery. Indeed, between 1990 and 1998 Argentina's real GDP (Gross Domestic Product) per capita grew at an average rate of 5 per cent a year. However, by the beginning of 2002 Argentina had not only lost its 'success story' status but also become the world's leading example of what emerging economies ought not to do. Argentina's downward spiral also produced deep disillusionment with liberal economic policies. According to recent polls, Argentines have now a very low opinion of the wave of free-market reforms that characterised the 1990s. In this context, it is very important to analyze which reforms worked, and which ones did not work and why.

Early analyses of Argentina's economic reforms asserted that these were carried out by the Executive power in isolation of social, political and institutional actors (O'Donnell 1994; Torre 1993). However, contrary to what these premature readings claim, most reforms resulted from negotiations between the Executive and key actors involved in the process (Llanos 2002; Corrales 2002a; Bambaci, Saront and Tommasi 2002). Moreover, as Bambaci, Saront and Tommasi (2002) suggest, the political and institutional process of implementing the reforms left a distinctive imprint on the outcomes. The 'reformist' coalition, composed by influential interest groups alongside the traditional provincial base of the Peronist party (*Partido Justicialista*, PJ), imposed limits on the reform agenda in terms of design, sequencing, horse-trading, and compensations (Bambaci, Saront and Tommasi 2002, 75). For example, according to Lora's (1997) index of structural reforms, compared to many other Latin American countries, Argentina was a fast and deep reformer until 1995.¹ However, as Bambaci, Saront and Tommasi (2002) note, Argentina's performance in different areas present sharp variations. Even though the country ranks above the average in privatisation and in trade and financial liberalisation, it falls behind in labour market and fiscal reforms (Lora 1997, Bambaci, Saront and Tommasi 2002).

Bambaci, Saront and Tommasi (2002) present a vote-buying theory to explain the choices of the Executive throughout the reform path: the president is seen as an agenda-setter facing a price schedule for legislators' votes in favour of its desired policies. They argue that cheapest votes (price zero, or even negative) would be those of legislators who benefit from the reform package. Otherwise, the spot price to be paid would depend on the political relationship between the president and each legislator or set of legislators (Bambaci, Saront and Tommasi 2002). Tommasi (2002) argues that in the Argentine case, this relationship is mediated by provincial party leaders.² Both Bambaci, Saront and Tommasi (2002) and Tommasi (2002) claim that the pivotal voters in the legislature during the presidencies of Carlos Menem (1989-1999) belonged either to provincial blocs of the Peronist party or to small provincial parties. Given that the support of these legislators was essential to make the reforms possible, their political allegiances determined both the pace and the depth of the reforms in each area.

Hence, while privatisation and liberalisation ‘were accomplished in a rather rapid and successful manner, advances in other areas, such as labour market reform and provincial reforms have been less significant’ (Bambaci, Saront and Tommasi 2002, 83).

In this paper, I elaborate more on the argument presented in Bambaci, Saront and Tommasi (2002). In particular, I explain under what conditions presidents succeed and under what conditions they fail in the legislative arena. I focus on the effects of cross-voting, and explain the variation in presidential legislative success. I claim that uncertainty about legislators’ support for government bills and limited governmental resources to engage in ‘vote buying’ account for presidents’ legislative performance. The aim is to show why it is very costly for Argentine presidents to pass legislation that directly affects provincial interests.

Take the case of fiscal policy. For the last 20 years there has been almost absolute consensus among observers that Argentina should undertake various reforms to its intergovernmental fiscal relations. Year after year, the major lending organisations and other specialists have produced many reform proposals seeking to improve government efficiency, to redefine the role of the lower levels of government, and to improve intergovernmental transfer systems. However, these ‘recipes for change’ were seldom followed. Initiative after initiative would be ‘dead on arrival’ in Congress. In fact, every administration since 1983 showed considerable legislative success and yet a relatively poor performance when it came to fiscal policy making.

The inability to introduce these much-needed reforms certainly played a major role in the Argentine crisis. The ‘straightjacket’ of the convertibility regime seriously restricted the set of potential instruments at the government’s disposal. In particular, unable to resort to a devaluation, the government could have only improved its finances by improving tax compliance, reforming the existing revenue sharing system, and reducing public sector payrolls, at both the federal and provincial levels. However, these tasks proved impossible; first, because of the preponderant role played by provincial governors in Argentine politics; second, because despite the country’s deteriorating conditions, these key players did not have any incentives to change the status quo. Under Law 25.235 of 1999, a fixed amount of 1,350m pesos a month was to be transferred to the provinces. Thus, provincial governors had a guaranteed transfer regardless of the country’s economic performance. By 2000, the federal government was paying very high interest rates to borrow money, in part, to make these monthly payments to the provinces. Only when sovereign borrowing dried up by mid-2001 did the federal government stop making those transfers.

The governors certainly cannot be held responsible for the crises. However, they did not have the proper incentives to ‘internalise’ the consequences of the country’s macroeconomic fate in a timely manner. I argue in this paper that these bad incentives are rooted in the Argentine political system. One would think, though, that after the 2001 crisis this faulty institutional design was put into question. Unfortunately it was not. Despite the popular protests incarnated in the famous slogan ‘*¡Que se vayan todos!*’ (Everyone must go!), no actions were taken in order to restructure the country’s main political institutions. For example, Law 25.570 of April 2002 eliminated the guaranteed fixed transfer to the provinces. This meant that the governors tied back the fortune of their provincial revenues to that of the national economy. They did so, though, as the country was bouncing back from its spectacular 2001 contraction. Hence, by 2003 the transfers to the provinces showed a substantial increase compared to the amount transferred to the provinces a year earlier. Hence, while some changes in the intergovernmental relations’ landscape took place in 2002, the basic rules of the game remain intact. Unfortunately, as the memories of the 2001 crisis become more distant, the prospects for reform tend to be bleaker. Despite the current administration’s declared intentions to reform to the ‘co-participation’ regime, its materialisation in the near future is highly unlikely.

