

**THE EROSION OF RULE OF LAW IN ARGENTINA, 1930-1947:
AN EXPLANATION OF ARGENTINA'S ECONOMIC SLIDE FROM THE TOP 10***

Lee J. Alston

Professor of Economics
Director, Program on Environment and Behavior
Institute of Behavioral Sciences
University of Colorado
Research Associate, NBER

Andrés A. Gallo

Assistant Professor
Department of Economics
University of North Florida

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Abstract

The future looked bright for Argentina in the early twentieth century. It achieved high levels of income per capita and was moving towards a true democracy, with respect for the rule of law. Unfortunately, the 1930s witnessed a reversal in the rule of law in Argentina. 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.

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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), p. 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), p. 5]

I. Introduction

Adherence to the rule of law 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 The transition to the rule of law requires weathering repeated threats to civil and political freedoms. For those countries who have managed to consolidate democracy, each crisis along the way added to the likelihood that they would take the path of the long-run optimum in the future. 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 Glaesar 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 abound around the world, some work in practice while others do not. We present a case study of the erosion of the 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 slipped to ranking 27th.³

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 opportunistic behavior. In our example, elites acted opportunistically with the long-run result of fostering populism.

By the late nineteenth century, Argentina achieved high rates of economic growth in the presence of a conservative, autocratic, government. The stability of the political governance and its adherence to protecting property rights prompted considerable foreign investment and immigration: “the immediate pre-world War I years marked the high point of foreign influence in Argentina, with foreigners amounting to around two-fifths of the labor force and owning, directly or indirectly, a large share of fixed capital stock. [Diaz Alejandro (1970): 31].⁴ At the advent of the 20th century, the future looked bright, perhaps comparable to Australia and Canada. Unlike Australia and Canada, the conservative political regime maintained its power through coercion and fraud at the elections. Nevertheless, the high levels of income and immigration encouraged electoral reform, the most prominent being the secret ballot in 1912.⁵ We consider this a significant milestone on the way to legitimate democracy from autocracy. 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. However, with the advent of the Great Depression the Argentina courts began to erode the foundations of their independence and their crucial role in maintaining the restraining role of their constitution. The countenance of the Court in 1930s paved the way for the populist policies of Juan Peron.

The Argentine case of development in the 20th Century has been one of the most puzzling experiences in economic and political development. In the first two decades, Argentina achieved the billboard status of being in the top ten in the world in GDP per capita, while opening up its political system. By 1920, Argentina was a liberal democracy with several active parties. In 1930, the military staged a coup and put in place a conservative government. The Supreme Court openly condoned the coup. The elite in the Pampas controlled the conservative government and remained in power by resorting to electoral fraud. The Supreme Court took no actions to sanction the fraud. The coup and

fraud halted the transition to a well-functioning democratic system with adherence to rule of law.

The populist rise to power of Juan Peron in 1947 was partially a result of the fraudulent elections by the conservatives in the Pampas and the countenance of the military coup of 1930 and the fraud by the Supreme Court. As punishment for their countenance of fraud and perceived thwarting of the populist will, the Peron ruled government impeached four of its five justices. From 1947 to 1983, a cycle of military democratic governments has produced a highly volatile political and economic environment because of the loss of rule of law.⁶ Both the military and the democratic governments have interfered with the Judiciary. Indicative of the lack of separation of powers has been the high levels of turnover in the Supreme Court through impeachment and forced resignations.⁷ This is critical because we maintain that it was the erosion of a belief system in the rule of law that lead to the initial populist appeal of Peron. We suggest that the policies put in place by Peron in turn offers some understanding of the subsequent oscillations in political governance. The recent events in the twenty-first century once again bear witness to the importance of an independent Supreme Court, endowed with *de facto* constitutional review, and whose role Argentine citizens view as legitimate.

II. The Institutional Foundations and Political Evolution of Argentina

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.

Separation of powers, especially in the case of an independent judiciary represents a key component for the sustainability of a legitimate political and economic system. As Madison expressed it:

The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of a tyranny.[Madison in *The Federalist Paper No 47*, in Quinn [1993]]

An important element in a democracy is the protection of the rights of the minorities.⁸ In the case of Argentina, the protection of the property rights of the landholders in the Pampas was instrumental in promoting investment and growth. 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*, in Quinn [1993]]. Hamilton like others saw the solution for independence in the appointment of life tenure to Supreme Court Justices. Accordingly, Argentina followed suit.⁹

Argentina started with a good institutional framework and one that produced considerable economic growth. 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. 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.¹⁰

From 1862 until 1930, Argentina provided a good example of political stability, though not an open democracy until 1912.¹¹ In 1912, Argentina passed legislation adopting the secret ballot and it went into effect in the election of 1914. In the period up until 1914, Conservative governments controlled the Presidency and both houses of Congress. Prior to 1914, 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.¹² 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.¹³

With increased migration in the late 19th and early 20th centuries, pressure mounted for a more open political system.¹⁴ 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.¹⁵ 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 transition to the constitutional precepts of rule of law. In our view it was the “Camelot Period” for Argentina: the President had some agenda setting power but was constrained by veto power of the Senate and constitutional review. This was true not only for legislation but also for nominations to the Supreme Court. Within this institutional setting, the Supreme Court exercised some independence from the executive and legislative branches. For example, in 1922 a Supreme Court verdict struck down an emergency law that controlled urban rents on the constitutional grounds that: “Once a right to property is vested it can neither be destroyed nor altered by later rulings or laws.”¹⁶

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. 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. The Radical party retained its power until 1930, when a military coup, backed by Conservatives and some dissident Radicals overthrew an aging Yrigoyen.¹⁷ This was the first military coup in Argentine history and was an affront to the electoral process of the constitution. 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. It appears as if the Court was acting on its political preferences rather than its constitutional authority

It is evident that the Justices (of the Supreme Court) proceeded as they did because they were ideologically with the coup, which is historically described as a rebellion... Nevertheless, the Justices described it as “a triumphant revolution”. ...¹⁸

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 only 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, with strict adherence to rule of law. Importantly, the unwarranted actions of the Supreme Court tarnished its reputation in the eyes of the public¹⁹.

