

# ARGENTINA: FROM KIRCHNER TO KIRCHNER

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Argentina's 28 October 2007 presidential election contrasted sharply with the one that preceded it. The 2003 race took place in the aftermath of an unprecedented economic collapse and the massive December 2001 protests that toppled two presidents in a span of ten days. That election—which was won by little-known (Peronist) Justicialist Party governor Néstor Kirchner—was held in a climate of political fragmentation and uncertainty. Little uncertainty surrounded the 2007 campaign. After four years of strong economic growth, and with the opposition in shambles, a victory by the incumbent Peronists was a foregone conclusion. The only surprise was that Kirchner, who remained popular, chose not to seek reelection. Instead, his wife, Senator Cristina Fernández de Kirchner, ran in his place.

Cristina Kirchner captured 45 percent of the vote, easily defeating Elisa Carrió of the left-of-center Civic Coalition (23 percent) and Kirchner's former economics minister, Roberto Lavagna (17 percent), who was backed by the Radical Civic Union (UCR). In addition to winning more than three-quarters of Argentina's 23 governorships, the Justicialist Party (PJ) and other pro-Kirchner allies won large majorities in both legislative chambers. In the Chamber of Deputies, the lower house of Argentina's bicameral National Congress, progovernment Peronists and other Kirchner allies (including pro-Kirchner Radicals) won 160 of 257 seats, while dissident Peronists won another 10 seats. The loosely organized Civic Coalition won 31 seats, while the UCR won 30 seats. In the Senate, the Kirchnerista forces controlled 47 of 74 seats after the election, while another 5 seats were held by dissident Peronists. The PJ thus emerged from the election in a dominant position. Opposition forces

were split into at least three blocs (the UCR, the Civic Coalition, and the center-right Republican Proposal [PRO]), and thus posed no serious challenge. Indeed, future challenges seemed more likely to come from within the PJ.

Cristina Kirchner is the first woman ever to be elected president of Argentina. (Isabel Perón, who had been elected vice-president as her husband Juan Perón's running mate in 1973, succeeded to the presidency upon his death the following year.) Kirchner's success, however, was rooted not in her gender—she performed better among men than among women—but in her status as the candidate of a successful incumbent government.

Néstor Kirchner left office as the most popular outgoing president in modern Argentine history. After taking office in the aftermath of Argentina's worst-ever recession, Kirchner presided over four years of export-led growth, rooted in a competitive exchange rate and soaring commodity prices. The economy grew 9 percent a year between 2003 and 2007, and consequently, living standards improved immensely. Private consumption increased by 52 percent between 2002 and 2007. Unemployment and poverty rates were halved: Unemployment fell from 20 percent in 2002 to 9 percent in 2007, and the poverty rate fell from nearly 50 percent to 27 percent.

Support for Kirchner was also rooted in public policies. Within the parameters of an export-led model and conservative fiscal policy, the Kirchner government pursued several heterodox policies that generated broad support. For one, Kirchner's hard-line position in debt renegotiations following Argentina's 2001 default resulted in the largest debt "haircut" in history (a debt swap worth about 30 percent of the defaulted debt)—an outcome that both won public support and eased the fiscal situation. Second, Kirchner reversed a decade-long pattern of wage-depressing policies by encouraging unions' collective bargaining and pushing through a series of minimum-wage increases.<sup>1</sup> These policies—along with tight labor markets—brought a 70 percent increase in real wages. Kirchner also pushed through a social-security reform that extended access to unemployed and informal-sector workers, thereby bringing more than a million new people into the system. Investment in public works increased more than fivefold under Kirchner, producing a major expansion in housing and infrastructure, while funding for public education and scientific research rose considerably. Overall, public expenditure expanded by more than 30 percent in 2007—a massive election-year increase.

Several noneconomic policies also enhanced public support for Kirchner, particularly among middle-class voters. For example, Kirchner led an overhaul of the Supreme Court, which had been packed by President Carlos Saúl Menem in 1990 and was widely viewed as politicized and corrupt. Encouraged by Kirchner, Congress impeached or

forced the resignation of six of the nine Supreme Court members and replaced them with respected jurists. On the human rights front, Kirchner pushed successfully for the annulment of laws limiting prosecution for human rights violations during the 1976–83 dictatorship—namely, the 1986 Final Point Law establishing a deadline after which new human rights cases could not be launched, the 1987 Due Obedience laws protecting junior officers from prosecution, and the 1990 pardon of top generals responsible for the Dirty War.

