POLICYMAKING, PARTIES, AND INSTITUTIONS IN DEMOCRATIC COSTA RICA*

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A B S T R A C T

Policymaking, Parties, and Institutions in Democratic Costa Rica

This paper finds that developments in Costa Rica are consistent with the claim that a small number of partisan and policy actors can, if their decision-making is transparent, develop long-term agreements to establish effective public policies. This paper argues that highly competitive elections encouraged parties to develop policies to placate the median voter. It explains how effective policymaking is also a product of an innovative constitutional design, one that bans a standing army, minimizes inter-branch conflict, and that devolves important policymaking responsibilities to an independent bureaucracy. On the positive side, a robust inter-temporal agreement led to economic growth and progress on social and economic indicators for which the country is internationally famous. On the negative side, the policymaking process (PMP) failed to adjust to prevent a balance of payment troubles from snowballing into the 1982 debt default. Consensus over key policies also has not become the basis of a broader agreement to lower chronic fiscal deficits, to reverse falling levels of public investment, to make additional progress in the fight on poverty (though the PMP was able, in less than a decade, to lead to pre-1982 inequality and poverty indices), nor to make the economy more competitive. This paper shows why a less than transparent PMP has fueled the rise of independents in the electorate. It also shows why disintegration of the two-party system in the 1990s, the emergence of new veto players (e.g., the Constitutional Chamber), and collusive agreements between public and private actors are leading to public policies that are increasingly rigid, less coherent, and less public regarding.

INTRODUCTION

Do a small number of partisan and policy players help establish effective public policies? Drawing upon noncooperative game theory, Pablo Spiller and Mariano Tommasi (2003) respond in the affirmative. They argue that a few actors can develop the inter-temporal agreements to underpin public policy responsiveness to political and economic change. If their decision-making is observable and they can delegate complex policy tasks to bureaucratic agencies, political actors will invest in public policies with positive externalities for their societies.

Costa Rica arguably has one of the best states in Latin America—and is therefore a case that should display these hypothesized conditions. The 2002 average of the six World Bank Governance indicators rank the country at the 77 percentile, some 22-percentage points higher than its regional counterparts and 14 points higher than the average country in its income category (Kaufman, Kray, and Mastruzzi, 2003). The 2003 Bertelsmann Management Index (Bertelsmann Foundation, 2004), a composite measure of the ability of a political system to build agreements to solve social problems, ranks Costa Rica as the 8th most successful case among 110 developing countries it examines.

Most development indices also favorably rank Costa Rica. The country's GDP per capita increased four-fold between 1950 ($847) and 2000 ($3,315, in 1990 US$) in a region where GDP per capita has barely doubled during this period (PEDN, 2004: 398). Along with Uruguay, it has one of the best income distributions in Latin America. Gini coefficients hover below 0.45 during the 1990s, one of the lowest rates of inequality in Latin America (World Bank, 2004: 44). The United Nations Development Program's Human Development Index places Costa Rica into the category of an upper-middle income country. In the 1990s, Costa Rica has oscillated from being ranked the 28th in 1991 and 1995 to 48th in 2000 (PEDN, 2003: 399).

Political scientists have long admired a case of successful presidential democracy. After the United States, it is Costa Rica that has had the longest, continuous period of democratic stability with a presidential form of government. Standoffs between the executive and the legislature have never been the backdrop for a presidential assault on the political system. Since the late nineteenth century, Costa Ricans have participated in competitive elections that, by mid-twentieth century, have been devoid of fraud and violence and have no restrictions on the franchise (Lehoucq, 1996). The 1949 constitution also proscribes the existence of a standing army.

The Costa Rican political system also uses an innovative constitutional design, one that contributes to reducing the stakes of political conflict and that promotes a consensual style of decision-making. Instead of splitting each function of government between two or more parts of government, the 1949 Constituent entrusts each ministry or agency with one function of government, a principle of constitutional design that embodies what Bruce Ackerman (2000) calls the new separation of powers. As a result, the Costa Rican political system devolves important policymaking responsibilities to autonomous institutions, ones whose budgets the executive does not propose and the legislature does not approve. Health care, old age pensions, monetary policy, and electoral governance are among the policy areas not under the direct purview of the two elected branches of government and entrusted to independent agencies. An independent judiciary, especially since the establishment of the

Constitutional Chamber in 1989, has become an aggressive defender of individual rights and an assertive interpreter of the powers of, and boundaries between, the branches of government.

If the game theoretic account of effective policymaking is useful, the antecedent conditions of Spiller and Tommasi's theory should be present in Costa Rica. It is therefore a "positive" case for theory development because the explanadum—policy effectiveness—is largely present, even though it has been declining in quality since the 1982 crisis. Having ironed out their differences about the rules over political succession by the late 1950s, a small number of partisan and policy players did develop an inter-temporal bargain that protects civil liberties, foments democratic competition, and promotes human development.

The public-regarding nature of Costa Rican public policy, nevertheless, is more of a product of intensely competitive elections than of a small number of partisan players. Though oligopolies can stabilize political as well as economic markets, they can also reach collusive agreements to exploit consumers or, as the case may be, citizens. Thankfully, Costa Rican politics was sufficiently competitive to keep politicians focused on placating the median voter, even while partisan familiarity spawned collusive agreements during this period. A bipolar party system—one that only resembled a 2-party system between 1982 and 1998—simultaneously encouraged parties to echo the preferences of the median voter while simultaneously allowing them to conceal key political decisions and to engage in a bit of institutional hardwiring. By the early 2000s, an electorate demanding transparency and accountability abandoned the bipolar system.

The first section of this paper analyzes the country's political and economic trajectory during the twentieth century. A decades-long struggle to reduce the powers of the elected branches of government and to establish transparent and fair electoral institutions, which culminates with the promulgation of the 1949 constitution, laid the institutional foundations for policy effectiveness and economic growth. The second section discusses the outer features of public policy since the late 1950s, distinguishing between two sub-periods. The first period runs from the late 1950s until the 1982, when economic policymakers protected a nascent industrial sector as part of the Central American Common Market (CACM). The second period starts as the economy collapsed by 1982, when the government defaulted on international loans, and policymakers liberalized trade and enacted important financial reforms.

The last two sections of this paper identify the political and institutional equilibria that contributed to policymaking effectiveness. The first of these—or the third section of the paper—characterizes the nature of the policymaking process (PMP), that is, identifies the key players and how their interaction to produce the outer features of public policy, both before and after the 1980s. The last substantive section of the paper examines the dynamics of four key arenas of the political system: the electoral and party system, executive-legislative relations, the autonomous or core bureaucratic institutions of the state, and the Constitutional Chamber of the Supreme Court. Along with the emergence of new veto players (e.g., the Constitutional Chamber), an increasingly independent electorate and the development of a multi-party system are leading to executive-legislative gridlock and to public policies that are increasingly rigid, less coherent, and less public regarding.

THE POLITICAL AND ECONOMIC TRAJECTORY

Effective policymaking has historical roots. Both recent political economy and Costa Rican traditional historiography emphasize the equalizing and beneficial consequences of colonial isolation and poverty. This section, in contrast, points out that development has political foundations, ones that are a product of decades of electoral competition and partisan stalemate.

The Political Foundations of Economic Growth

While Costa Rica is not rich, there is no doubt that a country with few natural resources has made much of itself in the twentieth century. In 1990 US dollars, its GDP per capita grew from $702 in 1940 to $3,227 in 2003 (PEDN, 2004: 398). In comparative historical terms, the Costa Rican GDP per capita was virtually at the mean of the 15 smallest Latin American countries in 1950. Fifty years later, its GDP per capita was 50 percent higher than these 15 economies (Maddison, 2001: 195). In PPP terms, the Costa Rica GDP per capita in 2000 is $7,980, the sixth highest of 19 Latin American countries (Economist, 2002: 232-5).

During the second half of the twentieth century, development transformed the Costa Rican economy from an exporter of coffee and bananas—which accounted for three-fourths of exports in 1960—to one exporting a wide variety of non-traditional agricultural products, light manufactures, and even sophisticated computer goods. By 1993, these two products account for only a third of all exports (Mesa-Lago, 2000: 515) as a transnational coalition of exporters, state officials, and USAID officials promoted the development of nontraditional exports (Clark, 1995, 1997). Costa Rica is also now a major tourist destination; foreign exchange from tourism equaled roughly a fifth of total export earnings by 2000 (PEDN, 2004: 412). Between 1960 and 1994, the economy has been open: exports and imports have averaged 66.4 percent of GDP. Even during the heyday of Import-Substitution Industrialization between 1965 and 1982, exports to the Central American Common Market (CACM), all of which erected trade barriers with the rest of the world, constituted less than 18.57 of its international trade (both figures are based upon data in Mesa-Lago, 2000: 518).

Costa Rica also is no longer the quasi-mythical country of independent, rural property holders. In 1950, three-fourths of the population of 800,000 lived in rural areas. Fifty years later, only slightly more than half of a population of nearly 4 million resides in rural areas. In 1963, virtually half of the economically active population (EAP) labored in agriculture (Mesa-Lago, 2000: 521). In 2000, just 17 percent of the EAP worked as agriculturalists (PEDN, 2004: 400). The literacy rate, higher than the Latin American average in first half of the twentieth century, went from 79.4 percent of the population in 1953 to 94 percent by 1992 (Mesa-Lago, 2000: 531).

Two approaches vie to explain the country's economic trajectory. The first emphasizes a history of colonial poverty and sparse settlement. Recent comparative political economy (Acemoglu, Johnson, and Robinson, 2001; Mahoney, 2003) suggests that Costa Rican exceptionalism is a product of these deep roots. Like Chile and Uruguay (two other regional poster kids), Costa Rica was on the margins of the Spanish empire and contained a small indigenous population. This is very much the story that Costa Ricans tell about themselves (for a critical overview, see Gudmundson, 1986); it is a story that emphasizes the equalizing effects of poverty on social and political development. Settlement patterns of the distant past, according to this view, therefore explain why Costa Rica has an enviable political economic trajectory.

A second approach points out that economic and political trajectories are the product of a large number of temporally linked choices, whether it is the choice to invest for economic or political profit. Deep roots may explain the presence or absence of broad-scale consequences, but such factors cannot explain why agents took advantage of limited economic resources (e.g., Costa Rica) or despoiled them (e.g., Argentina). Moreover, sparsely settled countries with small, indigenous populations like Honduras and Nicaragua had political economic trajectories that began to diverge sharply from Costa Rica's by the second half of the twentieth century. So, another more fruitful area for inquiry includes understanding the development of democratic institutions and their impact—through the provision of effective public policies—on the country's economic performance.