The military government called for a return to elections in 1932 but forbade any candidates from the Radical Party who had been in government during Yrigoyen's last term.²⁰ In a protest response to the prohibition, the Radical Party chose not to participate in the election. As a result, the Conservatives with their allies returned to power.

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. 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 members²¹.

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].

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.²² 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. After reviewing the evidence, the Commission advised the Chamber of Deputies to declare the national election in the Province of Buenos Aires null. 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 members of the conservative coalition, *Concordancia*, only hope 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. 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.” [Moreno, 1973; Privitellio and Romero, 2000]

As an empirical exercise, we tested for the importance of fraud on electoral results in 1936 in the Province of Buenos Aires. We used data from the Province of Buenos Aires because it was the dominant player in electoral politics, representing 27% of the Federal Deputies Chamber, 42 seats out of 158. In the three preceding elections for Deputies to the Federal government, the Radical Party in the Province of Buenos Aires won 49% of the votes in 1920; 60% of the votes in 1926; and 47% of the votes in 1930. Our estimating equation for the importance of fraud across counties in Buenos Aires in the 1936 election to the Provincial Deputies chamber is:

$$Con36 = \alpha Con35 + \beta Fraud$$

where,

Con36 is the percentage of votes of the Conservative Party in the 1936 provincial election;

Con35 is the percentage of votes of the Conservative Party in the 1935 provincial election;

Fraud is the natural logarithm of the number of denouncements of fraud by county in the 1936 provincial election.²³

Fraud denouncements are the total number of reported fraudulent activities received by the National Electoral Board. The majority of the denouncements emanated from the

officials in charge of the election at the local level. Citizens elect the electoral officials but the officials do not run from political parties. Representatives of parties also reported denouncements to the National Electoral Board. To avoid double counting we used the only the number of denouncements per county reported by the electoral officials in charge of the election. In Table I, we present descriptive statistics.

Table I: Descriptive Statistics

Table II: Elections and Fraud in the Province of Buenos Aires (1936)

We report the regression results in Table II. The results support the view in our narrative that fraud determined the outcome in enough counties to give the Conservatives the “victory.” In Figure I we show the shares of vote with and without including the impact of fraud.²⁴

Figure I

Deputies Election 1936: Conservative's share of Votes with and without Fraud.

Fraud mattered. Our model indicates that in the absence of fraud the Radicals would have captured 50% of the vote. In short, they would have won the election in the Province of Buenos Aires. In 1938 with fraud again rampant, the Radicals tallied 14% of the vote but in the next clean election in 1940, the Radicals won 54% of the vote.

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 and up until the military coup in 1943 [Crawley, 1984]²⁵. Most of the fraud was located in the Pampas, the richest and most productive region of the country. In Table III we show that the Province of Buenos Aires alone accounts for 28% of the denouncements. If we consider all of the Provinces in the Pampas they account for nearly 55% of the total reports form 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. The Radical Party held approximately the same degree of support across provinces in the

Pampas. (See Table IV). We believe that it is not entirely coincidental that the province of Cordoba was the only province of the Pampas in which Peron lost to the Radical Party in 1947.

Table III
Fraud Reports By Province (1932-42)

Table IV
The Vote for Radicals in the Pampas - 1920-1942

The accusations of fraud in the Pampas produced a backlash amongst the electorate, despite a relatively good performance of the Argentine economy compared to the rest of the world during the depression of the 1930s.²⁶ Increasingly so, the electorate viewed the rule of the Conservatives as illegitimate (Gay, 1999). This sentiment against the so-called oligarchy accounts for the widespread popularity of the military coup in 1943 and the subsequent policies of Peron. Diaz Alejandro (1970, pp. 107-108) argues that “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.

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

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 this branch called the *Grupo de Oficiales Unidos (GOU)*.²⁷ 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 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 1946.²⁸

From his position as Secretary of Labor, Peron created unions loyal to the government and grouped them in the *Confederacion General del Trabajo* (General Work Confederation), which brought all unions under its jurisdiction. To capture the support of rural workers Peron instituted the *Estatuto del Peon Rural* (Peasant Statutes) which sought to improve working conditions. To capture urban worker support Peron intervened in negotiations between business owners and urban workers. To monitor and enforce working conditions Peron created branches under the Ministry of Labor in all the provinces and federal territories. This was an important institutional change, because previously enforcement of federal laws was in the hands of provincial governments. Finally, a few months before the election in 1946 the military government issued a decree giving all workers in the country an extra monthly payment each year. This bonus payment increased the already high popularity of Peron [Mackinnon, 1995].

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.²⁹ 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.³⁰ The political confrontation was a clash of two different political models of government. On one side, the Democratic union

wanted to restore the rule of law as framed by the Constitution. 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 constituencies³¹. Before the election, the population viewed the changes that Peron had put in place as temporary, with the charisma of Juan Peron as the only guarantee for their durability. The reason why Peron alone appeared so instrumental is that the military government began to distance themselves from Peron. In early October 1945, the military government put Peron jail. Meanwhile negotiations for a smooth transition to democracy were proceeding between the military government and the opposition. The opposition wanted the military government to cede power to a transition cabinet presided by the President of the Supreme Court. In a popular uprising, workers organized and marched toward Buenos Aires and petitioned the government to release Peron. The government released Peron and he was now command of the military government prior to the election [Alexander (1979) and Torre (1995)]. The popular uprising enabled Peron to personify himself as the hope for the future of workers' rights against the oligarchy of international capitalists and their supporters, the Democratic Union.³² 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 system of rule of law.

