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THE INSTITUTIONAL FOUNDATIONS OF PUBLIC POLICY: A TRANSACTIONS APPROACH WITH APPLICATION TO ARGENTINA *

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ABSTRACT

Public policies are the outcomes of complex intertemporal exchanges among politicians. The political institutions of a country constitute the framework within which these transactions are accomplished. We develop a transactions theory to understand the ways in which political institutions affect the transactions that political actors are able to undertake, and hence the quality of the policies that emerge.

We argue that Argentina is a case in which the functioning of political institutions has inhibited the capacity to undertake efficient intertemporal political exchanges. We use positive political theory and transaction cost economics to explain the workings of Argentine political institutions and to show how their operation gives rise to low-quality policies.

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INTRODUCTION

Argentina is a country with a constitutional structure similar to that of the U.S., yet with profound differences in the way public policy is conducted. Abundant evidence could be found just by counting the repeated economic crises that Argentina has had during the last half of the XXth century and entering into the current days.

The standard reflex is to explain this type of policy/political failure by reference to Latin American culture, authoritarian tendencies, Spanish heritage, and the like. Without denying the importance of socio-cultural factors, we believe that institutional explanations of the structural variety deserve closer attention.¹

An important body of literature has been developing over the last few decades to understand the ways in which political institutions shape the incentives of political actors and hence the public policy outcomes, and to understand how these institutions evolve in response to individual incentives, strategies and choices (Alt and North, 1990). The microanalysis of the political institutions of the U.S. has flourished, followed by similar analyses of other OECD countries, and it is recently spreading to the analysis of less developed countries.

In this paper we suggest a framework for the comparative analysis of the impact of political institutions on public policy. We see public policy as a series of intertemporal political agreements, and political institutions as facilitating or hindering such agreements. We illustrate the framework with an application to the case of Argentina, putting together in an “institutional general equilibrium” framework a series of interrelated investigations on the workings of Argentine political institutions and their impact on public policy.² In doing so we hope to contribute not only to the understanding of the Argentine polity, but also to the study of institutions and policy more broadly.

The framework suggested here is an elaboration of previous work on transaction cost economics and its application to politics.³ Transaction cost economics, as developed by Williamson (1979, 1985 and 1991) and others, attempts to understand economic organization, taking *economic* transactions as the unit of analysis. Characteristics of the institutional environment (such as the workings of the Judiciary) are taken as given, and a deep analysis of the features of different economic transactions is undertaken. This micro-analytical approach to transactions endogenizes (explains) the governance structures that support those transactions (distribution of ownership, contracts, etc.). In Levy and Spiller (1996), the institutional characteristics of countries vary, and the features of the (now *political*) transaction, the regulation of utilities, are held constant. In those cases, the governance structure of that particular transaction between “the government” and “the firm” is endogenized to the features of each institutional environment. The approach we are suggesting here is, in a sense, a generalization and deepening of Levy and Spiller (1996). We argue that the political-institutional environment of a country, together with the underlying features of the policy issues at stake, will determine the governance structure for each *political* transaction. These endogenously derived features of political transactions are, indeed, the characteristics of public policies.⁴

The overall agenda we are pursuing could be understood by reference to Figure 1. We are ultimately concerned with the features of public policies,⁵ which constitute hence our dependent variable. We view public policies as the outcome of (intertemporal) transactions among political actors. These transactions, in turn, are conditioned by the rules of the political game, the workings of political institutions, which in turn depend on some more basic institutional features of a constitutional and historical nature.

< Figure 1 >

The features of the resulting policies are affected by the nature of the “objects” being exchanged, i.e., by the features of the underlying policy issues. As in transaction cost economics, political issues can be characterized by a number of properties, including the temporality of the exchanges, actions, and flows of benefits; the volatility of the underlying economic environment; the observability of those shocks; and the nature of the interests involved.⁶ This link (4) in Figure 1, even though important in the overall approach, is not emphasized explicitly in this paper, which concentrates on understanding the set of relevant rules of the policymaking game characterizing one country, and the resulting *generic* characteristics of *all* policies.

In this paper we provide a streamlined and synthetic version of the connection running from basic institutional determinants to public policies for the case of Argentina. Looking at one country is, of course, just a building block towards broader comparative exercises. Yet, this approach places heavy demands in terms of politico-institutional detail; so that determining each “data point” is fairly time consuming.

Section 1 provides a rough description of the features of public policymaking in Argentina. Section 2 provides a theoretical framework that links those features with the workings of political institutions – links (1) and (2) in the figure. Section 3 looks into the functioning of political institutions in Argentina and into the determinants of their functioning (link 3).

1. PUBLIC POLICIES IN ARGENTINA

In this paper we argue that Argentina is a case in which a generalized incapacity to strike efficient intertemporal exchanges induces defective public policies, and we explain the

reasons behind that incapacity to instrument intertemporal agreements. In this section we briefly describe some characteristics of public policies in Argentina.

Normally the political economy literature analyzes the content of policies (i.e. is agriculture subsidized or taxed, are exports subsidized or taxed, which sectors get protection from international competition, which constituencies receive more pork, who pays for it, etc.). Here we focus on some aspects, which we might call the *outer features* of policies, features that relate more naturally to a theoretical framework that emphasizes aspects of intertemporal efficiency, of the *valence* type, above and beyond distributive/conflictive elements.⁷ These features of policies include predictability, adaptability to changing circumstances, coherence across policy areas, and some related “qualities”.

These properties are difficult to measure and difficult to compare across countries. Indeed, more structured comparisons of policy properties across issues and polities are badly needed. Yet, there is enough circumstantial evidence to characterize Argentina’s public policies as often being too volatile, other times too rigid, showing inconsistencies over time and across policy dimensions, and more generally, of low and heterogeneous qualities.

Figure 2 presents a rough measure of volatility of economic policy, where Argentina shows up as the 7th most volatile case in a sample of 106 countries. More generally, few observers will disagree that Argentina produces public policies of lower quality than many other countries. Consider monetary policy. During many years, Argentina suffered from a very high and volatile inflation rate, with episodes of hyperinflation. In 1991 monetary policy switched to an extremely rigid mechanism, the Convertibility Law, a straitjacket that prevents the undertaking of any monetary or exchange-rate action.

< Figure 2 >

The instability of policies is not restricted to pre-1991 monetary policy; it has also operated at the micro level. That instability, in turn, has had an important impact on investment behavior. Acuña (1991), for example, documents the unwillingness of industrialists to invest in building export capacity at times in which they were offered rather generous export promotion policies. That unwillingness was due to their uncertainty about the stability of those policies.

Public policy is also incoherent: different policies operating over the same realities lack logic and operational consistency -- related to the notion of “Balkanization” in Cox and McCubbins (2001). Abdala and Spiller (2000) and Rodríguez Larreta and Robredo (1999) describe in detail the incoherence of regulatory and anti-poverty policy respectively. Regulatory policy is made in an ad-hoc and decentralized manner. A bureaucracy with substantial executive interference, and with only partial congressional involvement conducts the regulatory process. Contrasting to commonalities across sectors in regulatory policies in other post-privatization environments like U.K. or Chile, in Argentina each sector has its own way of being regulated, reflecting the discretion of, and lack of coordination among, the sectoral secretaries.

Social policies show large changes without changes in congressional mandates. It is not uncommon to observe political appointees (Ministers or Secretaries) funneling resources to their provinces of origin. This is especially pervasive given that the rotation of the political appointees is high; as in the National Secretariat for Social Development where the average duration of department heads is less than a year. Furthermore, the agency has been switching status back and forth from undersecretary to ministry. The incoherence is further exacerbated by the fact that a large portion of social spending takes place at the

provincial level and, as we describe later, interjurisdictional interactions are fairly non-cooperative and poorly coordinated.

While some policies and public allocations show large fluctuations over short periods of time, other policies are instrumented very rigidly. Such rigidity is evident, as mentioned before, in monetary policy, but also in other policies like federal fiscal arrangements. The tax-sharing coefficients agreed upon in a 1988 bargain, for example, bear no relation to changing economic and social realities [Saiegh and Tommasi (1998)]. Also, the 1994 Constitution imposed a number of policy and procedural constraints to the system, making it so rigid that it has been impossible to pass a new law. More recently, the national government's commitment to transfer nominal amounts to the provinces, independently of tax revenues, has added an extra rigidity; a rigidity that became very costly during the recent crisis.

