

Departing From the Road towards a Belief in a System of Checks and Balances in
Argentina: Electoral Fraud in the 1930s and the Rise of Peron

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The Erosion of Checks and Balances in Argentina and the Rise of Populism in Argentina: An Explanation for Argentina's Economic Slide from the Top Ten

Abstract

The future looked bright for Argentina in the early twentieth century. It achieved high levels of income per capita and was moving away from authoritarian government, towards a true democracy, with a system of checks and balances. Unfortunately, Argentina never finished the transition. The turning point away from the road towards checks and balances occurred in the 1930s. To stay in power in the 1930s, the Conservatives in the Pampas resorted to electoral fraud, which neither the legislative, executive, or judicial branches checked. The decade of unchecked electoral fraud led to the support of citizens for the populism of President Juan Peron and the impeachment of the majority of the Supreme Court. The aftermath of Peron has been political and economic instability, which partially accounts for the fall of Argentina from the top ten of income per capita countries in the world.

While economic growth can occur in the short run with autocratic regimes, long-run economic growth entails the development of the rule of law and the protection of civil and political freedoms. [North (1995): 25]

The separation of powers is a fundamental principle upon which all the Western democracies rest but in none of them is interpreted or, above all, “lived” in the same way. That there are differences should not occasion surprise if one bears in mind that the principle itself promotes no logical organizational advantages. It is dictated by a fundamental imperative: power must be checked by power. [Meny and Knapp (1998); 5]

I. Introduction

Adherence to the rule of law, particularly within a legitimate system of checks and balances is the exception rather than the norm for most countries. The development of the rule of law entails solving a coordination problem in which the actors refrain, particularly during crises, from acting in their short-run interests.¹ Either authoritarian or democratic governments can establish adequate protection under the rule of law so as to foster economic growth but the difference is in the legitimacy and beliefs in the system. In the longer run economic growth and higher income per capita induces a transition from autocratic regimes to democracy [North, 1995]. For those countries who have managed to consolidate democracy with a system of checks and balances each weathering of a crisis along the way added to the likelihood that they would stay on the path of a legitimate system of checks and balances that maintains the rule of law. For example, with today’s hindsight it may not surprise analysts that the public rebelled against Roosevelt’s effort to stack the U.S. Supreme Court in 1937 but it surely came as a surprise to Roosevelt and his policy team.

North [1995] and Glaeser and Shliefer [2002] in analytical narratives and La Porta, Lopez-de-Silanes, Pop-Eleches and Shliefer [2002] in cross-country regression analysis stress the importance for economic growth on restraining governments from becoming confiscatory. La Porta, Lopez-de-Silanes, Pop-Eleches and Shliefer [2002] find an important impact on political freedom from the existence of constitutional review. Le Porta *et. al.* measure *de jure* constitutional review. No doubt *de jure* is a first step in ensuring rule of law but constitutional review *de facto* can be eroded if there is insufficient public belief in its importance or the integrity of the courts.² In short, seemingly good constitutions, with provisions for checks and balances abound around the world, some work in practice while others do not. We present a case study of the erosion of the budding beliefs in the rule of law in Argentina, a country that was in the top ten of GDP per capita countries in the early twentieth century while in the early twenty-first century it has declined considerably.³ In many ways our article is the mirror image of the

¹ We found Weingast (1997) particularly insightful for highlighting the difficulty in establishing the rule of law.

² As Weingast (1997):261 notes: “...citizens in stable democracies not only must value democracy but also must be willing to take costly action to defend democratic institutions against potential violations.”

³ From 1890 to 1950 Argentina ranked between 7th and 13th. From 1900 to 1948, Argentina had 15 years in the top ten. These rankings are in GDP per capita in 1990 purchasing power parity. If we adjust by real prices calculated in the Penn World Table

analysis presented in North and Weingast (1989). In their analysis the Glorious Revolution set in motion a system of checks and balances while in our analysis the fraudulent elections in Argentina in 1930s eroded an emerging set of checks and balances and gave rise to populism. The lesson from our study for emerging democracies today is that adherence to the rule of law requires more than a constitution; it also requires the cultivation of a belief structure in which both the elites and citizens refrain from short-run opportunistic behavior. Most recently North (2004) places particular emphasis on the importance of a belief structure to buttress the formal institutions in a country. In our example, elites acted opportunistically eroding a nascent belief in checks and balances with the long-run result of fostering populism, and political and economic instability.

With high economic growth in the late 19th Century, there was a concerted push for electoral reforms with success coming for the secret ballot in 1912 [Crawley, 1984; Halperin Donghi, 1995; Pucciarelli, 1983; Rock, 1975 and Yablon, 2003].⁴ We can view the post 1914 to 1930 period as a potential transition to democratic regime with fair elections and an independent Supreme Court: in short Argentina was on the road to becoming a legitimate democracy with checks and balances and high economic growth. The introduction of free election gave the opportunity to the Radical party, a party with ties to the Conservative elite but with wide support from the middle class in the cities and rural areas, to control the presidency, some provinces and the Chamber of Deputies [Rock, 1975]. We consider this a significant milestone on the way to legitimate democracy from authoritarian rule. In the next eighteen years with some bumps in the road, Argentina maintained its economic growth while it was in transition to an open democratic system with a *de jure* and *de facto* independent court and more importantly the formal institutions bolstered the beliefs by the lower and middle class that they were part of the process of government.

Regrettably Argentina was unable to solidify the political transition to a democratic regime with checks and balances. From 1930 to 1943, Argentina departed from open legitimate elections.⁵ The political tensions between the Radical party in office and the displaced Conservative elite coupled with the effects of the Great Depression, led to a military coup and electoral fraud, which restored the Conservatives to power [Halperin Donghi, 2004]. The Argentina courts began to erode the nascent foundations of their independence and their potentially crucial role in shaping the beliefs about a system

6, Argentina ranked 37th in 2000. Australia and Canada, to whom Argentina is frequently compared, fared much better. Australia was in the top ten from 1890 to 1980 and reached its nadir at 14th in 1990. It now stands in 8th place. Canada started slower than Australia and Argentina, not reaching the top ten until 1910. Except for the Great Depression, Canadians remained in the top ten (Maddison, 1995 and own calculations, Penn World Table 6.0).

⁴ For an analysis of the evolution of suffrage institutions in the new world, see Engerman and Sokoloff (2005). Of the South American countries, Argentina was the first to adopt the secret ballot, perhaps setting the example which other countries followed.

⁵ For analyses of this period of Argentine history see [Halperin Donghi, 2004; Ansaldi et. al., 1995; Botana et. al., 1997; Peralta Ramos, 1992; Pereira, 1983; Potash, 1969; Rouquie, 1983; Sanguinetti, 1975 and Schilizzi Moreno, 1973]

of checks and balances. The Supreme Court openly approved the military coup of 1930 and countenanced electoral fraud throughout most of the 1930s. These actions paved the way for the populist policies and institutional reforms of Juan Peron.⁶

The populist rise to power of Peron in 1947 was partially a result of the fraudulent elections in the 1930s by the conservatives in the Pampas, and the countenance of the Supreme Court of the military coup of 1930 and the electoral fraud throughout the 1930s. As punishment for their countenance of fraud and perceived thwarting of the populist will, the Peronists impeached four of its five justices. From Peron until today the result has been political and economic instability.⁷ Both the military and the democratic governments have interfered with the Judiciary.⁸ Indicative of the lack of separation of powers has been the high levels of turnover in the Supreme Court through impeachment and forced resignations.⁹ This is critical because we maintain that it was the erosion of a belief system in the rule of law, and the failure to solidify this system during the 1930s that lead to the initial populist appeal of Peron. The recent events in the twenty-first century once again bear witness to the importance of a belief system in checks and balances so that governments are not forced to take short-run opportunistic actions.

