

# PARADOXES OF FEDERALISM?: POLITICAL INSTITUTIONS AND FISCAL DECENTRALIZATION IN ARGENTINA AND SPAIN

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SUMMARY: 1. Introduction. – 2. The Territorial Role of Political Institutions: Representation and Policy Scope of the Senate. 2.1. “When Effects Become Causes”: Malapportionment and Its Consequences. – 3. The Relational Role of Political Institutions: “The Rules of the Game” and Intergovernmental Instruments of Cooperation. 3.1. Bilateral and “Uninstitutionalized” Bargaining: The 1992 and 1993 *Pactos Fiscales* in Argentina. 3.2. Emerging Multilateral Bargaining: The Spanish *Consejo de Política Fiscal y Financiera de las Comunidades Autónomas*. – 4. Final Remarks. – 5. References. – *Abstract-Resum-Resumen*.

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## 1. Introduction

In both developed and developing countries, there has been a contemporary debate on the nature and merits of decentralization. The collapse of communism and the “crisis” of the welfare state have rekindled serious thinking about the relationship between governance and the appropriate level of devolution of power away from the central state to lower levels of administrative and political authority. Moreover, the growing demand for public services and infrastructure in Third World countries has brought increasing calls for decentralization to develop tailor-made policies in congruence with varying national needs (Rondinelli, McCullough and Johnson, 1989). However, and despite the fact that decentralization issues have been on the

political front-burner in the last two decades, no single paradigm or theoretical model informs the study and practice of decentralization policies across nations.

On a very general level, decentralization is the transfer of responsibilities and revenue from national government to subnational offices (Rondinelli, 1981). This definition suggests that power is being given away through a series of measures and steps meant to eliminate overload at the central level, in which case decentralization denotes a *process* rather than a final or pre-set goal. Despite most studies of decentralization accept a process-oriented perspective, there is no overarching agreement about its goals. This is basically due to the fact that students of decentralization oftentimes confound political and fiscal decentralization. In Europe, there has been a trend to encapsulate types of decentralization under the notion of regionalism and regionalization. Albeit useful to pin down the determinants of regional policy in a era of global political and economic change (i.e. Keating and Loughlin, 1997; Le Gales and Lequesne, 1998), this body of research uses indicators of political and fiscal decentralization interchangeably, diminishing their empirical usefulness. Also, frequent regime changes and a strong "centralist tradition" (Veliz, 1980) have been long-standing factors inflating the political nature of decentralization in Latin America and downplaying the significance of fiscal power relations. Borrowing from Bird (1993: 208), widely recognized as a leading student of fiscal decentralization, "decentralization seems often to mean whatever the person using the term wants it to mean".

Adding to this conceptual muddle is the widespread misleading understanding of federalism as simply a degree of decentralization (but, Osaghae, 1990). Even worse, the institutional structure of federalism, despite its mandatory and constitutionally-guaranteed levels of decentralization, may at times have no distinctive effects on subnational public finances and intergovernmental fiscal relations. In order to unravel this putative theoretical riddle, this article draws on institutional analysis and new insights from interest group theory to shed light on the mechanism linking the politico-institutional determination of fiscal decentralization.

Specifically, it first assesses said dilemma in terms of the representation of territorial interests in the Argentina and Spanish Senates to show how their respective levels of overrepresentation and policy

authority shape coalition building in distributive politics. It confronts Tsebelis and Money (1997: 33)'s argument that "in most federal systems the legitimacy of upper houses remains unquestioned and their power unconstrained". While there is a large kernel of truth in this claim, this section will add some nuances to their statement by illustrating variation in the extent to which the Argentine and Spanish Senates represent subnational interests and in their ability to provide a forum for the different territorial units to debate policies. In the process of showing the formal structural differences of said bodies, attention is focused on the basis of their composition, how chosen, and their policy scope. These questions about institutional design do not only reflect the formal structure but they also illustrate why political decision-making follows characteristic patterns in different polities. As historical institutionalist approaches contend, "a nation's electoral system and constitutional structure provide the institutional 'rules of the game' in which subsequent political battles are fought (Thelen and Steinmo, 1992: 22). Subsequent to comparing these cases, we will show that the Argentine Senate exercises more influence than its Spanish counterpart, but the powerlessness and ostensible policy irrelevance of the latter rendered a "window of opportunity" for the articulation of subnational interests through informal territorial institutions. This point is analyzed more systematically in addressing the issue of institutional interest representation. The ultimate puzzle addressed in this section, then, is why the comparative strengths of the Argentine Senate amounted to a "double-edged sword" whereby, on the one hand, provincial-level actors have numerous opportunities to exert influence on the fate of intergovernmental transfers and, on the other, it locks in the existing politicization of decentralization policies and make the pursuit of fiscal accountability harder. Put differently, the weaknesses of the Spanish Senate amounted to an institutional facilitator that helped to create alternative fora for fiscal intergovernmental coordination and thus to advance the cause of fiscal federalism in Spain.

