PRESIDENTIAL CONDITIONAL
AGENDA SETTING IN
LATIN AMERICA

By GEORGE TSEBELIS and EDUARDO ALEMÁN

PRESIDENTIAL veto powers have been studied at both the theoretical and the empirical levels. Several authors have also examined veto powers to compare the influence of presidents across political systems. One significant procedural advantage has escaped scholarly scrutiny, however: the ability to make positive suggestions about vetoed bills. Presidents in most Latin American countries, even in the ones that can have their veto overridden by a simple majority of Congress like Peru and Venezuela, have the power to make amendatory "observations." Presidential observations are positive changes introduced in a particular bill after final passage by Congress. These new amendments are returned to Congress for one final round. In most countries amendatory observations require a simple majority to be accepted, but sometimes they are enacted automatically unless a qualified majority votes to reject them. Our argument is that this understudied presidential prerogative is a form of "conditional agenda-setting power," that is, it enables the president to introduce a last proposal that can mitigate

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unwanted features of the congressional bill as long as it carries enough support to prevent modification or rejection. If, however, the president’s proposal is unacceptable to Congress, the initiative reverts to Congress and the power of amendatory observations is eliminated.

Amendatory observations structure executive-legislative relations in ways notably different from the archetypical block veto in place in the United States. The new literature on Latin American political institutions has not paid sufficient attention to this difference; Londregan’s analysis of legislative politics in Chile is an exception. However, the most influential classifications of presidential power all suffer from this weakness. In a recent review of the literature, Jones sums up the conventional wisdom by stating that in Latin America veto power is a “reactive” executive prerogative to be used “only to protect the status quo.” Although vetoes can be issued only after a congressional move (that is, after the passage of a bill), amendatory observations allow the president much more than a reactive vote against the proposed law. This prerogative provides the president with positive agenda-setting power, which is a valuable tool for shaping legislation. This article analyzes veto powers in eighteen Latin American countries and demonstrates that amendatory observations are always legislatively significant and sometimes of great consequence. Our approach differs from the previous literature, which tends to lump together different presidential prerogatives over a variety of policy areas, most often through an additive index supposedly reflecting overall legislative power. Instead, we focus exclusively on the procedures applied to the final passage of ordinary legislation and present the institutional structure through a series of extended game forms that specify the discretion afforded to each branch of government. Our results reveal a much more active president than hitherto portrayed by the institutional literature on separation of powers: as a strategic amender of legislation who is

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5Londregan argues: “Subject only to the proposal germaneness constraint, the president’s veto powers enable him to present proposals in the form of observations,’ which must be considered under a closed rule. Thus, even in policy areas not reserved by the Constitution for presidential initiatives, the president can make ‘take it or leave it’ offers to Congress.” See John B. Londregan, Legislative Institutions and Ideology in Chile (Cambridge: Cambridge University Press, 2000), 98–99.

6See, for instance, Shugart and Carey (fn. 3); Matthew S. Shugart and Stephan Haggard, “Institutions and Public Policy in Presidential Systems,” in Stephan Haggard and Mathew D. McCubbins, eds., Presidents, Parliaments and Policy (New York: Cambridge University Press, 2001); Mark J. Payne, Daniel Zovatto G., Fernando Carrillo Flórez, and Andrés Allamand Zavala, Democracies in Development: Politics and Reform in Latin America (Baltimore: John Hopkins University Press, 2002). These works classify presidents according to their constitutional prerogatives, but none give any weight to the power to make amendatory observations.

empowered to improve outcomes at the last moment, even under simple majority override.

The article is organized in three sections. First, we compare the typical block veto with the power to make amendatory observations in a stylized way. This allows us to be specific about the discretion afforded to the executive branch under alternative institutional frameworks. Second, we analyze veto rules in eighteen Latin American countries and present them as extended game forms. We then proceed to build an alternative index of presidential authority that summarizes how far presidents can go under different institutional provisions. The final section presents empirical cases that address the implications of the theoretical analysis and demonstrate how these institutional prerogatives affect actual policy-making in Latin America.