The rest of the paper proceeds as follows: The first section presents a discussion of the vote-buying argument and presidents’ legislative success. Next, I discuss the Argentine case. I show that Argentine presidents’ overall legislative success is not different from other presidential regimes, but that they have great difficulties to implement fiscal policies through legislation. I illustrate this point by looking at federal fiscal relations in Argentina in the past

twenty years. I emphasise this particular policy-making dynamic in the critical moments of 2001/2002.

Explaining Presidents' Legislative Defeats

Argentina is a federal republic consisting of 23 provinces and a semi-autonomous federal capital. It has a presidential form of government and a bicameral legislature. The Chamber of Deputies has 257 members, elected from province-wide multi-member districts for four-year terms. Deputies are chosen from closed party lists using proportional representation. One-half of the Chamber is renewed every two years, with every district renewing one-half of its legislators. The Senate is composed of 72 members, with every province (and the federal capital) represented by three senators.³ Since 2001 these senators are popularly elected, with the stipulation that no one party can occupy more than two of a province's Senate seats.

Laws shall originate in either House of Congress, through bills introduced by their members or by the president. When a bill is passed by the House in which it originated, it is sent to the other House for its debate. Once approved by both, it is sent to the president for its examination. If the president signs the bill, it becomes a law. Alternatively, presidents may veto a bill. Argentine presidents can use both block and partial vetoes. They also have the ability to promulgate the non-objected parts of a particular bill. A veto, though, has to be exercised within 10 days of congressional passage, and Congress may reconsider the original bill. Vetoed bills shall return, with the objections, to the originating House. If the original bill is confirmed by a majority of two-thirds of the votes in both Houses of Congress, it becomes a law and is sent to the president for promulgation.⁴

In spite of the preponderant role that the constitutional framework assigns to Congress, Argentine presidents tend to play a dominant role in the law making process. They introduce a significant proportion of bills, and in some areas, they certainly have an upper-hand in terms of legislative initiative. For example, the budget's preparation and execution are usually delegated to the executive branch. In fact, little attention is often paid in the legislature to budgetary details, and most budgets, once presented,⁵ are approved with minimal amendments.⁶ Given their proposal powers, Argentine presidents should never 'be rolled': if the president anticipates that a bill will not have enough support, he can just refrain from sending such bill to the legislature and save face. In practice, however, Argentine presidents experience numerous legislative defeats. In the face of this puzzle, this section addresses two questions. One, why legislation initiated by the president ever gets defeated? Two, what explains the variation in presidents' legislative success?

The existing literature does not provide us with a good explanation of why bills initiated by the Executive power are defeated. In the case of parliamentary regimes, the theoretical literature often assumes that once a government is formed, it will always be able to implement its preferred policies. In the case of presidentialism, most models are extensions of the theory of voting in legislatures and focus mostly on ways in which governments can successfully pass their policy proposals. For example, in Groseclose and Snyder's (1996) seminal vote-buying model, there are no equilibria in which the status-quo policy prevails. In Alesina and Rosenthal (1995), government proposals may be amended by the legislature under open rule, so the final bill may be the ideal point of the median legislator, or just a weighted average of the ideal points of the executive and the legislature. Still, in their words, governments who 'propose carefully should never be rolled', and bills should not be amended in such a way that the government is made worse off compared to not sending any bill at all (Heller 2001). The results do not change when more structure is added to the legislative process. Shepsle and Weingast's (1987) model of legislative committees yields the same results. Given its proposal powers, a committee will either report to the floor those bills that give it highest utility or not report any bill at all. However, Shepsle (1997) has no explanation as for why a proposer would send a bill that will get defeated, except for sheer stupidity on the part of the proposer.⁷

An important element that most models often do not take into account is the role of voting across party lines. This is especially true in the case of models of parliamentary sys-

tems. The assumption is that the joint survival of the government and the assembly will create high levels of party cohesion. However, this is not always the case. As Crowe (1980) and Norton (1987) show, even in the British parliament cross-voting is fairly frequent. Hence, most models of government-legislature interaction are inadequate on two counts. First, these models are unrealistic in their predictions that no defeats occur. Second, they often neglect the role of cross-voting and parliamentary dissent.

I now provide an explanation for why Executive-initiated bills may be defeated in the legislature. I argue that constituency influence accounts for the variation in presidents' legislative success. In particular I claim that uncertainty about legislators' support for Executive-initiated bills and limited governmental resources to engage in 'vote buying' may lead to defeats. Although the president may handle the effects of cross-voting with 'deep pockets' or 'big sticks', it may run out of resources if a measure commands too much opposition.