Cristina Kirchner's victory was also rooted in the continued strength of the Peronist party machine. Argentina's only mass party, the PJ possessed a stable electoral base as well as a grassroots organization and activist base that dwarfed those of its rivals. PJ networks operated throughout the country, mobilizing voters through a mix of clientelism and other appeals. In many interior provinces, where clientelism is most extensive and Peronist machines are most dominant, Cristina Kirchner's victory was overwhelming. In some northern provinces (for example, Formosa, Salta, and Santiago del Estero), she won more than 70 percent of the vote, more than quadrupling her nearest rival.

Although the PJ was highly fragmented, with two and even three rival Peronist lists competing in many provinces, the electoral cost of this fragmentation was limited by the phenomenon of *listas colectoras* (fusion candidacies), in which multiple mayoral and gubernatorial candidates supported—and shared a ballot with—the same presidential candidate. Effectively a substitute for party primaries, the *listas colectoras* allowed Cristina Kirchner to accumulate the votes of diverse and competing tickets that might otherwise have backed her rivals.

Finally, Kirchner's victory was a product of opposition weakness. The middle-class-based UCR—the only non-Peronist party ever to win a clean election in Argentina—weakened considerably during the 1990s, and after the disastrous Radical presidency of Fernando de la Rúa (1999–2001), it began to disintegrate. After suffering important defections on its right (Ricardo López Murphy) and left (Elisa Carrió), the UCR finished sixth in the 2003 election, with barely 2 percent of the vote. Under Néstor Kirchner, five of the UCR's six governors and more than a third of its 476 mayors rejected the Radical leadership and instead backed the government, earning the label "K Radicals." In the 2007 election, the K Radicals supported Cristina Kirchner, not UCR-backed candidate Roberto Lavagna, and one of them, Julio Cobos, became Ms. Kirchner's running mate.

None of the opposition parties that emerged in the wake of the UCR's collapse—most notably, Carrió's Alternative for a Republic of Equals (ARI), López Murphy's Federal Recreate Movement (MFR), and Mauricio Macri's PRO, possessed a national organization or a significant activist base. According to a survey carried out by Ernesto Calvo and María Victoria Murillo, the PJ has nearly 300,000 activists (almost 1

percent of the population) across the country. This is nearly ten times as many activists as ARI and PRO combined.<sup>2</sup> Indeed, the opposition's activities were confined largely to urban centers. Consequently, although elections in the major metropolitan areas remained highly competitive (Cristina Kirchner lost in Buenos Aires, Córdoba, and Rosario—the three largest cities in the country), the PJ was virtually unchallenged in many peripheral provinces.

### Why Argentina Is Not Venezuela

Néstor Kirchner's presidency was characterized by a significant concentration of executive power. Like Carlos Menem during his first presidential term (1989–95), Kirchner governed at the margins of Congress and other institutions of horizontal accountability. Through November 2007, Kirchner issued 232 executive decrees, a rate (4.3 decrees per month) which matched that of Menem (4.4 per month). Kirchner retained the emergency powers delegated to the executive by Congress during the 2001 crisis, and in 2006 Congress granted him vast discretionary power to modify the budget after its legislative approval. Although Kirchner's reform of the Supreme Court was widely applauded, other executive actions encroached on judicial independence, most notably his successful promotion of a law that enhanced executive control over the Magistrates' Council, the body responsible for overseeing the appointment and removal of federal judges.

Finally, Kirchner concentrated executive power vis-à-vis the provinces. He did this by opening up new sources of revenue (particularly export duties and fees on public services) that unlike existing taxes were not shared between the federal and provincial governments. As a result, the provinces' share of overall revenue fell to barely half of what it had been a decade earlier, which increased provincial governments' dependence on fiscal transfers from the federal government.<sup>3</sup>

The combination of Kirchner's concentration of power and the PJ's growing electoral dominance generated concern that Argentine politics was taking an authoritarian turn. Such characterizations are misleading. The core institutions of democracy remain strong in Argentina: Elections are clean, civil liberties are broadly protected, and the military—author of six coups between 1930 and 1976—has withdrawn from politics. Indeed, despite a Weimar-like hyperinflationary crisis in 1989 and a collapse into depression in 2001 to 2002, the constitutional order has never been interrupted since Argentina's return to democracy. The lopsided PJ victories in the 2005 midterm elections and in 2007 were products of opposition weakness, not abuses by incumbents. The Kirchner government's record on civil liberties was good, and in some areas (such as police handling of public protest), it was clearly superior to the performance of its predecessors.