Second, this article explores the conditions leading to bilateral and multilateral intergovernmental bargaining which ultimately shape the outcomes of fiscal decentralization. It draws on Ellen Immergut (1992)'s concept of "veto points" to highlight why the mere existence of strong federal representative institutions of territorial interests does not necessarily mean that they are effective in advancing the horizontal division of powers between the central and regional gov-

ernments. It shows that a mighty senate may fall short of becoming an actual arena of intergovernmental exchanges, when subnational units are disproportionately overrepresented. Put in “veto points” terms, when a highly institutionalized political structure of territorial representation such as the Argentine Senate is adjacent to exceedingly malapportioned electoral rules, it will perpetuate existing pathologies in distributive policy. At this juncture, some subnational units (i.e. peripheral, transfer-dependent) are motivated to preserve the status quo and others (i.e. metropolitan, more fiscally-proficient) prefer to move away from it. Because the former group of provinces affords the national government a legislative majority at a “convenient” price, distributive policy (i.e. fiscal decentralization) bears out cooptative and patronage-ridden undertones. Of necessity, the latter group of provinces seeks to level out their share and press their case with national authorities. The resulting outcome is bilateral fiscal agreements and incomplete decentralization. By the same token, this study claims that feeble territorial representation at the senate level does not inevitably thwart subnational assertiveness. In Spain, regionalist-party dominance in fiscally-competent autonomous communities (henceforth, AC), their increasing influence in the national parliament, and their concomitant acceptance in emerging joint policy-making mechanisms inhibited backward regions’ attempts to preserve the status quo (i.e. revenue centralization). Albeit not entirely keen yet “institutionally” unable to block the moves of richer regions, the latter follow suit. The resulting outcome is increasing multilateral fiscal collaboration and expanding decentralization. These arguments are illustrated through the narrative of two contrasting experiences: The Argentine Fiscal Federal Pacts and the Spanish Council for Fiscal and Financing Policy of the AC.

## **2. The Territorial Role of Political Institutions: Representation and Policy Scope of the Senate**

Unlike lower houses,<sup>1</sup> which are elected directly by a nation’s citizens, with equal weight given to each eligible voter, representation in the senate varies in two main dimensions: *who* is represented (i.e.

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1. We will use the notions of lower house, lower chamber, and chamber of deputies interchangeably.

constituent groups) and *how* they are represented (i.e. method of selection). On the first dimension, it is normal to compose the senate in some way that is different from the way in which the low house is chosen (Patterson and Mughan, 1999: 10-12). With the exceptions of Italy and Japan, where both houses are chosen on an equal basis, some differentiation between popular and territorial representation exists. The Argentine and Spanish Senates represent geographical constituent unit, which do not exclusively draw on population levels. However, while provinces are the relevant political unit in Argentina, the connection between territory and senate representation in Spain is less clear-cut. Based on a hybrid arrangement that somewhat resembles the German system, representation in the senate is primarily on the basis of sub-regional provinces (electoral unit), which each have equal representation. These provincial representatives amount to 208 out of a total of 256 senators. The remaining seats are occupied by AC representatives, with seats distributed on a population-based formula similar to that used in Germany and Austria (Flores Juberías, 1999). Secondly, leaving aside those who are *ex-officio* members of a senate,<sup>2</sup> the basic choice is between election and appointment. The former method is the most frequently employed, particularly in federal systems like the United States, Australia, Switzerland and others. However, in some cases, indirect representation precedes the adoption of direct election. While direct elections for the US Senate were introduced in 1913, Argentina has only adopted direct election of senators after the Constitutional Reform in 1994. In Spain, like the pre-1994 period in Argentina, senators representing AC are designated by the Autonomous Parliaments, thus indirectly elected.

The above-mentioned differences between the Argentine and Spanish Senates notwithstanding, Lijphart (1999: 207; 211) claims that both countries have an *incongruent* bicameral structure because their respective houses are formally elected by different methods and represent different constituent units. Note that the degree of incongruence is positively associated with senate strength because the latter's capacity of contestation is bolstered when its composition does not mimic the composition of the other house. Nevertheless, it is more appropriate to talk about levels of congruence rather about its pres-

2. Apart from lifetime appointments in the British House of Lords, the Italian Senate includes a nominal number of Prime Ministerial appointees (Tsebelis and Money. 1997: 47).

ence or absence. Lijphart's approach to congruence as a categorical trait masks important differences among cases. While it is something of a conventional wisdom in the literature about Argentine political institutions that a fully incongruent senate is causally related to this country's strong bicameral structure (Molinelli, Palanza and Sin, 1999: 55-58), the same cannot be said of Spain, where almost 82 percent of the senators are elected on the same territorial basis as the members of the national parliament. What is more, and suggesting that the characterization of Spanish bicameralism as *incongruent* is questionable, while senatorial elections in Argentina are staggered, the vast majority of Spanish Senators are elected the same day as the *Diputados* in the lower house. As a result, the partisan composition of the Senate is unrepresentative of that of AC governments, as its electoral system encourages voters to cast a ballot for the same party repeatedly.<sup>3</sup> In brief, Argentine senators are better equipped to represent subnational interests than their Spanish counterparts.

Before we proceed to examine the level of policy authority of the senate in both countries, what difference does bicameralism make with respect to fiscal policy performance? Or, put differently, does the fact that revenue-sharing bills are dealt with, or alternatively blocked, at the senate level make any difference in terms of policy outputs? Extant research suggests that bicameralism induces greater fiscal deficits and, more indirectly, precludes economic adjustment. According to Heller (1997), who surveyed 17 unicameral and bicameral democracies from 1965 to 1990, "government budget deficits are higher when policy conflict is built into the budget process, specifically in the form of a bilateral veto game between legislative chambers". In a similar fashion, Remmer and Wibbels (2000) observe that subnational interests in Argentina are in a pivotal position to offer resistance to national policies of economic adjustment because provinces can make adroit use of territorial representational advantages. However, there is an alternative body of scholarship that explores the possibility of a positive effect of bicameralism on public finances. While this literature is somewhat eclectic in its analytical focus, its common thread is that senatorial intervention in the policy-making process is advantageous insofar as it offers an additional arena of deliberation and fine-tuning

3. In this regard, there is an ongoing tension between the miniscule role played by regionalist parties in Senate and their leading role in regional governments (Gunther, Montero and Botella, 2004: 121).

of public policies. For instance, Vatter (in Nolte, 2002: 18) shows that bicameralism strengthens fiscal decentralization and precludes "over-fishing" at the subnational level. Likewise, Lane and Ersson (in Nolte, 2002: 18) claim that "when there is a symmetrically composed two-chamber assembly, then public expenditures tend to be lower and surpluses higher". So, while the jury is still out to determine the effect of bicameralism on fiscal outputs, it becomes apparent that senates "matter" in the politics of fiscal federalism.