Costa Rica has had a competitive political system for more than a 100 years. I date full democracy, that is, a political system where virtually all political forces can compete for elected offices where the entire adult population is entitled to vote, from the late 1950s, when the losers of the 1948 civil war returned from exile and began to compete for elected offices once again (Bowman, Lehoucq, and Mahoney, 2006). The one exception was the ban on anti-democratic parties that kept the Popular Vanguard Party (PVP), the Costa Rican Communist Party, out of politics until 1975, when the Supreme Court declared this ban unconstitutional. Since 1958, when the incumbent Party of National Liberation (PLN) reluctantly conceded defeat in the presidential elections of this year (Bowman, 2003), executives and legislators have come to power in concurrent and quadrennially scheduled elections renown for their openness and fairness. Between 1949 and 2002, when suffrage rights have been universal, turnout has involved more than 77 percent of the adult population. Between 1901 and 1948, Costa Ricans participated in elections that, because of de facto universal male suffrage rights, involved from 50 to 80 percent of adult males (Lehoucq and Molina, 2002).

Institutionalizing competitive and fair elections—and the gradual development of the rule of law and social welfare legislation—was not the inevitable outcome of the struggle between presidents and their rivals. The 1871 constitution, the immediate predecessor of the 1949 charter, gave the executive the upper hand in shaping elections. Though Congress was constitutionally empowered to certify election results, it was the president who was responsible for assembling the electoral registry, for organizing and naming most officials at polling stations, and for the tally of the vote. Far from balancing the executive and legislative branches of government, the classical theory of electoral governance encouraged the president to pack the legislature with his supporters to minimize its ability to check his arbitrary use of state powers (Lehoucq, 2002).

These attributes transformed the race for the presidency into a contest whose rules were continually violated. If he was willing to risk attempts on his life, the president could manipulate electoral laws for partisan advantage and then ignore the handful of his opponents who managed to obtain seats in Congress. Indeed, as the number of opposition legislators declined, the probability that the incumbent would become the target of coup attempts increased. Between 1882 and 1955, three incumbents managed to impose their successors on the presidency. During this period, opposition movements also launched 26 rebellions against central state authorities, 3 of which succeeded in installing a new incumbent on the presidency (Lehoucq, 1996).

Political dynamics during the 1940s, the decade in which parties forged so many of the institutions of contemporary Costa Rica, were part of this long-term pattern. Political competition again began to polarize once President Rafael Angel Calderón Guardia (1940-4) of the National Republican Party (PRN) deployed the powers of the presidency to exclude his opponents from the political system. The election of Teodoro Picado to the presidency in 1944 was widely perceived as a product of his predecessor's machinations, even if analysis reveals that officially sponsored fraud was not the reason why the opposition lost these elections (Lehoucq and Molina, 2002: 190). Equally destabilizing was the marginalization of the opposition in Congress: between 1940 and 1944, the PRN and the PVP held approximately three-fourths of all legislative seats. By upsetting the delicate balance of power responsible for maintaining political stability, President Calderón Guardia provoked the formation of groups dedicated to the use of force to capture state power.

Two hardliners, who would play pivotal roles in redesigning the state in subsequent years, outdid each other in lambasting the efforts of pro- and anti-government moderates to stabilize political competition. José Figueres, who would later seize power in a brief civil war and help found the PLN in 1951, spent much of the 1940s plotting against a government that had exiled him briefly in the early 1940s. Otilio Ulate of the National Union Party, a famed journalist, who would later break with Figueres and the PLN, became the opposition's 1948 presidential candidate. Both succeeded in polarizing electoral competition, despite the fact that pro- and anti-government moderates had enacted an Electoral Code in 1946 and that opposition parties elected 40 percent of the deputies in the midterm elections early that year. Once former President Calderón Guardia announced, in late 1946, his intention to run in the 1948 presidential elections, opposition moderates joined opposition hardliners in the nastiest and most violent election of Costa Rican history.

Preliminary results indicated that the opposition had won the 1948 elections. Once the semi-autonomous National Electoral Tribunal declared Ulate the winner, the PRN-dominated Congress used its constitutional right to annul the election on 1 March. The pro-government majority argued that the opposition-controlled Electoral Registry had deprived thousands of its followers of electoral identification cards and thus the right to vote. In the weeks that followed, efforts to negotiate a pact between government and opposition became irrelevant as a ragtag army led by Figueres won the two-month civil war.

Political Stalemate and Institutional Innovations

Political stalemate continued as the military and political wings of the opposition split in the post-civil war period. In control of the only armed force left in the country, Figueres and the insurgents formed a junta that forced the PUN to wait eighteen months (until December 1949) before Ulate could become president. In the interim, the junta lost the elections for a National Constituent Assembly it held in 1948. The PUN-dominated Constituent Assembly quickly moved to strip the junta of its legislative powers and to restrict its ability to issue emergency decrees. The pro-junta delegates also failed to gain approval for the junta's draft constitution calling for a dramatic expansion of the role of the state in public affairs. In the end, the pro-junta minority got many of the junta's proposals incorporated in the revised version of the 1871 constitution that Assembly delegates ultimately approved.

The single most important reform was to remove the elected branches of government from electoral administration and adjudication. The Congressional decision to invalidate the

1948 presidential election results, coming after decades of partisan clashes over executive and legislative meddling in election outcomes, deprived the classical approach to election administration of what little legitimacy it still possessed. That the opposition won the ensuing civil war and came to dominate the 1949 Constituent Assembly empowered it to depoliticize electoral governance, especially since its candidate, Ulate, was the alleged victim of the legislative decertification of 1948 election results (Lehoucq and Molina, 2002). Assembly delegates built upon the 1946 Electoral Code and made the Supreme Tribunal of Elections (TSE) solely responsible for election administration. The three TSE magistrates serve staggered, six-year terms, which the Supreme Court elects. Made a branch of government equal to the other three in 1975, the TSE is solely responsible for calling elections, appointing members of all polling stations, and interpreting legal and constitutional provisions relating to electoral matters.

The Constituent Assembly also ratified another major institutional innovation pioneered by the revolutionary junta: no standing army. As a share of the national budget, the military budget had gone into a decline since the 1920s. The military then disintegrated as the government lost the 1948 civil war. Quickly thereafter, the junta banned the military to preserve its own military position. As the section on the public-regardedness of public policy shows, the absence of a standing military liberated additional monies for human development, a factor that helps to explain the country’s high level of human development (Bowman, 2003).

Constitutional reformers also left electoral systems largely undisturbed, ones that maximize the possibility that the elected branches of government represent the interests of the median voter. Dating from 1936, qualified system of plurality rule requires the winner to obtain more votes than any rival and to win at least 40 percent of the valid vote. My calculations suggest that the winning contender in all but three of the fourteen presidential races held since 1953 has been the candidate who appealed most successfully to the median voter (Lehoucq, 2004). The use of proportional representation (PR) to elect the Legislative Assembly also produces a median deputy who more or less echoes the preferences of the median voter. PR electoral laws ensure that a chamber consisting of 57 representatives elected in 7 multi-member districts reflect the views and diversity of tastes of society. Though the 1871 constitution prohibited presidents from standing for consecutive reelection, the 1949 extended this ban to cover congressmen. Elections are held concurrently (and using separate ballots) every 4 years.

Creating the decentralized sector or the autonomous institutions was part of the constitutional convention’s effort to remove as many functions of the modern state from the purview of the elected branches of government. Autonomous institutions have programmatic and budgetary autonomy; they often have specific or protected revenue sources and their budgets do not require executive and legislative approval. Perhaps the most prominent of these is the Board of National Social Security (CCSS), founded in 1943. By the 1990s, this institution provided medical care for nearly 68 percent of the salaried and unsalaried EAP and their families (PEDN, 2004: 403). Other social welfare institutions include the Children's Hospital (1964), the Mixed Institute of Social Assistance (1971), the National Institute of Housing and Urban Issues (1954) and the National Ward for the Blind (1957).

THE OUTER FEATURES OF PUBLIC POLICIES

In this section, I use Spiller and Tommasi's transaction-cost framework (1993) to identify the policymaking dimensions along which the state has and has not performed well. First, policymaking has been stable since the 1950s. Succeeding governments have built upon the policy successes of their predecessors. As a result, there has only been one major change in policy orientation since the mid-twentieth century. Between the 1950s and the 1982 debt default, ISI policies and an activist state stimulated development without, however, closing what is an economy always dependent upon exports for wealth generation. Second, public policies were more coherent and coordinated before the 1982 debt crisis. State monopolies in strategic sectors sit uncomfortably with a vibrant, export-oriented economy and erode its competitiveness.

Third, public policies have become less flexible with time. The inability to raise taxes or cut expenditures means that the Costa Rican state is chronically running a fiscal deficit. Strict monetary policies helped maintain the viability of a fixed exchange rate until 1982, when the divided government of President Rodrigo Carazo (1978-82) was forced to devalue the *colon* and defaulted on the public debt. Fourth, the investment-related qualities of public policies have been high, though investment has suffered since the mid-1980s and public policies have been remarkably public regarding, allowing impressive progress on a host of social indicators. Again, the public-regardedness of policy has declined since the debt default.

The Stability of Public Policies

Policies have are remarkably stable in Costa Rica, despite wholesale change in incumbents every 4 years given the ban on consecutive reelection. Even when PLN governments started to expand the role of the state in the economy in the 1950s, more liberal governments did (or could) not roll back the growth of the public sector. The consolidated public sector (both the central and decentralized sectors) went from spending 17.9 percent of GDP in 1950 (Wilkie, 1974) to 54 percent by 1994 (Vargas Madrigal, 1994).

None of the 73 constitutional amendments enacted between 1949 and August 2000, for example, has radically changed the letter or the spirit of the 1949 charter (count based upon Arias Ramírez, 2000). There have been no substantial changes to the structure of executive-legislative relations. Electoral formulae and district boundaries have undergone no modification. No amendment has undermined the core principles of constitutional design: neither the division between the central state and the autonomous institutions nor the absence of overlapping jurisdictions between the parts of government (e.g., Ackermann's [2000] "new separation of powers") has been violated. Despite efforts to have the legislature debate and approve the budgets and plans of the autonomous institutions, the agencies of the decentralized sector remain insulated from the elected branches of government. Only in 1968 did legislative majorities require them to follow central government dictates for the public sector while explicitly preserving their autonomy in internal administrative affairs and to fulfill their mandates as they see fit.

As a result, an autonomous Central Bank continues to define monetary policy and exchange rate policy. The CCSS still plays a predominant role in health care and pensions policy. More than 100 other autonomous institutions continue to play leading roles in areas as diverse as higher education, commercial banking, electoral governance, and water supply.

Institutional stability is both testimony to a robust inter-temporal agreement among key partisan and policy players and a safeguard against rapid changes of the political system in which laws are enacted and are modified.

The Declining Coherence and Coordination of Policies

Key public policies were more coherent before 1982. Between the 1950s and 1982, ISI-policies led to the creation of tariff walls to protect domestic industrialists, protection which was extended to the CACM starting in 1963. Based upon a Law of Industry enacted in 1959, the Costa Rican state also began to subsidize credit and foreign exchange for domestic industrialists (González Vega and Céspedes, 1993). In 1972, a PLN government created a privately held corporation (whose board consisted of the president and his ministers or the Council of Government) known as the Costa Rican Development Corporation (CODESA) to create a state directed industrial sector. During this period, both social policy and industrial policy were part of a broader economic development strategy that gradually turned the domestic terms of trade against export agriculture.