II. The Record of Economic Growth in Argentina

The debate on the precise moment of Argentine economic decline has been highly debated. The two main dates proposed are: 1913 [Taylor, 1992; Di Tella and Zimelman, 1967]; and 1930 [Diaz Alejandro, 1970 and 1985; Cortes Conde, 1979 and 1998]. Our goal is not to estimate the timing of the decline but rather to show first that the overall long-run relative decline in GDP of Argentina that begin in the 1910s rebounded in the 1920s then fell visibly in the post-World War II period. In 1947 Argentina was ranked 10th in the world in per capita income. In Figure I we show the GDP per capita ratio between Argentina and nineteen leading economies in the world market from 1875 to 2001.¹⁰ As you can see Argentina fared reasonably well during the 1920s and 1930s but clearly embarked on decline in the post

⁶ There is an abundant literature on the origins and consequences of Peronism, see [Brennan, 1998; Ciria, 1983; Crawley, 1984; Di Tella, 1998; Elizagaray, 1985; Fayt, 1967; Ferrero, 1976; Gay, 1999; Germani, 1973; Gerchunoff, 1989; Halperin Donghi, 1975; Halperin Donghi, 1994; Horowitz, 1990; Jones, et. al., 2002; Kenworthy, 1975; Little, 1973; Matsushita, 1983; Murmis and Portantiero, 1972; O'Donnell, 1973; Rock, 1985; Romero, 1988; Sabato, 1988; Smith, 1972; Smith, 1974; Torre, 1990; Torre, 1989; Torre, 1988 and Waisman, 1987]

⁷ Spiller and Tommasi (2004) argue that the political institutions in Argentina, especially since 1947 have lead directly to volatility of economic policy. They report that Argentina's economic policy from 1970-1990 ranked as the 7th most volatile out of 106 countries.

⁸ See Iaryczower, Spiller, and Tommasi [2002] for an analysis of judicial independence from 1935-1998. They argue that the Court was able to achieve some independence at the risk of impeachment.

⁹ Spiller and Tommasi (2004) also make the point about the lack of independence of the court. We also note the recent impeachment proceedings and forced resignations under President Kirchner. Prominent in the proceedings has been Senator Kirchner, the President's wife.

¹⁰ This is the set of the World's richest countries in GDP per capita in 1875, the earliest year for which we have data for Argentina. These economies are: Denmark, Belgium, United Kingdom, Norway, Germany, France, Switzerland, Sweden, Spain, Portugal, United States, Australia, New Zealand, Canada, Japan, Italy, Austria, Finland and the Netherlands.

WW II years.¹¹ Furthermore, if we compare the performance of Argentina with respect to other Latin American economies, which were not affected by WWII (Uruguay, Brazil, Chile, Colombia, Mexico and Peru), we observe a similar evolution of the relative GDP per capita (Figure II). From the late 1940s Argentina's GDP per capita shows a relatively steady decline with other Latin American countries except for the brief period in the 1990s when many believed the "convertibility plan" to be the economic salvation of Argentina.

Figure I

Figure II

We argue that the general relative decline since the late 1940s has been a result of political instability [Spiller and Tomassi, 2004; and Prados de la Escosura and Sanz-Villarroya (2004)]. Stop and go policies characterized the post-Peron years. Prados de la Escosura and Sanz-Villarroya (2004) most convincingly tie instability in property rights to long run economic growth. They point to the late 1940s as the turning point in property rights instability for Argentina. Spiller and Tomassi (2004) also show that from 1970 to 1999 Argentina ranked as one of the countries with most volatile policies around the world. Some of the effects of this volatility are observed in monetary and exchange rates policies, which produced high inflation and sharp devaluations. Furthermore, political instability also had effects on investment decisions at the firm level (Spiller and Tomassi, 2004). We agree with numerous scholars that the instability of property rights originated with the Presidency of Juan Peron but argue that a very plausible counterfactual is that Juan Peron would never have been elected had it not been for the electoral fraud perpetrated by the Conservatives in the 1930s.

III. The Institutional Foundations and Political Evolution of Argentina

During the first period (1880-1912), the Argentine Constitution, established in 1853, was the foundation of the political system. In many respects, it resembled the U.S. model, in which the separation of powers and democratically elected government officials are the foundation of the political system. Like its U.S. counterpart the Argentine political system was Presidential with two legislative chambers, the Deputies (seats according to population) and the Senate (seats by Province), and an independent Judiciary to "check and balance" the power of the other two branches. The political foundation of Argentina was federalist with *de jure* though not *de facto* rule of law.

An important element in a democracy is the protection of the rights of the minorities.¹² In Argentina, the protection of the property rights of the landholders in the Pampas was instrumental in

¹¹ In the immediate postwar years, when the country engaged in extensive expansionary policies, we observe a relative improvement in Argentine growth followed by a rather continuous relative decline.

¹² See in particular, Federalist Paper 51 by Madison. See also Meny and Knapp (1998).

promoting investment and growth [Adelman, 1999; Diaz Alejandro, 1970; Cortes Conde, 1998]. Protecting property rights is not an easy proposition for the judiciary is in “continual jeopardy of being overpowered, awed or influenced by its co-ordinate branches” [Hamilton, Federalist Paper No. 78]. Hamilton like others saw the solution for independence in the appointment of life tenure for Supreme Court Justices. Argentina followed suit.

Argentina started with an institutional framework that produced considerable economic growth [Adelman, 1999]. North [1990] and North and Weingast [1989] credit the establishment of Parliament as a check on the power of the crown as the essential political ingredient in the economic success of England.¹³ The Argentine case is an outlier, one where the initial institutions also generated growth but, unlike England and most of the Western world, the institutions ultimately could not withstand the trauma inflicted by shortsighted political and economic interests in the 1930s and 1940s. Our study is an examination of the long-run hazards of violating growth-enhancing institutions on the pretext of economic crisis.¹⁴

From 1862 until 1930, Argentina provided a good example of political stability, though not an open democracy until 1912.¹⁵ Prior to 1914, Conservative governments controlled the Presidency and both houses of Congress. The Conservatives secured their hold on power through intimidation and fraud, particularly in the Pampas, which was the dominant force in the Conservative party. Conservatives across Argentina were not homogenous but they shared the overall vision of the structure and operation of government. It appears as if the President dominated the legislative agenda but this most likely resulted from similar interests because Congress had the power to veto.¹⁶ The Supreme Court exercised some independence though the narrative accounts indicate that they shared a similar ideological view to that of Congress and the President. Accordingly, the division of power, and political institutions, were in place to sustain the Conservative elite in power and foster their economic interests.

With economic growth in the late 19th and early 20th centuries, pressure mounted for a more open political system.¹⁷ In an effort to maintain legitimacy the Conservative government introduced the Saenz Peña Law in 1912, which established the secret ballot and a more strict control of the electoral roll

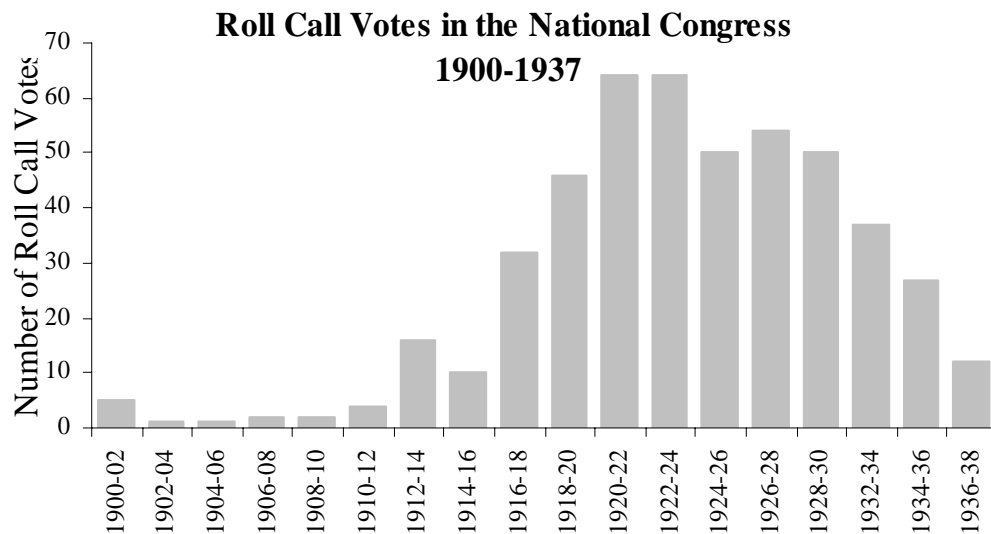
¹³ In particular, North and Weingast argue that an independent Parliament constrained the borrowing of the King but also led to the establishment of a credible commitment to honoring its debt. The strong version of their argument has recently been questioned by David Stasavage (2005) who argues that it was not until the hegemony of the Whigs in 1715 that England was able to borrow at lower rates. In short Stasavage argues that partisanship also matters. We do not disagree but checks and balances appear to be a necessary condition for long run stability because partisan majorities can come and go. This is especially true if raising capital in foreign markets.