The appeal of Juan Peron was in part a reaction to the electoral fraud in the 1930s. The vote for Peron was a vote against a return to the existing constitution and rule of law championed by the *Union Democratica*.³³ As a test of the importance of fraud in the election of Peron, we estimated the following model:

$$Peron46 = \alpha_0 + \alpha_1 RadicalFraud + \alpha_2 Con40 + \alpha_3 Corrientes + \alpha_4 BigCities + \alpha_5 Region$$

where:

Peron46 is the difference of votes between the Peronist party and the Radical party in the 1946 election,

RadicalFraud 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

Con40 is the percentage of votes obtained by the Conservative parties in the 1940 election. Outside of the Pampas Peron catered to the former Conservative vote.

Corrientes is a dummy variable for the Province of Corrientes, which by all accounts was a political outlier.

BigCities is a dummy variable for counties when the number of voters exceeds 5000.

This variable captures the popularity of Peron in bigger cities.

Region is a dummy variable identifying the provinces from the Pampean region from the smaller provinces in the interior of the country.

Table V: Descriptive Statistics

In Table V, we present the descriptive statistics. In Table VI, we present the regression results. The results indicate that the vote for Peron increased in counties where fraud was the greatest in the 1938 election. If we decrease fraud by one standard deviation, the share of votes for Peron declines by 13%, i.e. it would go down to 37% from 50%. Given Peron only won the election by 1.8%, this vote change would have proven decisive.

Table VI

Model: Electoral results of Peronist Coalition in 1946 Presidential Election

An alternative way to rest the importance of fraud in the 1930s on the election in 1946 we estimate the vote for Peron with and without fraud playing a role. With fraud in the 1930s our model predicts that Peron received 50% of the vote (he actually received 52% of the total vote). Without fraud, our prediction is that Peron would have received 37% of the vote and thereby would have lost to the coalition lead by the Radicals. Figure II shows the share of votes obtained by Peron with and without fraud in the 1930s.

Figure II

Share of Votes for the Peronist Party in 1946, with and without fraud in the 1930s

IV. 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.³⁵

A. Institutional Change in the Outlying Provinces³⁶

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.³⁷ 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. In addition, Peron used the Central Bank for political purposes. Essentially, he would “ask” the Central Bank to cover debts of provincial governments.

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.

B. 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.³⁸ 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. Legislation helping tenants was not new: the Radicals in the Deputies Chambers passed two reforms in the 1920s, 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.³⁹ 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 friends but he needed the policies to fund the overall institutional changes in the economy, e.g. 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?

C. The Impeachment of the Supreme Court

An independent Supreme Court represented the government's guarantee that they would uphold the constitution.⁴⁰ Unfortunately for the sanctity of property rights, the Peronists viewed the Supreme Court as an obstacle to their populist policies. For example, one month prior to the election, the Supreme Court declared as unconstitutional the provincial branches of the Secretary of Labor.⁴¹

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. 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.⁴²

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, page 89].

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. In submitting the impeachment bill, Decker stated:

If the charges we report are not made effective (impeachment) then all the social improvements that the Honorable National Congress passes will collide with the reactionary and class feeling of the sitting members of the Supreme Court, with the mentioned exception (i.e. the judge named by the military government). The seriousness of such a situation is easy to understand. Because, if the workers that achieved electoral victory are denied the source of justice, they would not have any choice but revolution, the authentic proletariat revolution that would destroy all existent state, social and economic organization.

Everybody's obligation is to avoid such a thing happening by facilitating the social work to be done with a rapid evolution within the framework of our democratic institutions. But, for this to happen, it is indispensable to dismiss the Supreme Court Justices and disqualify them from occupying any other honor or confidence of paid National office.

[Diario de Sesiones de la Camara de Diputados, 1946, T. 1, page 515]

To a large extent, the words of Decker echoed public sentiment: the constituents, e.g. union workers and rural tenants, who voted for Peron believed that the Court was illegitimate and an obstacle to social policies (Gay, 1999, pp. 22-32)

The charges against the members of the Court can be summarized into two main categories: 1) those charges in which the Court attacked Peron and his revolutionary changes, (I.a.2, I.a.3, I.a.4, I.a.6, I.b.1, II.b and II.c in Appendix A.); and 2) those charges in which the Court seemed to be acting favoring the old regime., (I.a.1, I.a.7, I.a.8, I.a.9, I.b.2, and II.a. in Appendix A). In the first set of charges, Peron's constituency saw the Court as a clear threat to Peron's policies and reforms that favored workers against the conservative elite. In the second set, the charges resulted from the Supreme Court's active role in legitimating the military government and the more passive role in permitting vote fraud in the 1930s. It is clear that with these wide sweeping charges, Peron's goal was to transform the basic institutional framework in Argentina. In the accusation of the Deputies chamber to the Supreme Court 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.⁴³

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 judiciary, and a new constitution in hand the Peronists were able to have their way until the next military coup in 1955.⁴⁴

V. The Aftermath of the Impeachment

After the impeachment process and new constitution, Argentina has never been able to return to its former institutional path of upholding property rights through the rule of law. The aftermath of Peron witnessed a departure from its historical growth trajectory compared to other high-income countries (Figure III)⁴⁵. In 1947 Argentina was ranked 10 in the world in per capita income. Relative to various cohorts to whom Argentina might be compared relative income per capita fell precipitously.

Figure III

Successive military and populist governments appointed their own Supreme Court Justices in order to accomplish their political goals. But, without the court as a backstop,

institutional volatility ensued.⁴⁶ In Appendix B 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 VII). Oscillations between military and democratic governments matched the instability of the court.

Table VII
Causes of Turnover of Justices in the Supreme Court (1863-98)

The only time when Executive, Legislative and Judicial branches were close to the ideal of the Constitution was the Camelot period of 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. 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. In Figure IV, we illustrate the oscillating institutional path of Argentina from the late 19th century to the dawn of the 21st century. With this background we cannot be sanguine about the future institutional path of Argentina. Until Argentina moves to back to a respect for rule of law with an independent court and constitutional review, it seems highly unlikely that short-run economic policies can re-ignite economic growth.

Figure IV –The Institutional Path of Political Systems in Argentina: 1870-1999

VI. 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 belief 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 landslide 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 belief in the rule of law with the consequences of 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 with the rule of law and has yet to find its way back.