Since 1982, policy coherence has declined and its orientation has changed. Many public policies are now geared to promoting export-led development. After the collapse of the CACM in the mid-1980s (as a result of civil conflict in much of Central America), extended negotiations with domestic industrialists and exporters led to the gradual elimination of tariffs on most products during the 1990s (Clark, 2001: 65-8). On the trade component of Eduardo Lora's Structural Reform Index, Costa Rica went from a score of 0.355 in 1985 to 0.902 in 1999. In a rare example of rapid change for Costa Rica, the trade sub-index shot up to 0.752 by 1986. Average tariffs drop from 53 percent 1985 to 3.3 percent by 1999.

Neoliberal governments sold off the inefficient firms in CODESA by 1997. Exempt from the multitude of constitutional articles and laws promulgated since the late 1960s to gain control of the decentralized state sector, CODESA became an elephant that channeled state funds into a panoply of infrequently profitable companies like ALCORSA (the Cotton Corporation) and FERTICA (the Costa Rican Fertilizer Corporation). CODESA grew to such inefficient proportions that it consumed about 18 percent of domestic credit or 50 percent of all the credit available to the public sector in 1984 and generated millions of colones worth of debt by the 1990s (Meléndez Howell and Meza Ramírez, 1993).

By 1994, reform-oriented government also eliminated the price supports for basic grains belonging to the National Production Council (CNP), despite political protest from small and medium-size corn and bean growers (Edelman, 1999). Though the state continues to own 3 commercial banks—the Bank of Costa Rica, the National Bank of Costa Rica, and the Agricultural Credit Bank of Cartago (the fourth, the Anglo-Costa Rican Bank was closed in 1994)—financial reforms of the 1980s allowed private banks to accept foreign loans (Wilson, 1984). An open economy became even more globalized with the development of tourism in the 1990s. When added together, exports, imports, and tourism-generated foreign exchange went from 56.9 percent of GDP between 1983-6 to 96.7 percent between 1995-8 (Lizano and Zúñiga, 1999: 16).

Nevertheless, an open economy with a vibrant export sector sits uncomfortably with state control of several commanding heights of the economy. Between 1985 and 1999, there is virtually no change on the privatization component of Lora's Reform Index, despite the privatization of CODESA and the arrival of private banks (the financial component of Lora's index registers an increase from 0.210 in 1985 to 0.727 in 1999). Costa Rica scores on the privatization index moved from 0.0 to 0.02 by 1999, substantially below the regional mean of 0.259 by the end of the 1990s. The National Insurance Institute (INS) is still an autonomous institute. Telecommunications and electricity remain in the hands of another such institute, the Costa Rican Institute for Electricity (ICE). While ICE has been responsible for providing electricity for every household and for providing every community with telephone service by the late 1970s, lack of investment funds (itself a product of chronic fiscal shortfalls analyzed in the next section) means that, according to a 1997 household survey, 70 percent of rural and 30 percent of urban households do not have phone service, much less cell phone service (Monge, 2000: 281). A 1999 survey of 261 small companies found telecommunications infrastructure to be deficient with the saturation, interruption of, and interference with phone calls cited as common complaints (Monge, 2000: 282).

Policymaking Rigidities and Flexibilities

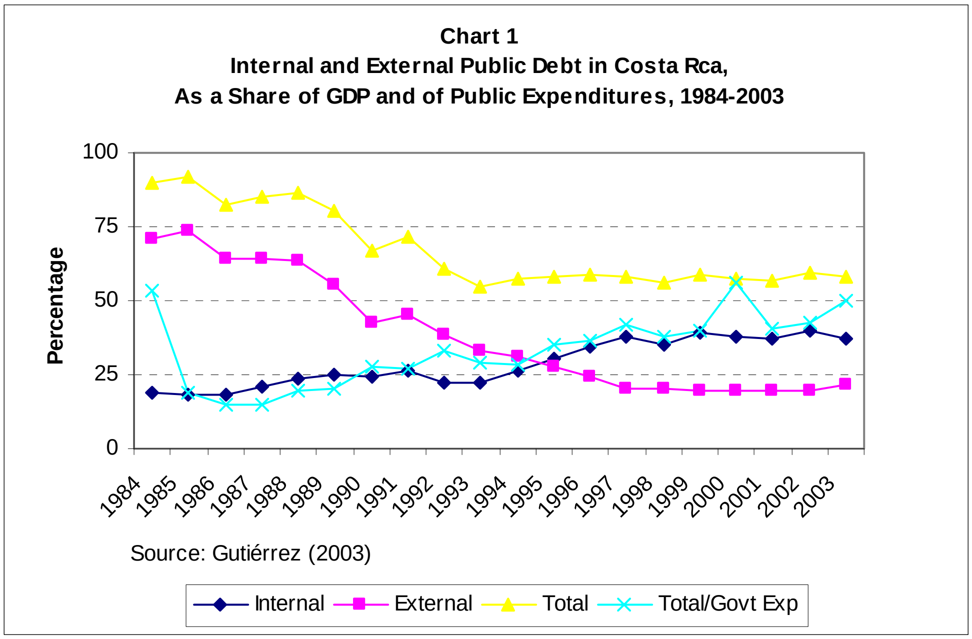
Core features of economic policymaking are rigid. Between 1966 and 1992, the government has run an average annual fiscal deficit of –2.9 percent (Mesa-Lago, 2000: 508). Tax collection rates also remain rigidly low. Between 1975 and 1997, central government revenues remained an average of 14.66 percent of GDP (Vargas Madrigal, 1998: 137). That most decentralized sector agencies—like the CCSS and the Water Commission—charge for their services lessens the impact of such a low tax take. A largely fixed exchange rate—that was an average of 7.1 colones to the US dollar between 1960 and 1980 (Mesa-Lago, 2000: 508)—worked well enough because an independent Central Bank controlled the money supply and the public debt to GDP ratio was an average of 23.6 percent between 1961 and 1980 (Mesa-Lago, 2000: 520).

Monetary discipline concealed important rigidities of the economic policy framework during the heyday of ISI. The 1973 oil shock and the subsequent coffee boom unsettled economic policymaking and led to a major expansion of governmental activities on the false assumption that windfall foreign exchange earnings meant that the country had turned an economic corner. In 1979 and 1980, the current accounts deficit shot up to -10.51 of percent of GDP from an average of -6.67 percent in the previous 18 years (see Mesa-Lago, 2000: 513-4). Inflows of private capital fell to 57 million in 1979 from an average of US $ 134 million in the previous five years as official capital inflows could make up for the difference (González Vega, 1984: 382). Politically powerful interest groups organized to prevent fiscal and exchange rate adjustments and therefore siphoned increasingly scare foreign exchange and government revenues.

Just when policymaking needed to be flexible enough to deal with an ominous economic picture, minority United Coalition (CU) President Rodrigo Carazo (1978-82) refused to readjust macro-economic policy. Both Claudio González Vega (1984) and Eduardo Lizano (1999) are particularly critical of the central government's slow and haphazard response to the crisis. Despite repeated warnings to the contrary from domestic and foreign economists since the late 1970s (for several of the dire forecasts, see Lizano, 1999: 15-8), embattled President Rodrigo Carazo refused to unfix the exchange rate. Government declarations to defend the national currency only fueled the conversion of colones into US dollars and led to a rapid decline in foreign exchange reserves. Rigid adherence to an outdated fixed exchange policy led to haphazard and ultimately ineffectual foreign exchange experiments that, in the context of trade and fiscal deficits, led to a dramatic increase in government indebtedness. The public debt went from 56.2 percent to 125.2 percent of GDP between 1980 and 1981 (Mesa-Lago, 2000: 520). In 1982, the government defaulted on the international debt.

Economic policymaking has become gradually more flexible since 1982. After the government was forced to let the *colón* float, the Central Bank developed a crawling peg system in 1985 as a compromise between a fixed and a floating exchange rate. Newly elected president PLN Luis Alberto Monge (1982-6) began what became a two decade long bipartisan effort to reduce the state's intervention in the economy. Eduardo Lora's (2001) Index of Structural Reform reveals that Costa Rica has been one of the slow reformers. Between 1985 and 1999, Costa Rica shifted from an overall score of 0.306 to 0.557, while the regional averages for each of these years is 0.341 0.583, respectively. Progress has been most advanced in trade as successive governments have gradually lowered trade barriers.

The inability to raise taxes or to cut expenditures discloses a long-term rigidity in economic policymaking. Central state revenues remain an average of 12 percent of GDP between 1991 and 2003. Expenditures, however, average 15 percent of GDP during this period. The non-financial decentralized sector, however, retained a small budgetary surplus during these years (PEDN, 2003: 195, 412). Instead of floating bonds abroad, the central state sells bonds domestically. As a share of GDP, an average of 28.77 percent of all public debt between 1984 and 2003 was domestic. Chart 1 shows that internal debt, as a share of GDP, began to exceed the size of external debt in 1994. The cost of not raising taxes and rationalizing expenditures is high: an average of 32.53 percent of central state expenditures goes to pay the interest on the public debt (Gutiérrez, 2003).



The Investment-Related Qualities and Public-Regardedness of Public Policies

A comparatively well-regarded bureaucracy is perhaps the best single indicator of the overall quality of public policies in Costa Rica. Approximately 56 percent of public sector workers belong to one of Latin America's oldest civil services established in 1954 (the remaining public sector labor under special guidelines in the legislature, judiciary, or autonomous institutions). The Inter-American Development Bank's (IADB) Network on Public Policy Management and Transparency, in fact, gives the Costa Rican civil service 58 points out of a potential 100 points on its Bureaucratic Merit Index, the third best ranking in the region after Brazil (88 points) and Chile (61 points) (IADB, 2005: 68). When combined with respectable levels of public investment, public policy had welfare-enhancing effects. By the 1970s, public investment reached more than 5 percent of GDP (and private sector investments reached more than 10 percent by the same period), a factor that sophisticated econometric models show is causally related to annual increases in GDP per capita of 4.3 percent between 1963 and 1973 (Rodríguez Clare, Saénz, and Trejos, 2002).

Policies, as a result of long-term investment and stable, inter-temporal agreements among partisan and policy players to devolve most public services to specialized institutions have been public regarding since the 1950s. Economic development and social spending has helped propel Costa Rica's ranking on the UNDP Human Development Index (HDI), a composite measure of social well being, of 0.55 in 1960 to 0.79 in 2000. The share of households in poverty has gone from 50 percent to 21 by the end of the twentieth century. Illiteracy of individuals 12 years or older has gone from 21 percent to 5 percent in the same period. The infant mortality rate has fallen from 90 to 10 per 1000 live births in this 50-year period (PEDN, 2003: 398). Family income inequality has fallen from 0.5 in 1961 to 0.43 in 1988 (Mesa-Lago, 2000: 524).