¹⁴ See Higgs [1987] for an analysis of the role of crises in promoting government intervention.

¹⁵ We begin in 1862 because of the previous split between Buenos Aires and the rest of Argentina. In 1912, Argentina passed legislation adopting the secret ballot and it went into effect in the election of 1914.

¹⁶ For a current view of the agenda setting power of a President, see Alston and Mueller [2006]. Spiller and Tommasi (2004) argue that the President in Argentina has considerably greater de facto agenda setting power than Congress. They apply their analysis primarily to the period from Peron to the present.

[Rock, 1975; Halperin Donghi, 1995; Smith, 1974].¹⁸ As a result of the Saenz Peña Law, Yrigoyen from the Radical Party won the Presidency in 1916 and the Radical Party controlled the House of Deputies. The Conservative Party continued to hold a majority in the Senate. Divided governance held through the elections of the 1920s. From 1912 to 1930, the political system became more transparent and we characterize it as period of evolution towards the constitutional precepts of rule of law within a democratic regime. Amidst the political changes during this period economic growth initially fell and then rebounded in the twenties. The increase in the number of Roll Call votes is an indicator that Congress was not simply rubberstamping the will of the President. A Roll Call vote was used to measure and monitor the voting behavior of representatives and gave party leaders and constituents a benchmark for rewarding or punishing party members. The use of Roll Call votes increase dramatically after 1916 and then declined in the mid-1930s with the onset of fraud. In the 1930s Congressmen did not depend on the popular vote to be elected, but on the manipulation of the elections.



Source: Own elaboration based on Molinelli, et. al. 1999

The improvement in democracy after 1916 is also reflected on the increase on the number of voters: from 1918 to 1931 the voting population increased by 133.5%.¹⁹In our view, it was the “Camelot Period” for Argentina: the President had some agenda setting power but was constrained by veto power

¹⁷ In the 1890s, the Radical party organized a revolt (La Revolucion del Parque) in order to overthrow the government. It was unsuccessful, and the Conservatives continued controlling the electoral system.

¹⁸ The Radical Party was the most instrumental player forcing the passage of the Saenz Peña Law. Hipolito Yrigoyen, the head of the Radical Party, called voters to abstain from voting until the government reformed the balloting process. Canton [1973]

¹⁹ In the decade under fraud, from 1931 to the 1942 election, the number of voters grew only 30.2%, even though the number of eligible voters grew considerably. With a return to democracy in 1946 the turnout increased by 49% between 1942 and 1946 (Molinelli, et. al., 1999).

of the Senate and constitutional review.²⁰ Within this institutional setting, the Supreme Court exercised some independence from the executive and legislative branches. We are not arguing that the Court always ruled in favor of strong protection of property rights but rather that they were able to exercise independence. We have examples of the Court ruling against as well as for a strict interpretation of property rights. For example the Court in *Ercolano* ruled in favor of regulating rents while subsequently in *Horta v. Harguindeguy* (1922) the Supreme Court verdict struck down an emergency law that controlled urban rents.

Compared to the past, elections were generally clean. The Radical party constrained by the Senate continued to operate the same export driven economic model of the former Conservative dominated governments [Llach, 1985; O'connell, 1986; Cortes Conde; 1998 and 2000]. But, there were some significant domestic departures from previous policy. In particular, the Radical party was able to introduce some new legislation favoring agricultural tenants [Solberg, 1987; Ansaldi, 1993]. However, the political tension with the Conservatives, which controlled some small provinces, increased, leading to several federal interventions and strong confrontations. The Radical party retained its power until 1930, when a military coup, backed by Conservatives and some dissident Radicals overthrew an aging Yrigoyen.²¹ This was the first successful military coup in Argentine history and was an affront to the electoral process of the constitution. The military coup marked the beginning of the third stage, from 1930 to 1943, where Conservatives reversed the democratic reforms, and the Supreme Court openly supported a political side. Once the military government took power on September 6, 1930, they looked for legitimacy. Paradoxically, despite acting outside of its jurisdiction, the Supreme Court gave its approval to the military coup describing it as a "triumphant revolution" [Pellet Lastra, 2001: 63].

According to the Constitution, the role of the court should have been to wait for someone to contest the rule of the military government in a civil suit. The other alternative for the Supreme Court Justices was resignation, the path supported by one Supreme Court Justice, Figueroa Alcorta. [Pellet Lastra, 2001]. The military coup, coupled with the approval of the Supreme Court, was a significant reversal in Argentina's transition to an open democracy [Smith, 1974; Pereira, 1983; Rouquie, 1983; Sanguinetti, 1975; Potash, 1969]. Importantly, the unwarranted actions of the Supreme Court tarnished its reputation in the eyes of the public.²² The military government called for a return to elections in 1932 but forbade

²⁰ We stress that the movement to a system of checks and balances is evolutionary and was never completed in Argentina. Hipolito Yrigoyen, the first President from the Radical Party, resorted to Federal Intervention 15 times during his term in order to circumvent the power of the Conservatives. We thank Sebastian Saeigh for this comment.

²¹ Yrigoyen was President from 1916 to 1922 and again from 1928 until the coup in 1930. Despite being from the Radical Party, some dissidents still considered Yrigoyen part of the upper class elite. In the interim years, 1923-1928, Alvear, also a Radical, was President.

²² In retrospect, historians have argued that the recognition of the coup and subsequent behavior in the 1930s caused citizens to view the Supreme Court as aligned with the interests of the conservative capitalist class: "But fourteen years later, in 1945, the Supreme Court was lacking prestige, not just because of its criteria against social legislation at that time, but because of the

any candidates from the Radical Party who had been in government during Yrigoyen's last term.²³ In a protest response to the prohibition, the Radical Party chose not to participate in the election. As a result, the Conservatives returned to power [Halperin Donghi, 2004].

When the Radical party returned to electoral competition in 1934, they expected that the Conservatives would run clean elections. The first test was the gubernatorial and provincial congressional elections on November 3, 1935. Fraud pervaded the election. Police intervened and ejected Radical and Socialist monitors from the polls [Halperin Donghi, 2004; Sanguinetti, 1975]. The Conservatives replaced votes and induced people to vote against their wishes. Many newspapers reported the fraud. Three of the five members of the Electoral Board, which oversees elections, ruled that the election should be nullified. But, based on a law passed by the Conservatives in 1934, nullification required the support of two-thirds of the Electoral Board, i.e., four of the five members.²⁴

The fraud enabled the Conservatives to gain control of the government in the most populous and powerful province of the country. The Supreme Court did not intervene on the grounds that the issue was political and not constitutional. But the Supreme Court could have acted because federal judges from the Province of Buenos Aires ruled on the fraud; they reached a verdict confirming the irregularities denounced by the Socialist and Radical Party. Furthermore, the President of the Supreme Court of the Province of Buenos Aires, who was part of the Electoral Board voted to declare the election null [Sessions Diary Deputies Chamber, 1936].

Fearing similar fraud at the national Congressional elections in 1936, Radicals petitioned the government for guarantees against fraud. The election was important because it was the prelude to the Presidential election in 1937. Though the National Electoral Board had authority over the election, the Radicals still feared that fraud would rule the day:

Great suspicion exists with respect to what will happen today in the Province of Buenos Aires... If citizens find the path of voting obstructed again, the Congress will have a new reason to discuss this. It will have to consider reestablishing the republican government system. This system of government cannot exist if the majority wish -within the constitutional limitations- is not respected or when we cannot tell what the legitimate majority is [La Prensa, March 1, 1936].

manifest complicity from 1930 to 1943 to the facts that constituted the decline of the institutions and the repression of the citizenship" [Gay (1999):22]. Though Gay was aligned with Peron, his views should not be dismissed because the impeachment of all but one of the Justices was popularly supported.

²³ The imposition of the ban on Radical Party candidates resulted from the electoral results of an election in 1931 for the Province of Buenos Aires. In the 1931 election there was no prohibition of candidates from the Radical Party. The Conservatives anticipated a victory because of the disarray in the Radical Party; its leader was in jail. Nevertheless, the Radicals won the election. The military government nullified the election and imposed the prohibition on Radical candidates for the National election of 1932. [Moreno, 1973].