This brief and sketchy tour shows low-quality and incoherent public policies, presenting instability in some dimensions while excess rigidity in others. We sketch below a stylized theory that could account for those features, as the consequence of an inability to enforce cooperative intertemporal political exchanges. We then proceed to look into the workings of political institutions in Argentina to explore why, and how, they fail to produce such exchanges.

2. A TRANSACTIONS THEORY OF POLICY

2.1. Intertemporal Political Exchanges and Public Policy

Before we proceed, it is important to clarify the distinction between dependent and independent variables in our analysis. We are interested in explaining (the features of) policies. Policies are determined by “intermediate” variables related to the

contemporaneous functioning of political institutions such as Congress, the bureaucracy, and interjurisdictional relations. The ultimate independent variables are fundamental political institutions such as the Constitutional powers of the President, basic legislative institutions, the constitutional and historical configuration of federalism, electoral rules, as well as the history of military regimes. It is clear that there are multicausal links at work between basic institutions, the workings of political institutions, and policy outcomes.⁸ Yet, it is a sensible strategy to focus in this paper in what we believe is the stronger direction of causality within that broader system.⁹

Public policies can be understood as the outcome of (complex) intertemporal exchanges among political actors. The type of issues decided by the polity call for agreements that require various types of intertemporal enforcement. Efficient intertemporal political transactions require institutional arrangements that facilitate enforcement, with the type of arrangements depending not only on the nature of the polity but also on the issue at hand.¹⁰

In Spiller and Tommasi (2001), ST2001, we provide a framework that captures some of these considerations in a very simplified model, a repeated game in which different political actors alternate in power. The policy decisions made by those in power could be more or less cooperative towards those not in power at that point. Intertemporal cooperation might obtain, depending on features of the institutional environment that impact on the capability of enforcing agreements. We reproduce below one of the main results of that paper which will be handy in interpreting the Argentine case. The proposition summarizes the implications for public policy of non-cooperative political behavior.

Proposition 1: *If the institutional environment does not facilitate the enforcement of intertemporal political transactions, then:*

- i. We will observe policies that provide short-term benefits for enacting coalitions, as well as non-cooperative individual actions.*
- ii. There will be inflexible rules, procedures and structures for “long term” policies.*
- iii. Some welfare improving policy reforms will never take place.*
- iv. There will be underinvestment in capabilities, leading to policies of low quality.*

The intuition of Proposition 1 could be grasped by collapsing the enforcement properties of an institutional environment into the players' discount factor, and using standard results from repeated games.¹¹ If the discount factor is low enough, players behave myopically and those in power will maximize short-term payoffs, as stated in the first half of (i). The second half of part (i) refers to the case in which there is not only a “collective” policy decision but also individual actions, which have externalities over other political actors.¹² Part (ii) of the proposition simply develops the fact that players, knowing the short-term incentives, may put mechanisms in place to avoid the opportunistic behavior of part (i).¹³ Profound policy reforms often imply a path that includes reduced payoffs for some actors at some points in time. If the environment does not facilitate the enforcement of intertemporal compensations, these actors will oppose those changes (part iii). Part (iv) is obtained by adding an investment dimension to the policy game,¹⁴ and by using standard results from transaction cost economics.

Proposition 1 links the capacity to knit efficient intertemporal exchanges to features of public policies, i.e., it provides link (1) in terms of Figure 1. But Proposition 1 does not explain the determinants of a polity's capacity to knit efficient intertemporal political compromises (link 2 in Figure 1). We explore this issue in two steps: the first step (in 2.2) is a listing, stemming out of the game theoretic approach in ST2001, of elements pertaining to the description of the policymaking game that facilitate enforcement of cooperative play.

(That is, we go beyond the “discount factor” metaphor we gave to interpret Proposition 1.)

The second step, a mapping of those abstract elements into observable characteristics of a political system, is taken in section 3. Since this second step is more an art than a science, instead of providing a general recipe we proceed by example, referring to specific aspects of Argentina's political institutions that we found particularly important in determining the structure of incentives for or against cooperation. The elements that we identify turn out to be very similar to those identified in other similar efforts, such as Haggard and McCubbins (2001), although our somewhat different theoretical emphasis leads us to focus on different aspects of those institutions.¹⁵


2.2. What Determines the Capacity to Knit Efficient Intertemporal Exchanges?

We list here elements of the description of the game that affect the degree of cooperation in equilibrium outcomes:¹⁶

Number of political actors with power over a given decision. The theory predicts that the larger the number of players, the smaller the set of other parameters for which cooperation obtains.¹⁷

Intertemporal linkages among key political actors. The intertemporal pattern of interactions among specific individuals in formal political positions (such as legislators, governors, and bureaucrats) matters for developing cooperative outcomes. It is not the same to have a legislature in which the same individuals interact over extended periods of time, as to have a legislature where individuals are drawn at random from given populations (parties, provinces, etc) with frequent replacement.

Characteristics of the arenas where key political actors undertake their exchanges.

The complex intertemporal exchanges required for the implementation of effective public policies could be facilitated by the existence of institutionalized exchange arenas. The landmark case in the literature is the U.S. Congress (Weingast and Marshall, 1988, Shepsle and Bonchek, 1997).¹⁸ Whether the legislature as the arena where these transactions take place is adequately institutionalized or not, depends on several factors including legislators' incentives and capabilities. There are some environments, and we argue that Argentina is one of those, in which legislatures are much less institutionalized than the benchmark U.S. case. If political exchanges are actually undertaken, they take place in settings that are more informal, more uncertain, and harder to monitor, observe and enforce. 

Timing and observability of moves. Cooperation among agents is harder to sustain if there is plenty of room for unilateral moves, which are hard to observe or hard to verify.¹⁹

Availability of enforcement technologies. Other than self-enforcement through repeated play, certain forms of cooperation could be achieved by alternative institutional means. One alternative consists on fixed policy rules, which prevent future opportunistic behavior, as in part (ii) of Proposition 1. Delegating policy to an independent bureaucracy is another alternative. Although bureaucratic delegation is endogenous to each agreement (Moe 1990, Epstein and O'Halloran 1999), it is partly constrained by some general properties of civil service in the country, like its professionalism.²⁰ A somewhat similar reasoning applies to the presence and characteristics of an impartial umpire and enforcer of political agreements, such as an independent Judiciary.

3. THE WORKINGS OF POLITICAL INSTITUTIONS AND THE POLICY

PROCESS IN ARGENTINA

3.1. Application of the Framework to Argentina²¹

In this section we show that the configuration and workings of political institutions in Argentina are such that the conditions are not conducive to effective political compromise and cooperation. The Presidential, Bicameral and Federal constitutional structure lead to a relatively large number of institutional players in the policymaking game. This places fairly strong demands in terms of the capacity to make agreements. Furthermore, the “values” taken by the other determinants of the policymaking game do not help to fulfill such demands. The intertemporal linkages among political actors lead to myopic behavior, not conducive to self-enforcement of cooperative agreements. Key political players (specially the Executive) have ample room for unilateral and hard to observe moves, breaking the possibility of enforcing cooperation. Alternative enforcement mechanisms by judicial means or bureaucratic delegation have been relatively weak. Furthermore, key political exchanges do not take place in the Legislature, but in other less institutionalized arenas.

A crucial component for self-enforcement of political deals is missing in Argentina. Legislators, key administration officials, bureaucrats and justices all have had short-term horizons. The shortness of horizons in the Argentine polity is in part a consequence of past institutional instability (the frequent alternation between civilian and military rule from 1930 to 1983), and of the imprint that such instability left on the behavior of Congress, the Courts, the Bureaucracy, and federal arrangements.²² But this myopia is also the result of electoral mechanisms and executive proactive powers that work against having a Congress populated by long-lived legislators, weakening what could otherwise be a crucial arena for the discussion and enforcement of political bargains. Electoral rules in Argentina transfer power away from national legislators and national parties towards provincial party bosses leading to transient and “amateur” legislators.