Unlike telecommunications, electrical, and health care bureaucracies in other developing countries, for example, the CCSS and ICE have generated outcomes that are public regarding. By 2003, 77 percent of the population has access to public health care services and 60 percent of the economically active population is part of a public pension system (Martínez Franzoni, 2004). By the 1970s, almost every household had access to electrical service and all communities had at least one public telephone, even if declining levels of investment (discussed below) had telephone coverage. Both the CCSS and ICE have administrative and technical capacities that are reflective of broader strengths held by central and decentralized public agencies. The autonomous agency responsible for water and sanitation provides these services to virtually the entire population. The Central Bank is another autonomous agency with a reputation for high-quality economic advice and for more than 50 years of intelligent handling of monetary and exchange rate policies, despite constraints imposed chronic public sector deficits.

ISI and nontraditional export policies were not always public regarding because they produced rents for politically connected industrialists and exporters. Though the state did not ignore rural areas or overtly discriminate against producers between 1950 and 1982, it did turn the domestic terms of trade against agriculture by the 1970s (González Vega and Céspedes, 1983). Monge González and González Vega (1995) estimate the size of rents in 1986-1990 (even after trade liberalization was well underway) and they were not paltry. Subsidies for nontraditional exporters known as CATs (*Certificados de Abono Tributario*) furnish tax credits up to 20 percent of a firm's nontraditional exports (and that are negotiable on the national stock exchange). Estimates suggest that, at their peak, CATs cost the government 8 percent of central government tax income or 6 percent of central government expenditures (Clark, 2001: 127). Lobbying by export firms kept these subsidies alive until 1996, though some of these tax credits survived until 1999 (Ibid).

As a whole, the bureaucracy remains inflexible, even as modernization has led to meritocratic recruitment of most civil service employees. Civil service guarantees make it exceedingly difficult to penalize bureaucrats for criminal activities or even suboptimal performance (IDC, 2003). Salary limitations make it hard to attract and retain the best professional for upper-level positions while lower-level personnel obtain salaries higher than their counterparts in the private sector (IDC, 2003).

Longer-term bureaucratic limitations, when combined with economic policymaking rigidities have led to a decline in the public-regardedness of public policy. As expenditures—especially the costs of servicing a growing public debt—have increased faster than revenues in the post-1982 period, public investments have fallen short of pre-1982 levels. "In real terms," to cite Rodríguez Clare, Saénz, and Trejos (2002: 12), "public and state investments barely recovered its pre-crisis levels by 2000, despite the fact that the economy and population are now much larger." One result has been a modest annual increase in per capita growth rates or 2.1 percent between 1984 and 2000 (and -1.8 between 1980-4). Another is that the state has, as a share of annual GDP, half as much investment funding it had before 1982 (Ibid).

Several indicators reveal the deterioration of the investment-related qualities of public policy. ICE's inability to supply enough telecommunication services to businesses and households, which I have already discussed, hampers productivity. Perhaps the biggest casualty of the fall in public investment since 1982 is the country's once impressive road network. Though the density of roads is 71.7 km per 100 km^2 (or 10 km of roads per 100 inhabitants), only 17 percent of the national road network (and 10 percent of urban streets) in 1997 is in good condition. Costa Rica's ranking on the quality of its transportation network was 47^{th} out of 58 countries in the World Economic Forum's 1997 study of global competitiveness (all infrastructure figures are from Echandi, 1998). Though, as a share of GDP, social spending fell in the early 1980s, it shot up to an average of 20.43 percent of GDP between 1987 and 1996, slightly less than its pre-1982 high point (Céspedes, 1998: 217). Nevertheless, social spending has not been able to lower the percentage of households in poverty below 20 percent, which seems to be in part of too many agencies handling too many programs, few of which have been subject to periodic and rigorous review (Academia de Centroamérica, 1997).

THE POLICYMAKING PROCESS (PMP)

To understand how the PMP makes policy, it is important to recognize that it reflects an innovative institutional design, one that is based upon the new separation of powers (Ackerman, 2000). Though presidential in format, the constitution does not compel the different parts of government to share responsibility over all or even many governmental functions. The constitution instead promotes the functional specialization among the parts of government. In this section, I examine the dynamics of each of these arenas before analyzing how, with time, the PMP has become less centralized, but remains less than transparent.

For central state policies, the key players are the president, his cabinet, and the party leadership in the Assembly. In the budget policy area—the central state's core lawmaking responsibility—constitutional statutes and laws create "fast-track" procedures that deprive the elected branches of government of the ability to hold the annual approval of the budget hostage in inter-branch conflicts. Based upon estimates of central government revenues from the Department of the Treasury (a semi-autonomous body that the president appoints for a 6-year term), the president and his ministers (especially the Minister of Public Finance) prepare a budget that, according to the constitution, must be sent to the Assembly by 1 September every year (the budget year = the calendar year). The legislature then has 90 days to amend and approve it, a proposal that the president must accept because the constitution explicitly denies him the right to veto the Ordinary Budget.

The central state PMP increasingly involves negotiations with public sector unions, Non-Governmental Organizations and especially public opinion. In the early 1990s, efforts to raise taxes or to cut expenditures, for example, basically involved just the key players of the central state. As elected authorities proved unable to reform fiscal policy, they convened "committees of notables," that is, they appointed commissions of distinguished specialists to offer nonpartisan advice, a policy solution with a long history in national politics. President José Figueres (1994-8), for example, appointed Eduardo Lizano, a former central bank director and highly respected economist, in 1995 to chair such a committee (Lizano, 1997). Though proposing far-reaching changes, elected authorities accepted a stopgap measure, one that recommended that the central state substitute foreign bonds (with lower interest rates) for domestic bonds (with higher rates).

Subsequently, fiscal policy debates began to involve larger numbers of interests, once committee of notable reports did little to bridge the divide among parties and relevant interests (Arroyo Flores, 2004). The Miguel Angel Rodríguez administration (1998-2002), for example, organized several ongoing policy forums involving presidents, legislators, citizen groups, unions, and other organized interests to discuss fiscal policy. Nevertheless, even as central state policy debates involve larger numbers of actors, they have been unable to solve the central state's core economic rigidity. President Pacheco also appointed a committee of notables and even listened to a multi-sector organization of NGOs, public sector unions, businessmen, and citizen groups known as the "Third Republic" (Martínez Franzoni, 2004). By mid-2005, a Special Committee of the Assembly issued a report to close the fiscal gap, one that did not obtain the support of the Third Republic. Expenditures continue to outpace revenues and a burgeoning public debt accounts for a larger share of expenditures.

For the decentralized public sector, each autonomous institute is a PMP onto itself. In both the central and decentralized PMPs, key players often consult with the representatives of relevant interests groups, whose decisions are often discussed in the national press. Not infrequently, policy change requires the participation of both central and decentralized state actors as only the Assembly is empowered to change the laws and the enabling legislation governing the operation autonomous institutions. The contrasting experiences of health care/pensions and telecommunications/electricity policy reform nicely illustrate not only how the PMP works in the decentralized sector, but also why the CCSS has accepted and undergone some reforms while ICE has not.

Starting in the early 1990s, central state policymakers proposed opening up pension systems and telecommunications/electricity sectors to private sector involvement. Consisting of 20 separate pension systems, CCSS pensions were financially unsustainable, due both to overly generous retirement benefits (especially for some of the systems) and contribution evasion by both the public and private sector. They were also regressive; special groups received benefits financed in part by general tax revenues. Under-investment in telecommunications/electricity also led to shortfalls in service as well as in its quality. Negotiations between the Figueres Olson administration (1994-8) and public sector unions, businessmen, CCSS officials, and elected officials met with success (Jiménez R., 2000). By 1996, the Assembly enacted pension reforms that led to the unification of 18 out of 20 pension programs (the educator's program successfully used protests to protect their pension system and the judiciary kept its own pension fund separate) and the establishment of a 3-tier pension system consisting of the standard pay-as-you-go system (known as the IVM program), private accounts, and a complementary voluntary retirement program. Pension reform also involved increasing contributions for educators and judicial employees and even pensioners, since both groups decided not to join the IVM (Martínez Franzoni and Mesa-Lago, 2003).

Reform of ICE proceeded along similarly, but met with a different outcome. Both the Figueres Olson (1994-8) and Rodríguez (1998-2002) worked with opposition parties, experts, NGOs, the ICE union to modernize telecommunications and electricity policy. It was no secret that the ICE union opposed opening up internet, telephone or electrical generation to private sector investment, arguing that past successes proved that ICE was capable of providing both services to the population if its investment capital was increased. Reformers argued that technological innovation had transformed what was no longer a natural monopoly; individuals and firms could now compete to provide low cost and higher quality telephone, internet, and electrical services than ICE could. In an outcome that shocked many, the painfully negotiated package of reforms that had garnered the support of pro-government (PUSC) and PLN deputies met with a major social protest known as "the combo," because, in a last minute decision, elected officials decided to combine the semi-privatization of both telecommunications and electricity sectors into a mega-project (Hoffman, 2004: 100-14). Continuous street protests, along with the Constitutional Chamber's declaration that the proposed reforms were unconstitutional, led President Rodríguez to withdraw "the combo" from the legislative docket.

Reform of policy administered by autonomous agencies has become harder because of the increasingly large number of veto players. Even though both reform programs had bipartisan support, public sector unions opposed them. Piecemeal reform—as in the case of pension reform—rather than complicated policy overhauls—as in "the combo" of telecommunications and electricity—seems to garner less opposition. Most importantly, reform programs that do not have the support of the public are much less likely to succeed than those that have involved public persuasion. Despite the shortcomings of ICE services, public opinion had a very favorable attitude toward an institution that has succeeded in providing most households with electricity and every community with at least one telephone at subsidized rates. Surveys indicated that more than half of respondents agreed with letting ICE keep its monopoly on telephone and Internet services (Monge, 2000: 298).

For much of the post-civil war period, the size of the elected branches and a bipolar party system encouraged the centralization of the PMP. That an individual executive faces a unicameral legislature of 57 members keeps policymaking in the hands of a small number of partisan players. The effective number of parties averaged 2.5 between 1953 and 2003. Even though the ban on consecutive reelection promoted turnover every 4 years, an average of 15 percent of deputy members of every legislature between 1958 and 1998 consisted of representatives with previous congressional experience (Carey, 1996: 76-9; Schultz, 2002: 432). Every legislature since 1958 had, on average, 1 out of 6 experienced members, a figure that increases to 1 out of 5 after 1970. Despite the ban on consecutive reelection, a small number of individuals became partisan and policy experts because their political careers involved stints as cabinet ministers, upper-level officials of decentralized institutions as well as legislators. Electorally dominant policy and partisan players therefore kept policymaking relatively centralized and fomented the inter-temporal agreements that made public policies invariant to political succession.

In the first period, PLN political dominance also contributed to the centralization of the PMP. Political coordination also has declined through time. Between the 1950s and 1982, the PLN used its political hegemony to coordinate policymaking. During this period, the PLN held the largest share of Assembly seats and, in alliance with small parties, dominated lawmaking. It also held the presidency during 5 of the 8 four-year terms during this period. It named a disproportionate share of the heads of the autonomous institutes. Informal links between PLN members helped an ever-expanding public sector remain coordinated, especially in the aftermath of the constitutional changes of the late 1960s that reduced the autonomy of the institutions of the decentralized sector. The Supreme Court rarely ruled on the constitutionality of laws and decrees, which granted governments, especially ones with legislative majorities, a fair amount of autonomy (Wilson, Rodríguez-Cordero, and Handberg, 2004).