Argentina's relatively strong democratic record is not a result of its presidents' leadership or good will; rather, this record is rooted in the constraints that society and the polity impose upon the executive. Argentine democracy is buttressed by a broad societal commitment to civil liberties and an extensive infrastructure of civil society organizations committed to their defense.<sup>4</sup> Argentine governments confront a "permanent associative network for the supervision of state authorities."<sup>5</sup> Civic and media organizations serve as agents of "societal accountability," exposing and denouncing (and thus raising the political cost of) state abuse.<sup>6</sup> During the 1990s, for example, large-scale civic campaigns compelled judicial action in response to the 1990 murder of teenager María Soledad Morales (in which members of the governing clan in the province of Catamarca were implicated) and the 1997 killing of news photographer José Luis Cabezas (arranged by a mafia boss with ties to the government). In December 2001, when President de la Rúa declared a state of siege and violently repressed protesters, public repudiation was so overwhelming that he was forced to resign, and when police killed two street protesters (*piqueteros*) in 2002, the intensity of the public outcry led interim president Eduardo Duhalde to shorten his mandate.

Under the first President Kirchner, societal "antibodies" manifested themselves around the reelection issue. After the PJ's landslide victory in the 2005 legislative elections, some critics worried that Kirchner would seek to change the constitution—as he had done while governor of Santa Cruz—to permit unlimited reelection.<sup>7</sup> Thus when Kirchner backed an initiative by Misiones governor Carlos Rovira to rewrite his province's constitution to permit unlimited reelection, the issue quickly gained national attention. Although Peronists dominated Misiones politics (winning six consecutive gubernatorial elections between 1987 and 2007), local civic and opposition forces, led by the Catholic Church, organized a broad opposition campaign and beat the PJ in the constituent-assembly election. The defeat had an immediate and powerful impact at the national level: Governors in Buenos Aires and Jujuy abandoned reelection projects, and any sort of national initiative became unthinkable.

Argentine presidents are also constrained by other democratically elected actors, particularly governors. Governors and other provincial bosses are powerful players in Argentine politics, not least because they often dominate the nomination process for national legislators. Because most legislators owe their nomination to a provincial boss rather than the national party leadership, discipline within the PJ's legislative bloc hinges to a considerable degree on the president's ability to maintain the support of the governors.<sup>8</sup> Thus, even powerful Peronist presidents such as Menem and Kirchner have never been able to govern unilaterally, as Chávez has done in Venezuela. Rather, they have governed in coalition with—and with the negotiated consent of—party bosses.<sup>9</sup> Kirchnerista

efforts to build a “transversal” movement—composed of progressive Peronists and non-Peronist leftists—at the margins of the PJ machine never gained traction. Although Kirchner initially alienated some party bosses, he ultimately needed them to deliver the vote. Prior to the 2005 election, he made his peace with the party machine, and the transversal project was abandoned.

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In sum, Néstor Kirchner’s ability to concentrate power was limited by robust democratic institutions, a strong civil society, and the nature of his own Peronist coalition. Consequently, he never approached Chávez’s centralized and autocratic rule—even at the peak of his popularity and political strength.

It is also important to note that several of the Kirchner government’s initiatives enhanced the quality of Argentine democracy. For one, Kirchner improved the quality of the Supreme Court by nominating qualified and independent justices, establishing new procedures—such as public hearings—to ensure greater transparency and accountability in the judicial-nomination process, and reducing the size of the Court from nine justices (a product of the 1990 Court packing) to seven and eventually five. In reducing the Court to its original size (a move that had been demanded by numerous legal, human rights, and civil liberties groups), the government deprived itself of the opportunity to appoint two additional justices. The independence of the remade Supreme Court became manifest in the 2006 *Badaro* case, in which the Court forced the government to index pension payments, and the 2007 *Rosza* case, in which the Court limited the government’s use of interim appointments (which are not subject to legislative approval) to fill judgeships. At the time of the ruling, about a fifth of all Argentina’s federal jurists held interim appointments.