Suppose that the legislative process takes the following form.⁸ It starts with the president choosing between two alternatives. The president decides whether to send a proposal to the legislature, or to keep the status quo policy. In case the president decides to send a bill, the legislature chooses either to adopt the bill and make the president's proposal the new policy or to kill it and keep the status quo.⁹ If a bill sent by the president is rejected by the legislature, though, he pays a political cost. Therefore, the president will try to induce the legislature to adopt his proposal. In case the proposal does not command a majority, the president may be able and willing to bribe or punish some legislators to affect the outcome.¹⁰

I assume that the president is somewhat uncertain about the number of legislators that will cast a vote in support of its proposal. The source of this uncertainty is the existence of cross-pressured legislators (Fiorina 1974). Legislators either belong to the governing party/coalition or are in the opposition, and this is known by the president. However, legislators are also responsive to their respective local party bosses: each legislator comes from a particular province, which can be characterised by the intensity of the local party boss' preference of the president's proposal over the status quo. Each legislator is rewarded or punished for her vote by her local party boss as a function of the boss' preferences. These rewards/punishments may take different forms. One can think of them as the reaction of the party boss in the next election, such as providing or withholding crucial aids to legislators' re-election (a place in the party list, campaign contributions, media exposure, etc).

The president can observe the partisan distribution of the legislature but he is uncertain about the preferences of legislators' local party bosses. Given his prior belief about the latter distribution, the president sends a proposal to the legislature. Once the bill has been sent to the legislature, all legislators go back to their provinces and come back with a particular mandate that defines each legislator's local party boss preferred policy. At this point, everyone knows everything, and as the local party bosses' policy preferences become common knowledge an estimate of the legislature's support for the president bill can be made. With this knowledge, the president 'counts noses' and may offer each legislator a schedule of payments for voting for his proposal.

In case the proposal does not command a majority, the president may be able and willing to bribe or threaten some legislators to change the outcome. Yet, the president may face a fixed 'budget' to buy-off/punish individual legislators. If the budget is large enough to put together a commanding majority in favour of its proposal, the president may spend it and get its preferred policy outcome. However, if the total cost of securing these votes is larger than its budget, or if this cost exceeds the value of policy change, a president is better off by keeping the status quo. Hence, the president may eventually need to bribe or punish too many legislators, and thus, he may run out of resources if a particular bill commands too much opposition. In other words, presidents may handle the effects of cross-voting with 'deep pockets' or 'big sticks,' but they may be defeated if a measure commands too much opposition.

The president, thus, will only send a bill to the legislature when he estimates that his vote-buying budget is large enough to secure majoritarian support. Note, though, the probabilistic nature of this decision: when the president makes the decision to send a bill to the legislature he can still make an incorrect estimation of how much legislative support such proposal will have. Thus, given his prior belief about this distribution of local party bosses' policy

preferences, the president will send a proposal to the legislature if he expects to win. But the president can make mistakes and some proposals are defeated.

What would happen, though, if the president is certain about the policy preferences of all legislators when a bill is sent? Or, if the president has unlimited resources to buy majoritarian support for his policies? In this case, the president may knowingly go to defeat if placing an issue on the legislative agenda would deeply divide the opposition forces. Note that now, the president may choose to be defeated to send a particular signal to a third party (the general population, the International Monetary Fund [IMF], etc.) For example, the president may choose a strategy of ‘triangulation’, positioning himself between his own party and the opposition forces in the legislature to build popularity (Matthews 1989; Ingberman and Yao 1991; Groseclose and McCarty 2001).

This strategy of *divide et impera*, though, may be palatable for a president as long as there are opposition forces in the legislature that need to be exposed in front of the general public. For example, even if the president’s party controls a majority of seats in the legislature, the president may encourage some legislators to take extreme policy stands by supporting contentious legislation but then drop the proposal altogether in the face of majoritarian opposition. If the legislature is seen as a natural extension of presidential power, though, it may not be a good idea for the president to force a defeat.

Legislative Policymaking in Argentina

In this section I discuss legislative policymaking in Argentina. First, I focus on Argentine presidents’ overall legislative success. Second, I identify the policy areas in which Argentine presidents had great difficulty to pass legislation.

A comparative view of governments’ legislative performance

There are at least three different ways to analyze governments’ legislative output: (1) The ratio of government-initiated laws to total laws (executive dominance); (2) the absolute number of government-initiated laws (legislative output); (3) the ratio of government-initiated laws to government-initiated bills (legislative success).

The first measure is obtained by calculating what percentage of all bills approved by the legislature comes from the Executive. This indicator speaks to the question of who initiates laws and it may be useful to evaluate arguments about how ‘monopolistic’ are governments in the law production process (Crain, Holcombe and Tollison 1979; Cox and McCubbins 1993). More broadly, this measure can be used to analyze the balance between government and legislature. This indicator does not tell us anything, though, about the government’s legislative success rate. In the case of governments’ sheer legislative output, the main concern is that legal instruments are often defined in distinct way across nations (Döring 1995; Trantas 1995). For example, in some countries, very trivial and non-controversial matters are subject of legislation driving legislative output up. In contrast, in some other countries, only relevant and controversial matters reach legislative stage, while all other matters are handled by the administration.

Thus, I believe that for comparative purposes, the best indicator of legislative success is a government’s ‘batting average’: the proportion of legislative initiatives of the Executive that are approved by the lower house of the national legislature. It is measured by the number of executive proposals approved in the lower house of the national legislature, divided by the total number of proposals introduced by the executive in a given period.¹¹

Instances where government bills make it all the way to the floor and are voted down are exceptional, but do occur. In general, though, government bills ‘die’ in the legislature in other ways.¹² However, collecting systematic cross-national data on government-initiated bills taking into account the fate of those bills constitutes a very difficult task. And, regardless of where do government bills die, it is clear that governments do experience defeats that they could have anticipated.