The PMP has become less centralized since the late 1980s. First, the establishment of the Constitutional Chamber in 1989 brings a new veto player to politics. As we will see, the IV Chamber not only resolves constitutional controversies, but also prevents bills from becoming laws while they work themselves through the legislative process. Second, the executive loses several powers that allowed it to coordinate a burgeoning state apparatus, one that, between 1990 and 2003, that saw congressional majorities create more than 106 new bureaucratic agencies in response to clientelistic demands (Vargas Cullell, n.d.: 25). The president, for example, loses his ability to legislate by sticking “atypical norms” into the ordinary budget, that is, changes in laws unrelated to the budget as part of the budgetary logroll with the legislative majority (Ibid). It is none other than the Constitutional Chamber that strips the executive of this privilege in 1989. Third, divided government has become the norm in Costa Rica and the size of the pro-government party has declined since 1994. From 49 percent of legislative seats in 1994, the government falls to having 33 percent of all legislative seats in 2002. Fourth, even if in command of hefty numbers of representatives, the gradual increase in the number of independent voters means that both the executive and the legislature must continuously court an increasingly skeptical public opinion.

Since the 1950s, policymaking has been more open than closed, though parties have largely resisted efforts to make the political system less opaque. Competitive elections are the single most important factor that has kept a less than transparent PMP from hardwiring the system against the median voter. Since the 1950s, a free and often combative press circulated information about politics and policy. Several media outlets, especially the principal daily, *La Nación*, were often vociferous critics of the shift from a liberal economic framework to one that that witnessed the gradual increase in the size of the state.

Yet, many facets of policymaking remain opaque (PEN, 2001). Until the 1980s, party deliberations were little more than the subject of rumor and gossip in the press. Parties chose their presidential nominees behind closed doors until the 1980s. Presidential candidates and factional leaders filled closed-list PR lists for the Assembly without consulting much with the party rank and file until the 1990s and remain unwilling to reform their candidate selection procedures. While Assembly deliberations often have gotten front-page billing in newspapers, the virtual absence of roll-call votes also limits accountability and transparency. Committee hearings rarely get much media attention and budget committee hearings are constitutionally required not to make their deliberations public. While the Comptroller General is constitutionally empowered to review the budgets of all public agencies, a concentration on narrow book balancing inhibits horizontal accountability. That the Comptroller's principal, the Legislative Assembly, has not encouraged the Comptroller to oversee the behavior of the executive or of the decentralized sector impairs accountability and transparency. Appointments of board directors of autonomous institutions are partisan-controlled and shrouded in mystery.

POLITICAL INSTITUTIONS AND DYNAMICS

This section analyzes the dynamics of four key institutional arenas that shape the PMP and therefore the outer limits of public policy: the electoral and party system, executive-legislative relations, the decentralized state sector, and the judicial system. I examine each in some analytic detail, explaining how partisan dealignment is reducing the lawmaking capacity of the political system and the public regardedness of public policies. As this section progresses, I also discuss how the interaction of the three branches of government with the autonomous institutions establishes a "new separation of powers" (Ackermann, 2000), one that promotes the functional specialization of public institutions and the proliferation of veto players.

Political Parties and the Electoral System

Given a normal distribution of voter preferences, the qualified majority rule system for electing the president—the candidate with the most votes and at least 40 percent of the valid vote becomes president—swamps the multi-party dynamics of PR for the legislature (Shugart and Carey, 1992: 288-92). Between 1953 and 2002, the average effective number of legislative parties has been 2.5, a number that has been supportive of long-term inter-temporal bargains and of policies to placate the median voter. Bipolar party competition rather than strictly two-party competition (Fernández González, 1991) thus leads to an exception to Duverger's Law that PR electoral laws lead to multiparty systems. Nevertheless, PR electoral laws have permitted the formation of third parties that have facilitated the formation of legislative majorities contributed to, as I show in the next section, relatively harmonious executive-legislative relations.

Social cleavages do not divide parties. Ethnic conflicts are absent in a largely mestizo society that perceives itself to be "white." The physical separation of the descendants of West Indian Blacks, located in the Atlantic Coast Province of Limón, from most other Costa Ricans also reduces the possibility of internecine disputes. Politicians also have failed to convert class differences into sustained partisan differences. Political conflict therefore revolves around control of the state. It was within this context that the PRN and then the PLN developed. With the exile of the PRN leadership following the 1948 civil war, the PLN picked up the banner of social reform. Its advocacy of state interventionism, coupled with its phenomenal electoral success, put traditional, nonprogrammatic parties on the defensive.

Data in Table 1 shows that the PLN, founded in 1951, succeeded in gaining the allegiance of at least 40 percent of the electorate between 1953 and 1998. By organizing one of the first mass-based parties, the PLN has become one of the principal organizations of Costa Rican politics. Table 1 also shows that the percentages of the popular vote controlled by other, typically anti-PLN parties remained somewhat erratic before they began forming electoral alliances in the 1960s. The PUN, for example, retained the support of anywhere between 13 and 43 percent of the electorate between 1953 and 1962. The various progeny of the PRN attracted the support of between 22 and 34 percent of the popular vote between 1958 and 1962, after its leadership returned from its post-1948 civil war exile. Seeking to defeat the PLN, their common adversary, the PUN and the PRN—the historical antagonists in the 1948 civil war—created the Party of National Unification (UN), which captured between 25 and 43 percent of the vote in the 1966, 1970 and 1974 elections. After the disintegration of this coalition in 1974, many of its followers formed the United Coalition (UC) for the 1978 elections.

(Insert Table 1 about here – see end of document for the table)

After its disastrous handling of the economy, the UC disintegrated and several of its factions formed the PUSC in 1984. In exchange for support from PUSC deputies for the bills he sent to the Legislative Assembly, President Luis Monge (1982-6) endorsed a reform of the Electoral Code that allowed the newly created PUSC to obtain the shares of public campaign financing owed to its constituent parties, which had run separate tickets in the prior elections (Hernández Naranjo, 1998). In pursuit of legislative support for neoliberal reforms, President Monge (1982-6) helped opposition factions coalesce into a rival that gradually gave rise to the heyday (1986-1998) of two-party competition.

Overcoming the effects of foreign debt default marked the end of a party system with an ideological bent. Paying off a massive foreign debt required following the market-oriented, export-led development that neutralized the skirmishes between a left-oriented PLN and its right-of-center adversaries. Between 1982 and 2002, Costa Rican parties once again became vehicles of electoral convenience, all of which endorsed the principles of neoliberal political economy. After debt default during the UC government, the PLN won two elections straight in a row before starting to lose in elections whose margin of victory averaged less than 3.07 percent between 1990 and 2002. Since 1990, both parties have struggled to adhere to the constraints imposed by a burgeoning public debt while reiterating their commitments to social programs before an increasingly skeptical electorate (Lehoucq, 1997: 61-6).

Dissatisfaction with the party establishment initially expressed itself in three ways. First, Mitchell Seligson (2002) noted a decline in support levels for their political system—as distinct from support for democracy in the abstract—in Costa Rica. On a scale from 1 (low) to 7 (high), support for the political system peaked at 6.7 in 1983 before falling steadily and reaching 5.5 in 1999. Second, turnout fell to an average of 69 percent of the adult population in 1998 and 2002, down from an average of 81.12 percent between 1962 (after PRN leaders returned from exile) and 1994 (Raventós, et al, 2004). Third, increasing numbers of citizens openly expressed disdain for the two-party system. In 2001-2, only 7.8 percent of young adults (respondents between 17 and 25 years old) and 36.9 percent of older adults believed that bipartism was positive for the country (results cited in Sánchez, 2003: 313). The PLN and the PUSC's simultaneous shift to accommodate centrist voters with similar parties—a perfectly rational strategy to win elections in a qualified plurality rule system—started to alienate increasingly larger numbers of voters.

The electorate turned against the two-party system in 2002. Already in 1998, non-Marxist third parties obtained 25 percent of the legislative vote. In 2002, the Citizen Action Party (PAC), a breakaway faction of the PLN led by Ottón Solís, took 25 percent of the legislative vote. More importantly, the presidential vote was split between the PLN, the PUSC, and the PAC, none of which met the 40 percent threshold for winning the presidency. In the first runoff since 1936, when the old Congress amended the constitution to establish the qualified majority rule system (Lehoucq, 2004), PUSC candidate Abel Pacheco defeated PLN candidate Rolando Araya. Not since 1974 has the median voter failed to send his candidate to the presidency. In total, parties not aligned with the PLN or the PUSC obtained 37 percent of the congressional vote and an equal share of legislative seats in 2002. Dissatisfaction with the two-party system thus led the electorate to change the nature of presidential competition and to activate a multi-party system that PR electoral laws for the legislature permit.

The collapse of the two-party system in 2002 has both sociological and organizational causes (Sánchez, 2003). The electorate changed as GDP per capita increased four-fold between 1950 and 2000. It became more educated, less rural, better informed, and increasingly independent. Between 1978 and 1994, the high tide of bipartisan competition, the average number of independents was 21.65 percent. Between 1994 and 2002, the number of independents increased to 29 percent (both figures use CID-Gallup polls and are from Sánchez, 2003: 190). And, after the 2002 elections when the effective number of legislative parties shot up to 3.7, the number of independent voters increased again. Between February 2004 and August 2005, the number of independents comprised 41 percent of the electorate (PEDN, 2004: 232).

Parties were slow to adapt to an electoral universe filled with independent voters. Despite modest reforms in the 1990s, parties remained dominated by factions largely uninterested in reaching out to better-informed and more critical voters. Until the 1990s, party leaders went to great lengths to ensure that nominating conventions were largely ceremonial affairs. According to the Costa Rican Electoral Code, every party fielding candidates for legislative offices must organize a series of assemblies that start in each of the country's 510 districts and culminate in national conventions that are held after each party has selected a presidential candidate. Yet, a comprehensive study of internal party dynamics (Casas Zamora and Briceño Fallas, 1991) demonstrates that party leaders can manipulate district-level assemblies by, for example, convening them secretly or at odd hours. Factions are even not above the use of fraud to ensure that malleable delegates are selected for the 81 cantonal and 7 provincial assemblies that parties then organize. Insufficient manpower resources and the large number of assemblies prevent the Supreme Tribunal of Elections from supervising much of what is a centrally dominated process. Through a reform of article 64 of the Electoral Code, only in 1988 did the Tribunal begin to send delegates to such affairs, but only to provincial and national assemblies.

The PUSC has done a better job of democratizing its candidate selection process. Like the PLN, the PUSC holds primaries to select its presidential candidates. Both also hold party conventions after presidential primaries to ratify the legislative choices that the primary winner negotiates with other party notables. For presidential candidates and other party leaders, filling the key slots with supporters improves the probability that pro-government forces will amass majorities to approve their bills. Unlike the PLN (Sánchez, 2003: 237-82), however, factional disputes have not split the PUSC apart over the issue letting the rank and file play a role in legislative candidate selection. Before the 1998 elections, PLN reformers publicly battled the party leadership around this issue, one that the Constitutional Chamber was forced to arbitrate. In the PUSC, in contrast, no one battled Rodríguez for the presidential candidacy and there were no splits about its candidate selection process. Though the party leadership selected most legislative candidates, it did slightly modify the typically closed-list system parties employ to produce legislative ballots. In a 1995 reform to party rules, all legislative nominees need to obtain at least 40 percent of the vote within their cantonal—or municipal—assemblies before the convention can select them to represent the party in general elections (Lehoucq, 1997: 42).