Néstor Kirchner also made important strides in the area of human rights. As noted above, his government pushed successfully for the nullification of the Alfonsín-era Final Point and Due Obedience laws, which had limited the scope of human rights trials. By 2006, more than five-hundred former military and police officers had been brought up on charges.<sup>10</sup> Kirchner also pushed the courts to annul Menem’s 1990 pardon of the top generals responsible for the Dirty War. In July 2007, the Supreme Court declared one of the pardons unconstitutional, which may pave the way for the annulment of all the pardons.<sup>11</sup>

Finally, Kirchner restored a minimum of public trust in government. The 2001–2002 crisis of governance and the economy triggered a massive withdrawal of public trust from the political elite. According to the Latinobarómetro survey, the percentage of Argentines expressing confi-

dence in their country's political parties fell from 29 percent in 1997 to a stunningly abysmal 4 percent—the lowest in Latin America—in 2002.<sup>12</sup> This crisis of representation was seen in the 2001 midterm election when, in a striking protest against the entire political elite, 22 percent of voters cast blank or spoiled ballots. In two of the country's largest districts, the city of Buenos Aires and the province of Santa Fe, the number of blank and spoiled ballots exceeded that for *all* parties combined. The crisis of representation was also seen in December 2001 protests, when middle-class protesters surrounded each branch of government and chanted *Que se vayan todos!* (“Throw them all out!”). Citizen anger reached such heights that politicians were often physically attacked when they ventured out in public—on downtown streets, in restaurants, and even in their own neighborhoods.

This extraordinary erosion in public trust was rooted in several factors, but one was a widespread perception that the government had grown almost entirely unresponsive to voters' demands. The gap between public opinion and public policy grew particularly acute under de la Rúa, whose Alianza coalition had campaigned on a platform of clean government and social justice but failed to deliver either.<sup>13</sup> The Alianza government was implicated in a Senate bribery scandal in 2000, and its repeated austerity measures convinced many Argentines that de la Rúa was more responsive to international creditors and bond markets than to voters.

Kirchner reversed this pattern. Whereas de la Rúa appeared constrained to the point of paralysis, Kirchner sought to expand the government's (real or perceived) room for maneuver by launching high-profile battles against the very entities that were seen to constrain his predecessors: the military, the IMF, bondholders, and foreign and domestic capitalists. Although the economic merits of some of these initiatives (such as price controls or paying off the IMF debt in full) were open to question, the *political* consequences were clear and important: Argentines perceived their government as having responded to public demands, and consequently their support for Kirchner, optimism about the future, and support for democracy all rose considerably.

## Challenges for Argentine Democracy

Although Argentine democracy is robust, it nevertheless remains more crisis-prone than those of comparable middle-income countries in Latin America. Two problems continue to undermine the quality of Argentine democracy. The first is the weakness of the non-Peronist opposition. The Argentine party system has suffered a partial collapse.

Although the PJ survived the 1989 and 2001–2002 crises, the UCR—the only other significant national party since the 1940s—has ceased to be a national force. The Radicals' share of the presidential vote fell from more than 50 percent in 1983 to just 2 percent in 2003, and in

2007 their representation in Congress (30 of 257 seats) reached a historic low. The party's decomposition—which began with the defection of leaders such as Carrió and López Murphy after 2001—continued under Kirchner with the emergence of the K Radicals. The UCR is not necessarily dead. It retains a national infrastructure of local leaders and activist networks, which creates the potential for a future recovery (as occurred with APRA in Peru). However, the Radicals have not seriously contended for the presidency since 1999, leaving the party's status as a national-level electoral force very much in doubt.

The UCR's collapse has not been accompanied by the emergence of stable new parties. The spread of mass-media technologies has reduced politicians' incentives to invest in party organization, and the volatility of the urban middle-class electorate that became "available" after the UCR's collapse has made it difficult to consolidate new partisan alternatives. With numerous forces—including, beginning in 2003, the Kirchner government—competing for ex-Radical votes, no significant non-Peronist alternative has taken root. All the major new parties that emerged during the 1980s and 1990s were weakly organized and failed to extend beyond the major metropolitan centers. None survived for much more than a decade. The two new parties that emerged in 2003, ARI and the MFR, have fared little better. The MFR received just 1 percent of the vote in 2007 and has been effectively displaced by the center-right PRO (another Buenos Aires-centered party). The ARI, meanwhile, suffered a serious schism following the 2007 election.

Since the 1940s, only the Peronists and the UCR have built national organizations, mobilized large memberships, and established stable identities in the electorate. With the collapse of the UCR, the non-Peronist half of the party system has become a fragmented collection of personalistic vehicles, local patronage-based machines, and short-lived programmatic parties. The result has been increasing fragmentation and fluidity.