Appendix A

The charges leveled against the Supreme Court in the impeachment legislation follow:

I. Public office crimes

a. Abuse of Authority and Violation of Official's Obligations.

1. Court resolution of 1930 and 1943 legitimizing the military governments.
2. The Court was involved in political issues by trying to control and avoid the fulfillment of the social ends of the revolution of 1943 and dictating resolutions that involved political issues.
3. The Court failed to recognize the creation of the Appeals Chamber of Chaco.
4. The Court assumed political-administrative faculties by not accepting the exoneration of judges by the revolutionary government of 1943.
5. The Court impeded the fulfillment of the acephalia law, No. 252, by the president of the Court.
6. The Court did not recognize the judges of the Labor Ministry. This violated the decree creating the Ministry and retarded the functioning of the Labor courts.
7. The Court filled the annual list of aspirants to the Judiciary with lawyers from the belonging to the dominant oligarchy or their allies.
8. The Court applied different criteria on the solicitation for habeas corpus with respect to the political prisoners in 1930 and 1943. They went over the powers ceded to the Executive under martial law.
9. The Court exceeded their power by extending its jurisdiction on cases that were not authorized by the article 14th of the law 48.

b. Prevarication

1. The Court dictated verdicts contrary to the law by denying benefits of laws 11.729 and 9.688 to workers and employees with the pretext that they were affiliated to retirement systems.
2. The Court falsified citations in order to legitimize the military governments of 1930 and 1943.

II. Misconduct

- a) The Court named its own president in 1930.
- b) The Court let the General Prosecutor to accept a political position without forcing him to resign.
- c) The Court permitted the Secretary of the Court to participate in a political meeting.⁴⁷

Appendix B 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
Year	Change	President	Political Regime
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.	Fronzizi (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-) (UCR)	Democracy

Source: Molinelli, et. al. 1999.

References

- Adelman, Jeremy, **Republic of Capital. Buenos Aires and the Legal Transformation of the Atlantic World**. Stanford University Press, Stanford California, 1999.
- Aguinaga, Carlos and Azaretto, Roberto, **Ni década ni infame, del '30 al '43**. Editorial Jorge Baudino, Buenos Aires, 1991.
- Alexander, Robert J., **Juan Domingo Perón: A History**. Westview Press, Boulder, Colorado, 1979.
- Alston, Lee J. and Gallo, Andrés A., The Political Economy of Bank Reform in Argentina Under Convertibility, Forthcoming **Journal of Policy Reform**, 2002.
- Ansaldi, Waldo, Pucciarelli, Alfredo and Villrruel, José C. Editors, **Representaciones Inconclusas. Las clases, los actores y los discursos de la memoria, 1912-1946**. Editorial Biblos, Buenos Aires, 1995.
- Barro, Robert J., **Getting it Right. Markets and Choices in a Free Society**. The MIT Press. Cambridge, Massachusetts, London England, 1996.
- Bidart Campos, Germán, **The Argentine Supreme Court. The Court of Constitutional Guarantees**. Allende & Brea, Buenos Aires, 1982.
- Cámara de Diputados, **Diario de Sesiones de la Cámara de Diputados**, Several Volumes and years.
- Camara de Senadores de la Nación, **Diario de Sesiones del Honorable Senado de la Nación. Constituido en Tribunal**. Volume VI, Buenos Aires, 1947.
- Canton, Darío, **Elecciones y partidos políticos en la Argentina. Historia, interpretación y balance: 1910-1966**. Editorial Siglo Veintiuno, Buenos Aires, 1973.
- Canton, Darío, **Materiales para el estudio de la sociología política en la Argentina**. Editorial del Instituto Torcuato Di Tella, Buenos Aires, 1968.
- Ciria, Alberto, **Partidos y Poder en la Argentina Moderna (1930-1946)**. Editorial de la Flor, Third Edition, Buenos Aires, 1975.
- Crawley, Eduardo, **A House Divided. Argentina 1880-1980**. C. Hurst & Company, London, 1984.
- Della Paolera, Gerardo and Taylor, Alan M., Finance and Development in an Emerging Market: Argentina in the Interwar Period. In: **Latin America and the world Economy since 1800**. Series on Latin America Studies, Cambridge: David

- Rockefeller Center for Latin American Studies; Harvard University Press(1998), 139-69.
- Della Paolera, Gerardo and Taylor, Alan M., “Economic Recovery from the Argentine Great Depression: Institutions, Expectations, and the Change of Macroeconomic Regime,” **The Journal of Economic History**, V. 59, No. 3, September 1999, .
- Diaz Alejandro, Carlos F. **Essays on the Economic History of the Argentine Republic**. Yale University Press, New Haven and London, 1970.
- Elizagaray, Atilio Antonio, **The Political Economy of a Populist Government: Argentina 1943-55**. Doctoral Thesis, University of Illinois at Urbana Champaign, 1985.
- Engerman, Stanley L. and Kenneth L. Sokoloff, “The Evolution of Suffrage Institutions in the New World,” **The Journal of Economic History**, forthcoming.
- Fayt, Carlos and Angeleri, Luis, **Naturaleza del peronismo**, Editorial Viracocha. Coleccion de Estudios Sociales, Buenos Aires, 1967.
- Federación Socialista Bonaerense, **El fraude del 3 de Noviembre de 1935**. Federación Socialista Bonaerense, 1935.
- Gallo, Andres, **Argentina-Australia: Growth and Convergence in the XX Century**. Working Paper, University of Illinois at Urbana Champaign, 2003.
- Gay, Luis, **El partido laborista en la Argentina. La historia del partido que llevo a Perón al poder**. Editorial Biblos, Buenos Aires, 1999.
- Germani, Gino, El surgimiento del Peronismo: el rol de los obreros y de los migrantes internos. **Desarrollo Económico**, Vol. 13, No. 51 (October-December 1973).
- Glaeser, Edward L. and Andrei Shleifer, “The Curly Effect,” **NBER Working Paper** No. 8942, May 2002.
- Glaeser, Edward L. and Andrei Shleifer, “The Rise of the Regulatory State,” **NBER Working Paper** No. 8650, December 2001.
- Halperin Donghi, Tulio. Algunas observaciones sobre Germani, el surgimiento del Peronismo y los migrantes internos. **Desarrollo Económico**, Vol. 56, No. 14 (January-March 1975).
- Higgs, Robert, **Crisis and Leviathan: Critical Episodes in the Growth of American Government**. New York: Oxford University Press., 1987.