Another potential argument against using a measure such as the ‘batting average’ is that by looking at governments’ legislative success in such an aggregated mode, we are missing a very important element: this measure does not tell us anything about the content of bills. For all we know, a government may be very successful in passing irrelevant or non-controversial bills and quite unable to pass any significant legislation. As with the case of tracking the fate of government bills, there is no systematic data on government bills that allows us to make cross-country comparisons taking content into account.¹³

An additional comment regarding the ‘batting average,’ is in order. As noted above, legal instruments vary considerably across countries. However, by looking at the legislative success of the executive, the problem dissolves. Whatever is the scope of legislative instruments that the executive must submit to the legislature (bills, international treaties, executive decrees) in any given country, once the executive sends a certain amount of ‘them,’ all, some or none will receive legislative approval. Another concern has to do with anticipated reactions. As Jones puts it: ‘presidents are unlikely to submit bills to congress which they expect will be rejected...high rates may be the result of true executive success in the legislature, but they also might be the result of the executive only sending non-controversial or watered down bills to congress’ (1995, 40). The previous section identifies the conditions under which the executive will submit legislation and those in which no legislation will be sent. Hence, the issue of anticipated reactions is addressed theoretically and correct interpretation of legislative success of executive-sponsored bills can be given.

Table 1 shows descriptive statistics on legislative success. The sample consists of 614 country-year observations for democracies around the world between 1946 and 2000.

Table 1: Chief Executives’ Legislative Success Rates¹⁴

	Mean	Standard Deviation	Minimum	Maximum	Observations
Parliamentarism	80.15	13.92	34.0	100	335
Mixed	74.78	19.01	22.2	98	59
Presidentialism (excluding Arg.)	62.41	20.87	9.8	94.5	201
Argentina	63.32	9.54	48.7	80.0	19
All (excluding Arg.)	73.62	18.91	9.8	100	595

Sources: for a full list of sources see Saiegh (2003)

It is clear from this table that governments do not get their legislation approved all the time. Prime Ministers are generally more successful in getting their legislation approved.¹⁵ What is most interesting in the context of this paper is that Argentina is no different from the rest of the presidential regimes.

The Argentine Case

The following table shows Argentine presidents’ legislative success rates sorted by year, for the 1983-2001 period. The data in Table 2 indicates that there is some degree of intra and inter-administration variation in presidents’ legislative success rates. The highest success rates correspond to Raúl Alfonsín’s first three years in office followed by the rates of the first year in office for both Fernando De la Rúa and Menem. Whereas the least successful presidents were Menem in his last year in office followed by Alfonsín in 1986. These data do not tell us anything, though, about the content of the bills that were killed, and of those that were turned into law. Overall policy output is an important indicator of legislative success, however other features of executive-legislative relations are important to the extent that they are relevant to this output.

Critics of presidentialism have, with good reason, focused on the conflict between the executive and the legislature. Cheibub, Przeworski and Saeigh (2004) show that when the president has effective agenda power and has no incentive to compromise, conflict between the president and the legislature may turn into a legislative paralysis. Jones (1995) examines executive-legislative conflict in 14 Latin American countries between 1983 and 1993. He concludes that the level of presidential partisan support in the legislature has a notable impact on the degree of conflict between the president and the legislature (Jones 1995).

Between 1916 and 2001, the party of the president controlled a legislative majority in the Argentine Chamber of Deputies 50 per cent of the time. Two caveats apply, though. First, each time a military regime came to power in Argentina Congress was 'shut down' (1930-1932, 1943-1946, 1955-1958, 1962-1963, 1966-1972, 1976-1983). Thus, between 1930 and 1983, Argentina's Congress stayed closed during twenty-two years. Second, this figure is biased because it includes years where the Peronist party was either in government (1946-1955) or under proscription (1958-1972). Between 1949 and 1955, the Peronist party had an overwhelming majority of seats in the Argentine Congress (including all the Senate seats after 1949). Conversely, the proscription of Peronism in subsequent years assured that non-Peronists parties be over-represented in the legislature, as it was the case under Arturo Frondizi (1958-1962).

Table 2: Argentine Presidents' Success Rates

Year	President	Success Rate
1983	Alfonsín	79.2
1984	Alfonsín	78.2
1985	Alfonsín	80.0
1986	Alfonsín	49.4
1987	Alfonsín	62.3
1988	Alfonsín	65.1
1989	Alfonsín/Menem I	56.0
1990	Menem I	54.6
1991	Menem I	56.3
1992	Menem I	55.5
1993	Menem I	68.8
1994	Menem I	61.0
1995	Menem II	70.59
1996	Menem II	64.29
1997	Menem II	65.87
1998	Menem II	58.4
1999	Menem II	48.7
2000	De la Rúa	71.88
2001	De la Rúa	56.92

Source: Molinelli, Palanza and Sin (1999) and Aleman (2003)

When one looks at the 1983-2001 situation, the frequency of majority governments is much lower: the president's party controlled a legislative majority in the Chamber of Deputies only 31.6 per cent of the time. Only Alfonsín between 1983 and 1987 and Menem between 1995 and 1997 had more than 50 per cent of the seats in the Chamber of Deputies. The rest of the time, presidential parties controlled a plurality of seats. Securing a majority and not just a plurality of seats is particularly important because any party that reaches the 131-seat threshold will be able to have quorum by itself.

An additional complication is the role of provincial representation. Mainwaring and Shugart (1997) list three key features of electoral laws that influence legislators' behaviour: (1) pooling of votes among a party's candidates, (2) control over who runs on the party label,

(3) control over the order in which candidates are elected from the party list. In Argentina deputies are elected via closed regional party lists and thus for this office votes are pooled. This encourages deputies to engage in behaviour that enhances the electoral prospects of their regional party (Molinelli 1991). In particular, the process by which provincial party lists are formed largely affects which candidates run on each party list, what order they occupy, and, consequently, their chances of winning a seat in Congress.