The weakness of the non-Peronist opposition has several important consequences. Most obviously, it leaves the opposition increasingly incapable of challenging the PJ in the electoral arena. In both 2003 and 2007, non-Peronist forces were divided into two or three camps, none of which posed a credible electoral (much less governing) alternative. As a result, the PJ emerged as the *de facto* dominant party. In the 2003 presidential election, the top two finishers were *both* Peronists, and in the 2005 legislative elections, no non-Peronist party won even 10 percent of the national vote. In presidential elections, opposition-party weakness might be overcome with relative ease. Because much of Argentina's large middle-class electorate leans anti-Peronist, a coalition of non-Peronist forces (as in 1999), or even a candidate who emerges as a focal point for non-Peronist voters, might be sufficient to defeat PJ presidential candidates.

At the provincial and legislative levels, however, the implications



of opposition weakness are more serious. Because the smaller interior provinces—where PJ dominance is greatest—are overrepresented in Congress, non-Peronist representation in that body is eroding. After the 2007 election, the pro-Kirchner bloc in the Chamber of Deputies was more than twice the size of the three largest opposition blocs combined. In the Senate, PJ dominance was reinforced by malapportionment and an electoral rule, established in 1994, that grants two Senate seats to the first-place finisher in each province and a third seat to the party that finishes second. Due to a combination of opposition weakness and provincial-level Peronist schisms, which led to the emergence of two and even three pro-Kirchner tickets, pro-Kirchner slates finished first *and* second (thus collecting all three Senate seats) in provinces such as Salta, Santiago del Estero, and Rio Negro (where the minority seat was won by a K Radical). Pro-Kirchner forces captured 42 of 72 Senate seats, which—together with allied provincial parties—gave them nearly two-thirds of the upper house.

### Danger Signs Ahead

Although the PJ's electoral dominance is unlikely to lead to the emergence of a hegemonic regime, it is likely to have several negative consequences for democracy. First, although opposition forces remain capable of winning the presidency, they are increasingly incapable of governing. As Calvo and Murillo have argued, opposition parties' weakness in the legislature, in the provinces, and in society make governing extremely difficult,<sup>14</sup> since non-Peronist presidents are almost certain to confront Peronist-controlled legislatures and mostly Peronist governors. And given opposition parties' limited grassroots presence and weak ties to unions, business associations, and other social actors, non-Peronist presidents would be vulnerable to the kind of governability crises that destroyed the Alfonsín and de la Rúa presidencies.

Opposition-party collapse may also exacerbate Argentina's crisis of political representation. The failure of the Alianza government in 1999 to 2001 left much of the non-Peronist electorate without effective partisan representation. It was largely these "orphaned" voters who cast blank and spoiled ballots in the 2001 election and swelled the ranks of the *Que se vayan todos!* protests in 2001 and 2002.<sup>15</sup>

Finally, even if Néstor and Cristina Kirchner are unlikely to violate seriously the democratic rules of the game, the absence of a credible opposition or serious electoral competition threatens to diminish executive accountability even further. At the very least, the lack of oversight and accountability increases the risk of major policy mistakes. As Argentine history has shown repeatedly, moreover, low executive accountability also increases the likelihood of corruption and other serious abuses.

A second challenge facing Argentine democracy is the persistent

problem of institutional weakness.<sup>16</sup> Institutional strength may be defined along two dimensions: 1) *enforcement*, or the degree to which the rules that exist on paper are complied with in practice; and 2) *stability*, or the degree to which formal rules survive minor fluctuations in the distribution of power and preferences.<sup>17</sup> Many Argentine political and economic institutions are weak on one or both of these dimensions.

Between 1930 and 1983, Argentina suffered a long era of regime instability—marked by six military coups—during which the Constitution, the electoral system, Congress, the Supreme Court and other institutions were repeatedly suspended, circumvented, or modified. This established a pattern of institutional fluidity that persisted for decades. To take one example, from 1928 to 2003, not a single presidential term prescribed by the constitution was ever complied with in full. In 1930, 1962, 1966, 1976, 1989, and 2001, elected presidents were removed before the end of their respective mandates. Two presidents—Perón and Menem—completed their terms, but both of them modified the constitution to permit a second term. Similarly, although the constitution guarantees Supreme Court justices lifetime tenure, this constitutional guarantee has been routinely violated since the 1940s, as incoming governments—both civilian and military—have routinely removed unfriendly justices and replaced them with allies.<sup>18</sup>

Argentina's core democratic institutions—elections, civil liberties, and civilian control of the military—strengthened considerably after 1983. Nevertheless, many areas of political and economic life remain plagued by institutional weakness. During the 1990s, the rules of the game governing executive-legislative relations, the judiciary, federalism, candidate selection, taxation, and central-bank independence were repeatedly challenged, violated, manipulated, or changed. Some patterns of institutional manipulation continued under Kirchner. Examples include the reform of the Magistrates' Council, the 2006 "superpowers" law that granted the president vast discretionary authority over the budget, the elimination of open primaries to nominate presidential candidates (a law established in 2002), and the government's assault on the once-independent state statistical agency, INDEC, by firing INDEC technocrats and creating dubious new procedures for calculating inflation.