**Veto versus Amendatory Observations**

Let us study the effects of two typical cases: the first presents the situation confronted by a president who has only block veto (also called "package" or "absolute" veto), and the second presents the situation faced by a president who can make amendatory observations that require simple or qualified majorities to be overturned. Archetypical countries for these procedures would be Guatemala or Honduras (or the United States), in the former instance, and Peru and Uruguay, in the latter. This comparison illuminates the theoretical reasons for rethinking the legislative effects of veto powers in presidential democracies and will be the basis of our index of executive authority presented in the next section.

**Block Veto**

Under the familiar block veto Congress makes a legislative proposal to the president, who then has the right to reject it. If the proposal is vetoed, Congress can override the president if a qualified majority (Q) votes to insist on the original bill. What does this power enable the president to do?

Figure 1 provides a visual answer to this question. The figure shows the status quo (SQ) and the set of alternatives that defeat the status quo by a majority (the winset of the status quo W(SQ)). In addition we present the set of alternatives that can defeat the status quo by a qualified majority Q (the qualified majority of the status quo Q(SQ)). While the winset of the status quo exists almost always, there is no guarantee that the qualified majority winset of the status quo will not
be empty. Indeed, there may not be alternatives that command a qualified majority of votes in their favor against the status quo.

If Congress proposes a bill in the set \((W(SQ) - Q(SQ))\), the president can veto it, and the veto will be sustained because there are not enough votes to override it. If, by contrast, Congress proposes an outcome inside \(Q(SQ)\), the presidential veto (if exercised) cannot be sustained. If the set \(Q(SQ)\) is empty, then the president can successfully veto any congressional initiative. This would be the case in a country where the president has the solid support of enough legislators to prevent any override attempt (for example, at least one-third in Honduras, Guatemala, or the United States). In short, presidential block veto can restrict legislative outcomes inside the \(Q(SQ)\) area. However, the president cannot select the alternative he would prefer from among those in \(Q(SQ)\)—the set of alternatives that a qualified majority prefers over the status quo. For example, in Figure 1 the president \((P)\) cannot avoid outcome \(X\) (despite the fact that he prefers \(SQ\) over it), regardless of whether he vetoes the bill. Congress preserves the role of sole proponent of legislation, and the president’s action is purely negative.
THE POWER OF AMENDATORY OBSERVATIONS

Let us now assume that the president can introduce amendatory observations (that is, add or delete anything from the bill proposed by Congress). Assume also that whatever revision the president sends back to Congress automatically becomes law after a short period of time unless it is beaten by a qualified majority vote in support of the original bill passed by Congress. Under these rules, the resulting interaction between both branches of government is significantly different from one produced by the typical veto power analyzed before. Two differences are particularly salient: first, it is now the president who selects the proposal he most prefers from among all the available alternatives and, second, the set from which the president can select this counterproposal may be wider than $Q(SQ)$.

Figure 2 helps us visualize the situation. Congress proposes bill B, which is located within the winset of the status quo W(SQ). This bill can be defeated by a set of points that belongs to the winset of B (W(B)). However, the president does not need to select his counterproposal from among these majority-preferred alternatives. He merely needs to select from among the wider set of points NQ(B) that encompasses those alternatives that B cannot defeat by a qualified majority. From among the points in NQ(B) the president can select the one he most prefers (point Y in Figure 2). Indeed, if the majority required to override the presidential counterproposal is, for instance, three-fifths, the president needs the support of just over two-fifths of the members of Congress to have his revised proposal prevail. This procedure is not an imaginary institutional setting used for expository purposes; it is the set of decision-making rules in Uruguay (with a three-fifths override) and Ecuador (with a two-thirds override). Further, after the override deadline has passed in these two countries, the amendatory observations introduced by the president are automatically enacted into law.