- Horowitz, Joel, **Argentine Unions, the State and the Rise of Peron, 1930-1945.** Institute of International Studies. University of California, Berkeley, 1990.
- Iaryczower, Matias, Pablo Spiller, Mariano Tommasi, Judicial Independence in Unstable Environments, Argentina 1935-1998, **Working Paper**, April 2002.
- Kenworthy, Eldon, Interpretaciones ortodoxas y revisionistas del apoyo inicial del Peronismo. **Desarrollo Económico**, Vol. 56, No. 14 (January-March 1975).
- La Porta, Rafael, Florencio Lopez-de-Silanes, Cristian Pop-Eleches, and Andrei Shleifer, "The Guarantees of Freedom," **NBER Working Paper** No. 8759, January 2002.
- La Prensa**, Newspaper Several Years, Buenos Aires, Argentina.
- Maddison, Angus, **Monitoring the World Economy, 1820-1992.** Development Centre Studies, OECD, Paris, 1995
- Matsushita, Hiroschi, **Movimiento Obrero Argentino 1930-1945. Sus proyecciones en los orígenes del Peronismo.** Editorial Siglo Veinte, Buenos Aires, 1983.
- Meny, Yves and Knapp, Andrew, **Government and Politics in Western Europe. Britain, France, Italy, Germany.** Third Edition. Oxford University Press, 1998.
- Mollineli, N. Guillermo, Palanza, M. Valeria and Sin, Gisella, **Congreso, Presidencia y Justicia en Argentina. Materiales para su estudio.** CEDI-Fundación Gobierno y Sociedad. Temas Grupo Editorial, Buenos Aires, 1999.
- Mora y Araujo, Manuel and Llorente, Ignacio editors, **El voto peronista. Ensayos de sociología electoral argentina.** Editorial Sudamericana, Buenos Aires, 1980.
- Murmis, Miguel and Portantiero, Juan Carlos, **Estudios sobre los orígenes del Peronismo.** Editorial Siglo Veintiuno, Second Edition, Buenos Aires, 1972.
- Novick, Susana, **IAPI: auge y decadencia.** Centro Editor de América Latina, Buenos Aires, 1986.
- North, Douglas C. and Weingast, Barry R., Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England. **Journal of Economic History**, Vol. 49, No. 4, 1989, 803-32
- North, Douglas C., **Institutions, Institutional Change and Economic Performance.** Cambridge University Press, 1990.
- North, Douglass C. The New Institutional Economics and Third World Development. In: **The New Institutional Economics and Third World Development**, Harriss, J. Hunter, J. and Lewis, C. (Eds.). Routledge, London and New York, 1995, 17-26.

- Pellet Lastra, Arturo, **Historia Política de la Corte (1930-1990)**. Editorial Ad-Hoc S.R.L. Vilella Editor, Buenos Aires, 2001.
- Peralta Ramos, Monica, **The Political Economy of Argentina. Power and Class Since 1930**. Westview Press, Boulder, San Francisco, Oxford, 1992.
- Quinn, Frederick (Editor), **The Federalist Papers Reader**. Seven Locks Press, Washington D.C., 1993.
- Rouquie, Alain, **Poder militar y sociedad política en la Argentina. Tomo I hasta 1943**. Editorial Emecé, Buenos Aires, 1983.
- Sabato, Jorge, **La clase dominante en la Argentina moderna. Formación y características**. CISE Grupo Editor Latinoamericano, Buenos Aires, 1988.
- Sanguinetti, Horacio, **La democracia ficta, 1930-1938**. Editorial Astrea, Buenos Aires, 1975.
- Schillizzi Moreno, Horacio, **Argentina contemporánea. Fraude y entrega**. Volume 1 and 2. Editorial Plus Ultra, Buenos Aires, 1973.
- Shleifer, Andrei, "The New Comparative Economics." **NBER Reporter**. Fall 2002: 12-15.
- Smith, Peter H., "*La base social del Peronismo.*" **Hispanic American Historical Review**, 52, 1 (February 1972), 55-73.
- Smith, Peter H., Las elecciones de 1946 y las inferencias ecológicas. **Desarrollo Económico**, Vol. 14, No. 54 (July-September 1974).
- Tamarin, David, **The Argentine Labor Movement, 1930-1945. A Study in the Origins of Peronism**. University of New Mexico Press, Albuquerque, 1985.
- Taylor, Alan M., Three Phases of Argentine Economic Growth. **NBER Working Paper Series on Historical Factors in the Long Run**: 60, (1994)
- Taylor, Alan M., Latifundia as Malefactor in Economic Development? Scale, Tenancy, and Agriculture on the Pampas, 1880-1914. **NBER Working Paper Series on Historical Factors in the Long Run**: 96, (1997)
- Torre, Juan Carlos, **La vieja guardia sindical y Peron. Sobre los orígenes del peronismo**. Editorial Sudamericana. Instituto Torcuato Di Tella, Buenos Aires, 1990.

Torre, Juan Carlos, Editor, **El 17 de octubre de 1945**. Editorial Ariel, Buenos Aires, 1995.

Torre, Juan Carlos, Interpretando (una vez más) los orígenes del Peronismo. Serie Documentos de Trabajo No. 107, **Instituto Torcuato Di Tella**, Buenos Aires, 1989.

Véganzonès, Marie-Ange and Winograd, Carlos, **Argentina in the 20th Century. An Account of Long-Awaited Growth**. Organization for Economic Co-operation and Development, Paris, 1997.

Waisman, Carlos H., **Reversal of Development in Argentina. Postwar Counterrevolutionary Policies and Their Structural Consequences**. Princeton University Press, Princeton, New Jersey, 1987.