Another aspect relates to the capacity of the senate to have a decisive bearing on fiscal policies or, put differently, its standing as a "veto player" body. In formulating one of the most seminal analytical frameworks of rational choice theory, Tsebelis (1995: 293) defines veto players as "an individual or collective actor whose agreement is required for a policy decision". Veto players can be grouped into two major different categories: "partisan" veto players, namely the political parties in the legislature and "institutional" veto players, which include the executive, both legislative houses, and to some extent, the courts, constitutionally required super majorities and referendums. In a nutshell, veto player perspective assesses a problem of collective action, one in which selective incentives must be dispensed in order to guarantee political support for effective governance. More specifically, this approach seeks to pinpoint the conditions for coopting supporters in the policy process.

So, to what extent are the Argentine and Spanish Senates "veto players"? To respond this question, we will focus on their respective (exclusive) policy competences and how disagreements between both houses are resolved in each country. Argentina in theory follows the US constitutional formula of bicameral "symmetry of policy scope" (Stepan, 2001: 345). While symmetry denotes that both houses are equally important and that the consent of both houses is necessary for most important decisions<sup>4</sup>, there are some policy areas in which they have greater prerogatives. The lower house has greater authority in originating money bills, general tax laws, troop recruitment and others. The senate, on the other hand, is in charge of approving pres-

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4. However, when disagreement between houses persists, the Argentine Congress resorts to the *navette* system to resolve it. If after several rounds of intercameral exchanges of bill proposals discrepancies cannot be bridged, the originating house has the upper hand and makes the final decision (Tsebelis and Money, 1997: 54-55).

idential nominees and advisors, authorize the president to declare a *coup d'état* in case of foreign military attack and appoint judges that assess federal expenditures. More crucially from the perspective our study, all revenue-sharing bills (including federal transfers) must originate in the senate. Additional senatorial prerogatives can be cited at length, but the encapsulation of fiscal decentralization issues at the Senate level suffice to highlight why this house is the institutional point of reference to uncover the politicization of these issues. This perception of the policy-making scope of the Senate is confirmed by a recent cross-national survey of bicameralism in nine Latin American countries, concluding that Argentina ranks as the most symmetrical bicameral system in the region and thus "the senate is constitutionally equipped to act as an actual '*veto player*' insofar as it can delay lower house legislation at ease and eventually generate legislative paralysis" (Llanos, 2002: 21).

We are not the first to point out that the Spanish Senate lacks significant policy-making powers.<sup>5</sup> The Spanish constitution allows autonomic parliaments to propose bills to the national assembly. These bills may be introduced by representatives of the former bodies but, paradoxically, the alleged chamber of territorial representation is bypassed and plays no major role. Beyond scrutiny functions such convening special investigative commissions or forcing ministers to answer questions and pale legislative roles like the responding to bills already discussed and passed the parliament, "the senate has absolutely no voice in the selection and permanence in office of the executive" (Flores Juberías, 1999: 287). More crucially, its footing in the territorial policy domain is quite limited as well. While the authorization of cooperation agreements between the ACs appears to be an issue that falls within the senate's jurisdiction, its authority is limited to postponing the moment that the lower house is allowed to impose its will on the senate in this issue. In an attempt to revamp the role of the senate as a more territorial chamber, the *Comisión General de las Comunidades Autónomas*, General Committee for the Autonomous Communities, was established in 1994. Despite some positive moves such as opening its doors to representatives of AC governments and debating territorial issues, Aja (1999: 146) argues that this committee experi-

5. See, for instance, Aja (1999), Beramendi and Máiz (2004), Börzel (2002), Gunther, Montero and Botella (2004), Solozábal (1996).



ences the same structural limitations the senate does, amounting to a “small senate inside the senate”.

How does the Spanish Senate compare with its Argentine counterpart in terms of its “veto player” status? While based on the aforementioned policy-making powers it does not appear that the Spanish Senate is a “veto player” in its own right until far-reaching institutional reforms take place,<sup>6</sup> Stepan (2004: 328-329) claims that the senate can potentially become a “veto player” on the basis of the Article 155 of Spanish Constitution. This article establishes that the senate can adopt measures to force regional governments to fulfill their legal/constitutional obligations and prevent them from acting against the “general interest” of Spain. However, and citing Juan Linz’s authoritative opinion on Spanish politics, Stepan acknowledges that said article has never been applied because it could only become effective through a federal deposition of the government and military occupation of a recalcitrant AC, leading to an eventual subnational regime breakdown. Hence, we are more inclined to downplay the actual “veto player” potential of the Senate of Spain.

## **2.1. “When Effects Become Causes”: Malapportionment<sup>7</sup> and Its Consequences**

In federal systems, where territorial representation is juxtaposed to population representation, unequal representation of subnational units is commonplace (Lijphart, 1984). Partly as a “built-in” feature of federalism aimed at redressing economic and demographic vulnerability of smaller jurisdictions, these are deliberately (i.e. constitutionally) overrepresented in the Senate.<sup>8</sup> Consequently, this should hold as well

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6. On the difficulties to reform the Spanish Senate, see Roller (2002).

7. While malapportionment is more commonly used at the micro level (i.e. the votes of some citizens weigh more than the votes of other citizens), overrepresentation is employed to denote institutional apportionment. Some scholars prefer the latter term, because the term malapportionment carries a more distinctive negative connotation (Gibson, Calvo and Falletti, 1998: 2). We, however, will use both terms interchangeably.