Most institutional analysts have downplayed the relevance of presidential vetoes with simple majority overrides, but even when institutions do not require a qualified majority for amendatory observations to be overridden, and even if the implicit comparison is not only with B but also with the status quo, the president can still use this prerogative to make significant modifications. The president, for instance, would be able to respond with an alternative proposal Y' in the intersection of the winsets of B and $Q(W(B) \cap W(SQ))$. Amendatory observations continue to be a useful presidential tool even when they have to beat the congressional proposal and the default alternative by a simple majority,
an advantage generally unnoticed in the literature on Latin American political institutions. If the override threshold were raised to a qualified majority and the new version still had to beat the status quo, as is the case in some other Latin American countries, the president could make a successful proposal by returning proposal $Y''$ in the intersection of $W(SQ)$ and $NQ(B)$.

Presidents are advantaged by their ability to introduce amendatory observations even when there is complete information about the actors’ preferences. Under complete information, Congress will anticipate these outcomes and, as long as they beat $SQ$, incorporate the related changes in the original bill, thereby preventing a veto. If Congress makes any other proposal, the president will introduce amendatory observations to modify the bill accordingly and the revised version will be
accepted, unless because of incomplete information on the president's part the counterproposal falls outside the feasible set. Which outcome is selected depends on override thresholds and default alternatives; who makes the winning proposal depends on whether there is strategic anticipation on the part of Congress. However, regardless of which override thresholds and default alternatives are in place and regardless of whether there is complete or incomplete information, the power to make amendatory observations gives the president more discretion to affect the final passage of legislation than the block veto (and qualified majority override).

Consequently, there are two major differences between the better-studied block veto that can be overridden by a qualified majority and the amendatory veto that can be overridden by the same majority. In the first case, the president simply reduces the initiatives of Congress from $W(SQ)$ to $Q(SQ)$, whereas in the second, the president can take the initiative and propose a modified bill that is better for Congress to accept than to reject. Note that the second power is more significant than the first. Because $Q(SQ) \subseteq W(SQ) \subseteq NQ(SQ)$, a president with the right to introduce amendatory observations not only can select, but also has a larger area from which to select than under block veto. This holds not only in the extreme case of the qualified majority requirement but also in the actual case of a simple majority. The fact that under complete information Congress will make an acceptable proposal to the president does not affect our argument: the power to introduce amendatory observations to vetoed bills gives presidents greater discretion to shape legislative outcomes than does the typical block veto.

This institutional authority to make a proposal and have the proposal accepted under easier conditions than would be the case were the Congress to repond with its own, new modification has been called conditional agenda setting, because if the agenda setter goes too far in his proposal he will have his observation overruled. This would be the case if the president (P) in Figure 2 proposed his own ideal point. Let us compare two known cases of conditional agenda setting—the European Union and Latin American countries—because there are instructive differences in their procedures. In the EU (under the cooperation procedure) a proposal introduced by the Parliament and adopted by the commission requires a five-sevenths majority to be adopted by the Council and unanimity to be modified or rejected. Therefore, the Parliament and the commission can calculate what the Council could do unanimously (adopt a proposal inside the unanimity winset of the sta-

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8Tsebelis (fn. 4).
tus quo (U(SQ)) and then put forth a proposal that leaves a qualified majority of Council members better off than would anything they could do unanimously. Such a proposal X would be adopted. What generates conditional agenda setting in the EU is the difference in the decision-making rule of the Council (qualified majority to agree, unanimity to disagree). If the Parliament or the commission makes a mistake and proposes an outcome closer to its ideal points than X, it loses the initiative, and the Council can make a unanimous decision that is less advantageous for the Parliament and the commission.

The Latin American cases share the last feature: if an uncertain president makes a mistake and proposes an unacceptable solution, he loses the initiative, and the previously proposed bill or the status quo is adopted. However, the difference in majorities between adoption and rejection of the presidential version is not required. The president has an advantage because this amendatory observation modifies a particular existing bill, so that (under complete information) he can target any point in the winset of whatever the related default alternative is, knowing that Congress will approve this counterproposal.