In other areas, the Kirchner government respected the letter of the law while violating its spirit. Thus, although Congress's impeachment or threatened impeachment of six of nine Supreme Court justices—which was encouraged by Kirchner—was legal, it reinforced the pattern of executive encroachment that has existed since the 1940s. More ambiguous, perhaps, was Cristina Kirchner's presidential candidacy. The Kirchner team almost certainly sought to extend its stay in the presidency beyond two terms. Yet as we have seen, an effort to modify the constitution to permit Néstor a third term would almost certainly have met widespread societal opposition. Cristina's presidential bid—which would allow

Néstor to run again in 2011—was legal, but it nevertheless smacked of institutional manipulation, especially since Ms. Kirchner enjoyed most of the privileges of incumbency during the campaign.

Persistent institutional weakness has had serious consequences for the quality of Argentine democracy. Compared to other middle-income democracies in the region (Brazil, Chile, Mexico, Uruguay), institutions of horizontal accountability remain weak in Argentina, permitting a higher degree of executive domination. Compared to these other democracies, Argentina's legislative and judicial branches are underdeveloped.

The Argentine Congress has few experienced leaders, virtually no professional staff, and little technical expertise, and its committee system and oversight bodies are poorly developed.<sup>19</sup> Legislative ineffectiveness is rooted in several factors, including the military's repeated closures of Congress between 1930 and 1976. And whereas the Brazilian, Chilean, and Mexican legislatures grew steadily stronger during the 1990s and 2000s, Argentina's did not. Since 1989, core legislative functions have repeatedly been delegated away via "emergency laws" that have granted budgetary and regulatory "superpowers" to the executive. Moreover, few politicians have invested seriously in legislative careers: The average legislative career in Argentina is 2.9 years, compared to 5.5 years in Brazil, 8 years in Chile, and 9 years in Uruguay.<sup>20</sup> "Amateur" legislators are less likely to invest in specialization, in serious committee work, or in building effective institutions of legislative oversight.<sup>21</sup> Indeed, the Argentine Congress is deficient in all these areas. On the Congressional Capability Index compiled by Ernesto Stein and his coauthors, which measures technical expertise, committee strength, and the professionalization of legislators, Argentina scores "low" (along with Guatemala, Honduras, and Peru), whereas Brazil, Chile, and Uruguay rank "high" and Mexico ranks "medium."<sup>22</sup>

A similar story can be told about the judiciary. On the World Economic Forum's 2004 index of judicial independence, Argentina ranked thirteenth out of eighteen Latin American countries—below Ecuador, Guatemala, Honduras, and Peru. By contrast, Uruguay ranked first, Chile second, Brazil third, and Mexico sixth.<sup>23</sup> A major source of executive dominance over the judiciary is the insecurity of judicial tenure. Although lifetime tenure for Supreme Court justices has been enshrined in the constitution since 1853, it has been violated repeatedly since the 1940s.<sup>24</sup> This did not change with democratization. Indeed, three of the four presidents popularly elected between 1983 and 2003 (Alfonsín, Menem, and Néstor Kirchner) pushed successfully for the removal of sitting justices. Due to repeated court packing, the average tenure of Argentine Supreme Court justices between 1960 and 1995 was barely four years, which is less than half the corresponding figure in Brazil and less than a third of that found in Chile.<sup>25</sup>

Crisis and institutional weakness tend to be mutually reinforcing. In-

stitutional weakness increases the likelihood of political and economic crisis, which in turn triggers efforts to circumvent or change the rules. For example, the 2001–2002 crisis gave rise to widespread demands that the institutional slate be wiped clean (again): There were calls for immediate elections, a purge of the Supreme Court, a new constitution, and an overhaul of the electoral system. The crisis clearly facilitated Kirchner's encroachment on legislative and judicial authority. Although his actions did help to restore credibility to many public institutions, they nevertheless reinforced the dominant pattern since 1930: When crises hit, the players and the rules are changed. The Supreme Court provides a clear example of this dilemma. During the 2001–2002 crisis, many Argentines complained about the absence of judicial independence *and* demanded a purge of the Court. Kirchner's purge produced a better and more publicly legitimate Court, but it came at the cost of another blow to the institution of secure judicial tenure, thereby reinforcing existing patterns of judicial weakness.