8. Despite that senates are overly more over-represented, lower chambers are sometimes subject to malapportionment. Both unitary Colombia and New Zealand, which reserve seats for indigenous people on a non-geographic basis, and federal India, where designated casts districts are over-represented, share a high level of lower house malapportionment (Samuels and Snyder, 2001: 658).

for the Argentine and Spanish upper chambers. Subsequent to illustrating the extent of malapportionment in these cases, we will elaborate analytically why institutional overrepresentation is inextricably linked with distributive policy outputs. While malapportionment in the Spanish Senate is not entirely inconsequential, we will argue that, given its egregious nature and based on the significant policy-making powers of the senate, legislative overrepresentation in Argentina stands out as a decisive independent variable to explain the paucity of fiscal decentralization reforms.

How pervasive is Senate malapportionment in Argentina and Spain? According to the Stepan/Swenden Federal Databank, which uses the Gini Index of Inequality to measure malapportionment,<sup>9</sup> Argentina has the world's highest level of senate overrepresentation.

**Table 1. Senate overrepresentation (Stepan/Swenden data)**

Gini Index of Inequality		Percentage of Seats of Best Represented Decile	
Belgium	.015	Belgium	10.8
Austria	.05	Austria	11.9
India	.10	India	15.4
<b>Spain</b>	<b>.31</b>	<b>Spain</b>	<b>23.7</b>
Germany	.32	Germany	24.0
Canada	.34	Australia	28.7
Australia	.36	Canada	33.4
Russia	.43	Russia	35.0
Switzerland	.45	Switzerland	38.4
USA	.49	USA	39.7
Brazil	.52	Brazil	41.3
<b>Argentina</b>	<b>.61</b>	<b>Argentina</b>	<b>44.8</b>
MEAN	.33	MEAN	28.3

Source: Stepan (1997) and own calculations. Higher values denote higher malapportionment.

Table 1, which uses the afore-mentioned databank, also shows how Argentina and Spain fare compared to other ten federal systems.

9. For a detailed explanation of the calculation of this index, see Stepan (2001: 344).

It indicates that Argentina's figures for the Gini Index and percentage of seats for best represented decile nearly double those of Spain. While Spain has relatively high level of senate overrepresentation compared to similar multinational federations like Belgium and India, its figures are much lower than those for ethnically-diverse Canada and Switzerland. Note that Spain ranks below the mean in both measures. To corroborate whether these results are a function of the dataset used for Table 1, we will triangulate them with data from Samuels and Snyder's study of comparative malapportionment.<sup>10</sup> Table 2 shows the world's twenty most over-represented senates and, confirming the previous analysis, Argentina ranks first. Spain, on the other hand, appears to show a somewhat higher level of malapportionment because it is slightly above the mean value yet short of modifying the pattern of Table 1, as it only outdoes Germany but by a small margin.

**Table 2. Senate overrepresentation (Samuels/Snyder data)**

	MAL <sub>uc</sub>	Federal		MAL <sub>uc</sub>	Federal
Czech Rep.	0.0257		Chile	0.3106	
Italy	0.0292		Venezuela	0.3265	Yes
Austria	0.0301	Yes	Russia	0.3346	Yes
Romania	0.0592		Switzerland	0.3448	Yes
India	0.0747	Yes	USA	0.3642	Yes
Japan	0.1224		Bolivia	0.3805	
Poland	0.2029		Brazil	0.4039	Yes
S. Africa	0.2261	Yes	<b>Argentina</b>	<b>0.4852</b>	Yes
Mexico	0.2300	Yes			
Germany	0.2440	Yes			
<b>Spain</b>	<b>0.2853</b>	Yes			
Australia	0.2962	Yes			
MEAN	0.2388				

Source: Samuels and Snyder (2001) and own calculations. Higher values denote higher malapportionment.

10. This study uses the Loosemore-Hanby Index of Electoral Disproportionality (*D*), which takes the absolute value of the difference between each district's seat and population shares. For a more complete explanation, see Samuels and Snyder (2001: 654-655).

Does senate overrepresentation matter? In essence, cross-national evidence suggests that senate's unequal representation of subnational units shapes legislators' strategies for pursuing distributive policy agendas. However obvious this argument may appear, a large part of the scholarly work on US legislative politics has downplayed the effect of senate apportionment on coalition building. For instance, Riker's seminal notion of *minimum-winning* coalitions tells us more about the rules of the game than about asymmetries in the composition of winning coalitions. Drawing on this thesis, formal theory scholars have not paid sufficient heed to the pervasive small-state advantages in the distribution of federal funds (Atlas et al. 1995). Lee and Oppenheimer (in Lee, 2000: 59) provide a convincing explanation for this legislative outcome: "Apportionment shapes Senate distributive policy-making for two reasons. First, senators representing small states have more to gain from procuring a given amount of federal dollars than do senators who represent larger states. A federal grant of \$5 million, for example, has a far greater effect in Wyoming than in California. Such a grant yields greater electoral benefits for senators who represent small states, both in terms of their statewide visibility and the percentage of residents benefited... Second, Senate apportionment affects the incentives of coalition builders in distributive policy-making. The tremendous differences in state population create a unique coalition-building dynamics: All senators' votes are of equal value to the coalition builder, but they are not equal in price".