In both cases, the legislature (the Council in the EU case, the Congress in a Latin American country) would rather adopt the executive proposal than reject or modify it. However, if in the face of uncertainty there is a “mistake” on the part of the executive, the initiative reverts to the legislature. The agenda-setting power is “conditional” on the president’s ability to make a winning counterproposal after being unable to reach the associated outcome through anticipated reactions.

**Veto Procedures**

This section surveys veto procedures in Latin America. Rules regulating the executive veto are written into all Latin American constitutions, and in some cases organic laws, legislative rules, common practice, and constitutional rulings have clarified some of the details of the steps involved. We study such documents and in several cases scrutinize legislative records to clarify the required steps. Latin American veto rules can be grouped into seven different types.

The first group consists of three countries in which the president has only a block veto: Guatemala, the Dominican Republic, and Honduras. As in the United States, constitutions in these countries require

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9 For Guatemala, see constitutional articles 178 and 179; for the Dominican Republic, see constitutional articles 41 and 42; for Honduras, see constitutional articles 216–18.
qualified congressional majorities to override a presidential veto: ≥2/3 of members in the Dominican Republic (concurrent houses) and in Guatemala, and ≥2/3 of votes in Honduras.¹⁰ In these three countries if the qualified override majority is not reached, the status quo prevails. The stylized game implied by these rules appears as game form 1 in the appendix. The president (P) can accept the bill (B), in which case it is the final outcome, or veto it; if the bill is vetoed, then Congress (C) can override (thereby enacting B) or else nothing is enacted and the status quo prevails (SQ).

The second group consists of countries where the president has both a block veto and a partial veto without partial enactment: Colombia, Paraguay, and Panama.¹¹ The procedure allows presidents to delete parts of the bill passed by Congress before the bill is returned for a last round of voting. In Colombia and Paraguay the override majority is >1/2 members (from concurrent houses) and in Panama is ≥2/3 of members.¹² None of these presidents can automatically promulgate into law those parts of the bill not vetoed (that is, no partial promulgation), and in all three countries legislators can take a vote to accept the president’s version (that is, endorsement requirement to enact the partially vetoed bill). The game capturing this procedure appears in the appendix as game form 2. Here, after the executive partially vetoes a bill, Congress either overrides (forcing the enactment of B), accepts the presidential version of the bill (making X the outcome), or nothing is enacted (SQ).

The third group consists of two countries, Argentina and Brazil, which give the president block and partial veto as well as the ability to promulgate the nonobjected parts of the bill (X).¹³ In Brazil the veto is considered at a bicameral meeting within thirty days of the date of receipt, and it may be lifted only by a majority of deputies and senators voting jointly by secret ballot. In Argentina the override majority is

¹⁰In Guatemala the president has fifteen days to return a vetoed bill and Congress (unicameral) has thirty days to reach an override vote with two-thirds of the total membership. In Honduras the president has ten days to return a vetoed bill and Congress (unicameral) can override with two-thirds of votes (no deadline specified). The Honduran president cannot veto the budget bill. The Dominican Republic’s president has eight or three days to return vetoed bills, depending on the urgency given by the chamber, and a two-thirds vote of the membership of each chamber is required to override the executive veto.

¹¹For Colombia, see constitutional articles 165–69 and the internal rules of Congress spelled out in Law 5 of 1992 articles 197–200; for Paraguay, see constitutional articles 205–209; for Panama, see constitutional articles 162–165 and the internal rules of the Legislative Assembly articles 205 and 206.

¹²In Colombia the president has up to twenty days to exercise his veto, in Paraguay twelve days, and in Panama thirty days. The Colombian Congress meets to discuss only the objected portions.

¹³For Argentina, see constitutional articles 80–83; for Brazil, see constitutional article 66; and Marcelo Lessas Bastos, “Considerações sobre o Veto Presidencial aos Projetos de Lei,” Working Paper Series (Faculdade de Direito de Campos, Brazil, August 2000).
≥2/3 of votes (concurrent houses). The stylized game generated by these rules appears as form 3 in the appendix. If Congress fails to override, X becomes law.