Weingast, Barry, The Political Foundations of Democracy and the Rule of Law. **The American Political Science Review**, Vol. 91, Issue 2 (June, 1997), 245-263.

Westin, Alan F., The Supreme Court, The Populist Movement and the Campaign of 1896. **The Journal of Politics**, Vol. 15, No. 1, 1953, 3-41.

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

² As Weingast (1997) 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 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 See Diaz Alejandro (1970) for an account of the importance of migration and foreign capital in Argentina during this period. "Between 1857 and 1930 there was a net immigration of about 3.5 million into a country whose total population was 1.7 million in 1869." (Diaz Alejandro, 1970, p. 23). Foreign capital was very important in the development of the country, "...the stock of long-term private foreign investment reached roughly one-half of the value of the total fixed capital stock in 1913... One-third of foreign investments were in railroads, and 60 percent of foreign capital was British. The stock of long-term foreign investments in Argentina in 1913 was only 18 percent lower than the equivalent figures for Canada in 1914. By 1930-31 United States investments in Argentina had reached according to what source one uses, either one third or two fifths of the amount of British investments in that nation." (Diaz Alejandro, 1970, pp. 30-32.)

⁵ Among the causes of the Saenz Peña Law in 1912, Canton (1973) mentions: "Argentina's growth relied in the capital inflow and immigration that benefited the ruling class. It was convenient for both a progressive evolution of the institutions and political practices with the objective of protecting the peaceful environment that foster trade, and to control immigrants..." (Canton, p. 80). Another historian argued that "The similarity in the social evolution of Argentina and the U. S., models of young nations in this period, mad natural and inevitable the openness of the political system." [Sabato, (1988) p. 160]. For an analysis of the evolution of suffrage institutions in the new world, see Engerman and Sokoloff (forthcoming).

⁶ Spiller and Tommasi (forthcoming) 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.

⁷ Spiller and Tommasi (forthcoming) also make the point about the lack of independence of the court.

⁸ See in particular, Federalist Paper 51 by Madison. See also Meny and Knapp (1998).

⁹ As we will see subsequently, until 1947, the public viewed appointments to the Supreme Court as permanent but, following the impeachments in 1947, tenure at the Supreme Court is most likely to be only for an administration. In short, as Hamilton feared the Supreme Court has become "overpowered, awed or influenced by its coordinate branches."

¹⁰ See Higgs [1987] for an analysis of the role of crises in promoting government intervention.

¹¹ We begin in 1862 because of the previous split between Buenos Aires and the rest of Argentina.

¹² For a current view of the agenda setting power of a President, see Alston and Mueller [2002]. Spiller and Tommasi (forthcoming) 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.

¹³ 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.

¹⁴ 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.

¹⁵ 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]

¹⁶ Cited in *Horta v. Harguindeguy* [Fallos, 137-47, 1922]. The court based its ruling on Article 17, which assures that "neither legislator nor judge can, by a new law or decision, divest one of a property right once it has been acquired under previous legislation." The Horta decision also struck down, on constitutional grounds, emergency rent controls." Bidart Campos [1982], page 52.

¹⁷ 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.

¹⁸ Pellet Lastra [2001] page 63.

¹⁹ 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. See Gay (1999) p. 22: "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 manifest complicity from 1930 to 1943 to the facts that constituted the decline of the institutions and the repression of the citizenship."

²⁰ 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. [Schillizzi Moreno, 1973].

²¹ 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 reject any fraud reports. (Congreso Nacional, Diario de Sesiones Honorable Camara de Diputados de la Nacion, 1936, Reunion No 11, June 18th 1936, pages 10-11.)

²² Reports of fraud were common. See Diary of the Deputies Chamber [1936] for a complete list of the reports of fraud in the Provinces.

²³ We obtained the reports of fraud as evidence from testimony in the Chamber of Deputies over the nullification of the 1936 election. Ideally, we would like to have the difference in denouncements from 1935 to 1936 as the independent variable but fraud reports for 1935 do not exist.

²⁴ The calculation was simple. We used the predicted vote adjusted by denouncements and then we set fraud equal to zero.

²⁵ The only exception was President Ortiz, who tried to return to legitimate open democracy in 1940.

²⁶ For a convincing account of the positive policies implemented by the Conservative governments in the 1930s, see Della Paolera and Taylor [1998].

²⁷ The GOU drew their inspiration from Hitler and Mussolini. [Crawley, 1984]

²⁸ The labor party endorsed Peron but they had hoped to maintain their independence. See Gay [1999].

²⁹ Indeed, the *Union Democratica* initially formed in 1942, hoping to win against the Conservatives in what would have been an election in 1943.

³⁰ Foreign capital and the U.S. embassy aligned with the Democratic Union and declared their distaste for Peron's policies.

³¹ 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.

³² During the military government, the Supreme Court was the only check on populist rule. They declared several pieces of legislation unconstitutional.

³³ In the U.S. race for President in 1896, the platform of the Populist Party offered voters a similar stark choice between continuation of the old or a change to rule by popular opinion. The Presidential candidate William Jennings Bryant proposed impeachment of several Supreme Court Justices. Not until the New Deal would there be another threat to the independence of the Supreme Court when FDR proposed a bill to enlarge the Supreme Court.

³⁴ By all accounts, the election of 1938 was fraudulent but the election of 1940 was clean. President Ortiz 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. In the re-election, the Radical party won a majority of seats in the Deputies Chamber. If the voters most discouraged by the old regime were those who voted for Radicals in the clean election of 1940, we expect that they voted for Peron in 1946.

³⁵ 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.

³⁶ 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 (forthcoming).

³⁷ 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.

³⁸ As Taylor [1997] shows, the system of rent and sharecropping worked well.

³⁹ 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.

⁴⁰ "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], p.13.

⁴¹ "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]

⁴² Diario de Sesiones del Honorable Senado de la Nacion Constituido en tribunal, T. VI, December 5th 1946, page 90.