²⁴ The Conservatives changed the Provincial Constitution in 1933, which contained a new electoral system for the elections in the province. Detractors labeled the new electoral law, Provincial law No 4,316, as "the Law of Fraud" (*Ley del Fraude*). The new law created a system in which the electoral board was controlled by the Conservative government which in practice meant that the electoral board rejects any fraud reports. (Congreso Nacional, Diario de Sesiones Honorable Camara de Diputados de la Nacion, 1936, Reunion No 11, June 18th 1936, 10-11.) When the Radical Party accepted to go back to elections despite the evident fraud, it opened the door for a loss of legitimacy from its followers. Many people sought this action as an acceptance of the status quo (Ciria, 1975; Halperin Donghi, 2004).

True to the worries of the Radicals, the Conservative Party won the election by fraud. Officials monitoring elections reported fraud before and during the elections.²⁵ The Deputies from the Radical and Socialist parties proposed a declaration in the Deputies Chamber to nullify elections in the Provinces of Buenos Aires, Corrientes, Mendoza, and Santa Fe. The case went to the Petitions and Power Commission (*Peticiones y Poderes*), which had advisory power to the whole Chamber of Deputies.²⁶ After reviewing the evidence, the Commission advised the Chamber of Deputies to declare the national election in the Province of Buenos Aires null [Halperin Donghi, 2004]. If the Radical party obtained the nullification and then won in clean elections, they would most likely win the Presidential election in 1938. The situation looked good for Radicals. They had a strong case and the questionably elected Conservative Deputies from Buenos Aires could not vote. This gave the opposition a majority in the Chamber of Deputies.

Facing an almost certain loss, the only hope of the members of the conservative coalition, *Concordancia*, was to prevent a vote. Instead of being in the Chamber for the debate or vote, the members of the *Concordancia* voted with their feet and did not appear in the chamber. The absence of the *Concordancia* made it impossible to form a quorum and vote for the resolution. Without a quorum, the Deputies Chamber petitioned the President to use his executive power to force the recalcitrant *Concordancia* Deputies to occupy their seats. The President denied the request. The Deputies continued in session waiting in vain for the *Concordancia* Deputies to return. Finally, the Senate, dominated by the Conservatives, decided to put an end to the struggle [Halperin Donghi, 2004]. Without constitutional authority, the Senate declared the election legitimate.

Not accepting defeat, the deputies from the Radical and Socialist parties continued to push for the nullification of the election. They even tried to introduce a bill to impeach the President for allowing the Senate intervention. But again, the *Concordancia* retired their deputies and there was not a quorum. The Congressional session ended with the *Concordancia* still in power. Newspapers and other narrative accounts widely document the electoral fraud in the province of Buenos Aires. In part, because of the fraud, historians refer to the 1930s as the “infamous decade.” [Schillizzi Moreno, 1973; Privitellio and Romero, 2000]

Given that the Conservatives managed to “win” the election by fraud in 1936, they continued to resort to fraud and intimidation through the remainder of the 1930s. Only in 1940 did President Ortiz try to stop electoral fraud [Crawley, 1984]. Most of the fraud was located in the Pampas: in Table I we show that the Province of Buenos Aires alone accounts for 28% of the denouncements of fraud. If we

²⁵ Reports of fraud were common. See Diary of the Deputies Chamber [1936] for a complete list of the reports of fraud in the Provinces.

consider all of the Provinces in the Pampas they account for nearly 55% of the total reports from 1934-1942. It is important to point out that in Cordoba the Conservatives refrained from fraud but consistently lost the elections to the Radical Party in the 1930s. Exactly why the Conservatives did not engage in fraud in Cordoba is a bit of a puzzle. Most studies conclude that the Conservatives felt strongly about their chances against the Radicals in that province because they defeated them in the 1930 election [Halperin Donghi, 2004]. Furthermore, Donghi [2004] argues that the Conservatives in Cordoba were ideologically opposed to acquiring power through fraud. We believe that it is not coincidental that the province of Cordoba was the only province of the Pampas in which Peron lost to the Radical Party in 1946. The Radical Party held approximately the same degree of support across provinces in the Pampas during the relatively clean elections between 1918 and 1942. (See Table II).

Table I

Fraud Reports by Province (1934-42)	
<i>Province</i>	<i>Percentage of Total Fraud Reports</i>
Buenos Aires	28
Santa Fe	21
Entre Rios	6
Mendoza	6
Corrientes	13
La Rioja	9
San Juan	11
Catamarca	2
Salta	4

Source: Molinelli, et. al., 1999

Notes: There was no Fraud reported formally or in the press for Cordoba. For the Provinces of Jujuy, San Luis and Santiago del Estero there is no data from the Electoral Board though there were complaints in Congress of fraud. Data on fraud reports do not exist for the remaining four provinces:

Table II

The Vote for Radicals in the Pampas - 1920-1942

Election		Federal Capital	Buenos Aires	Cordoba	Entre Rios	Santa Fe
Deputies	1918	44.2	60.3	31.1	40.0	29.9
Deputies	1920	36.4	48.5	46.9	56.6	61.0
President	1922	37.7	60.4	58.7	49.6	62.3
Deputies	1926	42.4	59.9	48.6	32.9	42.9
President	1928	54.6	59.2	69.5	53.7	62.7
Deputies	1930	28.0	47.1	47.3	46.4	34.8
Deputies	1936	51.9	40.9	62.3	50.4	34.5
President	1937	62.9	21.9	53.0	44.8	29.5
Deputies	1938	34.5	14.2	52.2	40.9	28.8
Deputies	1940	37.5	53.9	53.6	54.1	48.0
Deputies	1942	28.9	17.7	49.9	39.3	25.0

²⁶ The Deputies Chambers elects the members of the Petitions and Powers Commission on the first day of ordinary sessions.

Note: The elections with bold font are for those elections in which Fraud was reported as pervasive (Canton, 1973; Sanguinetti, 1975; Schillizzi Moreno, 1973). The only districts of the Pampean region without fraud were the Federal Capital and Cordoba. Source: Own calculations based on Canton (1968) and Molinelli et. al. (1999).

The accusations of fraud in the Pampas produced a backlash amongst the electorate, despite a relatively good performance of the Argentine economy during the depression of the 1930s.²⁷ Increasingly so, the electorate viewed the rule of the Conservatives as illegitimate. This sentiment against the so-called oligarchy accounts for the widespread popularity of the military coup in 1943 and the subsequent policies of Peron.

The Conservative regimes of the 1930s, in spite of their flirtations with fascist reformism, brought to a halt the modest momentum for political and social reform started by the Radical governments. Their failure to buttress the relative healthy economic structure with social and political arrangements allowing for growing security and political participation for rural and urban masses contributed to the creation of revolutionary possibilities.” In short, the Conservatives appeared to have won the battle by fraud but lost the war by abandoning the rule of law. Diaz Alejandro (1970: 107-108).

Peron’s Rise to the Presidency: the Military Rule 1943-1945

The military coup of 1943 opened a new era in Argentina, one characterized by political and economic instability.²⁸ Like Diaz Alejandro we argue that the failure of Argentina to sustain the transition to a system of checks and balances led to the rise of Peron and the new Peronist institutions. When the military coup ousted the Conservative government in 1943, many thought that the new government would limit its action to restoring democracy in the country and establishing an alliance with the U.S. against the Axis powers. This might have happened but a branch of the army with a nationalistic ideology shortly replaced the initial military government [Crawley, 1984; Rouquie, 1983 and Ciria, 1975]. Peron was part of the nationalistic branch called the *Grupo de Oficiales Unidos (GOU)*.²⁹ Peron occupied several important positions: First he was Vice-minister of the Ministry of War and Head of the newly created Secretary of Labor in 1943; he also was Vice-President and Minister of War when Colonel Farrell, a friend of Peron’s assumed the Presidency of the Country in 1944. From his position as the Head of Labor, Peron lured labor union leaders into backing him politically. Peron used both the carrot and stick with unions. He proposed legislation improving work conditions for labor and he jailed

²⁷ For a convincing account of the positive policies implemented by the Conservative governments and general economic performance in the 1930s, see Della Paolera and Taylor [1998], [1999] and [2001]; Alhadeff, [1989]; Balsa [1992]; Diaz Alejandro [1970]; Di Tella and Zimelman [1967]; Cortes Conde [1998]; Di Tella [1979]; Pinedo [1971]; Vazquez-Presedo [1978]. The historical accounts consistently give good marks for economic policies in Argentina though the economy declined relative to other Latin American countries –see Figure 2..

²⁸ Clearly the outbreak of WW II opened up a new divide in Argentina between those favoring the Fascists and others supporting the Allied forces.