The fourth group includes four countries where the president has a block veto and the ability to attach amendatory observations: Nicaragua, Venezuela, Peru, and El Salvador. In all four countries a simple majority may accept the amendatory observations introduced by the executive (Y), and if no vote is taken the status quo prevails (SQ). The override threshold is >1/2 members in Nicaragua and Peru, and >1/2 of votes in Venezuela. Within this group we find the only Latin American country that has a different majority for each type of veto: El Salvador requires ≥2/3 of votes to override a block veto but >1/2 members to override an amendatory observation. Form 4 shows the game tree generated by these procedures.

The fifth group includes Bolivia, Costa Rica, and Mexico. As in the prior procedure, presidents can exercise block veto and introduce amendatory observations with the status quo as the default alternative, but here the vote to accept or reject the amendatory observations is taken by a simple majority usually before an override vote that requires a qualified majority. The override threshold is ≥2/3 of votes in Bolivia (joint session of houses) and Mexico (from concurrent houses) and ≥2/3 of members in Costa Rica. These procedures are summarized in form 5 in the appendix.

The sixth procedure is in place in Chile. It is similar to the prior one—the president has both block veto and amendatory power—but the default outcome is the nonvetoed parts of the bill. The counterproposal can be accepted or rejected by a simple majority, and a vote of ≥2/3 of members is needed to override. This procedure lets the president craft two

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14 The veto has to be exercised within ten days of congressional passage in Argentina and within fifteen days in Brazil.

15 For Nicaragua, see constitutional articles 142 and 143 and the internal rules of the National Assembly spelled out in Law 122 of 1991 article 58; for Venezuela, see constitutional article 214; for Peru, see constitutional article 108 and the internal rules of Congress articles 79 and 80; and for El Salvador, see constitutional article 137.

16 The presidents of Peru and Nicaragua have fifteen days after a bill has passed to exercise a veto; the president of Venezuela has ten days and the president of El Salvador has eight days.

17 For Bolivia, see constitutional articles 76–78; for Costa Rica, see constitutional articles 126–28 and the internal rules of the Legislative Assembly articles 181–83; for Mexico, see constitutional article 72; and see Eric Magar and Jeffrey Weldon, "The Paradox of the Veto in Mexico (1917–1997)" (Paper prepared for presentation at the 23rd International Congress of the Latin American Studies Association, Washington, D.C., September 6–8, 2001).

18 All three countries give the president ten days to issue a veto and none impose a congressional deadline. The Costa Rican president cannot veto the budget.

19 For Chile, see constitutional articles 70 and 117, the Organic Constitutional Law of Congress of 1990 articles 32–36, the internal rules for the Chamber of Deputies articles 167–72 and for the Senate articles 187 and 188, and personal communication with Carlos Carmona and Patricio Nava.
alternatives to the congressional bill: the amended bill (Y) and the bill without the changed sections (X), which is the default outcome. This procedure is shown in form 6 in the appendix.

The seventh and last procedure is in place in Uruguay and Ecuador.\textsuperscript{20} Presidents in these two countries have a block veto and the power to introduce amendatory observations, but unlike others, the presidential version of the bill is enacted unless Congress overrides by a qualified majority. This is highly significant, as we mentioned before, in that it gives the president the power to make a last legislative counterproposal that can be overridden only by a qualified majority in Congress. In Uruguay the override threshold is $\geq 3/5$ of members from each chamber in a joint session of Congress. In Ecuador the override threshold is $\geq 2/3$ of members, but the override vote for the block veto can only be scheduled for a year later, whereas amendatory observations can be overridden within a month.\textsuperscript{21} In both countries if no vote is taken within thirty days, all the modifications introduced by the executive are considered accepted. This procedure is shown in form 7 in the appendix.