Furthermore, weak constitutional restraints on *ex-post* unilateral moves by the Executive undermine the ability of political players to enter into efficient intertemporal political exchanges. This capacity for unilateral executive action is the result of proactive legislative powers of the President, weak judicial review, as well as to features of the budgetary process that give ample discretionary room. The history of democratic instability has contributed to the lack of judicial, and thus, constitutional, restraints on executive action

Weak restraints on moves by the National government on issues that affect the provinces have a similar effect on intergovernmental relations, particularly given the heavy financial dependence of the provinces on the center. Paradoxically, electoral rules that transfer power away from national parties to regional elites create an environment where the national government depends on the provincial political elites for its legislative agenda, thus creating a perverse criss-crossing of national and provincial policies and politics.

A professional bureaucracy, well supervised by Congress, could be an alternative channel for the intertemporal enforcement of political agreements. But Argentina --in part due to past political instability, but also to the current incentives of key political players -- does not have such a bureaucracy either. A shortsighted Congress has left the Bureaucracy without a long-term principal, and hence hard to motivate, and political appointees have been used to "fill that gap." These appointees, in turn, rotate very frequently and do not develop norms of cooperation across departments, contributing to the fragmentation and lack of coordination of public policies.

The combination of lack of legislative incentives, the ability for unilateral moves by the executive, and the power of provincial leaders, has moved crucial political bargains away from the national legislature and into other arenas. Often these bargains take place in

Executive quarters, in meetings of the president with governors, or occasionally in meeting of national political party leaders. Since those arenas do not have particular institutional stickiness, they do not allow key political actors to enforce bargains over time.

In what follows we bring the focus to some of the components of the general picture just sketched. From our “institutional general equilibrium” perspective, the incentives of key actors result from the combination of multiple factors operating through the whole political system. For expositional concreteness, after a brief introduction to Argentine political institutions (3.2); we describe in (3.3) the workings of Congress, the incentives of legislators, and their determinants (with a glimpse at intra-party politics); in (3.4) intergovernmental relations; in (3.5) the workings of the bureaucracy; and in (3.6) some features of the Supreme Court. In (3.7) we look at the interactions of different actors (mainly Congress) with the Executive, through spheres such as the budget process and the legislative process.

3.2. A Brief Introduction to Argentina’s Political Institutions

As in the U.S., Argentina’s political system tends to generate a relatively fragmented polity. It is a federal republic, with a presidential form of government and a bicameral legislature. The way legislators are elected, however, differs substantially. The members of the Argentine Chamber of Deputies (currently 257) are elected from 24 multi-member districts, the 23 provinces and the federal capital, for four-year terms. The deputies are elected from closed party lists using the d’Hondt divisor form of proportional representation. One-half of the Chamber is renewed every two years, with every district renewing one-half of its legislators. As in the U.S., the 24 provinces send to the national congress a number of deputies in proportion to their populations. The Argentine system, however, tends to

strongly over-represent the smaller provinces, through a floor of five deputies per province, plus the restriction that no district can receive fewer deputies than in the 1973-76 democratic period. Until the 2001 implementation of the 1994 Constitutional reform, all the districts were represented by two senators, elected indirectly for nine year terms by the provincial legislatures, using the plurality formula.

A major difference with the U.S. is that (intra-party and general) electoral rules have made provincial governors (as regional party leaders) individually and collectively powerful actors in national politics. On the other hand, federal fiscal finances are characterized by large vertical fiscal imbalances: provinces have large spending responsibilities, but most of their funding comes from a common pool of resources collected by the National government. These two features together – (1) governors are important actors in national policy, and (2) the national government is an important arena for provincial public finances – are the backbone of a very particular criss-crossing between national and provincial politics and policies.

The formal machinery of democracy, elections and checks and balances operated in Argentina since the first president in 1862 until 1930, the first time that a military coup succeeded in removing a president. Between 1930 and 1983 twelve presidents (both *de jure* and *de facto*) were taken out of office by force.²³

3.3. Congress: Professional Politicians, Amateur Legislators²⁴

Legislators in Argentina are very short-lived. This is, however, not the result of party turnover, or voters throwing the rascals out. Instead, the low reelection of national legislators comes mostly from (provincial) party leaders' decisions not to place current legislators in next year's ballot. Legislators, however, are *professional politicians* who

rotate from political job to political job, with national Congress being just one stepping stone in that career. The short tenure of Argentine legislators, then, stems mostly out of the electoral system: electoral districts that coincide with provinces, as well as mechanisms of internal candidate selection that tend to give power to provincial party elites.

The many proactive and reactive legislative powers of the Presidency conspire also to make Congress an unattractive place to develop long-term political careers. High rotation, and strength of presidential powers do not foster the development of strong congressional institutions. Legislators not only do not last long in Committees, but they also do not tend to specialize, and as a consequence do not, and cannot, provide a strong supervision to the Executive or the Bureaucracy.

Jones et al (2000) show legislators' very high rotation and low tenure. Although it can be argued that this high degree of rotation is the result of the political instability that characterized Argentina during the second half of the XXth century, it has persisted following the return of democracy in the early 1980s. Since 1983 turnover rates have always exceeded 40 percent, while reelection rates have been extremely low. Throughout the whole period only 20 percent of incumbents returned to their seats. Argentina, then, shows figures somewhat similar to countries with term-limits. For all legislators elected from 1983 to 1997, 87 percent served only one term in the Argentine Chamber of Deputies, 11 percent served two terms, and only 2 percent served three or more terms.

<Table 1>

Table 1 shows that the probability of reelection for the average legislator is less than 20%, quite low by international standards. Table 1 also shows the workings of electoral mechanisms. It suggests that legislators' turnover is not the result of voter's rejection, but

rather of the fact that most legislators simply do not show up in the provincial party list. Indeed those who show up have a reasonable chance of being reelected. It is the fact that so few of them seek reelection that brings about such a low reelection probability.

Table 1 indicates that legislators' career objectives cannot be based upon improving their position in Congress. Instead, as suggested by Table 2, legislators find Congress only a stepping stone in their political careers, where they spend at most one or two terms. After that they move (or are moved) to other political activities in the party, province or at the federal government. After the deputies of the 1991-95 class completed their term in office, an overwhelming majority continued a career path tightly linked to their respective parties. Of the 108 legislators, as of mid-1998, 82 were in positions that were strongly influenced by their party ties. Of these 82, 50% held elective office at the national, provincial or municipal level, 29% were active solely as party leaders at the provincial, county or municipal level, while 21% occupied appointive posts in the national or provincial executive branches. Of the remaining 26, six held posts (5 Union Leaders and 1 Business Association President) where ties to a party (PJ) were an integral part of their position. Seven could not continue in any of the elective, appointive, or party posts because of prior events.²⁵ Only 13 of the 108 (12%) deputies seem to have departed voluntarily from the political scene (at least two of these 13 for reasons of poor health).

<Table 2>

While they are almost without exception professional politicians, as legislators they are *amateurs*. As professional politicians in an environment in which their future is disconnected from direct electoral success, Argentine legislators' incentives are aligned with the interests of their provincial party, unless they have gained substantial visibility at which time they can actually challenge the provincial boss. Thus, the incentives of

provincial party bosses are to manage the career of their backbenchers so as to promote them while maintaining their own control over the provincial party. They do that by moving “legislators” from political job to political job.²⁶

The mobility generated by the electoral rules and the capacity of the President to undo legislative agreements, both limit legislators’ incentives to invest in policymaking expertise and, in general, to undertake actions with long-term implications, including legislative action. Legislators have little incentive to specialize and to acquire specific policy expertise. Jones et al (2000) provide evidence of the patterns of legislative committee organization and membership. Legislators tend to belong to a large number of committees; thus specialization does not seem to take place. They tend to last less than a whole legislative period in each committee, even in as important committees as labor, economics and regional development, and budget and finance.