In almost every province, local party bosses dominate the construction of party lists. Hence, Argentine legislators' ability to independently pursue a legislative career is substantially curtailed: in order to pursue their desired career paths, they must maintain a good relationship with their local party bosses (Jones, Saeigh, Spiller and Tommasi 2002; De Luca, Jones and Tula 2002). Challenging the local party boss could at times be an optimal strategy for individual legislators. However, this strategy is certainly a risky one, and the timing of a challenge shall be strategically chosen. Absent a challenge, career progression requires the support of the local party boss (Jones 2002). This 're-nomination' power, thus, provides local party bosses with the capability to credibly threat national legislators with future dismissal of if they deviate from the 'local party line'.

In fact, since 1983 the average re-election rate for the Chamber of Deputies has been 20 per cent, ranging from a high of 29 per cent in 1985 to a low of 15 per cent in 1995.¹⁶ A legislator must obtain a spot on the provincial party list to be re-elected, but during the 1989-2001 period only 25 per cent of the deputies surpassed this hurdle. However, once incumbents were placed on the party lists, their probability of re-election increased considerably. Between 1989 and 2001, 76 per cent of those incumbents who obtained a position on the party list achieved re-election. During this same period, an overwhelming majority of Peronist legislators came from provinces in which there was a Peronist governor, who in all but a few instances was also the undisputed party boss (Jones and Hwang 2003). In the case of the *Unión Cívica Radical* (Radical Civic Union, UCR), 'there was a broader mix in the distribution of legislators for whom party bosses were delegating power on their behalf and who themselves were the actual party bosses delegating power, although the former easily represented the majority of the party's Chamber delegation' (Jones and Hwang 2003, 17).

A president's ability to influence 'its own' legislators, thus, depends in part on whether the provincial party boss supports the administration. It is true that provincial support may be 'compensated' with federal funds. However, since governors control in the chamber normally more than one legislator, obtaining support from a legislator whose provincial party boss is a governor is very expensive. Governors' bargaining power was further strengthened by the fact that the president's party often controlled just a plurality of seats in the Chamber of Deputies during 1983-2001. This distribution of seats, as Tommasi (2002) notes, tended to increase the marginal value of the block of votes under any given provincial party leadership.

Gathering support from government legislators whose provincial party does not control the provincial government should be cheaper, as the provincial party boss cannot offer as much advancement to his or her own legislators as the President can via the federal government. Yet, this type of legislators accounted for roughly 20 per cent of the seats in the Argentine Chamber of Deputies between 1983-2001. Thus, even when the president's party had a majority or plurality in the chamber, the president was seldom able to 'control' it.

In this context, what did the legislative policymaking process look like? It turned out that Argentine presidents often had to resort to their strong legislative powers. For example, using the presidential veto prerogatives discussed above or issuing Necessity and Urgency Decrees (*Decretos de Necesidad e Emergencia*, NUDs). Between 1853 and 1983 only 15 NUDs had been issued. However, this practice became more frequent during the administration of President Alfonsín (with 10 NDUs), and was substantially extended by President Menem (with more than 200 during his 10-year term) (Molinelli, Palanza and Sin 1999). The current administration, in fact, holds the record for most NDUs issued at the beginning of its tenure. President Néstor Kirchner (2003-) issued 50 NDUs in his first eight months in office, eight more than Menem and twenty more than De la Rúa in the same period of time (*La Nación* 14 March 2004).

The use of these resources of dubious constitutional pedigree shows that presidents do not easily control the legislative policy-making process. According to Ferreira, Rubio and Goretti (1998), president Menem sent several bills to Congress asking for a quick approval with the threat of implementing these measures by NUD otherwise.¹⁷ Moreover, as Cheibub, Przeworski and Saeigh (2004) note, the threat of using extraordinary powers by presidents often leads to a true conflict between the executive and legislative branches of governments and eventually to a state of true legislative paralysis.

Hence, in Argentina we should expect to observe legislative gridlock in those areas where the legislators feel more compelled to show their allegiance to the governors and presidents have greater to control the legislative agenda.¹⁸ Alternatively, if presidents really want to get their agenda enacted by the legislature, they may engage in negotiations with provincial governors. However, it may become very difficult or 'expensive' for presidents to pass legislation in those areas where governors are negatively affected.

Fiscal Federalism: the Sub-National Connection at Work

According to the analysis presented above, initiatives that require the approval of the national legislature may give rise to opportunism on the part of the sub-national governments. In particular, given legislators' responsiveness to governors, they may hold up policies in the national legislature pertaining to intergovernmental relations, when (some) provincial interests are not taken into account. For example, Eaton (2001) explains congressional delegation of authority over the reform of regional tax incentives in Argentina in these terms. As early as 1987 a bipartisan coalition of legislators from provinces harmed by tax incentives sought to revoke the special tax benefits of Catamarca, La Rioja, San Juan, and San Luis. However, as he shows, inter-provincial conflicts created bargaining problems in the legislature preventing the passage of reform legislation through regular channels. After years of discussion, the matter was resolved by delegating authority over the reform to the president (Eaton 2001).