We have now presented the details of the veto procedures in place in eighteen Latin American countries. How much can the president achieve under each institutional structure? The results for each country are summarized in Table 1. They reflect the interaction presented in the game trees previously shown. The table indicates whether the president has conditional agenda-setting power (that is, the right to introduce amendatory observations to vetoed bills) and the last column specifies the outcome given our theoretical discussion and procedural survey. In the first three cases it is Congress that makes a proposal to the executive. In the other cases the executive returns a modified version to Congress (either partially object X or with an amendatory observation Y). Countries are ordered according to the discretion granted to the president at this final stage in the lawmaking process (from lowest to highest).

Our argument that presidents can affect the legislative agenda—the available choices faced by members of Congress voting an ordinary bill—even in the presence of an override threshold not greater than a majority challenges prior work on veto power. Most analyses of veto rules (and related rankings) have focused on how high the override threshold is without considering the advantages derived from amenda-

\textsuperscript{20} For Uruguay, see constitutional articles 137–40, and personal communication with Juan Andrés Morales; for Ecuador, see constitutional articles 152 and 153, and personal communication with Andrés Mejía Acosta.

\textsuperscript{21} Both presidents have ten days to veto legislation passed by Congress.
<table>
<thead>
<tr>
<th>Diagram #</th>
<th>Country</th>
<th>Amendatory Observations?</th>
<th>Override Requirement</th>
<th>Default</th>
<th>Feasible Set and Outcome</th>
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<tr>
<td>1</td>
<td>Honduras</td>
<td>No</td>
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<td>B ∈ Q(SQ) = B</td>
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<td>SQ</td>
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<td>Colombia</td>
<td>No - partial veto</td>
<td>&gt;1/2 of members</td>
<td>SQ</td>
<td>X ∈ W(B) \cap W(SQ) = X</td>
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<tr>
<td>7</td>
<td>Ecuador</td>
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<td>≥2/3 of members</td>
<td>Y</td>
<td>Y ∈ NQ(B) = Y</td>
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</table>

*In El Salvador the override majority for the block veto is ≥ 2/3 of votes.
tory observations and default outcomes. For example, Shugart and Carey, in one of the most influential works on Latin American political institutions written within the last twenty years, argue that when “the president’s ‘veto’ does not ultimately require any greater majority to override the president’s objections than to pass the bill in the first place . . . the process does not constitute an effective executive veto as it is commonly understood. Rather, it constitutes a formal process by which the presidents can ‘go public’ (Kernell 1986) with their objections to particular legislation, forcing congress to reemphasize its support for a bill.” 22 But in actuality, all Latin American presidents who face override thresholds not greater than a majority can return a modified version to Congress (either through a partial veto or an amendatory observation), and as a consequence they have more options than a public defense of the status quo. The first section of the article provides the theoretical reasons for the importance of this institution, and the next section presents one legislative history to illustrate our argument that this prerogative has real policy consequences even without qualified thresholds.

Our analysis also shows that several countries typically considered to have weak veto powers (for example, Uruguay, Peru, and El Salvador) have actually given their presidents substantial authority by allowing them to introduce amendatory observations to a vetoed bill. For instance, in a recent study Shugart and Haggard rank the Uruguayan president among the weakest in terms of veto powers despite his right to respond with amendatory observations, a default outcome that favors his counterproposal, and a \( \geq 3/5 \) threshold to override his proposal. 23 To show how this institutional weapon affects legislative choice, the next section provides an example of a bill vetoed by the Uruguayan president.

Table 2 presents a comparison between our index and three alternative ones derived from the works of Shugart and Carey, Shugart and Haggard, and Payne et al. 24 Countries are rank ordered in terms of presidential authority to affect the legislative agenda at the last stage in the lawmaking process—the higher the authority provided by veto rules, the lower the rank order of the country in the table. Our analysis of veto powers prioritizes how extensive the president’s power to redraft legislation is. Hence, those countries that allow amendatory observations to vetoed bills are ranked immediately lower than those allowing only partial veto. The latter, in turn, are placed lower than those that

22 Shugart and Carey (fn. 3), 136.
23 Shugart and Haggard (fn. 6).
24 Shugart and Carey (fn. 3); Shugart and Haggard (fn. 6); Payne et al. (fn. 6).