As the statistics presented above succinctly suggest, senate malapportionment manifests itself in Argentina more than elsewhere. And its effects are highly axiomatic: virtually no policy coalition can be put together without the support of the regional structures of power of sparsely-populated and economically-underdeveloped provinces (Gordin, 2006). Alike Brazil, "strengthening the financial position" of small provinces affords incumbent national administrations significant political payoffs. Unlike Brazil, and taking aim with Mainwaring's contention, we argue that this "devil's pact" does not lead to institutional decay. On the contrary, it boosts predictability in the intergovernmental rules of the game and, thus, makes "increasing returns processes" more sustainable.<sup>11</sup> Such inducements, however,

11. In a landmark essay, Pierson (2000) couched the notion of "political increasing returns" to underscore the strong status quo bias generally built into political institutions.

create an equilibrium that poses acute problems to feedback processes and consequently foreclose policy reforms to temper the patronage-financed debt spending of Argentine provinces, particularly the small ones.

The combined effect of the scant policymaking powers of the Spanish Senate and its comparatively lower malapportionment levels, which render a more limited “opportunity structure” for small ACs to cajole federal transfers, helps to explain why, in contrast, subnational actors in Spain had to generate alternative means of action and representation.<sup>12</sup> As we will illustrate in the next section, the deficiencies of the Senate engendered a decisional vacuum to be filled by the creation of intergovernmental coordinating agencies like the CPPF and, to a lesser extent, the *Conferencias Sectoriales*, Sectoral Conferences, which are multilateral forums where ACs exchange information with the national administration and among them. The weak institutionalization of the senate and its lack of compensatory representational devices to redress inter-regional gaps have been counterbalanced by a gradual process of ongoing agreements that occurred especially in the 1992-1996 period (Leon, 2007). This open-endedness has imbued intergovernmental relations in Spain with a market-like character, where the fiscal accomplishments and steadfast regionalist leadership of ACs like Catalonia, Baleares, Navarra, and the Basque Country hindered even further any attempt of economically-peripheral ACs to offset their fiscal misfortunes through federal *largesse*. Above and beyond the fiscal revamping of the weak, formal institutional vulnerability opened the door for policy innovation.<sup>13</sup>

### **3. The Relational Role of Political Institutions: “The Rules of the Game” and Intergovernmental Instruments of Cooperation**

Painting in broad strokes, we can say that Ellen Immergut provides a very satisfying explanation of institutional malleability,

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12. This institutionalist view of the Spanish Senate is matched by ordinary citizens’ perception of the role of this body in the politics of their country. In his study of public opinion in Spain, Lancaster (1997) shows that the senate is the least popular institution.

13. For an analysis of policy innovation in Argentina, see Keech (1999).

which will be analytically applied to uncover differences between the Argentina's predominantly stagnant regionalism and Spain's drift to multilateral subnational collaboration. This contrast is the last building bloc in our explanation of the entrenchment of patronage-dependent provincial forces and fiscal decentralization stagnation in Argentina and Spain's incremental progression to fiscal federalism.

In any political system, the adoption of a new policy deviating from the status quo (e.g. fiscal centralization) requires the agreement of certain political actors. Leaving aside whether a larger number of such political actors is normatively desirable,<sup>14</sup> policy change becomes more difficult when these actors proliferate. The necessity to decrease the number of such crucial actors is an issue that both "old" and "new" institutionalisms draw our attention to. From a state-society centered perspective, the notion of corporatism gives preferential treatment<sup>15</sup> to state-sponsored societal organized interests, whereas neo-institutionalists (e.g. George Tsebelis) focus more compellingly on the institutional "black box" itself. Implicitly maintaining that these approaches are overly static or mechanistic, Immergut (1992) introduces the notion of "veto points", which are basically areas of institutional vulnerability, namely, junctures in the policy process where opponents can frustrate policy change. Instead of seeing institutional representation as a rigid end point, the notion of "veto points" suggests that "electoral rules and constitutional structures provide the institutional 'rules of the game' in which subsequent political battles are fought" (Thelen and Steinmo, 1992: 22). Moreover, this understanding of the policy-making process is also consonant with our previous analysis insofar as the relative differences in policy-making powers of their respective senates and the presence or absence of institutional facilitators for disadvantaged subnational units in Argentina and Spain shape political interactions. Last, this approach is valuable to analyze countries that undergo institutional transformation like Spain and its ongoing process of federalization. Likewise, Argentina has recently experi-

14. While the modern literature in political science, with Lijphart (1999) as an exception, emphasizes the need of *effective* governance, there is no shortage of arguments on behalf of increasing the number of "veto players", ranging from Baron de Montesquieu's theory of separation of powers to John Stuart Mill's praise of representative government.

15. Or, according to Schmitter (1974), exclusive.

ence profound institutional reforms such as the constitutional reform of 1994.<sup>16</sup>

### **3.1. Bilateral and “Uninstitutionalized” Bargaining: The 1992 and 1993 Pactos Fiscales in Argentina**

Imagine the following picture: Nearly 100 provincial representatives (governors, vice governors, provincial economy ministers and economic advisors) gather in a dreary building in Buenos Aires city. The *raison d'être* of this gathering is to persuade said representatives to forsake 15 percent of their respective provinces' coparticipated tax revenues to overhaul the then moribund national social security system. Not far from this building, caravans of annoyed pensioners march forcefully into the Congress amid threats of continuing their hunger strikes. Expectedly, and despite these representatives ostensible empathy with the cause of street demonstrators, no agreement can be hammered out.<sup>17</sup>

This chaotic background compounded the signature of the 1992 Fiscal Pact at the headquarters of the *Consejo Federal de Inversiones*, CFI, Federal Investment Council.<sup>18</sup> How can said provincial actors be persuaded to cut a deal that would make them less popular in their respective jurisdictions? First, the national government guaranteed provincial transfers of a minimum of US\$ 725 per month. In order to make this arrangement even more “attractive”, Menem “sweetened” this unsettling gridlock through the creation of a special fund to finance fiscal disequilibria in the provinces, made up of revenues that would also be deducted from the automatic FTSA allocations. According to Eaton (2001: 110), “the amount that each province would receive from this fund was determined in one-to-one negotiations with the

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16. This constitutional reform includes: the abolition of the Electoral College and adoption of direct presidential elections, the possibility of re-election for incumbent presidents, political decentralization of the capital city (Buenos Aires) and, more relevant to our subject of study, the introduction of socio-demographic and economic variables, in lieu of fixed coefficients, in the determination of revenue-sharing. Interestingly, from said list of reforms, the latter is the only one that still did not materialize.