3.4. The Federal Mess

Federal institutions in Argentina, specially in the fiscal domain, are a very important axis in our account of the historical and current workings of the Argentine polity. The federal domain is also an area where the interaction between the two strands emphasized in *the political economy of institutions and decisions* – how institutions shape current incentives of political actors, and how those institutions evolve in response to the actors’ choices – is particularly noticeable.

We summarize here the way in which some of the main inherited political and fiscal features of the federal system impinge upon the present general equilibrium functioning of the Argentine policymaking system. (Later in the subsection we also refer to the “building up” of some of those features, and to the literature that describes that build up in more

detail). We emphasize two twin elements: the importance of provincial governors in national politics, and the heavy financial dependence of the provinces from the center (as well as the poor institutionalization of the mechanisms by which the distribution of financial resources is decided).

In the previous subsection we already explored the feature that national legislators owe alliance to provincial party leaders. This dependence is strengthened when the leadership in question coincides with provincial government. This is so because provincial executives have both more currencies with which to reward and punish their representatives in the national congress, and more need to occasionally pull those legislative strings to obtain benefits for the province. This strength of provincial governors in national politics stemming from electoral rules has been reinforced by electoral outcomes. The partisan composition of the Chamber in the post 1983 era has been such that a block of unified votes from one or two provinces automatically becomes pivotal. This was so because legislative contingents of the Executive party have oscillated in 1983-1999 between 45.1% and 51.6% (Molinelli, Palanza and Sin 1999, Table 2.121).

This feature is intertwined with the fact that provincial finances are heavily dependent from the center. Argentine fiscal federalism over the last several decades has been characterized by a large vertical fiscal imbalance, a repeated tendency of the central government to bail out provinces that ran into financial problems, and a tax-sharing agreement full of rigidities and loopholes that provides poor incentives to the provincial and national governments.²⁷ Not only are provinces heavily dependent from “central” monies, but also the mechanisms for covering those needs are open to substantial opportunistic manipulation, occasionally curtailed by fairly rigid and inefficient mechanisms. Unilateral, bilateral, and coalitional opportunism have been very common

with regards to provincial allocation of central monies. The national executive has tended to have excessive discretion in the geographical allocation of the federal budget. The national Congress has passed laws channeling specific regional benefits out of the common-pool of shared taxes, in spite of the fact that those funds are supposed to be distributed according to mechanisms decided through multilateral intergovernmental agreements (“Pacts”) with decision procedures close to unanimity.²⁸

In an attempt to curtail opportunistic incentives and governmental discretion in fund allocation, political actors have tended to increase the rigidity of the Federal Tax Sharing Agreement, reducing the capacity to adjust fiscal policy to changed economic circumstances. These features, as well as the practice of earmarking some taxes for specific programs with clear regional distributional effects, has led to a very rigid and very convoluted federal tax collection and tax distribution, which has been christened the “Argentine Fiscal Labyrinth,” shown in Figure 3.²⁹

<Figure 3>

There are, then, intriguing interactions between the evolution of the federal fiscal system – which in part reflects the non-cooperativeness of the federal fiscal game and its consequences for the policies in that domain – and the general incapacity of the Argentine polity to strike efficient intertemporal agreements even in policy areas not directly related to federalism. The perverse criss-crossing of federal monies for votes in Congress, as well as the generalized lack of cooperation in Argentine policymaking, lead to low quality policies in areas as diverse as macroeconomic policy, fiscal policy, and social sector policies.³⁰

3.5. A Bureaucracy without a Long-Term Principal³¹

One possible mechanism for the intertemporal enforcement of political agreements is through delegation to a relatively independent, yet accountable, bureaucracy. Argentina, however, has not developed such a bureaucracy. The lack of any long term principal, can be seen, following Spiller and Urbiztondo (1994), as a key factor behind the lack of a professional bureaucracy. Executives, in almost all Presidential systems are transient. But, in Argentina, Congress is also not a long-term principal as legislators rotate rapidly and are not particularly motivated to control the Administration.³²

The bureaucracy, as a consequence, faces no long term incentives, facilitating shirking and requiring intrusive administrative controls to avoid corruption, further reducing its ability to generate timely and effective policies. Each new Executive, unable to motivate (or to fire) the permanent bureaucracy, has nominated large numbers of political appointees, often under much more flexible labor agreements, creating a parallel, transient, bureaucracy. The parallel bureaucracy undertakes the same actions as the normal bureaucracy is designed to, but unable (or unwilling) to, undertake. The rotation at the ministerial and secretarial levels implies rotation at the “parallel bureaucracy” as well, limiting the extent of institutional knowledge, and the development of cooperation across ministries and secretariats, deepening the heterogeneity in policy quality, and the lack of policy coherence.

The parallel bureaucracy is widespread, but difficult to measure. Bambaci, Spiller and Tommasi (2001) report information for one agency. In that case, the parallel bureaucracy represents well above 50% of total employment, and a larger fraction of the wage bill, as those tend to be better paid (but shorter-lived) employees.

Figure 4 provides some comparative evidence on the quality of Argentine bureaucracy.

<Figure 4>

3.6. A Friendly Supreme Court³³

The workings of judicial institutions have direct implications for the feasibility of private contracting, of contracting between private and public actors, and of 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.

The main point of the section is that the Argentine Supreme Court has not been an important enforcer of political agreements in the last several decades. This has been due mostly to historical factors that lead most presidents to face a sitting Court with a majority of “friendly” Justices – i.e. Justices appointed by the very same administration.

It is interesting to notice that the relative lack of effective judicial enforcement has occurred in spite of the fact that the behavior of Argentine justices can be explained with a strategic behavioral model similar to the one used to explain the U.S. Court, and the fact that constitutional characteristics of Argentina would have suggested a rather strong and independent Court. The answer to both “puzzles” is the same: history implied that some key explanatory variables of the behavior of Supreme Court Justices took very different values than in the U.S. case, leading to a substantially diminished role. (Iaryczower, Spiller and Tommasi, 2001a).

The degree to which the Court might be willing and able to independently exercise its review of the constitutionality of legislative or administrative acts is influenced by several factors, most prominently the opportunities faced by the Courts in terms of the fragmentation of the other policymaking bodies, as well as the Court’s political alignment, which depends on the nomination process and its turnover. Courts whose tenure is very

short will naturally tend to be aligned with the sitting government, while Courts whose tenure is very long may alternate between political alignment and political opposition to the sitting government.

Differing from many other countries, the Argentine judiciary at least since the 1940s, has exhibited a very high level of rotation. During that same period, and because of electoral results and *de-facto* administrations, governments have had an unusual level of control over the federal legislature. As a consequence, the Argentine Supreme Court has not had the chance of exercising a very active role of judicial review.

Table 3 shows that the Argentine Supreme Court in the second half of the last Century was one of the courts with the shortest average tenure in the world. Indeed, since 1960 until the mid 1990s, the average Argentine justice lasted less than four years in its post. The average tenure of Argentine justices is similar to that of Pakistan, Peru, Sri Lanka, the Dominican Republic, and Zambia, countries not associated with long-term stability and the predominance of the rule of law.

<Table 3>

Iaryczower et al (2001a) show that this is a feature of the last 50 years. After WWI, the Argentine Court was on its way to become not too distinct from its US counterpart. Indeed, since its creation in 1863 and until the mid 1920s, the average tenure of the Argentine Court systematically increased, when the average tenure of its members reached the same level as that in the US. The later political instability drastically reduced the tenure of justices on the bench. The impeachment brought about against the sitting Court members during the first Perón administration had a lasting impact. Since then, the norm of not manipulating the Court membership was lost. Several military and civilian Presidents, who alternated in power, got to appoint their own Courts. In 1991, the first time since 1946

in which a President might have faced an opposition Court, President Menem expanded the court from five to nine members allowing himself a “working” judicial majority. Indeed, the control over the court was such that since the mid-forties’ until the administration of de la Rúa inaugurated in 1999, no President faced a Court with a majority appointed by a political adversary.