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# PRESIDENTIAL AGENDA SETTING

## Table 2

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<tr>
<td>Shugart and Haggard (2001)</td>
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<td>1.000</td>
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<tr>
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<td>0.074</td>
<td>0.340</td>
<td>-0.211</td>
<td>1.000</td>
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*The three alternative rankings reflect the result of adding scores for "partial" and "package" veto variables, as provided by the authors. All three works include additional institutional variables in their additive indices of overall presidential power. The countries are ranked from lowest to highest. The results from a Spearman rank correlation appear below the country rankings.*

limit the president to a block veto. Among those countries that allow amendingary and partial vetoes, those that have a default that benefits the president (that is, by allowing automatic enactment of a modified bill) are placed lower. And within this last group, we place at a lower rank (that is, having greater power) those countries that have higher override thresholds. As the reader can see, our ranking is evidently different—there is no statistical association present. Discrepancies between our index and Shugart and Carey's index may in part be affected by a few constitutional changes that occurred during the 1990s, but the
other two are recent analyses. The disagreement has implications for broader studies that seek to compare the relative institutional influence of presidents vis-à-vis Congresses. Given the way incentives at the last stage of lawmakers reflect choices that were made at the beginning of the legislative game, the veto prerogatives of presidents are of paramount importance.

To summarize, we have shown how in most Latin American countries veto rules tend to endow presidents with much more than negative or “reactive” power. They provide them with positive agenda power at a crucial stage in the lawmaking process. The next section presents the histories of three vetoes to illustrate the advantages and constraints fostered by the different institutions.

**VETO POWERS AND LAWMAKING**

Our analysis has emphasized the authority of the president in the final passage of legislation and is rooted in the procedures involving amendatory observations. We specified the possible outcomes for each country given such powerful yet unnoticed procedural weaponry. This section presents the histories of three legislative vetoes that illustrate the actual interaction of executives and legislatures under different rules. The cases are from Uruguay, El Salvador, and Argentina. Why these countries? On the one hand, they show different degrees of presidential authority, and on the other hand, they allow us to dispel some misunderstandings about veto power in these countries.

The Uruguayan president has great procedural discretion once a bill arrives on his desk, a situation that stands in contrast to the conventional wisdom, as shown in Table 2. The first case presents evidence of such advantage in a crucial budget bill. The second case shows how a president endowed with an apparently innocuous power—to veto bills overrides by a majority—can in fact use amendatory observations to make substantive modifications. The third and final legislative episode follows two versions of a controversial patent law in Argentina. It shows a president, generally considered to have a very powerful veto, limited by his inability to offer amendatory observations. The president is forced to go more than several rounds, face delays, confrontation, and changes he could have avoided had an amendatory observation been available. Although the narrative demonstrates how he succeeds with modifications in all controversial aspects, it is a case in which the president really wants to impose changes (modifications rather than dele-
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articles (thirty-two referred to modifications to one article each, and the other two included changes to a continuous set of two and three articles). The changes referred to tax policy, salaries, school curriculum, benefits, and funding for several government programs, and included deletions to the text, additions to articles, and a rewrite of text (substitutions). According to the Constitution, legislators had thirty days in which to exercise an override vote; otherwise all the presidential changes to the budget bill would become law.\textsuperscript{25}

The four parties in Congress agreed to call the Asamblea General (a joint session) and meet in the related budget committee to discuss congressional action on the president’s changes. The transcripts from the committee meeting show that legislators discussed and voted on only nine of the thirty-four amendments. They voted unanimously to override the executive on six articles. The PN sought to gather support to override another amendment (to article 118), but no other party supported it. The FA sought to override two other amendments (to articles 583 and 597), but no other party supported the request. The Asamblea General finally met on February 14, 2000, and voted unanimously to override six of the changes introduced by the president. Because no action was taken on the other twenty-eight modifications, they were enacted into law as part of the budget bill.\textsuperscript{26}

The veto to the Five-Year Budget is representative of the wide discretion given to the Uruguayan president. It shows how amendatory observations were used by the president to make significant improvements to several areas of policy, mitigating unwanted congressional changes and getting most of his changes enacted into law. As the example shows, the bulk of his counterproposal became law by default—the president was not required to build a majority floor coalition to offer a positive endorsement of his proposal.