17. For a more complete account of these events, see Falletti (2000: 12).

18. Originally conceived as an inter-provincial consultative forum in regional development matters, the CFI has turned into a *de facto* branch of the Peronist Party, which typically controls a vast majority of governorships.

President. For example, the fact that the Radical governor of Chubut province offered early public support for the pact reflected Chubut's position as one of the three provinces receiving the largest cut from the disequilibria fund... Provincial governors who initially criticized the pact but eventually signed it (such as Mario Moine of Entre Ríos) received a smaller cut, and provincial governors who refused to sign (such as Rolando Tauguinas of Chaco) received none of the special funds". Furthermore, the inter-provincial apportionment of this fiscal disequilibria fund does not deviate from the pattern described in Chapter 3: Santa Cruz, Tierra del Fuego and Chubut (nearly 1.8 percent of total national population) received US\$ 3 million each, whereas Córdoba and Santa Fé (nearly 18 percent of total population) only US\$ 0.5 million each (Falletti, 2000: 12).

Encouraged by the apparent success of this deal, Menem arranged a second Fiscal Pact in August 1993. Unlike the previous pact, however, tax reform was the focus of this deal, enhancing its potential fiscally-decentralizing impact. Nevertheless, the provinces did not rush to join this second pact because of its initial stipulation to abolish the provincial turnover tax (Schwartz and Liuskilla, 1997: 408). Expectedly, some maneuvers were necessary to cajole reluctant governors. First, the minimum amount set on 1992 was increased to US\$ 745 million a month. Additionally, political guarantees to negotiate the offsetting of claims and debts between the provinces and the central governments were put forward. These benefit packages, however, were only applicable to provinces that agreed to implement the terms of the pact. To avoid further "penalties", Chaco's governor this time chose to sign the pact, for which his province had its outstanding debts bailed out (Eaton, 2001: 111).<sup>19</sup>

In brief, we can argue that Argentine bilateralism is a manifestation of cost-shifting tactics for the provinces and divide-and-conquer for the center. The institutional "veto points" in the decision-making process interact with regional economic differentiation, leading to a fiscal policy output that amounts to an "iron law" of the political

19. To illustrate how this exchange of political favors interweaves with institutional prerogatives, Governor Tauguinas, who rules a relatively under-populated province, subsequently supported Menem's campaign for the Constitutional Reform of 1994. It is noteworthy that the assembly charged with rewriting the constitution was even more skewed than is representation in the senate. Buenos Aires province had one representative for every 109,000 citizens and Tierra del Fuego had one for every 6,000 (Sawers, 1996: 96).



economy of intergovernmental relations in Argentina: revenue centralization as a shielding mechanism for economically weak yet politically powerful provinces.

### **3.2. Emerging Multilateral Bargaining: The Spanish *Consejo de Política Fiscal y Financiera de las Comunidades Autónomas***

The Spanish Council for Fiscal and Financing Policy of the AC (*Consejo de Política Fiscal y Financiera de las Comunidades Autónomas*, henceforth CPPF) was created in 1980 and is composed of the national Minister of Economy and Finance and his counterpart in each region, and the Minister of Public Administration. It acts as a consultative and discussion body, which concerns itself with the coordination of policy with particular regard to the distribution of national resources to the regions, public investment, the costs of services and public debt. This is the intergovernmental coordination body of highest importance (Huerta Carbonell, 1992: 215). The agreements reached within the CPPF, then, form the basis for developing the ACs financing arrangements.

The above having been said, there has been a tendency in the specialized literature to characterize the CPPF as merely symbolic, as a forum guided by a "hierarchical perception of intergovernmental relations, since the minister (i.e. the national Minister of Economy and Finance) calls the conference, chairs it and sets the agenda. This fosters the atmosphere of 'institutional courtesy' in the forum, as the ACs have only a very passive role in the discussions" (Grau i Creus, 2000: 63). Other scholars have ironically suggested that these meetings amount to *cooperación por teléfono*, cooperation by phone (Albertí Rovira, 1991: 214). Further, Aja (1999: 227) claims that the CPPF is a mirror image of party politics: When this forum recommended in 1993 the transfer of the 15 percent of the general income taxes to all ACs, Galicia, which is a PP bastion, voted against it and even appealed to the Constitutional Court. However, it voted in favor of a transfer of the 30 percent of the same tax in 1996 carried out by Aznar's administration.