3.7. Interactions

The lack of legislative specialization described above implies that Congress cannot expect to supervise or monitor the Executive closely. Thus, Congress will naturally delegate to the Executive jurisdiction over policies that do not have drastic regional impacts, or whose delegation is unavoidable, including budget preparation and execution. The inability to monitor and control budgetary execution implies that the administration has substantial discretion in the execution of the budget. Thus, little attention is placed in the legislature to budgetary details, and most budgets, once presented, are approved with relatively minimal amendments.³⁴

Indeed, since the beginning of the XXth Century, and apart from the administrations of Presidents Perón and Menem, Congress has rarely approved in time the Budget sent by the Executive.³⁵ In practice, then, the Executive has operated with large amounts of budgetary discretion. Even in the post-stabilization 1990’s, where *ex ante* budgets started being approved in time, *ex post* control has not been exercised. The so-called *Cuenta de Inversión*, the *ex post* budget verification, has not been dealt with promptly enough to be an operational instrument for Congress to verify the fulfillment of the budget contract by the Executive.

We have referred already to several sources behind the Executive's ability to make unchecked unilateral moves (which can undo previous agreements): the fact that the Supreme Court has tended to be politically aligned to the president, the lack of a strong and independent bureaucracy, and budget practices. Additionally, this power has been based on some "constitutional" capacities and practices amounting to, mostly proactive (Haggard and McCubbins, 2001), legislative powers of the president. These practices have evolved partly out of the history of political instability, which has tended to focus in the Executive processes that, in a more stable environment, would have naturally drifted towards the legislature (Acuña 1995, De Riz 1986). They are also due, in part, to some explicit constitutional capacities and to some constitutional lacunae and their interpretation.³⁶ We include in this category the fact that the Constitution names the President as the Chief of the Public Administration, the fact that the President is endowed with the capacity to "regulate" the laws from Congress,³⁷ and more recently, the practice of issuing *Decretos de Necesidad y Urgencia* (Decrees of Need and Urgency).³⁸

4. CONCLUSIONS

This paper has provided a framework for looking at the characteristics of public policy, and at its institutional determinants, and it has applied it to understand politics and policies in Argentina.

Even though most of the framework presented here is not totally novel, we believe that the specific emphasis on intertemporal political transactions and on the "transactional" features of policies offers a rich avenue for future research. The next step in the agenda is to progress in the comparative analysis of political institutions and of policy outcomes.

One of the main messages of the paper is that it is very important to pay attention to detail in several interrelated political arenas, and that some of the broad generalizations in the literature (such as Presidential-Parliamentary, federal-unitary) need substantial refinement.³⁹ For instance, we argue that the particular incentives of key political players in Argentina are the combined result of its electoral rules (specially intraparty mechanisms for selecting candidates), some features of its federal structure and federal fiscal arrangements, some constitutional capabilities of the presidency, as well as the history of military interruptions and part of its legacy. The interrelation among these factors (often not considered in cross-national comparisons) is crucial to understand the current performance of Argentina's polity.

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¹ For a discussion of the geography vs. institutional view of development, see Acemoglu et al (2001).

² This agenda includes studies of the workings of Congress and of career path of legislators (Jones et al 2000 and 2001), of intergovernmental and interjurisdictional relations (Iaryczower, Saiegh and Tommasi 1999, Saiegh and Tommasi 1999 and 2000), of intra-party politics (Jones et al 2001, De Luca et al 2000), of judicial actions (Iaryczower, Spiller and Tommasi 2001a and 2001b), and of the workings of the bureaucracy (Bambaci, Spiller and Tommasi 2001).

³ North (1990) and Dixit (1996) have labelled *transaction-cost politics* the use of transaction-cost reasoning to think about politics. While North and Dixit emphasize transactions among citizens and politicians, we emphasize transactions among politicians. In that sense our work is closer to the pioneering papers by Weingast and Marshall (1988), Moe (1990 a and b), and Moe and Caldwell (1994), and to the recent book by Epstein and O' Halloran (1999). Recent work attempting to map political institutions into features of public policies, in a vein similar to that of this paper, are the papers collected in Haggard and McCubbins (2001).

⁴ To be more precise, the features of those political transactions are either themselves characteristics of policies (for instance when fixing a fairly rigid policy rule), or are the determinants of those characteristics (for instance when delegating to an agency with a particular structure).

⁵ For instance, why do some countries have fairly consistent policy stances (in some policy areas), while other countries go back and forth? Why do some countries have fairly sensible discretionary monetary policy delegated to a competent bureaucratic agency, while others need to tie themselves to masts such as currency boards and the like.

⁶ For instance, it is not the same to grant a one-time cash transfer to victims of some natural disaster than to privatize a complex network plagued by cross subsidies.

⁷ See Spiller and Tommasi (2001) for a model and further references.

⁸ For instance, some aspects of electoral laws are changed from time to time, often in response to the performance of institutions and to policy outcomes. Similarly, as we explain in section 3, some features of fiscal federalism, which are among the determinants of the incentives of legislators and governors, are themselves an equilibrium outcome over time. At a broader level, we take as exogenous the military spells,

notwithstanding the fact that there is an important literature that relates such spells to constitutional features -- Linz (1994) stresses the perils of presidentialism; Przeworski, Alvarez, Cheibub, and Limongi (2000) show that presidential democracies have shorter lives than parliamentary ones.

⁹ Also, our choice of independent variables coincides with that of other similar efforts; see for instance Haggard and McCubbins (2001) and Cowhey and McCubbins (1995).

¹⁰ For example, an agricultural price support program will require the development of substantial safeguards against policy reversal, while the construction of an infrastructure project will not. The infrastructure project not only transfers benefits in a relatively short period of time, but once initiated there is an embedded incentive to finish it. That, however, is not the case with the agricultural program, which requires the transfer of benefits over a longer period of time.

¹¹ We assume for expositional simplicity that if the parameters of the game are such that an equilibrium in the Pareto frontier does not obtain, then the infinite repetition of the one-shot Nash obtains.

¹² For instance, local governments can undertake some fiscal actions (such as excessive borrowing), which might impose negative externalities upon the rest of the country.

¹³ Depending on the circumstances (in particular of the majority required for each type of decision) these could be commonly agreed restraints (ST 2001), or enacting coalitions attempting to insulate their policy choices from future majorities (de Figueiredo 2001, Moe 1989 and 1990.)

¹⁴ Provincial governments might invest (or not) in order to improve their tax-raising capabilities, legislators might invest (or not) in order to acquire policy expertise in given technical issues, etc. Those investments, in turn, affect the quality of the resulting policies.

¹⁵ For instance, we pay particular attention to the connection between selection mechanisms (electoral rules in the case of legislators, appointment and dismissal practices in the case of civil servants, Supreme Court Justices, etc.) and the longevity of political actors.

¹⁶ We use the expression “elements of the description of the game” since it goes beyond “variables” or “parameters” to include aspects of sequencing and information. Some of these elements are explicitly identified in the model in ST2001. Others are derived from other existing results.

¹⁷ The theory has also predictions in terms of insiders/outside, and in terms of the parameters of the stochastic recognition process (i.e., who/when accesses power), that we will not emphasize in this application.

For instance, tacit cooperation is more likely the more uncertain are election results over time; i.e., the more evenly divided are the chances of being in power at each point in time (as in Dixit et al 2000, de Figueiredo 2001, and Alesina 1988).

¹⁸ This arena needs not be the legislature; in many countries these transactions are carried out within parliamentary parties or in the cabinet. Nonetheless, it is important the degree of institutionalization of the key exchange arena. In Argentina such an institutionalized exchange does not take place. In the text we emphasize the (lack of) role of Congress, by contrast to the best-studied presidential democracy, but deeper comparative analysis of this issue is open for future research.

¹⁹ The theory of repeated games does not provide definitive results at this point. Yet, the statement in the text is a sensible conjecture based on existing results. (See for instance Myerson 1991, chapter 7).

²⁰ These generic features of the bureaucracy are themselves endogenous to more fundamental constitutional and historical factors (link 3 in Figure 1), but can be taken as given when considering a specific policy deal (link 2).

²¹ The references that substantiate the claims in this subsection are provided in the rest of the section.

²² It also left an imprint on the actions and expectations of non-governmental actors, that also looms on some current practices – like the Executive-centeredness of lobbying (Acuña 1995, De Riz 1986).