Executive-Legislative Relations

Executive-legislative conflict has never led to a democratic breakdown. Nor has it prevented the elected branches of government from enacting their core policymaking responsibilities, even if divided government does lead to a slowdown of lawmaking. Fast track budget procedures that limit the powers of both branches of government lead to the regular production of annual budgets. In agreement with its central design principles—that of functional specialization and the delegation of important policy responsibilities away from the elected branches of government—the constitution takes a lot of the politics out of the central state PMP. Both of these factors made the executive-legislative arena conducive for development of effective public policies, even though the recent increase in the number of parties and congressional rules of order that empower minorities to obstruct the legislative agenda are reducing cooperation between the elected branches of government.

Widespread consensus exists that both the president and the Assembly are institutionally limited (Carey, 1997; Lehoucq, 1998; Shugart and Carey, 1992; Urcuyo, 2003). The ban on consecutive reelection weakens the institutional memory of the Assembly and deprives most legislators of long-term policy expertise. The chief executive has one of the weakest sets of legislative powers of any presidential system. He has very limited decree powers and cannot convene referenda single-handedly, though he can convene the Assembly in extraordinary session (or 6 months a year) to deliberate exclusively on matters of his choosing. While he can veto legislative bills in whole or in part, the Legislative Assembly can override his vetoes with the vote of two-thirds of its members. He also cannot veto the budget after the Assembly amends the budget bill he sends them.

Three sets of factors contribute to what is, in general terms, a history of cooperation between the elected branches of government. First, concurrent elections (but with separate ballots) for the executive and legislature seem to increase the size of the president's support in the Assembly, especially before the 1990s when most voters identified with a party. Approximately half of the governments—or 7 out of 13—between 1949 and 2002 were unified. Between 1953 and 2002, the average size of the pro-government legislative contingent was 48 percent. Only in the 1958-62 and 2002-6 periods did the size of pro-government majorities fall significantly below this number, to 22 and 33 percent, respectively. So, even if the president held the support of a minority of deputies in the legislature, it was only rarely a small share of all deputies. Second, party conventions for selecting and ranking legislative candidates on closed-lists are held after conventions or presidential primaries (since the 1980s) for selecting presidential candidates. This is an important source of why deputies from the president's would and do support him. Simply put, they owe their job in the Assembly to the president and are often members of informal networks where loyalty is rewarded with public sector jobs.

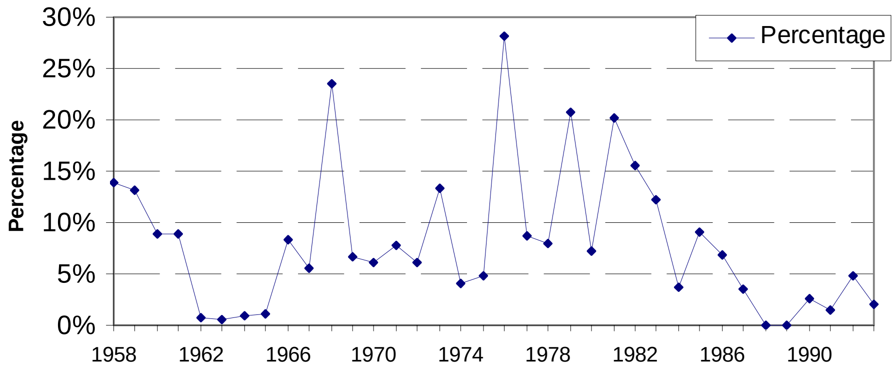
Third, the president works with pro-government deputies to distribute the pork barrel projects known as "particularistic projects (or *partidas específicas*)," to maintain discipline in his ranks and to obtain the support of third-party deputies. Consisting of 2 percent of the ordinary budget, these pork barrel funds went to members of the pro-government legislative coalition to spend as they saw fit within their bailiwicks. While Carey (1996) and Taylor (1992) find no electoral benefits to the parties that handed out these pork projects, Gilberto Arce (2003) finds that swing legislators—who often serve on the legislative budget committee—got unusually large numbers of their projects funded. They were part of an exchange between the executive—who controlled the disbursement of the approved funds—and the legislature, which approved much of the president's budget proposal. The threat of impounding funds allocate for particularism was probably the sanction that forced deputies to comply with their end of the deal. Unlike his other bills, the president could not protect his budget bill with a veto threat because the constitution explicitly deprives him of the power to veto the Ordinary Budget. So, pork was an integral part of the logrolls that allowed presidents to get their bills through the Assembly.

Available evidence nevertheless suggests that we should not overestimate the impact of these powers—and that cooperation between the elected branches of government has been declining with the rise of divided government. In a detailed analysis of executive bills between 1990 and 1998, Michelle Taylor-Robinson (2002) finds that deputies—seemingly even pro-government ones—abandon the president by the mid-point of their 4-year terms, a process we may refer to as the decay of presidential powers. While minority President José Figueres, Jr., (1994-8) got 94 percent of his first-year bills approved, the unified government of President Rafael Angel Calderón, Jr., (1990-4) only got 77.8 percent of them approved. In the second year, the ratios fell to 49.3 and 40.8 percent, respectively. By their last years in office, the percentage of their bills they could get the Assembly to approve fell to 21.1 and 15 percent, respectively. A different study using similar data reveals that President Pacheco (2002-6) got approximately 40 percent of his bills passed during the first two years of his term and less than 20 percent of them by the third year (PEDN, 2004: 241).

Terms limits seem to be an important cause of why, with the advance of the electoral calendar, deputies stop supporting the president (Carey, 1996). Carey's systematic study of the impact of term limits on legislative behavior was an important contribution to explaining a piece of Costa Rican political folklore, namely, that presidents only had 2, perhaps 3 years to get the Assembly to enact his agenda. To this account I would add the argument that a similar ban on presidential reelection—one that prevented presidents between 1971 and 2002 from ever being reelected until 2003, when the Constitutional Chamber declared such a ban unconstitutional—made incumbents lame ducks precisely because presidential experience sterilized them politically. Until 2003, presidents became irrelevant because they could not use policy success to build popular support that other, lesser-known politician, could trade in support for their backing of their initiatives.

Moreover, time-series data on presidential vetoes suggest that divided government does lead to substantially more conflict between the elected branches of government, even during administrations when minority presidents still had the support (ostensibly) of the single largest congressional contingent. Veto data in Chart 2 upholds this hypothesis. This chart graphs the annual percentage of bills the legislature approves and that the executive vetoes between 1958 and 1994. Simple division shows that the percentage of vetoed legislation is more than twice as high during divided as during unified governments. More than 1 out of 10—12 percent to be precise—of the laws the Assembly enacts obtain an executive veto when the president does not have a legislative majority. The proportion falls to 1 out of 20—exactly 5 percent—during unified governments.

Chart 2
Annual Percentage of Vetoed Laws in Costa Rica, 1958-94



Source: República de Costa Rica, Colección de Leyes y Decretos, Varios Years

So, the Costa Rican president—or the Assembly—is really not that powerful. Even with extraordinary session powers, he cannot get too much out of the legislature. The use of particularism is actually a power that the legislative majority confers on itself and it does not prevent the decay of presidential powers. Term limits not only make deputies jump ship with the advance of the electoral calendar, but they also make the executive a lame duck not long after he is elected. Term limits, along with constitutional limits on its lawmaking powers, also inhibit the development of an Assembly that can impose its will on the other branches of government. So, yes, the two elected branches of government embody the unity of purpose that David Samuels and Matthew Shugart (2004) believes they have, but not because concurrent elections and partisan powers create unified governments. The executive and legislature branches end up tolerating each other, and not infrequently cooperating, because the constitution deprives each of the authority to dominate the other branch of government.

The Institutionalization of Autonomy

So much of what the state does—so much of what is public regarding about public policies—is done outside of executive ministries. Decentralized agencies represent long-term grants of public authority for the purpose of pursuing far-reaching economic and social objectives. They are also the best example of the functional specialization that is at the core of national constitutionalism. In theory, they are isolated from the partisan politics of the central state. Yet, by the 1980s, there were good reasons to ask whether bipartisan collusion had deactivated the institutional mechanisms to ensure that they were fulfilling their mandates.

There were more than 118 autonomous institutions by the mid-1990s (Lehoucq, 1997). They include state corporations (though not all state corporations were autonomous institutes) and a host of agencies entrusted with fulfilling the ambitious economic and social welfare objectives. According to James W. Wilkie (1978), autonomous institutions controlled the equivalent of 7.3 of GDP in 1950. Two decades later, this figure increased to 17.4 percent of GDP. And, by 1994, they controlled the equivalent of approximately 30 percent of GDP. In comparison, the central state—the three branches of government plus the Supreme Tribunal of Elections—spent 10.2 percent of GDP in 1950. By 1970, the autonomous sector used 15 percent of GDP, 6 percent less than the central government. In 1994, the autonomous sector controlled 30 percent of GDP or a sum equivalent to the central government (Vargas Madrigal, 1995).

Along with the fact that consolidated public sector spent or otherwise controlled the equivalent of 60 percent of GDP in 1994, what makes this data fascinating reading is that the budgets of autonomous institutions are not part of the central state's Ordinary Budget (even though the central state's supplemental funding would be part of its annual budget request). Only the Comptroller General, an auxiliary institution (e.g., a semi-autonomous agency) of the Assembly, inspects their budget to make sure they have not violated any laws. Indeed, Supreme Court interpretations have excluded the budgets of the decentralized sector from normal budgetary processes that require the approval of both the president and the Legislative Assembly.

Unable to prevail over their more conservative rivals in the Constituent Assembly, the PLN and other left-leaning parties expanded the size and scope of the welfare state to consolidate programs not at the mercy of the elected branches of government. The PLN created 68 percent (or 51) of the 75 autonomous institutions established between 1948 and 1979 (excluding privately chartered state corporations and local governments). Put differently, the PLN erected approximately 2.2 decentralized agencies for each of the 18 years it has controlled the executive branch during this 32-year period. Its more conservative rivals, in contrast, established 32 percent of these agencies or roughly 1.7 per year during the 14 years they held the presidency.

By the 1960s, calls were increasingly made to reform the statutory laws governing autonomous institutions. Public administration specialists like Jiménez Castro became disenchanted with the haphazard organization of the decentralized sector that undercut efforts to coordinate and plan for economic development. Politicians grew distraught at their inability to control approximately one half of the state. In 1968, deputies approved the reform of article 188 of the constitution that retained their autonomy in administrative matters but eliminated their ability to design their own policy and to exempt themselves from central state directives concerning the governance of the public sector as a whole. Only the system of higher education escaped from this effort toward centralizing public administration.