²⁹ The GOU drew their inspiration from Hitler and Mussolini. [Crawley, 1984]

union leaders who disagreed with him [Matsushita, 1983]. As a result, the emerging Labor Party would form the backbone for his bid for the Presidency in 1946.³⁰

The largest traditional political parties formed the opposition to Peron: the *Unión Cívica Radical*, *Comité Nacional*, Socialist, Progressive Democrat and Communist parties. They formed the *Union Democratica*, and sought to capture power once the military government called for national elections. The Conservatives, who had been in government during the 1930s, supported the *Union Democratica*, but they were not part of it.³¹ Indeed the support of the Conservatives may have hurt the *Union Democratica* as some voters may have taken this a signal that the Conservative elite was still in power. The traditional parties emphasized the lack of democracy of the military regime and its political heir, Peron. They called themselves the “defenders of Democracy and the Constitution.” They vowed to return to the provisions of the Constitution, which meant that they planned to nullify many of Peron’s policies.³² The political confrontation was a clash of two different political models of government. On one side, the *Union Democratica* proclaimed that they wanted to return to the road leading to a legitimate system of checks and balances. On the other side, the Peronist coalition represented a populist movement that opposed the Constitutional dictates of rule of law. The Peronist movement promised future revolutionary changes in institutions for its constituencies.³³ Though they may not have known it at the time, citizens in Argentina found themselves not just electing a new president but also choosing between two different systems that would determine the institutional structure of the country for many decades to come. Though close, the citizens choose populism over a return to path interrupted by the coup of 1930 and the fraud of the 1930s.

The appeal of Juan Peron was in part a reaction to the electoral fraud in the 1930s. As a test of the importance of fraud in the election of Peron, we estimated the following model:

$$Peron46_i = \alpha_0 + \alpha_1 Fraud_i + \alpha_2 RadicalVote40_i + \alpha_3 Cattle_i + \alpha_4 IndustryWages_i + \alpha_5 Population_i + \alpha_6 Cereal_i + e_i$$

where:

Peron46 is the percentage of votes the Peronist party obtained in the 1946 election;

³⁰ The labor party endorsed Peron but they had hoped to maintain their independence. See Gay [1999].

³¹ Indeed, the *Union Democratica* initially formed in 1942, hoping to win against the Conservatives in what would have been an election in 1943.

³² Foreign capital and the U.S. embassy aligned with the Democratic Union and declared their distaste for Peron’s policies. Given the nationalist sentiments at the time the public position of the U.S. may have helped Peron.

³³ The Peronist movement in Argentina shares an ideological space with the late 19th century Populist Party in the US. The U.S. Populists opposed big business and drew its support from the Mid-West and the South. Like the Peronists, the U.S. Populists saw the Supreme Court as aligned with big business. After the U.S. Supreme Court nullified the income tax, some members of the Populist Party in Congress called for impeachment of the Justices who sided with the majority in declaring the income tax unconstitutional. Not until the New Deal when FDR proposed a bill to enlarge the Supreme Court would there be another threat to the independence of the Supreme Court.

Fraud is the difference in the share of votes for the Radical party between the elections of 1940 and 1938. This variable captures the importance of fraud because the 1940 election was relatively clean.³⁴

Radical Vote 40 is the percentage of the vote in 1940 received by the Radical Party and captures the relative strength of the Radical Party which Peron had to surpass.³⁵

Cattle is the log of the number of cattle per farm and represents the strength of the landed elite who opposed Peron;

Industry Wage is the average industrial wage in each county and represents the strength of unions who supported Peron;

Population is the log of the number of people per county. Peron tried to appeal to the urban vote;

Cereal is the percentage of agricultural hectares per county sown in cereals. This variable would capture the tenant vote who benefited from Peron's support of rent controls.

Table III: Descriptive Statistics

Variable	Mean	Standard Deviation	Minimum	Maximum
Peron Vote (Percentage)	0.47	0.133	0.1021	0.76
Fraud (Percentage)	0.26	0.193	-0.2955	0.74
Logarithm of Cattle per Farm (density)	4.59	0.042	1.3006	6.42
Natural Logarithm Industry Average Wages	0.55	0.296	-0.3629	1.61
Radical Vote 1940 (percentage)	0.49	0.106	0.1495	0.98
Natural Logarithm Population	10.14	0.915	7.6372	13.2
Hectares sown with Cereals (Percentage)	0.151	0.182	0	0.80

Source: National Census 1947 N= 234; Our data set consists of observations by county for the Provinces of Buenos Aires, Cordoba, Entre Rios, Santa Fe, Corrientes, Santiago del Estero, Tucuman and Mendoza. The remaining Provinces did not have elections in 1940 so our data set is limited to the most populous Provinces. The votes in the remaining Provinces could not have influenced the outcome.

In Table III, we present the descriptive statistics. In Table IV, we present the regression results.³⁶ The results indicate that the vote for Peron increased in counties where fraud was greater. The importance of this coefficient, as well as its robustness to a variety of specifications, supports our narrative that the rise of Peron and *Peronismo* was in part a response to the fraudulent elections of the during the decade of the 1930s. Our control variables all have the expected sign and most are reliable at least at the 10% confidence level. The vote for Peron depended positively on the more urban areas; the average industrial wage; and the strength of tenants, as proxied by cereal production. Peron faced opposition from the elite (as proxied by Cattle production) and in the traditional strongholds of the Radical Party. Most importantly for our narrative of the rise of populism, those countries where the

³⁴ Ideally, we would like to use fraud reports (listed in Table 1) by county but we only have fraud reported at the Provincial level. By all accounts, the election of 1938 was fraudulent but the election of 1940 was clean. President Ortiz, a Conservative, vowed to prevent fraud in the 1940 election of Deputies and Governors. When confronted with fraud in the electoral contest for governor of Buenos Aires, President Ortiz nullified the entire election despite little protest from the Deputies in the Radical Party. In the re-election, the Radical party won a majority of seats in the Deputies Chamber. We posit that the voters most discouraged by the old regime were those who voted for Radicals in the clean election of 1940 and we expect that they voted for Peron in 1946, since Peron offered a clear departure from the past. Also, the dwindling support for the Radical party after its lack of action against fraud in the second half of the 1930s and the shift of some leaders to the Peronist movement, gave Peron support from those voters discontented with the current platform of the Radical Party in the 1946 election.

³⁵ The vote in 1940 went mostly to two parties: the Radical and Conservative parties. Votes for the Socialist party and other provincial parties were a low percentage and did not increased the explanatory power of our model.

³⁶ Our coefficient on fraud is robust to different specifications, including functional form. We offer the more parsimonious specification to highlight the role of fraud.

Radical party was stronger in the 1940 election tended to vote against Peron and maintained their belief in a transition to a system of checks which was interrupted by the decade of the 1930s.

Table IV: Econometric Model: Presidential Election 1946

Dependent Variable: Percentage Peron vote per county	
Variables	
Fraud	0.35 (***) (0.05)
Radical Vote 1940	-0.37 (***) (0.083)
Population	0.063 (***) (0.009)
Industry Average Wages	0.078 (**) (0.031)
Cattle per Hectare	-0.017 (*) (0.009)
Hectares with Cereal	0.068 (*) (0.038)
Constant	0.12 (0.11)
R2	0.38
F-Test	F(6,226)=26.12
Probability F	0.000
No. Observations	233
Note: This model has been corrected for heteroscedasticity using robust standard errors.	
T-statistics: (***) 1 %. (**), 5% and (*), 10%	

The result of fraud in the 1930s is especially important because it demonstrates that the success of Peron in the 1946 election did not depend just on his populist policies but also on the lack of democratic participation of the 1930s. It is important to note that Peron won the national election by a margin of just **10%** of total votes. If we decrease the fraud by one standard deviation the percentage of votes for Peron decreases by 16%, while if we eliminate this variable –fraud equal to zero- the percentage of votes for Peron decreases by 26%. As a consequence, we maintain that a reasonable counterfactual world is one where Peron would not have been elected had it not been for the electoral fraud in the 1930s.