The 'upper-hand' that governors have in the policy-making process also makes it very costly for Argentine presidents to pass legislation that affects provincial interests. Bavastro (2001) provides further empirical evidence in support of this claim. He notes that Alfonsín (1983-1989) faced a strong opposition in congress, and that the key factor was not only '...the deadlock with the Peronist party, but also the lack of support from his own party mainly in the Chamber of Deputies where the UCR had both a majority and quorum' (Bavastro 2001, 25). In the case of Menem's first administration (1989-1995), Bavastro also indicates that presidential initiatives never had wide legislative support. According to him, the reason why Menem failed to pass many pieces of legislation was not the UCR's opposition in the Chamber of Deputies, but rather it was 'the lack of support from his own party not only in the Lower Chamber but also in the Senate where the PJ had both a strong majority and quorum' (Bavastro 2001, 39).

He also analyses presidential bills never passed by Congress according to issues. He finds that during the Alfonsín administration the highest frequency of 'failed' executive bills corresponded to the category of 'Taxes and Fiscal Policy'. The same was true under Menem, bills on taxes and fiscal policy were the ones that encountered most opposition in Congress (Bavastro 2001, 51). Table 3 below reports his findings for the whole 1983-1995 period, indicating in which particular House of Congress different bills were 'killed'.

As the table shows, for both Alfonsín and Menem, passing legislation regarding taxes and fiscal policy, issues that clearly affect provincial interests, was most difficult. In particular, most of these bills were stopped in the Chamber of Deputies at a rate that is far superior to any other category. The lower 'death rate' of these type of bills in the Senate is certainly due to a selection bias: bills for raising revenue shall exclusively originate in the Chamber of Deputies, hence very few of the bills regulating fiscal policy even reached the Upper House. Moreover, more than half of the failed bills on taxes and fiscal policy (37 out of 68) did not receive any legislative procedure at all. They were not considered neither by the relevant committee nor by the floor (Bavastro 2001, 40). Therefore, it is clear that the most controversial issue for both administrations was taxes and fiscal policy.

Table 3. Government Bills ‘Killed’ in Congress, According to Issues (1983-1995)

Issues	Chamber of Deputies		Senate		Both Houses	
	Bills	%	Bills	%	Bills	%
Penal Legislation	18	7.6	21	15.9	39	10.6
Public Institutions	29	12.2	13	9.8	42	11.4
Pensions	11	4.6	5	3.8	16	4.3
Taxes and Fiscal Policy	54	22.8	14	10.6	68	18.4
Public Infrastructure	1	0.4	0	0.0	1	0.3
Labour Legislation	13	5.5	8	6.1	21	5.7
Housing	1	0.4	0	0.0	1	0.3
Education	5	2.1	4	3.0	9	2.4
Defense	8	3.4	2	1.5	10	2.7
Farming, Trade, and Industry	12	5.1	1	0.8	13	3.5
Political and Civil Rights	5	2.1	4	3.0	9	2.4
State Properties	12	5.1	23	17.4	35	9.5
National Budget	6	2.5	0	0.0	6	1.6
Health	5	2.1	0	0.0	5	1.4
Justice	28	11.8	22	16.7	50	13.6
Others	29	12.2	15	11.4	44	11.9
Total	237	100.0	132	100.0	369	100

Source: Bavastro (2001).

The ‘*Coparticipación Federal de Impuestos*’ (Federal Tax-Sharing Agreement) epitomises this particular policymaking procedure. As Alfonsín took office in 1983 the revenue sharing regime that was in place at the time was about to expire. By 1985 there was no longer a legal regime for sharing tax revenues between the federal and provincial governments. On 13 March 1986 a transitory agreement established the revenue shares for that year on the basis of the 1985 period. This transitory agreement had to be replaced by a final law the following year. Yet, it took more than a year and a series of intricate political bargains to finally bring out a new tax-sharing legal regime. Essentially the problem was that during 1987 the negotiations around the new revenue sharing regime got entangled with the discussion of a tax reform sought by the finance minister. After a series of negotiations on both issues, the co-participation Law 23.548 was passed on 7 January 1988. The main features of this law prevailed until 1992-93. However, during those years, two successive ‘fiscal pacts’ were also negotiated between the national and sub-national levels of government. In 1994, the constitutional reform included important aspects related to the revenue sharing regime. In particular, the revised constitution established that a new co-participation law, based on agreements between the central government and the provinces, had to be drafted before 1996. Since then, a series of new ‘fiscal pacts’ and significant informal mechanisms have dominated intergovernmental relations, as a new law has not been enacted yet.¹⁹

The 2001 Crisis: Governors Came On Top Again.

In the 1999 Argentine presidential campaign, economic issues took centre stage. In particular, the two leading contenders took opposite sides on the issue of debt repayment. On 25 June, the Peronist Party candidate Eduardo Duhalde complained that debt payments were ‘bleeding’ the country. He stated that ‘with current levels of debt servicing there would be no possible recovery’ for Argentina, and demanded that foreign creditors cancel debt (quoted in Tomz 2002, 10). Conversely, the candidate of the multi-party coalition called the Alianza, Fernando

de la Rúa declared on the same day that the country should uphold its commitments. To reinforce the differences with Duhalde, De la Rúa's running mate Carlos Alvarez said that talk of default would hurt the country. As the months progressed, Duhalde insisted with the idea of debt forgiveness. Meanwhile, De la Rúa continued to assert that he would honour the sovereign debt, even if it meant austerity at home (Tomz 2002, 11).