It is precisely party politics what rendered opportunities to expand the role of CPPF and its *modus operandum*. While admitting that the afore-mentioned tactical behavior of Galicia is very telling, it is noticeable that despite PSOE's participation in the ruling coalitions in Nav-

arra, Aragon, and Asturias did not impede these ACs to support the PP- sponsored 30 percentage reform. Moreover, regionalist party officials, by and large from Catalonia and the Basque Country, advocated deepening revenue decentralization on efficiency as well as on nationalist grounds. For that purpose, they encouraged the formation of mixed technical commission of autonomic and national officials known as *Comisiones Mixtas*, Mixed Commissions, whose multilateral character was somewhat daunting for more transfer-dependent ACs (Ramallo Massanet and Zornoza Pérez, 2000). Nonetheless, regionalist party representatives from poorer ACs had a very hard time in articulating regional assertiveness amid hostility to fiscal decentralization moves, so that they gradually moved closer to their more nationalistically-minded counterparts (Gordin, 2009). Exogenous factors such as Europeanization played a role, insofar as regions were endowed with significant resources, including know-how applicable to the sometimes highly technical content of discussions held in the Sectorial Commissions.<sup>20</sup>

Further, it is important to point out that bilateral agreements were central in addressing the claims of “historic communities” such as the Basque Country and Navarra, but that the balance between bilateral and multilateral agreements has gradually shifted to an ascendancy of the latter (Ruiz Almendral, 2003: 45). In fact, the asymmetric system derived from the special regime that exists for the afore-mentioned *foral* AC has not precluded more general agreements at the general level. Likewise, while some authors emphasize the negative externalities of bilateralism in terms of the politicisation of the fiscal regime (Leon Alfonso, 2007), others lay emphasis on the uniform budgetary restrictions shared by all autonomic jurisdictions, which ultimately make fiscal decentralization in Spain more sustainable (Caballero, 2003).

In conclusion, in contrast with the cost-sharing strategy of Argentine provinces, Spanish ACs opted to increase collaborative patterns

20. We disagree, however, with monocausal explanations based on EU influences such as Tanja Börzel's approach. She claims that “while the extension of multilateral intergovernmental cooperation may reflect a certain consolidation of Spanish intergovernmental relations, the functioning of the 16 Euro-effective conferences confirms that the major proposition of this study that multilateral cooperation is the response to Europeanization rather than the result of the consolidation of the State of the Autonomies” (Börzel, 2002: 146-47). In addition to supranational-level influences, scholarly discussions about the future of decentralization in Spain were deeply influenced by the German experience and concepts such *Bundestreue* (federal loyalty) are oftentimes made reference to (Aja, 1999: 142-43).

in policy-making, in which representatives of the different levels negotiate their major differences at the program design and implementation stages. Unlike Argentina, the increasing pivotal role played by regionalist parties in national formal and informal fora played a more critical role than the encapsulation of unequal territorial representation at the legislative level. Albeit not entirely stress-free, as some peripheral ACs resisted the pace and nature of reforms, fiscal decentralization in Spain expanded to levels comparable to those of Germany and closer to Switzerland.

#### 4. Final Remarks

The findings of this paper have implications both for the political science literature on comparative federalism and for the literature on fiscal decentralization in these and other countries. Given research trends in the former literature, some of our findings are surprising. The concept of institutional vulnerability, a byproduct of “veto points” theory, appears to be more useful in explaining the stochastic nature of fiscal decentralization policies than notions of institutional embeddedness. More than the formal rules *per se*, the interaction between institutional structures (e.g. the senate) and political hurdles gives rise to the “rules of the game”. Put simply, over-represented territories yield political payoffs that afford them “immunity” to revenue decentralization imperatives. In this vein, the “veto points” framework involves different opportunities for influencing political decisions.

In assessing how the politics of fiscal decentralization varies in Argentina and Spain, we are able to conclude that institutional “overdevelopment” and the ensuing “locking-in” of a lopsided connection between territorial overrepresentation and the non-proportional distribution of public funds in the Argentina propitiates the maintenance of a fiscally-ineffective but politically-desired *status quo*. Therefore, formal federal polities, which are normally based on strong bicameralism, can at times be less effective than more loose, yet decentralizing unitary systems in deepening fiscal decentralization. And we are also able to conclude that institutional malleability and openness rendered opportunities to regionally-assertive entrepreneurs for claiming further competences, including revenue collection and administration. The policy of transferring revenue and revenue authority to subnational governments, then, can be sabotaged or

advanced depending on the institutional incentives and capabilities of political actors.

This study suggests then that the presence of formal governmental structures for representing territorial interests does not necessarily mean they are effective in practice. A highly “institutionalised” senate in Argentina shields the political and economic interests of poorly-developed, yet politically powerful, provinces. As these provinces are coopted in the legislative process at a more “convenient” price than metropolitan regions, regional asymmetries in the allocation fiscal authorities are sustained over time. A far less “institutionalised” chamber of territorial representation and a more malleable and open-ended institutional configuration in Spain prevents backward regions to exploit institutional devices to block fiscal decentralization. What is more, this institutional malleability has facilitated the emergence of alternative policy-making mechanisms where multilateral subnational coordination is facilitated and fiscal decentralization further expanded. Therefore, formal federal polities, which are normally based on strong bicameralism, can at times be less effective than more loose, yet decentralizing unitary systems in deepening fiscal decentralization. This scenario complicates the validity of held views about the positive association between political federalism and fiscal decentralization.

Further, our overall argument implies that when the sorting out of subnational fiscal relations takes place in malapportioned legislative institutions we could see a mutually reinforcing relationship between decentralization and regionalized patronage, as transpires from the Argentine experience. That is, the policy of transferring revenue and revenue authority to subnational governments not only renders possible the entrenchment of patronage-ridden regional enclaves but, also, the latter can exploit institutional and political opportunities to sabotage fiscal decentralization projects.

In this regard, it is noteworthy that the same institutional problems that preclude the advancement of fiscal decentralization are also associated with national fiscal crises. Argentina, a country whose policies of economic adjustment in the early 1990s have won it international acclaim, has proved unable to restructure its federal system to address severe imbalances in the intergovernmental fiscal relations. The overall unsustainable level of subnational debt and the limiting authority of the center to rein in fiscal discipline lurked underneath

Argentina's foreign debt default – the world's largest – and the premature fall of De La Rúa's elected government in December 2001. Federalism and its concomitant institutional protection of the autonomy of subnational units can at times have perverse effects on macroeconomic performance. Despite federalism's ostensible "market-preserving" quality (Weingast, 1995), deadlocked and malfunctioning federal institutions can lead to economic catastrophes.