²³ The two dominant parties have been the Partido Justicialista (PJ; the Peronist Party) and the Union Cívica Radical (UCR). In addition, other important actors in the Chamber are small provincial parties that tend to compete in only one province (where they are either the dominant or the main opposition party).

²⁴ This section is mostly based on Jones, Saiegh, Spiller and Tommasi (2000) and (2001).

²⁵ Two of them had died, one was in jail (prior to his incarceration he occupied an important post in the National Executive Branch), one was a fugitive, and there were three deputies who defected to another party (all three continued to be active in politics, one as a national deputy).

²⁶ De Luca, Jones and Tula (2000) show that the decision to hold a primary depends first and foremost on whether or not the party controls the governorship at the provincial level, and secondarily on whether or not the incumbent governor is eligible to seek reelection. As governors are likely to bear a disproportionate share of the costs of any divisive primary, they have both the incentive to and means by which to arrange a negotiated list of candidates. The governor should be able either to impose his or her candidates, co-opt

potential opponents, and/or successfully negotiate an agreement with other party factions. In contrast, when the provincial-level party is in the opposition at the provincial level, the resources at the disposal of its leader are minimal in comparison to those of a governor. Hence, the ability of this party leader to avert a primary is much weaker than that of a governor, increasing, then, the probability of a primary being held.

Jones et al (2001) develop and test a game-theoretic model that helps to understand the strategic interaction between local party bosses and incumbents that shapes legislative careers, and thus, their brevity. Local party bosses make their decisions to renominate or transfer incumbent politicians based on two political objectives: keeping their job, and maintaining good representation in the national legislature. Incumbent legislators find it hard to stay in the legislature unless they are very valuable to their local party bosses. Surviving deputies are either politically “harmless” or they are more dangerous at home than in the national legislature. Tenure in office has a negative effect on the length of time that a legislator stays in the Argentine chamber of deputies. The hazard is mitigated by the relative value of the different legislators. Legislators who hold leadership positions in the chamber have a lower risk of removal.

²⁷ Provincial spending amounts to 50% of total consolidated public sector spending (this figure goes up to almost 70% if we take out the pension system and we focus on “more discretionary” spending). Yet, provinces finance only 35% of that spending with own revenues. The rest of their spending is financed out of a common pool of resources, the Federal Tax-Sharing Agreement (FTSA). A more detailed description of the system is provided in Tommasi (2002), and Tommasi, Saiegh and Sanguinetti (2001). The issue of bail outs is addressed in Nicolini et al (2001).

²⁸ Iaryczower, Saiegh and Tommasi (1999) study this pattern from a historical perspective; Tommasi (2002) studies in detail the many pacts occurring in the last decade, and their violation.

²⁹ In Saiegh and Tommasi (1998), Iaryczower et al (1999), and Tommasi (2002) we study the broad historical evolution of fiscal federalism; its most permanent dynamic features are the growth of vertical fiscal imbalances and of the degree of redistribution towards small overrepresented provinces. That is sprinkled by temporary episodes of (later reverted) increasing national shares (mostly military governments); by opportunistic redistricting, opportunistic province creation, and opportunistic reform of the federal system to create political strongholds (the military and Perón); by national government use of the non-shared inflation tax and creation of other non-shared taxes to circumvent the increases in “legal” provincial shares. A clean

example of transaction cost politics is provided by the very inflexible requirements of the 1994 Constitution for the enactment of a new Tax-Sharing Agreement.

³⁰ Tommasi (2002) provides a more detailed account of the impact of the federal game on fiscal and macroeconomic policy, as well as on social sector policies (specially education). See also Fiszbein and Tommasi (2001) and Falletti (2001).

³¹ This section draws from Bambaci, Spiller and Tommasi (2001).

³² As Krehbiel (1991) argues, legislators tend to undersupply that kind of public good, an effect that is magnified in Argentina since legislators only attend to provincial party leaders' interests who, in turn, are not particularly interested in this feature.

³³ This section draws from Iaryczower, Spiller and Tommasi (2001a) and references there.

³⁴ 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 National allocations and decisions. (Jones 2000).

³⁵ Furthermore, there were times in which the President did not even bother to send the Budget Proposal to Congress (Molinelli et al, 1999). This was common during the high-inflation periods.

³⁶ These lacunae in constitutional interpretation are, of course, not independent of the relative weakness of the Supreme Court we have referred to.

³⁷ The expression in Spanish is "*reglamentar las leyes*," what we would call "filling the details" of the legislation (completing the legislative contract). See Carey and Shugart (1998), Ferreira Rubio and Goretti (1998) and Molinelli et al (1999).

³⁸ The constitutionality of Decrees of Need and Urgency (DNUs) as a practice of Executive legislation, has been vividly debated in Argentina. The 1994 Constitution attempts to regulate them by giving DNUs constitutional status. DNUs were rare in the past, but during the current democratic period, its usage has drastically increased, first by President Alfonsín (1983-1989), and especially by President Menem. See Ferreira Rubio and Goretti (1998), Molinelli et al (1999), Bidart Campos (1995).

³⁹ We are obviously not the first authors that go beyond these “macro” political features. Among others, see the recent comparative volumes by Shugart and Carey (1992), Cowhey and McCubbins (1995) and Haggard and McCubbins (2001).

FIGURE 1
The Framework

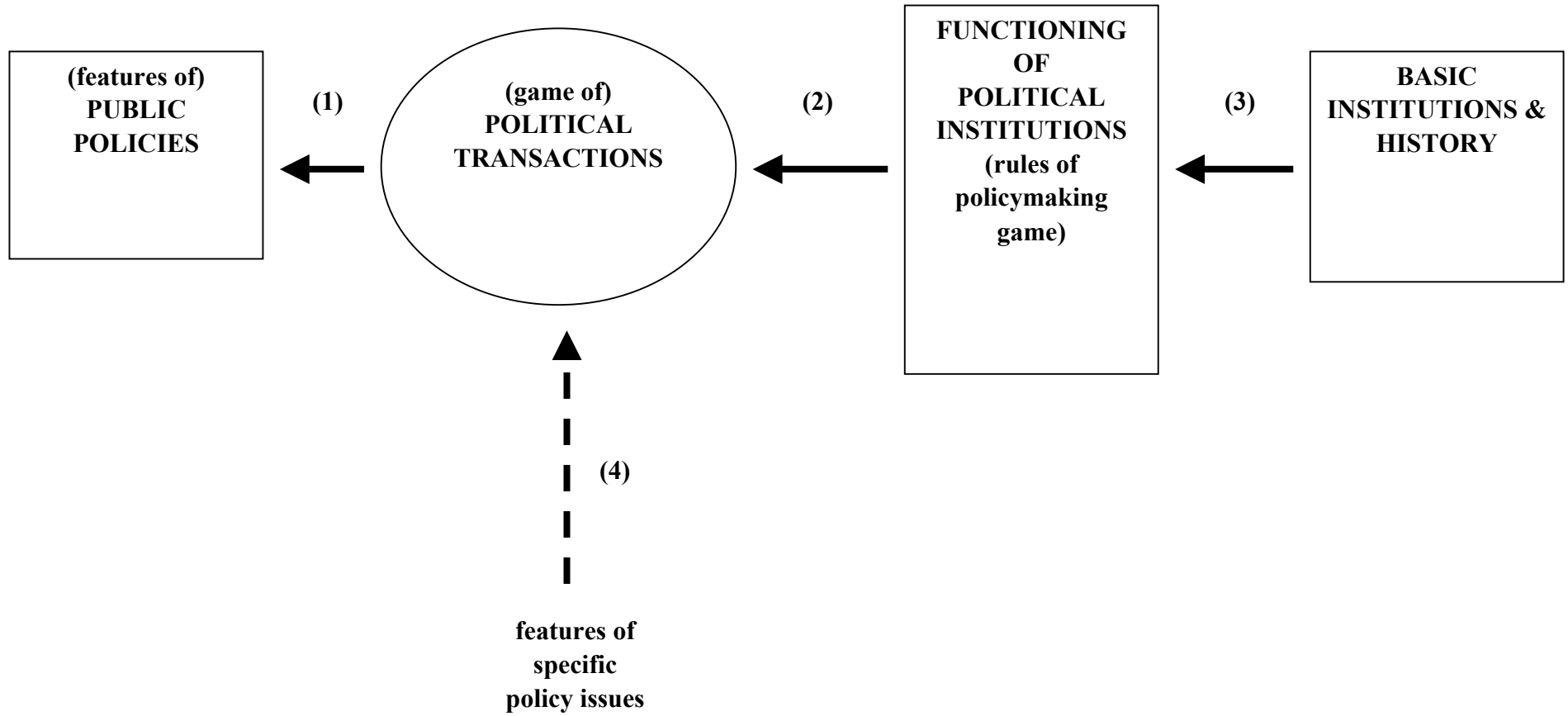


Figure 2: Volatility of Economic Policies
 Variation in the 'economic freedom' index in 105 selected countries, 1970-1997