⁴³ Report from the Deputies Chamber to the Senate accusing the Supreme Court members. Sessions Diary of the Honorable National Senate Constituted in Tribunal. Tomo VI, 1947, page 29.

⁴⁴ 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, p. 37]

⁴⁵ See, Gallo (2003), for the econometric tests that determined the break point for Argentine GDP per capita with respect to Australia.

⁴⁶ 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. On the economic side, stop and go policies characterized the post-Peron years. See Spiller and Tomassi (forthcoming) for elaboration on policy volatility.

⁴⁷ Diary of Sessions Senate Chamber [1946].

Table I: Descriptive Statistics

	Mean	Standard Deviation	Minimum	Maximum
Con36	0.564	0.156	0.138	0.971
Con35	0.654	0.175	0.124	0.996
Fraud	3.633	5.782	0.000	37

N=109

Table II: Elections and Fraud in the Province of Buenos Aires (1936)

Electoral Model: Dependent Variable Con36					
	Coefficient	T	P>t	95% Confidence Interval	
Con35	0.740	19.56 ^(***)	0.000	0.664	0.815
Fraud	0.553	3.40 ^(***)	0.000	0.023	0.088
Adjusted R ² : 0.96		F(2,62)=759.3 P>F=0.0000		N=64	

t=statistic: (***) Significant 1%

(**) Significant 5%

(*) Significant 10%

Table III

Fraud Reports by Province (1934-42)		
<i>Province</i>	<i>Percentage of Total Fraud Reports</i>	
Buenos Aires	28	Pampean Region 55%
Santa Fe	21	
Entre Rios	6	
Mendoza	6	
Corrientes	13	
La Rioja	9	
San Juan	11	
Catamarca	2	
Salta	4	

Table IV
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

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).

Table V: Descriptive Statistics

Variable	Mean	Standard Deviation	Minimum	Maximum
Peron	0.163	0.267	-0.724	0.599
RadicalFraud	0.275	0.188	-0.295	0.740
Con40	0.438	0.125	0.008	0.831
Corrientes	0.103	0.304	0	1
Big Cities	0.252	0.435	0	1
Region	1.5	0.760	1	3

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.

Table VI

Model: Electoral results of Peronist Coalition in 1946 Presidential Election			
Variable	Coefficient	Test t	Probability
RadicalFraud	0.451 (0.0764)	5.901 (***)	0.000
Con40	0.236 (0.1158)	2.043 (**)	0.042
Corrientes	-0.361 (0.0448)	-8.062 (***)	0.000
Big Cities	0.225 (0.0309)	7.269 (***)	0.000
Region	0.096 (0.0173)	5.549 (***)	0.000
Constant	-0.375 (0.0687)	-5.452 (***)	0.000
N= 234; R ² Adj.= 0.47		F(5,228)=42.25	Prob F=0.0000

Note: This regression was run with robust standard errors. We tested for heteroscedasticity and normality of the residuals. For the complete regression results including all the estimates of the control variables contact the authors.

t=statistic:
 (***) Significant 1%
 (**) Significant 5%
 (*) Significant 10%

Table VII

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. Page 690, and Pellet Lastra [2001]