De la Rúa won the 1999 election and, in order to uphold his campaign promises, he sought to implement a package of fiscal reforms as soon as possible. A key element was the 'Compromiso Federal' negotiated between the soon-to-be finance minister Jose Luis Machi-nea and the governors on 6 December 1999 (four days before the new administration took office). The incoming government had the legitimacy of the votes while many of the governors belonged to the nationally defeated Peronist party and had come to office in previous electoral contests. These factors put the members of the upcoming Alianza government in a very good bargaining position. However, those who negotiated the agreement on behalf of the new government underestimated the experience of their bargaining partners.

Several legal instruments had regulated intergovernmental fiscal relations in the late 1990s. However, this agreement stands out as a very good example of the influence and savvy of provincial governors on fiscal issues. This new fiscal pact between the federal government and the provinces, Law 25.235 of 15 December 1999, established a fixed amount of 1,350m pesos a month to be transferred to the provinces. This amount was based on the average of monthly transfers during 1998 and 1999. Establishing a fixed amount to be transferred meant that any increases in public revenues would not accrue to the provinces, but also that provincial governors would have a guaranteed transfer regardless of the country's economic performance.

As the economic situation deteriorated, and public revenues continued to fall, it became increasingly difficult for the federal government to make these monthly transfers. Restrictions to access capital markets also limited the government's ability to cope with these financial obligations. The government's increasing inability to raise funds in international markets was indeed associated with its already high debt burden. As a result, voluntary external financing completely dried in 2001. Access to capital markets was virtually constrained to the domestic market, mainly Pension Funds Administrators (*Administradoras de fondos de jubilaciones y pensiones*, AFJPs). The AFJPs were obligated to acquire government securities. Nonetheless, as a clear manifestation of the growing negative expectations about Argentina's economic outlook, there was a sharp increase in the country risk which was reflected in the newly issued Bonds' extremely high yields.

On the night of 14 October 2001, the fate of Fernando De la Rúa's presidency was sealed. After almost two years in power, his administration lost control of the two Houses of Congress to the Peronist party. In terms of De la Rúa's legislative support, the Alianza saw its seat total fall to 87 from a near-majority of 125 seats two years earlier. Moreover, as Tomz (2002) notes, the 2001 legislative elections had become a referendum on the austerity needed to meet IMF targets and remain current with creditors.

What followed is well known: two months later, on 19 December 2001, thousands of people banging pots and pans marched on the *Casa Rosada* demanding that Fernando De la Rúa resign to the presidency. These events showed the degree to which a president with little political support can unleash a dangerous spiral that further weakens the incumbent and renders the country increasingly ungovernable. This became even clearer a week later when Adolfo Rodríguez Saá also had to resign when he lost the support of fellow Peronist governors. A Peronist-controlled Congress eventually chose Eduardo Duhalde to complete De la Rúa's term. The leaders of the Alianza, which had just lost power, accompanied this decision. However, even then political turmoil continued. Soon it became apparent that Duhalde's broad political support could be more symbolic than real. Even though he was almost unanimously chosen by a legislative Assembly to take care of the government, he initially faced serious obstacles to implement his decisions. However, unlike his predecessors in the Chief Executive office, he rapidly learned that in order to rule he needed the governors on his side.

The depth of the economic crisis also played an important role to bring back into the agenda a much-needed renegotiation between the federal government and the provinces. On

10 April 2002, Congress passed Law 25.570 ratifying the terms of the accord of 27 February 2002 between the federal government and the provinces. Argentina's two main political parties, the Partido Justicialista and the UCR voted together and the bill passed with 149 votes against 35.²⁰ The law basically eliminated the guaranteed fixed transfer to the provinces. This, however, was just a ratification of a *fait accompli*. The federal government had not been able to make those transfers since June of the previous year. There was a controversy whether the 'zero deficit' law that was passed then superseded the fiscal accord of 1999. The Supreme Court finally ruled that the provinces should receive these transfers and provincial governors considered the arrears on these payments as a credit they held against the federal government. It is important to note, though, that the elimination of the fixed transfers became a *de jure* and not just a *de facto* agreement.

Provincial governors did not come of the agreement empty handed, though. As part of the negotiation, the federal government agreed to 'bail out' the provincial governments by converting their dollar-denominated debt into *pesos*. This was done at a rate of 1.40 *pesos* per dollar at a time at which the market was already paying 2.78 *pesos* per dollar. Moreover, the governors tied back the fortune of their provincial revenues to that of the national economy, as the latter was bouncing back from its spectacular 2001 contraction.

Table 4. Transfers from Common Pool of National Taxes, 2002 and 2003
(in millions of *pesos*)

	2002	2003
Coparticipation	821,6	1451,4
Services	108,8	108,7
Income taxes	163,6	190,1
Personal Assets taxes	35,3	72,5
Fuel taxes	70,4	21,4
Compensation Fund	46,4	45,8
'Monotributo'	5,5	9,5
Others	8,2	1,7
Total	1260,8	1901,1

Source: Secretaria de Hacienda (2004)

As table 4 shows, in 2003 provincial governors came on top again. Coparticipation transfers in December of that year amounted to 1.451m *pesos*. This figure represented a 76.6 per cent increase compared to the amount transferred to the provinces in December 2002. This 'windfall' for the provinces originated mostly in the increased collection of the value added tax by the federal government, a source of revenue that is closely linked to economic growth.

Conclusions

An investor report by Credit Suisse/First Boston issued in 2000, before the collapse of the Argentine economy, stated that some key measures to rebuild confidence and lead Argentina to a sustainable economic recovery were still available. These measures included improving tax compliance, reforming the existing revenue sharing system, and reducing public sector payrolls, at both the federal and provincial levels. However, the report concluded that it was very unlikely that the government was to going to be able to take those steps (Credit Suisse/First Boston 2000). The 'sub-national connection' delineated above helps to explain such scepticism.