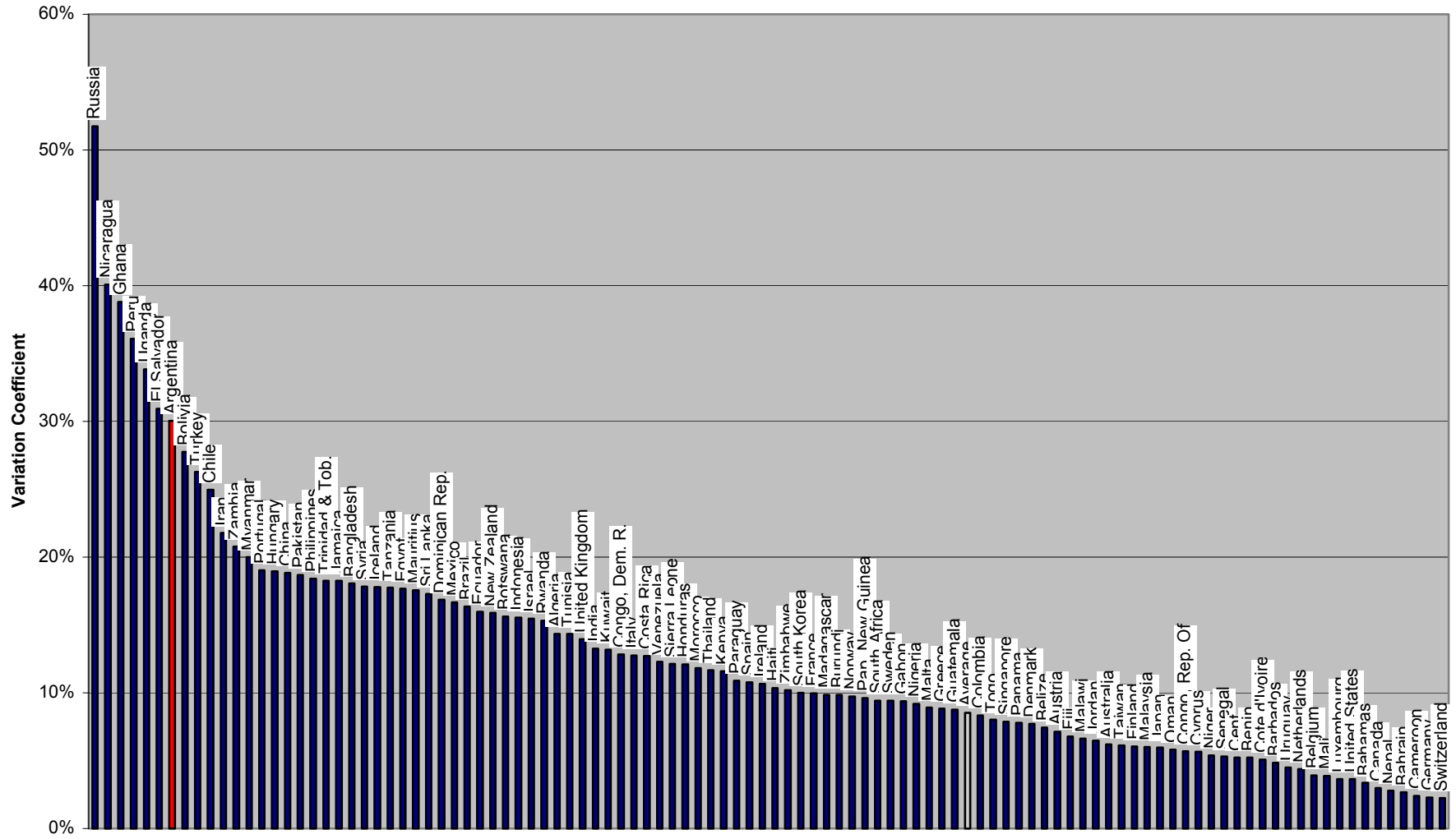


Figure 3: The Federal Fiscal Labyrinth

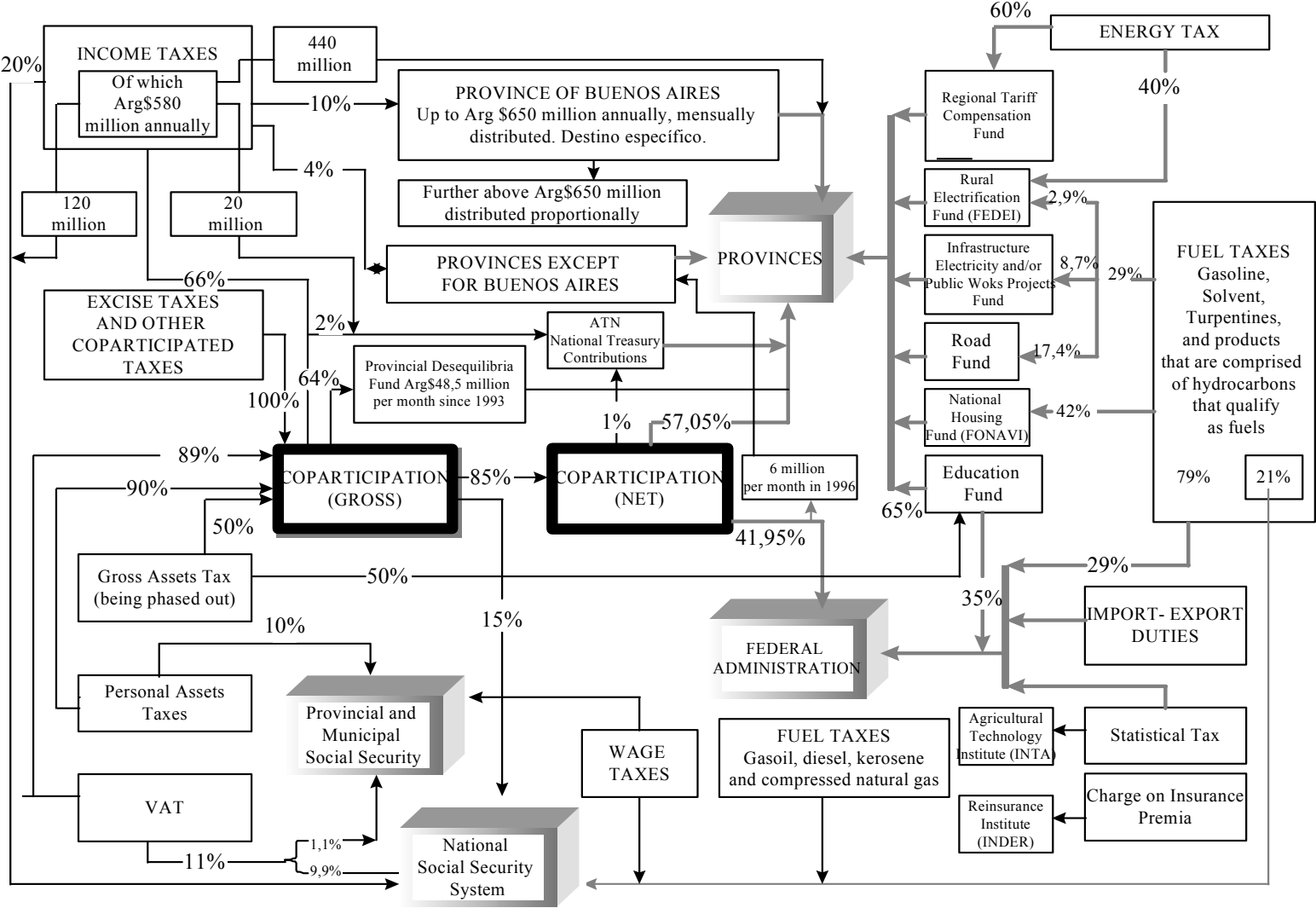
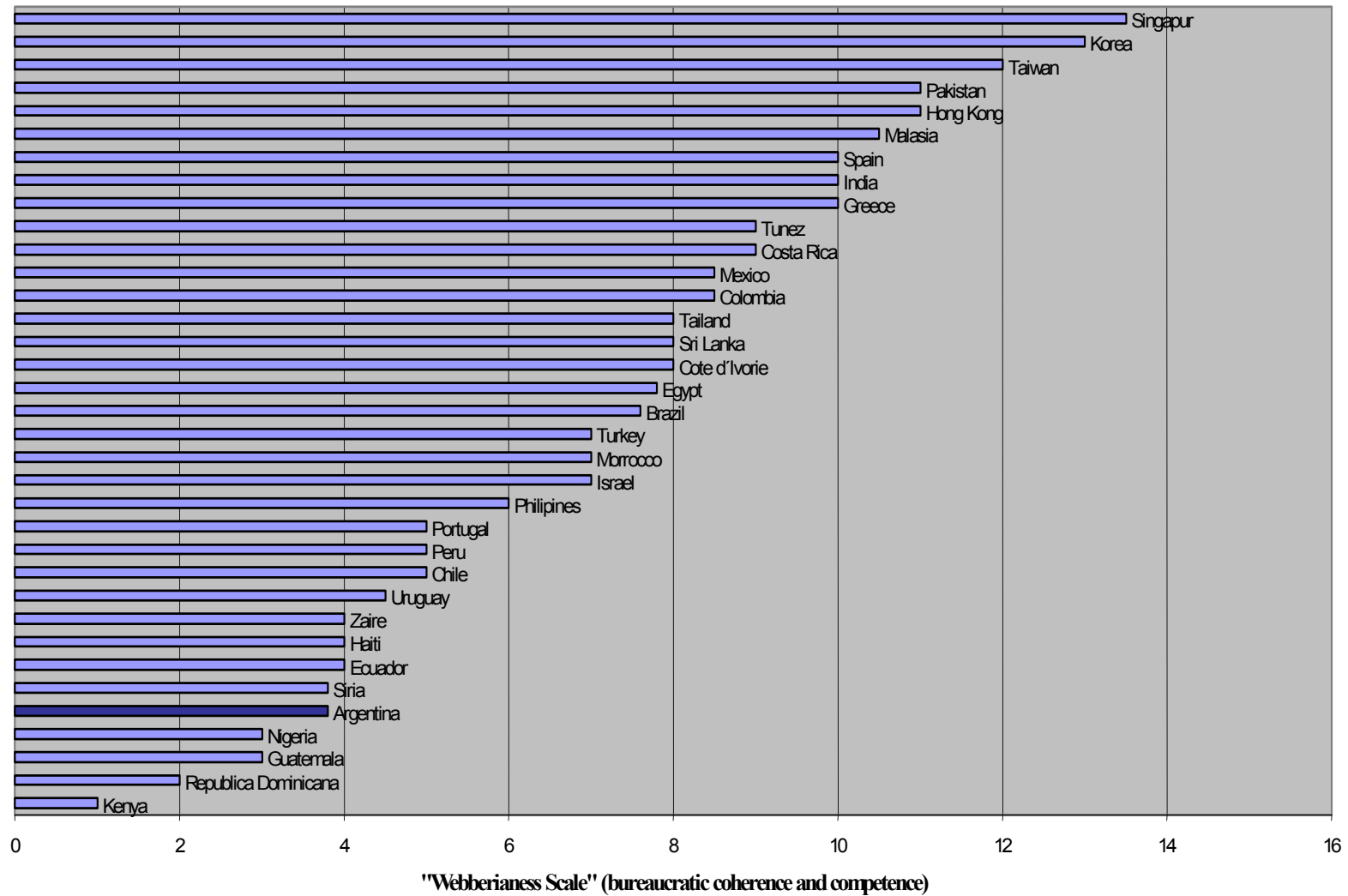


Figure 4: "Weberianess Scale" (Bureaucratic Coherence and Competence) in 35 Developing Countries



Source: Rauch and Evans (1999). For a detailed description on the methodology used to create this index we suggest to refer to this paper. A larger value of the index represents higher bureaucratic coherence and competence.

Table 1			
REELECTION OF LEGISLATORS IN SELECTED COUNTRIES IN AMERICA AND EUROPE			
Country	% seeking reelection	% elected (from candidates)	% reelected
Argentina (1997)	26	67	17
Brazil (1995)	70	62	43
Chile (1993)	76	78	59
Mexico (1997)	0		0
U.S. (1996)	88	94	83
Italy (1953-72)			82
Great Britain (1950-74)			81
West Germany (1957-76)			70-75
Panama (1999)			49
Colombia (1990)			48

Source: Morgenstern (1998); Archer and Shugart (1997); Molinelli, Palanza and Sin (1999)

Table 2. Last post held by deputies prior to assuming office and post they held as of mid-1998 (class of 1991-95)

POSITION	PRIOR TO ASSUMING OFFICE			AS OF MID-1998		
	% DISTRIBUTION OF DEPUTIES			% DISTRIBUTION OF DEPUTIES		
	TOTAL	PJ	UCR	TOTAL	PJ	UCR
Provincial Legislator	29	15	50	9	9	9
National Deputy	17	20	12	16	17	14
Mayor	10	11	9	1	2	0
National Executive Branch*	9	12	5	7	12	0