### **Missed Opportunities, Unfinished Business**

Despite his successes, Néstor Kirchner missed several opportunities to improve the quality of Argentine democracy. Consequently, his wife inherited unfinished business on several important fronts. On the economic front, inflation—a longstanding problem that has often had deleterious political consequences in Argentina—rose considerably after 2003. Price controls and measurement shenanigans notwithstanding, the Kirchner government was unwilling to undertake growth-inhibiting measures that most economists deemed necessary to combat price hikes. Although favorable currency conditions and commodity prices limited inflation's impact on Argentina's international competitiveness, the government's "official index," which lacks credibility, could not disguise domestic price increases. Argentina also faces a looming energy crisis, as increasing demand—caused by price controls and economic growth—runs up against limited supply due to lack of investment. Argentina will become a net energy importer in 2008, and despite increased public-sector investment and scheduled price increases, the country may soon face costly shortages.

The new Kirchner government also faces a problem of public security. In the aftermath of the 2001–2002 crisis, the level of violent crime increased markedly—and, crucially, so did the public perception that crime was a problem. Moreover, governments had failed repeatedly to reform police forces that were known to be corrupt and complicit in criminal activity. Néstor Kirchner launched an overhaul of the police force, but his alliances with progressives and human rights groups and his own ideological orientation left him reluctant to adopt classic "law-and-order" policies that might threaten civil liberties. Indeed, Kirch-

ner publicly rejected calls for “strong-hand” policies. He refused to use force against street blockades and other forms of civil disobedience, and he appointed Supreme Court justices known for their commitment to defendants’ rights.

This opened up space for law-and-order appeals on the right. The salience of the public-security issue was evidenced by the rise of Juan Carlos Blumberg, a businessman who led a series of massive demonstrations in Buenos Aires after his son Axel was kidnapped and killed in 2004. Although the crime issue did not translate into electoral support for the right in 2007—Blumberg ran for governor of Buenos Aires and fared poorly—the issue still looms large in public opinion. Balancing public demands for security with her commitment to civil and human rights will be a major challenge for Cristina Kirchner. As in other Latin American countries with left-of-center governments, failure on the public-security front could fuel the rise of law-and-order populism, which could place many hard-won civil liberties at risk.

In the area of social policy, Néstor Kirchner missed an opportunity to redistribute wealth and reduce income inequality. Though widely considered left-of-center, the Kirchner government neglected social policies aimed at combating poverty. Indeed, despite unprecedented fiscal health, the government did not invest heavily in either conditional cash transfers to the poor, or health and education programs for them, as did the left-of-center governments of Brazil and Chile. Indeed, social programs established to deal with the poverty emergency created by the 2001–2002 crisis, such as the *Jefes y Jefas* (Heads of Household) program, were scaled back. Rather than create new social programs, the Kirchner government invested heavily in public works. Consequently, although unemployment and poverty rates declined sharply under Kirchner, these declines were rooted almost entirely in economic growth. In fact, levels of poverty and inequality remained higher in 2007 than they were during the mid-1990s.

Thus after four years of a left-of-center Peronist government with vast resources at its disposal, levels of inequality and social marginality, which had increased markedly since the 1970s, remained high. Although high demand for labor improved salaries and conditions for the formal-sector workforce, the conditions facing informal-sector workers, and particularly the “structurally unemployed,” remained bleak. Until recently, high levels of marginality and inequality were relatively unknown in Argentina. If these problems are not addressed, they could lead to the kind of social polarization and conflict that has all too frequently threatened the stability of Latin American democracies.

Finally, Néstor Kirchner’s government did little to strengthen political institutions. Mr. Kirchner’s extraordinary popularity created a rare opportunity to invest in institution-building. By doing so, Kirchner could have avoided the fate that befell nearly all of his predecessors: seeing

initial successes wiped away by subsequent crises and policy overhauls. For the most part, however, Kirchner did not engage in institution-building. Argentina's political and economic institutions remain strikingly weak—far weaker than those of Brazil, Chile, Mexico, or Uruguay. As a result, the economy and polity that his wife inherits remain vulnerable. Argentina has been down this road before. Good times notwithstanding, the specter of yet another crisis remains.

## NOTES

1. Sebastián Etchemendy and Ruth Berins Collier, "Down but Not Out: Union Resurgence and Segmented Neocorporatism in Argentina (2003–2007)," *Politics and Society* 35 (September 2007): 363–401.