In closing, this understanding of fiscal decentralization also speaks to a body of scholarship on fiscal federalism that focuses on incentives and goals (e.g. rent-seeking, fiscal performance) without explicitly and systematically identifying the political framework in which fiscal decentralization decisions are taken. Borrowing from a recent and enlightening study of federalism by Filippov, Ordeshook and Shvetsova (2004: 138), "fiscal allocations are biased toward certain states or groups of states almost everywhere, because the ability to cater to particular local needs is an essential characteristic and advantage of the federal form".

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## ABSTRACT

This paper suggests a putative paradox of federalism, namely that formal federal polities, which are normally based on strong bicameralism, can at times be less effective than more loose, yet decentralizing unitary systems in deepening fiscal decentralization. For that purpose, case studies of Argentina and Spain are used to provide insights into the way that the distribution of institutional resources in multi-tiered polities shapes the extent to which the policy of transferring revenue to subnational governments can be exploited for political gain. It does so by using institutional analysis and qualitative evidence to assess the effect of patterns of territorial representation on fiscal decentralization policies. It focuses first on legislative-level territorial representation and its effect on intergovernmental fiscal outcomes. Also, it explores the conditions leading to bilateral and multilateral intergovernmental bargaining, which, we will argue are part and parcel of the tension between territorial distribution of political influence and economic resources. The research suggests that whereas Argentine subnational interests are "locked-in" at the Senate level and intergovernmental negotiations are conducted bilaterally, open-ended institutional arrangements and a relatively impotent senate in Spain boosted the redressing of regional concerns through informal intergovernmental fora and increasing multilateral collaboration. Such differences in patterns of institutional representation and bargaining strategies account for the paucity of fiscal decentralization in Argentina and its relative progress in Spain.

**Key words:** Federalism; Fiscal Decentralization; Legislative Malapportionment; Argentina; Spain.

## RESUM

Aquest article suggereix una paradoxa putativa del federalisme. Les organitzacions polítiques federals, que normalment es basen en un bicameralisme fort, de vegades poden ser menys efectives que els sistemes unitaris més desorganitzats i descentralitzats en l'aprofundiment de la descentralització fiscal. Així doncs, els estudis de cas d'Argentina i Espanya serveixen per proporcionar coneixements sobre la manera com la distribució dels recursos institucionals en organitzacions polítiques de diversos nivells dona forma a la mesura en què la política de transferència d'ingressos als governs subnacionals pot ser explotada amb finalitats polítiques. I es fa mitjançant l'anàlisi institucional i l'evidència qualitativa per avaluar l'efecte dels patrons de representació territorial a les polítiques de descentralització fiscal. Primerament, se centra en la representació territorial en l'àmbit legislatiu i en el seu efecte en els resultats fiscals intergovernamentals. Així mateix, explora les condicions que porten a la negociació intergovernamental bilateral i multilateral, que, tal com discutirem, són part integrant de la tensió entre la distribució territorial d'influència po-

lítica i els recursos econòmics. La recerca suggereix que els interessos subnacionals d'Argentina es troben "congelats" en l'àmbit del Senat i que les negociacions intergovernamentals es duren a terme de manera bilateral. En canvi, els acords institucionals de composició oberta i un senat relativament impotent a Espanya han impulsat la reparació dels interessos regionals gràcies als fòrums intergovernamentals informals i a l'augment de la col·laboració multilateral. Aquestes diferències en els patrons de representació institucional i en les estratègies de negociació donen compte de l'escassetat de la descentralització fiscal a l'Argentina i del seu progrés relatiu a Espanya.

**Paraules clau:** federalisme; descentralització fiscal; distribució legislativa desigual; Argentina; Espanya.

## RESUMEN

Este artículo sugiere una paradoja putativa del federalismo. En otras palabras, las organizaciones políticas federales, que normalmente se apoyan en un bicameralismo fuerte, a veces pueden ser menos efectivas que los sistemas unitarios más desorganizados y descentralizados en la profundización de la descentralización fiscal. A tal efecto, los estudios de caso de Argentina y España se utilizan para proporcionar conocimientos sobre la manera como la distribución de los recursos institucionales en organizaciones políticas de varios niveles da forma a la medida en la que la política de transferencia de ingresos a los gobiernos subnacionales puede ser explotada con fines políticos. Y se hace mediante el análisis institucional y la evidencia cualitativa para evaluar el efecto de los patrones de representación territorial en las políticas de descentralización fiscal. En primer lugar, se centra en la representación territorial en el ámbito legislativo y en su efecto en los resultados fiscales intergubernamentales. Asimismo, explora las condiciones que llevan a la negociación intergubernamental bilateral y multilateral, que, tal y como vamos a discutir, son parte integrante de la tensión entre la distribución territorial de influencia política y los recursos económicos. La investigación sugiere que los intereses subnacionales de Argentina se encuentran "congelados" en el ámbito del Senado y que las negociaciones intergubernamentales se llevarán a cabo de manera bilateral. En cambio, los acuerdos institucionales de composición abierta y un senado relativamente impotente en España han impulsado la reparación de los intereses regionales gracias a los foros intergubernamentales informales y al aumento de la colaboración multilateral. Estas diferencias en los patrones de representación institucional y en las estrategias de negociación dan cuenta de la escasez de la descentralización fiscal en Argentina y de su progreso relativo en España.

**Palabras clave:** federalismo; descentralización fiscal; distribución legislativa desigual; Argentina; España.