An important supporting piece of evidence connecting fraud in the 1930s with the election of Peron was the behavior of the Conservative Party in the Province of Cordoba, the third most populous province in Argentina. The Conservatives in Cordoba did not to pursue the same fraudulent practices as in other provinces in the Pampas, particularly Buenos Aires (Halperin-Donghi, 2004). The most popular rationales for their behavior were: 1) the Conservatives felt strong enough to defeat the Radicals cleanly -they almost defeated the Radicals in the 1930 election; and 2) the leadership of the Conservatives in

Cordoba were “morally” opposed to using fraudulent means to win an election (Ciria, 1975, Ferrero, 1976, Halperin-Dongh, 2004). Despite the optimism of the Conservatives, the Radicals won every election in the province of Cordoba during the 1930s, and in the election of 1946 Peron lost to the Radicals in the presidential race by a margin of

The Presidency of Juan Peron

When Peron won the election in 1946, he embarked on a campaign to solidify his political support and in so doing dramatically changed the political and economic institutions within which Argentina had prospered. At the heart of his economic and political plan was an assault on the property rights of landowners in the Pampas [Mora y Araujo and Llorente, 1980]. His political support came from urban labor in Buenos Aires, rural tenants and labor in the Pampas and small landholders in the smaller provinces outside the Pampas. The support of urban labor for Peron is well documented and not controversial so we will not discuss it here. Support from the provinces outside of the Pampas was critical for Peron because of the influence of Senators from these regions. Before Peron, the political representatives from these regions had voted with the Conservatives from the Pampas. By the end of his first term, Peron through persuasion and coercion brought the various constituents together under the Peronist Party.³⁷

Institutional Change in the Outlying Provinces³⁸

To capture the support of the small provinces Peron relied on two institutional changes, ironically introduced by the Conservatives in the Great Depression: the Co-participation System and the Central Bank.³⁹ The Co-participation System authorized the Federal Government to use the tax base of the Provinces in return for a rebated share of the revenue raised. This gave the central government enormous leverage over the politicians in the provinces.⁴⁰ In addition, Peron used the Central Bank for political purposes. Essentially, he would “ask” the Central Bank to cover debts of provincial governments.

³⁷ Fearing a jail sentence, some recalcitrant members of the Radical Party fled to Uruguay. Peron lured the rural Conservatives from the smaller provinces with transfers from the Federal government as we discuss in the following section. In later elections, Peron engaged in extensive redistricting in order to increase the number of Peronists elected.

³⁸ For an elaboration on how the institutions created or maintained by Peron played out in the latter half of the twentieth century, see Spiller and Tomassi (2004).

³⁹ The Conservative government created the Central Bank in 1935 as an instrument to better control the monetary policy during the Depression. On the importance of an independent Central Bank in eventually leading to the privatization of Provincial banks in the 1990s, see Alston and Gallo, 2002.

⁴⁰ Though the rebates back to the Provinces were not arbitrary the Co-participation system created a dependency relationship and the Provinces may have feared that they might lose part of their rebate if they did not cooperate with the Central government. As noted by Spiller and Tomassi (2004), the relationship between the Central Government and the Provinces in the second part of the 20th Century was determined by the dependency of the Provinces on Central Government’s revenue, and the need of the Central Government for political support from the Provinces.

Peron initiated his own changes in governance as well as utilizing extant institutions. He exercised control over labor through the Provincial branches of the Secretary of Labor. Peron created the branches when he was Secretary of Labor during the military government and expanded on their use. Peron also nationalized many utilities, which he used for employment of loyal followers.

The use of these diverse instruments permitted the Federal government to overcome political resistance from provincial governments to changes in the economic structure. However, the use of them also increased the fiscal dependency of the Provinces on Federal government resources.

Institutional Change in the Pampas

The main political enemy of Peron was the Conservative Party in the Pampas. The leaders of the Conservative party consisted of the big landowners (*estancieros*) and their allies, foreign capitalists. The Pampas was the fertile wheat and cattle-producing region and accounted for the majority of the country's exports. To work the land, the *estancieros* relied on tenants and sharecroppers.⁴¹ Prior to Peron, the tenants, sharecroppers and smallholders voted with the Radical Party. Peron aimed to help the tenants (and thereby hurt the owners) through controlling rents and the prices of output [Diaz Alejandro, 1970; Lattuada, 1986; Sandoval, 1988]. Legislation helping tenants was not new: the Radicals in the Deputies Chambers passed two reforms in the 1920s, though the conservative dominated Senate reduced the impact of the reforms. Peron faced no such check on his power. It is important to note that Peron's legislation applied almost exclusively to the Pampas.⁴² The legislation established local boards that controlled rents and prohibited evictions. The government also controlled the price of wheat and cattle by establishing monopoly power over purchases. After purchase, the government sold much of the wheat on the international market and used the surplus to finance public expenditures, to transfer funds to the smaller provinces in return for political support and some subsidies to industry [Novick, 1986].

Legislation of rural rents began with the military government. In 1943, the government fixed all rents to 1940 prices minus 20%, and declared all contracts extended until 1945. The decree contained this provision just for contracts in the Pampas region. The government renewed the rural rent controls in 1945, and then approved by law in Congress in 1948. As result, owners tried (partially successfully) to switch to cattle [Elizagaray, 1985]. The result was a decline in cereal production and a bigger decline in investment in the Pampas [Veganzones and Winograd, 1997].

Peron designed his policies in the Pampas not simply to punish his enemies to help his constituencies but he needed the policies to fund the overall institutional changes in the economy, e.g.

⁴¹ As Taylor [1997] shows, the system of rent and sharecropping worked well.

⁴² From 1943 to 1946, the legislation of the Military government was limited to the Pampas. The law regulating rents in 1948 applied to the whole country, but it affected primarily the Pampas because of the high level of rent and sharecropping contracts.

the nationalization of most utilities and many industries. With his allies in Congress, Peron had little difficulty in passing the legislation that proved so punitive to the Pampas. However, the actions taken surely represented a legislative “taking” which seems unconstitutional. So the question is: where was the Supreme Court?

The Impeachment of the Supreme Court

Ideally an independent Supreme Court represented the government’s guarantee that they would uphold the constitution.⁴³ It is questionable whether the Supreme Court was ever truly independent in Argentina but the court did present a potential obstacle to Peron’s attack on private property rights.⁴⁴ For example, one month prior to the election, the Supreme Court declared as unconstitutional the provincial branches of the Secretary of Labor.⁴⁵ The military government naturally denounced the decision while the opposition, i.e., non- Peronists voiced their approval. The rural constituencies that favored federal intervention in the provinces saw the election of Peron as instrumental in continuing the federal presence.⁴⁶ Shortly after being elected, Peron made it clear that he viewed the Supreme Court as illegitimate:

In my opinion, I put the spirit of justice above the Judicial Power, as this is the principal requirement for the future of the Nation. But I understand that justice, besides from being independent has to be effective, and it cannot be effective if its ideas and concepts are not with the public sentiment. Many praise the conservative sentiment of the Justices, believing that they defend traditional beliefs. I consider that a dangerous mistake, because it can put justice in opposition with the popular feeling, and because in the long run it produces a rusted organism. Justice, in its doctrines, has to be dynamic instead of static. Otherwise respectable popular yearnings are frustrated and the social development is delayed, producing severe damage to the working classes when these classes, which are naturally the less conservative, in the usual sense of the word, see the justice procedures closed they have no other choice than to put their faith in violence.

[Diario de Sesiones del Honorable Senado de la Nacion Constituido en tribunal, T. VI, December 5th 1946: 89].

⁴³ “The Supreme Court’s major contribution to the development of constitutional law arises from three simple propositions. First, all laws, decrees, administrative orders, and judicial decisions must obey the Constitution. Second, the judiciary is entrusted with guaranteeing the supremacy of the Constitution. Third, the Court, as the final arbiter and custodian of the rights granted under the Constitution, is the place all turn to for definitive interpretations and applications of constitutional principles.” Bidart Campos [1982]:13.