This paper presented a vote-buying theory to explain Argentine presidents' legislative performance. The analysis clarifies the relationship between uncertainty, governmental resourcefulness and legislative success. It also provides and explanation of why it is very costly

for Argentine presidents to pass legislation that directly affects provincial interests. The empirical evidence supports the analysis. Since 1983, Argentine presidents' overall legislative success has not been different from that of other presidential regimes. However, due to the 'sub-national connection' of national legislators, for the past 20 years Argentine presidents have had great difficulties to implement fiscal policies through legislation. It also shows that even in the most critical moments, the upper hand of provincial governors in national policy-making was present in Argentine politics.

As I discussed in this paper, some changes in the intergovernmental relations' landscape took place in 2002. However, the basic rules of the game remain intact. Moreover, as the memories of the 2001 crisis seem more distant, the prospects for reform become bleaker. Despite the current administration's declared intentions to introduce a deep political reform and substantial changes to the 'co-participation' regime, the materialisation of these objectives seems highly unlikely.

Notes

- 1 Lora's index is a combination of the main aspects of structural policies reflecting the degree of neutrality of those policies, under the assumption that the primary objective of the structural reforms in the economic domain is to achieve greater efficiency in the allocation of productive resources by eliminating or reducing distortions caused by policies that limit the functioning of markets (Lora 1997: 2).
- 2 Tommasi (2002) focuses on legislative coalition building because he argues that it is the main channel through which the federal connection operates.
- 3 Prior to the 1994 constitutional reform all of the country's 22 provinces (23 after 1990), and its Federal Capital were represented by two senators. Senators were elected indirectly for nine year terms by the provincial legislatures using the plurality formula, except in Capital Federal where they were selected via an electoral college. By lottery two-thirds of the Senate began in 1983 with either three or six year initial terms, with no province having two senators on the same cycle.
- 4 For an excellent account of Argentine presidents' role in the lawmaking process in comparative perspective see Aleman (2003).
- 5 During periods of high inflation, Argentine presidents preferred not to present budgets, and instead to work with past budgets, and their ability to move expenditures around.
- 6 The budget preparation process is conducted mostly in the Cabinet, which is the entry point for most pressure group activity. It is not uncommon for provincial governors to visit the Minister of the Economy, his secretaries, or other ministers, trying to get favorable treatment for their provinces in the allocation of national resources (Jones 2000).
- 7 As Shepsle puts it, if the committee and the chamber want to move policy in opposite directions, the committee will refuse to open the gates. However, 'if they did stupidly open the gates, then any proposal they made to improve their lot would be voted down...' (Shepsle and Bonchek 1997, p. 332).
- 8 For a formal presentation of this argument see Saiegh (2003).
- 9 For expositional purposes I will assume throughout this section that the president faces a unicameral legislature. Another way to characterise the analysis presented here is to assume that the relevant legislative majorities encompass both Chambers of Congress.
- 10 I am assuming that once the president sends a bill to the legislature, he cannot change its content.
- 11 I concentrate here on the fate of bills in the lower house of a country's national legislature for comparative purposes. I examine the fate of bills in both Houses of the Argentine Congress below.
- 12 The fate of bills depends on legislative procedures in each country, and it can be any of the following: a negative committee report which kills the bill; no committee report, so the bill never leaves the committee; a positive committee report, which makes it possible for the Floor to debate the bill, but does not guarantee that the bill will come up for debate; and outright defeat of the bill by the Floor. The 'batting average,' thus, is a rather crude measure of governments' legislative success, as we cannot identify where bills died.
- 13 The best we can do is to obtain, for some countries, a subset of bills that are classified by country experts as 'relevant' in contrast to 'irrelevant' legislation. Still, as Tsebelis (2002) notes, the criteria for selection of 'significant' laws have an important ingredient of subjectivity that can undermine the results of any analysis for a reader who does not share the same criteria for selection. This becomes a particularly important problem for cross-national comparisons of legislative output.
- 14 The second and third columns show the average legislative success rate and the standard deviation for each category of countries. The fourth and fifth columns show the minimum and maximum value of the legislative success variable respectively for each category of countries. The last column indicates the number of observations for each category of countries.
- 15 This fact is most likely due to selection bias. Since parliamentary governments risk confidence of the legislature when they are defeated, Prime Ministers should be more careful in proposing legislation. Presidents, in turn, can be more reckless.

- 16 The Partido Justicialista (Peronist Party, PJ) and Unión Cívica Radical (Radical Civic Union, UCR) possess similar re-election rates.
- 17 These authors identify as such cases legislation dealing with pensions, regulation of the right to strike, consolidation of public debt, the national budget, and privatisation of the oil national company (Ferreira Rubio and Goretti 1998).
- 18 Shugart and Carey (1992) present a simple interval scoring method to assess presidential powers. They look at the legislative powers constitutionally granted to the president, including the veto, the partial veto, presidential authority to legislate by decree, exclusive rights to initiate certain legislative proposals, budget initiative, and power to propose a referendum. They also take into account aspects of presidential power such as cabinet formation, cabinet dismissal, lack of assembly censure, and dissolution of the assembly. Argentina ranks among the strongest presidents in both dimensions in their sample of democracies with popularly elected presidents.
- 19 For a detailed discussion of Argentina's revenue sharing regime see Eaton (2002) and Saiegh and Tommasi (1999).
- 20 Most votes against the bill came from legislators provinces whose governors were the most likely presidential candidates at the time: Carlos Reutemann, Kirchner and Romero.