2. See Ernesto Calvo and María Victoria Murillo, "How Many Clients Does It Take to Win an Election? Estimating the Size and Structure of Political Networks in Argentina and Chile," paper presented at the Elections and Distribution Workshop, Yale University, 26–27 October 2007.

3. On average, Argentine provinces depended on the federal government for 50 percent of their income in 2007. See Mara Laudonia, "Las provincias agotaron los beneficios fiscales de la devaluación," *iEco (Clarín)* [Buenos Aires], 6 December 2007. Available at [www.ieco.clarin.com/notas/2007/12/06/01558399.html](http://www.ieco.clarin.com/notas/2007/12/06/01558399.html).

4. See Enrique Peruzzotti, "Towards a New Politics: Citizenship and Rights in Contemporary Argentina," *Citizenship Studies* 6 (March 2002): 77–93.

5. Enrique Peruzzotti, "The Nature of the New Argentine Democracy: The Delegative Democracy Argument Revisited," *Journal of Latin American Studies* 33 (February 2001): 142.

6. Catalina Smulovitz and Enrique Peruzzotti, "Societal Accountability in Latin America," *Journal of Democracy* 11 (October 2000): 147–58.

7. Mariano Grondona, "El Despertar de la Resistencia Republicana," *La Nación* (Buenos Aires), 27 August 2006.

8. Mark Jones et al., "Congress, Political Careers, and the Provincial Connection," in Pablo T. Spiller and Mariano Tommasi, eds., *The Institutional Foundations of Public Policy in Argentina: A Transactions Cost Approach* (New York: Cambridge University Press, 2007).

9. Indeed, the difficulty of achieving legislative discipline helps explain why Cristina Kirchner sought an extension of emergency executive-decree authority—despite the PJ's overwhelming legislative majority—immediately after taking office.

10. *Página/12* (Buenos Aires), 2 January 2006.

11. *Clarín*, 13 July 2007.

12. Omar Sanchez, "Argentina's Landmark 2003 Presidential Election: Renewal and Continuity," *Bulletin of Latin American Research* 24 (October 2005): 457.

13. Enrique Peruzzotti, "Demanding Accountable Government: Citizens, Politicians, and the Perils of Representative Democracy in Argentina," in Steven Levitsky and María Victoria Murillo, eds., *Argentine Democracy: The Politics of Institutional Weakness* (University Park: Penn State University Press, 2005), 229–49.

14. Ernesto Calvo and María Victoria Murillo, "Who Delivers? Partisan Clients in the Argentine Electoral Market," *American Journal of Political Science* 48 (October 2004): 742–57; and Calvo and Murillo, "The New Iron Law of Argentine Politics? Partisanship, Clientelism and Governability in Contemporary Argentina," in Levitsky and Murillo, eds., *Argentine Democracy*, 207–26.
15. Marcelo Escolar and Ernesto Calvo, "Últimas imágenes antes del naufragio: Las elecciones del 2001 en Argentina," *Desarrollo Económico* 42 (January–March 2003): 25–44; Juan Carlos Torre, "Citizens versus Political Class: The Crisis of Partisan Representation," in Levitsky and Murillo, eds., *Argentine Democracy*, 165–80.
16. See Carlos Nino, *Un país al margen de la ley* (Buenos Aires: Emecé, 1992); Guillermo O'Donnell, "Delegative Democracy," *Journal of Democracy* 5 (January 1994): 55–69; and Levitsky and Murillo, eds., *Argentine Democracy*.
17. Steven Levitsky and María Victoria Murillo, "Conclusion," in Levitsky and Murillo, eds., *Argentine Democracy*, 270–75.
18. Gretchen Helmke, *Courts under Constraints: Judges, Generals, and Presidents in Argentina* (New York: Cambridge University Press, 2004).
19. Scott Morgenstern and Luigi Manzetti, "Legislative Oversight: Interests and Institutions in the United States and Argentina," in Scott Mainwaring and Christopher Welna, eds., *Democratic Accountability in Latin America* (New York: Oxford University Press, 2003).
20. Ernesto Stein et al., *The Politics of Policies: Economic and Social Progress in Latin America, 2006 Report* (Cambridge: Harvard University Press, 2006), 55.
21. Mark P. Jones et al., "Amateur Legislators—Professional Politicians: The Consequences of Party-Centered Electoral Rules in a Federal System," *American Journal of Political Science* 46 (July 2002): 656–69.
22. Stein et al., *Politics of Policies*, 55.
23. Stein et al., *Politics of Policies*, 88.
24. Helmke, *Courts under Constraints*.
25. Stein et al., *Politics of Policies*, 86.