⁴⁴ Peron attacked not just the Supreme Court, but all sources of opposition to his policies. As a consequence, even if his government came to power through a democratic electoral process, his policies were far from being democratic, and resembled those of an authoritarian regime. [Crawley, 1984 and Waisman, 1987]

⁴⁵ “The Supreme Court decided that the Executive Power Decree of November 27, 1943, that created the Secretary of Labor and Prevision (which established that the departments or offices of labor established in each Provinces be converted to Regional Branches of the Secretary of Labor and Prevision) has violated the Constitution by transforming a provincial institution into a federal institution. The Secretary of Labor also gave to a federal institution jurisdiction to operate in the provinces. Not even the Congress has the authority to do such a thing.” [Newspaper La Prensa, 2/3/46]

With this speech the battle line was drawn: Peron embarked on a mission to impeach any Justices that did not tow the Peronist line. In July 1946, the Peronist Congressman Rodolfo Decker proposed the impeachment of all but one Justice. To a large extent, the impeaching the court matched the public sentiment of Peron's constituents who believed that the Court was, if not illegitimate, an obstacle to social policies.⁴⁷ Peron's goal was to transform the basic institutional framework in Argentina. In the accusation against the Court made in the Deputies chamber we can extract the sentiment against the old system and all that it represented:

Since a military government interrupted the normal cycle of constitutional government [1930], and after the Court granted this victorious movement both a title and its overt recognition, the country saw the disconcerting show of arbitrariness. This episode lasted almost 17 years. Those were seventeen long years in which the basic principles of our constitutional system have expired right in front of those in charge of keeping them with all the integrity with which they were created. This fact has been stated by respected sectors of public opinion and the general media. After this military government legitimized by the Court recognition, there was a succession of arbitrary governments of fraud, treason and lie. Governments openly called constitutional, which in fact were merely -or better said continued to be- *defacto*. They applied the theory wrongly used by the Court when it legalized an unconstitutional government violating the Constitution. The initial mistake of the Court and its lack of courage to impose the return to the true constitutional path cost the country a new military movement [1943]. Luckily, it would have the glorious deed of honor after a hard path filled with ups and downs, surrounded by difficulties –which the Court also experienced- to restore the entire rule of the Constitution. These difficulties were overcome by a magnificent movement of social justice led by the creator of the Secretary of Labor and Prevision, Colonel Peron. The recognition of two outlaw governments and its guilty passivity during the years of the reign of arbitrariness and unruliness have given the highest justice tribunal of the Nation a loss of reputation. The role of the Court played in the latest years until recently has reinforced it.⁴⁸

Sessions Diary of the Honorable National Senate Constituted in Tribunal. Tomo VI, 1947: 29.

The Deputies went to great lengths to tie the impeachment of the court not only to their denial of reform but to their duplicity in passively accepting the fraud perpetuated by the Conservatives in the 1930s. Not surprisingly, Congress impeached the accused Justices. Naturally, Peron replaced them with Justices who favored his agenda. The impeachment proceedings represented the last hurdle for Peron to change the institutional trajectory of Argentina. Following the impeachment, the Peronists began to craft a new Constitution which they submitted for approval in 1949. Without a backstop of an independent

⁴⁶ Peron, attacked the decision stating: “The truth is that this decision, adopted a few days before the elections, is intended as a rude strike to the Secretary of Labor and it constitutes a first step toward undoing the social improvements reached by the workers.” *Diario de Sesiones del Honorable Senado de la Nacion Constituido en tribunal*, T. VI, December 5th 1946: 90.

⁴⁷ In the U.S. following the election of FDR in 1932 many constituents viewed the decisions of the Supreme as an obstacle to achieving social and economic progress under FDR's New Deal proposals. Constituents in Argentina may have felt similarly though the Argentine Supreme Court was never held in as high regard as in the U.S.

⁴⁸ Report from the Deputies Chamber to the Senate accusing the Supreme Court members.

judiciary, and a new constitution in hand the Peronists were able to have their way until the next military coup in 1955.⁴⁹

The Aftermath of the Impeachment

After the impeachment process and new constitution, Argentina has never been able to return to cultivating a belief in a system of checks and balances. Beliefs in the legitimacy of the system matter in order to prevent short-run opportunistic behavior. The impeachment of the Court could be viewed as the culmination of the departure from the road towards a true system of checks and balances that was started by the coup of 1930 but burrowed into the beliefs of constituents with the decade of fraud during the 1930s.

The legacy of Peron is one of political instability, which in turn generated sudden changes in economic policies and institutions. Successive military and civilian governments appointed their own Supreme Court Justices in order to accomplish their political goals. But, without the court as a backstop, institutional volatility ensued. Examples of the institutional volatility are abundant: The military government in 1955 removed all the Justices of the Supreme Court and nullified the Peronist constitutional reform of 1949 by a simple Decree. In 1958 the new Democratic President replaced most of the Justices of the Court and introduced two new Justices. Successive governments frequently either forced judges to resign or impeached them. Though the Supreme Court is not held in high regard, each government believes that the court poses some obstacle to their goals or they would not bother to change the composition of the Court.

In Appendix A we show the changes in the Supreme Court Justices before and after Peron's Presidency. As we show, until Peron, no Justices had been impeached or "forced" to resign. Following Peron, only 5 of the 58 changes in Justices has been due to death or retirement. Prior to Peron, governments appointed a new Justice approximately every two years. After Peron, governments appointed a new Justice every 11 months. An alternative measure of instability is tenure: pre-Peron tenure of Justices was nearly 10 years while in the post-Peron years tenure has fallen to approximately 6 years (See Table V). Oscillations between military and democratic governments matched the instability of the court.

⁴⁹ The U.S. confronted a similar turning point in its institutional history but the electorate in 1896 came down on the side of maintaining the independence of the Supreme Court. In the election of 1896, the Supreme Court was under assault but one of its Republican defenders presaged the future of Argentina: "There are two places in this country where all men are absolutely equal: One is the ballot-box and the other is the Supreme Court. Bryan (the Populist candidate) proposes to abolish the Supreme Court and make it the creature of the party caucus whenever a new Congress comes in..." [Westin, 1953: 37]

Table V

Causes of Turnover of Justices in the Supreme Court (1863-98)							
Years	No. of Changes	Death	Retirement	Resignations		Impeachment	Removal ⁽¹⁾
				Involuntary	Voluntary		
1863-1945	38	20	12		6		
1946-1998	58	4	1	14	18	3	17

⁽¹⁾ Removed by military governments.

Source: Molinary, Guillermo, et. al. 1999, 690, and Pellet Lastra [2001]

Furthermore, the political and institutional instability was closely related to abrupt changes in economic policy and the rules of the game. Before the 1940s, abrupt changes in nominal exchange rate followed international shocks and the government response to those shocks. However, after 1940s, the biggest changes in exchange rates are due to changes in government: the switching from military coups to democratic governments, which are coupled with changes in the Supreme Court. As a result, economic policy, the rule of law and political and policy instability are closely related since the postwar. This instability on the exchange rate policy can be also related to instability on other indicators related to government policy. Post-war monetary policy became more unstable, with higher rates of inflation, which led to hyperinflations (See Table VI).

Table VI

Policy Indicators Argentina 1900-2004					
	Inflation	M3/GDP	(X+M)/GDP	Federal Deficit (% GDP) (*)	Foreign Direct Investment % GDP (**)
1900-1905	2.41	0.56	35.29		6.52
1906-1910	2.66	0.51	48.98	4.19	8.44
1911-1915	2.00	0.52	46.73	2.21	7.71
1916-1920	11.70	0.54	39.06	0.67	0.74
1921-1925	-6.23	0.60	39.00	1.51	1.84
1926-1930	-0.70	0.60	40.92	2.32	2.24
1931-1935	-3.86	0.59	30.19	2.94	1.20
1936-1940	3.01	0.48	27.89	4.34	0.99
1941-1945	5.55	0.42	15.54	9.77	0.55
1946-1950	19.86	0.45	18.09	7.05	0.09
1951-1955	18.14	0.32	12.39	6.02	0.40
1956-1960	38.25	0.23	12.71	4.97	
1961-1965	23.20	0.16	13.42	5.04	
1966-1970	19.33	0.18	12.60	2.62	
1971-1975	64.43	0.18	12.16	8.56	0.18
1976-1980	192.89	0.16	16.37	9.04	0.29
1981-1985	322.63	0.16	17.94	12.14	0.44
1986-1990	583.80	0.12	18.00	5.58	0.81
1991-1995	32.23	0.17	20.06	0.64	1.60

1996-2000	-0.10	0.30	22.98	1.68	4.05
2001-2004	12.06	0.28	21.80	3.80	0.89

Notes: (*) Does not include Public Companies

(**) 1900-1955 Venganzones and Winograd, 1997; 1971-2004 IMF International Financial Statistics.

Source: Own calculations based on Venganzones and Winograd 1997, Ministry of Economy of Argentina and IMF, International Financial Statistics.