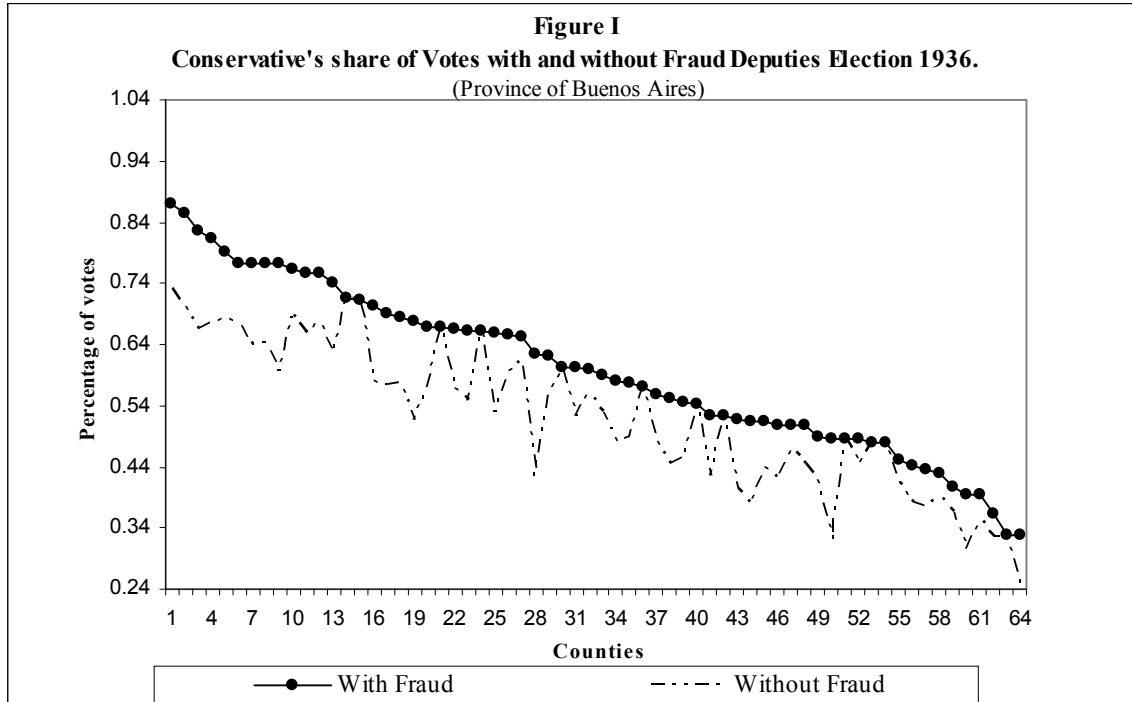


Figure II

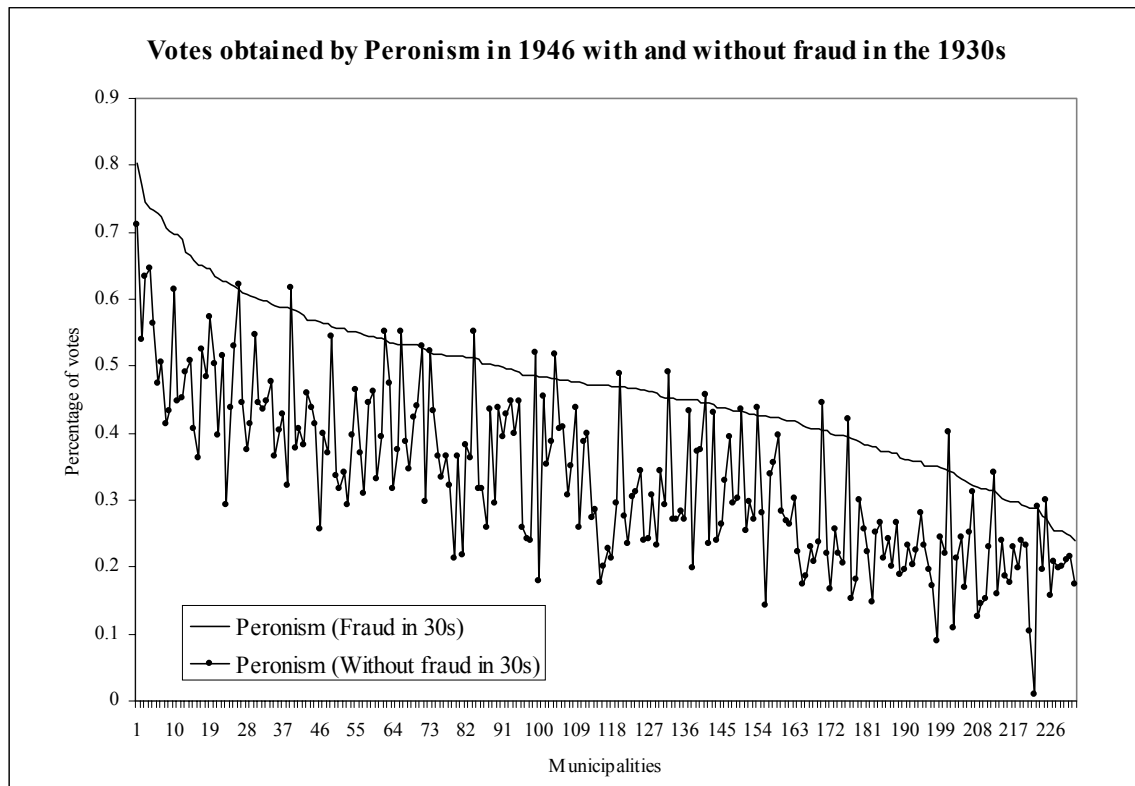
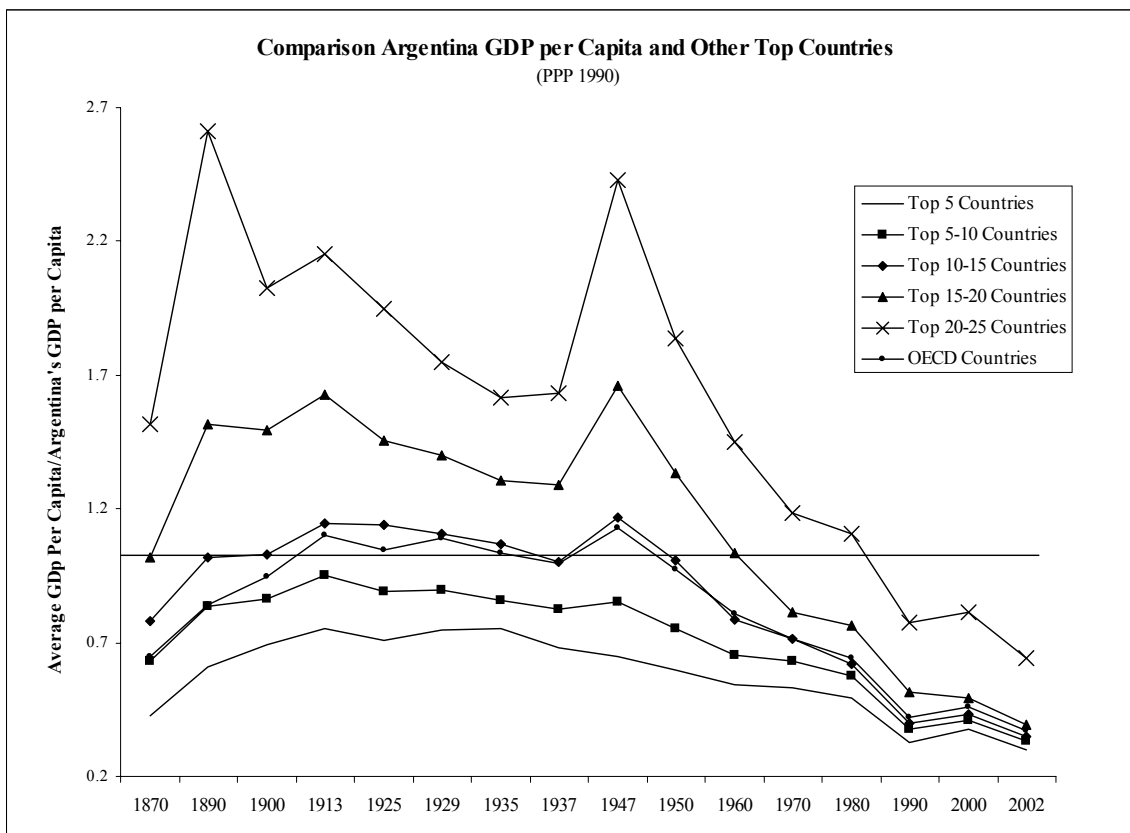


Figure III



Source: Own elaboration in base to Madisson (1995) and WPT 6.0

Figure IV –The Institutional Path of Political Systems in Argentina: 1870-1999