Provincial Executive Branch	8	14	0	8	9	7
Party Activity	5	6	2	20	9	37
Private Activity	5	6	2	12	12	12
Prov. Party President (only post)	4	2	7	1	2	0
Governor	3	3	2	1	0	2
Municipal Councilor	3	2	5	1	0	2
Union Leader	3	3	2	5	8	0
Vice Governor	3	5	0	1	0	2
Career Diplomat/Party Activity	1	0	2	1	0	2
Federal Judge	1	2	0			
National Senator	1	0	2	8	6	12
Defector				3	3	2
Deceased				2	3	0
Prison/Fugitive				2	3	0
Business Association President				1	2	0
Vice President				1	2	0
TOTAL NUMBER OF DEPUTIES	108	64	44	108	64	44

* Includes appointees to the Attorney General's office and political ambassadors

Table 3: Tenure of Supreme Court Justices in Several Countries *

COUNTRY	YEARS	COUNTRY	YEARS
U.S.	12.51	Italy	4.78
Australia	9.58	Colombia	4.43
Chile	9.19	Nigeria	4.35
Norway	9.15	Malawi	4.21
Holland	8.41	Ghana	3.87
Israel	8.35	Kenya	3.85
Canada	8.24	Zimbabwe	3.84
Belgium	7.95	Peru	3.81
Ireland	7.82	Pakistan	3.73
Germany	7.52	Argentina	3.71
Guyana	7.16	Sri Lanka	3.65
Singapur	7.10	R. Dominicana	3.62
New Zeland	7.08	Camerún	3.61
Malasia	6.70	Zambia	3.51
Trinidad&Tobago	6.50	Sudan	3.14
France	6.48	India	3.04
South Africa	6.29	Lesotho	2.84
Average Sample	6.15	Botswana	2.20
Great Britain	6.08	Rwanda	2.13
Jamaica	5.95	Guatemala	2.08
Brazil	5.65	México	2.02
Bangladesh	5.15	Honduras	2.01
Philipines	5.09	Paraguay	1.45
Mauricio	5.01	Ecuador	1.39
Nicaragua	4.98		