The confidence of the public in the banking system declined, as shown by the lower levels of M3/GDP. The government ran higher budget deficits, which produced high levels of debt and long periods of default. Finally, the economy became more closed to international trade and the level of foreign investment turned almost insignificant in terms of GDP. As it is well documented, this instability hurt growth performance in the economy (Tomassi and Spiller, 2004); and Prados de la Escosura and Sanz-Villarroya (2004). The only time when the branches of government - Executive, Legislative and Judicial - were moving towards the Constitutional ideal of checks and balances was the period 1912-30. After the military coup of 1930, instead of returning to open democracy the conservative elite resorted to fraud in order to stay in office and dictate economic policy. This must have shaped the belief systems of the citizens of Argentina towards a desire for populist rule. The Conservatives may be given high marks for economic policy but their short-sightedness gave rise to oscillations between democratic/populist and conservative/military governments.

IV. Concluding Remarks

The government of Argentina is given high marks for the policies that they implemented to fight the Great Depression. Unfortunately, to stay in office the Conservative governments in the 1930s engaged in electoral fraud. The fraud was no secret and was labeled “Patriotic Fraud.” Despite denunciations by the Radical Party in the Chamber of Deputies, the Senate and the President openly condoned the fraud, while the Supreme Court stayed passively on the sidelines. By eroding the still developing beliefs by citizens in the rule of law, the fraud kindled a desire for populism. The electoral fraud ended with a military coup in 1943, followed by a narrow Presidential victory by the populist Colonel Peron. To achieve their goal of redistributing land and income to rural tenants, and to finance populist policies and industry, the Peronists passed legislation controlling rents and forcing owners to sell their land to tenants. This legislation only pertained to land in the Pampas. Undoubtedly, an independent Supreme Court backed by a belief in the rule of law would have declared the legislation unconstitutional. But, the Peronists had no fear of their legislation being overturned. They impeached four of the five Supreme Court Justices on the grounds of sanctioning illegitimate government in the 1930s, and obstructing legislation favoring urban and rural workers

during the military rule of 1943 to 1946. Naturally, the Peronists replaced the impeached Justices with appointees favoring the redistributive policies of the Peronists.

Like their Conservative predecessors and military successors, the Peronists believed that the ends justified the means. The policies of the populists, like the policies of their conservative predecessors further eroded the possibility of achieving a government grounded in the belief in the rule of law buttressed with a system of checks and balances. The aftermath has been economic and political instability. Argentina is a dramatic case of a country that was on the path of solving the coordination problem in which the political actors refrain from acting in their short-run interests. During the Great Depression, Argentina strayed from the path of consolidating democracy within a legitimate system of rule of law and has yet to find its way back.

Appendix A Supreme Court Judges Tenure

Year	Change	President	Political Regime
1863	The Supreme Court is formed	Bartolome Mitre (Liberal)	Limited Democracy
1864-1916	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Sarmiento (Independent) Avellaneda (1874-80) (Nacional) Roca (1880-86) (PAN) J. Celman (1886-90) (PAN) Pellegrini (1890-92) (PAN) L.S.Peña (1892-95) (Independent) Uriburu (1895-98) (PAN) Roca (1898-1904) (PAN) Quintana (1904-06) (PAN) F. Alcorta (1906-10) (PAN) R.S.Peña (1910-14)(Independent) De La Plaza (1914-16) (Conservative)	Limited Democracy
1916-30	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Yrigoyen (1916-22) (UCR) Alvear (1922-28) (UCR) Yrygoyen (1928-30) (UCR)	Democracy
1930-32	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Uriburu (1930-32)	Military Government
1932-43	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Justo (1932-38) (Independent) Ortiz (1938-42) (UCR Antipersonalista) Castillo (1942-43) (Conservative)	Limited Democracy
1943-46	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Ramirez (1943-44) Farrel (1944-46)	Military Government
1946-55	Impeachment of four of the five Supreme Court Justices.	Peron (1946-52) (Peronist) Peron (1952-55) (Peronist)	Democracy
1955-58	The military government forces resignation of the entire Supreme Court.	Lonardi (1955) Aramburu (1955-58)	Military Government
1958-62	The new constitutional government forces some resignations and added two new Justices.	Fronidizi (1958-62) (UCRI)	Limited Democracy (Peronist Party is banned from elections)
1962-66	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation..	Guido (1962-63) (UCRI) Illia (1963-66) (UCRP)	Military Coup (Guido), and limited democracy (Illia)
1966-73	Military government forced resignations of all Justices. It reduced the number of Justices to five and made the appointments.	Ongania (1966-70) Levingston (1970-71) Lanusse (1971-73)	Military Government
1973-76	The new constitutional government replaces all the five Justices	Campora (1973) (Justicialista) Lastiri (1973) (Justicialista) Peron (1973-74) (Justicialista) Martinez (1974-76) (Justicialista)	Democracy
1976-83	The military government replaces all five Justices.	Videla (1976-81) Viola (1981) Galtieri (1981-83) Bignone (1983)	Military Government
1983-89	The new democratic government replaces all fives Justices.	Alfonsin (1983-89) (UCR)	Democracy
1989-2001	In 1990 President Menem added four new Justices to the Supreme Court in order to get a favorable majority	Menem (1989-95) (Justicialista) Menem (1995-99) (Justicialista) De La Rua (1999-2001) (UCR)	Democracy
2001-2003	Congress started impeachment to the justices that named Menem. Duhalde forced resignation of one Justice	Primero Dec 21-Dec 23 2001 (Justicialista) Rodriguez Saa Dec 23-Dec 31 (Justicialista) Segundo Jan 1-Jan 2 2002 (Justicialista) Duhalde Jan-2002- June 2003 (Justicialista).	De La Rua ousted, 4 Presidents in 14 days. Duhalde provisional President
2003-	Congress continued with impeachment. One justice impeached, other two forced to resign	Kirchner (2003-) (Justicialista)	

Source: Own elaboration based on Molinelli, et. al. 1999

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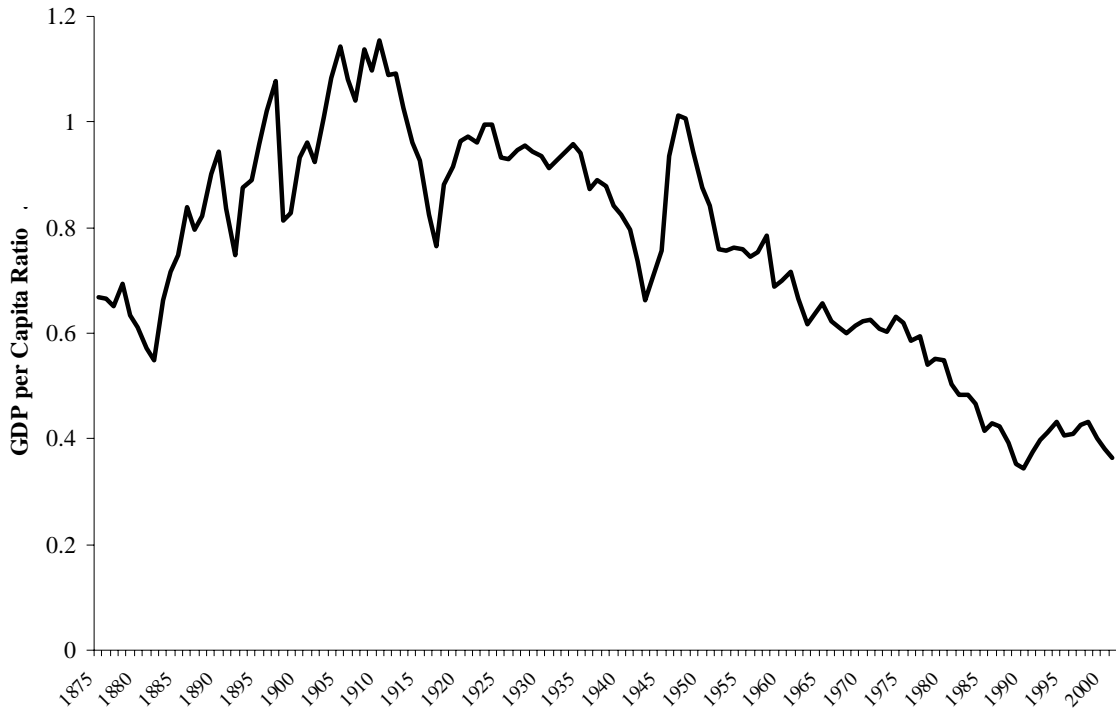
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Figure I

GDP per Capita Argentina/Developed Countries



Source: Our calculation based on Madisson (1995) and WPT 6.0

Figure II

Source: Our calculation based on Madisson (1995) and WPT 6.0