Enacted under the tutelage of President Figueres Ferrer (1970-4) and Legislative Assembly President Daniel Oduber (who subsequently became president in 1974), Law 4646 of 1970 also altered the ideological balance of power on the board of directors of these agencies: the tenure of their members, whom the president used to appoint exclusively, decreased from 7 to 5 years. Known as the "4/3 Law," this measure allows a new president to name 4 board members from his party; the party that obtains the second largest number of votes selects the three remaining board members. In 1974, a change was made to allow the president to name executive presidents for many decentralized agencies. All of these measures, along with planning laws enacted in 1974 and 1978, have undercut the autonomy of decentralized institutions as they increased the ability of the chief executive to coordinate a burgeoning state apparatus.

That Costa Rica was able to improve performance on a host of economic and social indicators while establishing autonomous institutions suggests that functional specialization is not incompatible with policymaking effectiveness. While the decline of the investment-related qualities and public-regardedness of policymaking is largely a product of fiscal policy rigidities, it also seems to be the case that bureaucracies have not had the organizational capacities to respond equally well to changing environments. While the CCSS, for example, managed to eradicate basic diseases and to provide basic health care to the population by the 1970s, it has been unable to improve service delivery, especially as an ageing population increasingly suffers from chronic and advanced health problems (Clark, 2001: 88-95). Waiting lists for specialized surgery can last months and bribes are the only way to speed up delivery of many services. That many CCSS physicians also routinely refer their patients to their own private practices, where they can charge fees for their services, only adds insult to injury. And, it was only in 1994 that the CCSS and the Ministry of Public Health agreed to undertake an evaluation of their health care and pension programs. Reforms have yet to change a top-down, health care system (Martínez Franzoni and Mesa-Lago, 2003).

Several trends suggest that horizontal accountability is less effective than it might be. First, the formation of a two-party system by the late 1970s meant that the same two partisan players began to colonize autonomous institutions. The erosion of policy differences between the two main parties since the 1980s meant that they had as many reasons to collude as well as to compete in politics. Second, since appointments to decentralized agency presidencies and boards went to a mix of mid- and upper-level politicians (former deputies, ambassadors, mayors, etc.), campaign contributors, and members of the president's coterie, presidents and boards often went to individuals with no relevant experience, no interest in supervising bureaucratically complex agencies, or, worse, real conflicts of interest.

Several examples illustrate the effects of flawed mechanisms of horizontal accountability. Perhaps the best is what happened to the Anglo Costa Rican Bank (BAC). In a highly revealing case study of the BAC, Ciska Raventós (2004) shows how supervisory boards, by the 1980s, were more interested in shielding themselves and the Bank Manager—whom they appointed—from outside scrutiny. They repeatedly refused to comply with the General Auditor of Financial Entities, another decentralized institution, when it requested that the BAC open up its books, especially when the BAC took the unprecedented (and illegal) decision to incorporate a portion of the bank in Panama, where they would be beyond the reach of national authorities. The bank's records reveal that they made loans to influential members of the PLN and the PUSC and that they illegally lent money to political campaigns. After discovering that the BAC had purchased Venezuelan bonds of dubious value, public officials faced a bank whose backlog of defaulted loans led to rumors that it was going to be closed and whose depositors began a run on the bank. To prevent further loses, the Figueres, Jr., administration (1994-8) obtained legislative approval to close what was the country's oldest bank in 1994. According to the Economic Commission of Latin America, the financial cost of the foreclosure was responsible for a 14 percent expansion of the fiscal deficit or about 9 percent of central government current expenditures.

The recent scandals of former presidents also involve the boards of two important autonomous institutions. Former ICE president Lobo, a former deputy (on two occasions) and executive Minister, received a financial gift from a French telecommunications firm because ICE holds a monopoly on telecommunications and electricity contracts. Though there has been no criticism of the contract for cell phones that Alcatl won (all of which the Comptroller must endorse), observers and citizens wonder how many ICE contracts generated such gifts. Similarly, the stink surrounding the Social Security Institute—which buys a huge amount of pharmaceuticals and medical supplies—and the Calderón clan also raises questions about institutional oversight. Though the Social Security Institute is exempt from Law 4/3, its more independent board also did not stop it from violating the public interest.

Finally, there are good reasons to wonder how effective horizontal accountability is in Costa Rica. Though no one raises doubts about the professionalism of the Comptroller General, many criticize the agency for taking a narrow, bookkeeping view of its functions. In theory, the Comptroller is the legislature's delegate for overseeing the executive and the decentralized sector. Yet, neither the Assembly nor its auxiliary institution has a reputation for being aggressive watchdogs of the public interest. In a thorough analysis of public finance campaign funding, for example, Kevin Casas-Zamora (2005) shows how neither the Comptroller General nor the Supreme Tribunal of Elections have really verified the accuracy of the receipts that parties submit for reimbursement. Parties do little more than dump boxes of receipts at the Comptroller, which does not apparently sanction parties for sloppy and incomplete bookkeeping.

These case studies provide important clues explaining why Costa Ricans are so upset with their political class. Though it stands to reason that Costa Ricans get a more honest political system than many other citizenries, there is a paucity of evidence to uphold this claim. What is clear is that Costa Ricans believe their public officials are corrupt: surveys indicate that 75 percent of Costa Ricans believe that corruption is somewhat or very generalized among public officials (the highest rate among 5 Central America countries, Colombia, Mexico, and Panama), even though 15 percent of respondents report experiencing one act of corruption per year (tying with Colombia for the lowest rate among the these countries) (Vargas-Cullell and Rocero-Bixby, 2004: 60-6). The absence of systematic studies measuring bureaucratic performance and the effectiveness of horizontal accountability only fuels uncertainty about how well the political system accomplishes its multifaceted functions.

The Supreme Court and its Constitutional Chamber

The judicial system is the oldest and, alongside of the Supreme Tribunal of Elections and the Comptrollership General, one of the most respected public institutions in Costa Rica. Unlike the other two branches of government, it did not experience collapse and/or destruction during the 1948 civil war, though the junta did remove the magistrates of the Supreme Court. Neither did 1949 convention delegates target the judiciary for substantial changes. Though the Supreme Court historically shied away from politically charged issues before the establishment of its Constitutional Chamber in 1989, it did speak to enough of these issues to be considered a minimal enforcer of the inter-temporal agreement responsible for relatively effective public policies in the post-civil war period. Since 1989, the magistrates on the Constitutional Chamber have used their broad powers to become a veto player in the PMP, one that aggressively enforces the individual rights and guarantees contained in the constitution.

Article 177 of the constitution requires the judicial branch of government get at least 6 percent of the ordinary budget. As a further guard of its autonomy, the Supreme Court selects the judges and magistrates of all lower courts in procedures outlined in the Organic Law of the Judiciary. In the mid-1990s, these include approximately 107 judicial "mayors" (*alcadías*), which are the courts of first contact for most litigants. About 106 separate courts (*juzgados*) dealing with civil, family, labor, administrative and related matters are the immediately superior level of the Costa Rican court system. Further up the hierarchy exist the 38 fiscal agents (*agencias fiscales*), the highest courts directed by single judges. Tribunals and Superior Tribunals are fewer in number and consist of several magistrates; approximately 45 of these courts exist in the country.

Until 1989, there were 17 members and three chambers of the Supreme Court of Justice. With the creation of a separate chamber to review constitutional issues in this year, four chambers now exist. All chambers have 5 magistrates, save the last, which has 7. The first chamber addresses administrative (*contencioso-administrativo*) civil, commercial, and family matters; before the creation of the fourth chamber, it also examined constitutional cases. The second chamber examines universal and labor issues. The third chamber is entrusted with judging penal cases. The magistrates of these courts are chosen by the Legislative Assembly to serve 8-year, staggered terms. They are automatically reappointed for additional 8-year terms unless two-thirds of all deputies vote to the contrary.

The Constitutional Chamber's scope of action is vast and its rulings are final (Barker, 1991). It is the only judicial body that considers writs of habeas corpus (e.g., requests to release a detained person) and of *amparo* (e.g., requests to stop a public official from engaging in arbitrary actions). In a break from standard *amparo* proceedings, its judgments have general effects; rulings on one case set precedents for all subsequent similar cases. The Constitutional Chamber also reviews acts of unconstitutionality, that is, suits that individuals or public authorities can file claiming that constitutional articles and even principles (*normas*) have been violated. It responds to requests for consulting opinions (*consultas*) from judges and legislators. It must review constitutional reforms that, prior to 1989, only required approval in two different sessions of the Assembly (and by two-thirds of all deputies), though its rulings are only binding if procedure was violated. It also resolves disputes arising from competing jurisdictions held by the branches of government and by all other public agencies and bureaus.

Prior to the establishment of the Constitutional Chamber in 1989, it was a costly and time-consuming process to file writs of habeas corpus, of *amparo*, and to declare laws unconstitutional. The courts, for example, had deemed that if a statute or law was the basis of a public official's behavior, then writs of *amparo* did not proceed. Following the US model, individuals could only file acts of unconstitutionality if they believed that the legal basis for a case working its way through the courts was unconstitutional. Legal briefs in such cases could only be filed with the Supreme Court. To declare a law unconstitutional, two-thirds of the entire court—12 out of 17 members—needed to vote in favor of the act of unconstitutionality. The doctrinal justification for such restrictive procedures is the presumption, common to Civil Law systems, that laws are constitutional because duly elected officials promulgated them. Unless elected officials violated procedure during the lawmaking process, there is no reason to presume that a law is unconstitutional. As a result of doctrine and procedures, individuals only filed 155 acts of unconstitutionality between 1938 and 1989 (PEN, 1999: 290). Until the 1990s, the Supreme Court was a passive player in the PMP, one that did little more than enforce central constitutional provisions while not infrequently ignoring violations of individual rights and constitutional procedure.

The laws governing the Constitutional Chamber greatly reduce the costs of seeking protection for individual rights and guarantees (Wilson and Rodríguez-Cordero, 2006). Any individual can send the Court a complaint that his or her rights have been violated. The complaint can be written in any language, does not require a notary or lawyer's endorsement, and can even be faxed to the Chamber. Between 1990 and 1999, for example, the Constitutional Chamber produced 57,312 resolutions or an average of 5,731.2 rulings a year. The vast majority of these, 78 percent of them, were writs of *amparo* and are often times nothing more than citizen requests that public officials promptly respond to their requests. As in most cases, the Constitutional Chamber only ruled in favor of 20 percent of them. During this period, the Constitutional Chamber also considered 2,691 acts of unconstitutionality, 365 of which it endorsed. Though acts of unconstitutionality only represent less than 5 percent of all resolutions issued by the Chamber, their number has increased dramatically since establishment of the Chamber in 1989. Between 1990 and 1999, the Constitutional Chamber ruled in favor of 13.5 percent of acts of unconstitutionality (PEN, 1999: 296).

There are two ways in which Constitutional Chamber rulings have changed the dynamics of the PMP. The first way is by enforcing the individual rights and constitutional procedures in the constitution, rulings that alter public sector behavior and also add to the state's financial liabilities. That so many writs of *amparo* are citizen requests that public officials address their complaints is evidence that many individuals believe that the political system does not always protect their rights. Until establishment of the Chamber, for example, it was illegal for public sector workers to go on strike, despite the fact that the constitution declared that all workers had this right. In 1998, public sector unions succeeded in convincing the Chamber to strike down the articles of the Labor Code that prevented public sector workers from exercising a right that only private sector employees enjoyed. A year earlier, the Chamber had also ruled that the CCSS must provide free, anti-retroviral drugs to people living with AIDS. Since the Chamber's rulings set precedent for similar cases, the Chamber later affirmed that individuals with other chronic diseases also had a right to receive free medical treatment (Wilson and Rodríguez-Cordero, 2006). By facilitating the presentation of citizen complaints, a broad-minded Chamber has transformed constitutional promises to protect individual rights into real guarantees, ones that have irrevocably changed the nature of the PMP.

The second way that the Constitutional Chamber has changed the PMP is by altering the rules governing the production of laws. First, any group of 10 or more deputies can request that the Chamber declare a law unconstitutional or even ask the Chamber to review the constitutionality of any bill that has been approved in first debate. An interview with Chief Magistrate Luis Fernando Solano (2004) revealed that legislative minorities frequently use this right to delay legislative debate on items they oppose. Though data on legislative consultations of the constitutionality of bills is not available, data on the time it takes the

Chamber to consider related types of bills suggests that such consultations do slow down the lawmaking process. While the Chamber takes approximately 17 days to rule on writs of habeas corpus and 5 months to review a writ of *amparo* by 2003, it now takes two years to rule on acts of unconstitutionality (PEDN, 2003: 421). Given that the political cycle lasts for 4 years, acts of constitutionality can kill bills the president or legislature presents half way through their terms in office. Second, all constitutional reforms require an opinion from the Chamber. The Chamber's opinions are only binding on procedural (*de procedimiento*) and not on substantive (*de fondo*) matters. Of the 97 constitutional amendments sent to the Chamber between 1989 and 2002, 75 percent of (12 of 16) bills with procedural and substantive objections from the Chamber died in the legislative process. In contrast, only 18 percent of (or 4 of 22) those containing the Chamber's substantive objections were tabled. Curiously, 64 percent of (7 of 11) the bills that generated procedural complaints from the court failed to reform the constitution (Rodríguez Cordero, 2002a, 2002b).

Using its broad powers, the Constitutional Chamber has repeatedly changed the rules of the political game. In 1991, it, for example, declared advances of public campaign finances unconstitutional because it favored the two established parties and on procedural grounds. Under the old system, parties could receive monies based upon their performance in the previous election, a factor that does not appear to be a decisive cause of the return of multiparty politics later in this decade (Casas-Zamora, 2005). Since 1991, the Constitutional Chamber has reiterated its ban on the inclusion of "atypical norms," in the Ordinary Budget, the peculiar legal devices that allowed presidents to obtain exemptions from existing laws without obtaining explicit authorization from Assembly for doing so (Costa Rica, 1999, vol II: 456-7). In 1993, it ruled against the government's attempt to let private companies market cell phones, thereby accepting the ICE union's claim that the constitution only empowered ICE to provide telecommunications services to consumers. Seven years later, it also struck down a major effort to open up telecommunications and electricity to private sector involvement ("Combo"), but this time on procedural grounds (Wilson, Rodríguez Cordero, and Handberg, 2004: 527). And, in 2003, it struck down the 1971 constitutional amendment that prohibited presidents from ever running for reelection on procedural grounds. The 2003 ruling returned to the status quo before 1971, one that permits presidents for running for reelection as long as they are no longer incumbents. This was the decision that permitted Oscar Arias to run for (and win) the presidency in 2006, and one that will have the effect of lengthening the time horizons of ambitious politicians.

CONCLUSIONS AND IMPLICATIONS

Public policies in Costa Rica since the 1950s have been, in the aggregate, of very good quality. They have been highly public-regarding: GDP per capita has more than tripled since the mid-twentieth century, the poverty rate has fallen from 50 to 20 percent of the population, and most citizens have access to health care services and education. Regular changes in government have not led to policy instability, e.g., abrupt changes in government priorities that undermine the long-term success of government policy. Public policies have been flexible, but the inability to eliminate persistent budget deficits contributed to the 1982 debt default and to the growth of a (now largely domestic) public debt that consumes more than a fifth of central government revenues. The investment-related qualities of the public sector contributed to policymaking effectiveness, but fiscal constraints have reduced levels of public investment since the mid-1980s. A small number of hierarchically organized parties were able to coordinate a smaller and ISI-oriented state apparatus until the 1980s. In the aftermath of the debt crisis, the ability of the party system to coordinate a public sector with an increasing array of veto players (e.g., the Constitutional Chamber activating the individual rights and institutional checks and balances of the 1949 Constitution) is waning. The failure to open up public sector monopolies in electricity, insurance, and telecommunications to private sector investment means undermines the coherence of a state that, during the 1980s, did liberalize trade and did foment the development of an export-driven economy.

The overall success of public policy in Costa Rica is consistent with Spiller and Tommasi (2003) argument that a small number of partisan and policy players that repeatedly interact, and whose behavior is observable, can establish inter-temporal agreements necessary for developing effective public policies. After decades of instability and the 1948 civil war, major parties agreed to let an autonomous court system run highly competitive elections, ones that led to hierarchically organized parties seeking to satisfy the demands of the median voter. As a result of agreement about policy goals, Costa Rican parties did delegate responsibility over important governmental functions to an impartial bureaucracy, one that became populated with autonomous agencies fulfilling policy specific mandates.

My analysis of Costa Rica has several implications for the broader study of political institutions and policymaking. The first is that the institutional form that delegation takes helps determine the effectiveness of public policy. Principles of constitutional design set up lines of autonomy and responsiveness that makes democratic accountability and bureaucratic specialization that is the trademark of successful and legitimate states. The 1949 Constituent Assembly took the far-reaching step of constitutionalizing the autonomy of public agencies responsible for the "technical" functions of the state. Election administration, central banking, old-age pensions, and many other public policies became the responsibility of agencies isolated from the partisan struggle of the central state. Though debates about the viability of a balkanized state apparatus led to the assertion of executive control over the decentralized sector in the 1960s, the Supreme Court did issue rulings protecting the budgetary and administrative autonomy in the 1960s. By isolating the "technical" from the overtly partisan functions of the state, constitutional engineers also designed an executive and a legislature that have as many incentives to cooperate as to conflict. The ban on the consecutive reelection of the president and of legislators undercuts the accumulation of political and policy expertise that each branch could use to dominate its rival. Term limits also create an electoral cycle that leads to the decay of presidential powers over the course of his 4-year term. Fast-track budget procedures also remove the single most important item that the elected branches of government must produce—an annual budget—from being held hostage in inter-branch conflicts. So, constitutional framers struck upon a set of principles of constitutional design—the new separation of powers—that, in equilibrium, protects individual rights and democratic competition and, most importantly, makes for reasonably effective policymaking.

Second, the Costa Rican case study also suggests that a small number of partisan and policy players cannot only forge effective public policies (constitutional design permitting, of course), but can also collude to betray the public trust. Indeed, the noticeable decline in the quality of bureaucratic services is traceable not only to fiscal deficits, but also to a 1970 legal reform (the "4/3 Law") that allowed the two most successful parties to divvy up the seats on the boards of most decentralized agencies. Though intensely competitive elections kept parties on satisfying the median voter, the influence peddling, real or alleged, that this arrangement institutionalized seems only to have fueled the skepticism of citizens that became increasingly evident in the 1990s. That so many Costa Ricans believe that their much-vaunted political system has become corrupted also suggests that decentralized institutions require more oversight. Entrusting supervision to directors appointed by presidents, to politically appointed board members, and to the Comptroller General may no longer be the ideal way for elected officials to ensure the effective operation of the decentralized sector. Dropping the ban on the consecutive reelection of legislators and changing highly centralized nomination procedures is one way to encourage deputies to acquire the policy expertise necessary to police a large and complex bureaucracy.

The final implication of this case study is that institutional designs, even successful ones, can become less effective with time because their societies change. For much of the post-civil war period, a predominately rural, less educated, and poorer electorate was content to hand over policymaking to a small number of parties. Forced to compete in regularly scheduled elections, these parties did develop an inter-temporal agreement that created a PMP able to produce high quality public policies. By the 1990s, however, large sectors of the electorate wanted to play a more active role in policymaking. Criticism of a less than open PMP dovetailed with disenchantment with neoliberal economic policies and less than spectacular rates of economic growth. By the early 2000s, the electorate abandoned the two-party system. The emergence of new veto players—especially of the Constitutional Chamber—and the fragmentation of the party system led to a political system decreasingly able to generate support for further economic reform. As a result, public policies have become increasingly rigid, less coherent, and less public regarding.

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TABLE 1
PARTY SHARES OF THE LEGISLATIVE VALID VOTES, 1953-2002
(NUMBERS OF LEGISLATIVE SEATS ARE IN PARENTHESIS)

	PLN		Opposition Parties				Other[g]
Year	PLN[a]	Offshoots[b]	UN[c] CU PUSC	PUN[d]	PRN[e] PRNI	Other[f]	
1953	65% (30)			28% (12)	7% (3)		
1958	42% (20)	10% (3)		21% (10)	22% (11)		4% (3)
1962	49% (29)			13% (9)	34% (18)		4% (3)
1966	49% (29)		43% (26)			2%	2% (2)
1970	51% (32)		36% (22)	1%		3% (1)	7% (2)
1974	41% (27)		25% (16)		5% (6)	22% (4)	7% (3)
1978	39% (25)		44% (27)			4%	13% (4)
1982	57% (33)		32% (18)			2% (1)	9% (5)
1986	48% (29)		41% (25)				11% (3)
1990	42% (25)		46% (29)				12% (3)
1994	45% (28)		40% (24)				15% (5)
1998	35% (23)		41% (27)				25% (7)
2002	30% (17)	25% (14)	33% (19)				12% (7)
2006	37% (25)	26% (17)	8% (5)				19% (10)

Source: Supreme Tribunal of Elections. Shaded cells are the president's party's share of seats.

[a]National Liberation Party (PLN).

[b]In 1958, the breakaway faction is called the Independent Party (PI). In 2002, it is called the Citizen Action Party (PAC).

[c]Between 1966 and 1974, the coalition is called the National Unification Party (UN). In 1978, it is called the Unity Coalition (CU). Since 1982, it is called the United Social Christian Party (PUSC).

[d]National Union Party (PUN). In 1953, this table includes the PUN's predecessor, the Democratic Party (PD)'s 11 seats.

[e]In 1958, it is called the National Republican Party (PRN). In 1962, it is called the Independent National Republican Party (PRNI).

[f]The parties in this column are breakaway factions of one of the main anti-PLN parties. In 1966, the Democratic Party refuses to join the opposition coalition. In 1970, the Christian Democratic Party also does not join. In 1974, the Independent National Party (PNI), the Democratic Renovation Party (PRD), the PD, and the PDC refuse to join the united opposition front.