\textbf{Amendatory Vetoes without Qualified-Majority Override: The Bill on the National Audit Office in El Salvador}

In July 2002 the comptroller and auditor general of El Salvador, Hernán Contreras, announced to the members of the Legislative Assembly a proposal to modify the law regulating the National Audit Office (NAO). The related bill was formally introduced several weeks later by seven legislators including members of ARENA (the president’s

\textsuperscript{25} As noted before, Congress needs a vote of \( \geq 3/5 \) of members of each chamber in a joint session (fifty-five deputies and eighteen senators) to override a presidential observation.

\textsuperscript{26} During the debate, the opposition Frente Amplio expressed further support for other five presidential changes not discussed in committee (114, 185, 319, 354, and 546–47).
party), the Christian Democrats (PDC), and the chamber’s president Ciro Zepeda, a member of the National Conciliation Party (PCN). The bill included thirty-six reforms to the legislation in place.

Much of the bill was uncontroversial, but one provision in particular was highly controversial. It was article 46, which referred to the public nature of the agency’s investigations. The status quo was based on legislation passed in 1995, which established that anybody could go to the NAO and have access to any investigative report on public officials. Article 46 of the new bill sought to change the law by restricting public access to any investigation until after a judicial process was completed and the accused was either found guilty or cleared of any wrongdoing. If passed, the public (that is, the press, NGOs, and opposition parties) would no longer be alerted to ongoing investigations of corruption. Because in El Salvador judicial processes are lengthy and often remain unresolved, opponents claimed that the proposed change would protect corrupt public officials and discourage government transparency.

The actions of the NAO had so far generated several conflicts, as journalists and NGOs sought and seldom got information about the hundreds of investigations of public corruption undertaken in the last few years. The NAO had been very active since its inception, with over four thousand irregularities proven. Despite the cases uncovered, the office was surrounded by controversy as former directors were themselves accused of wrongdoing by the opposition.

On September 26, 2002, the Legislative Assembly of El Salvador approved the bill reforming the National Audit Office with the new article 46 untouched. It received the support of the center-right parties ARENA, PCN, and PDC and the centrist CDU, receiving a total of fifty votes (no recorded roll call). The leftist FMLN was the only party to vote against the provision. Soon after passage several critics began to lobby the president for a veto. Representatives from the Association of Salvadoran Journalists (APES) met with the executive and requested a veto. Critics of the proposal included not only journalists and members of the opposition FMLN but also the attorney general, who publicly condemned passage of the controversial article.

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27 Newspaper El Mundo, San Salvador, October 18, and November 8, 2002.
28 For instance, former comptroller and PCN leader Cruz Zepeda was forced to step down as head of the NAO on 1989 amid accusations of corruption.
29 The composition of the National Assembly at this time was as follows: ARENA 28 deputies, PCN 16 deputies, CDU 5 deputies, PDC 5 deputies, and FMLN 31 deputies. The president belongs to the ARENA party, which has a minority of members. An informal coalition between the rightist ARENA and PCN and the Christian Democrats of the PDC has led to mutually agreed upon rotating directive for the Assembly.

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President Flores vetoed the bill on October 16, 2002. He returned it to Congress with an amendatory observation that modified article 46. When a president returns an amendatory observation, the National Assembly can accept it by a majority vote or it can try to override with a vote of more than half of the total membership. It should be highlighted that in El Salvador a block veto would have required a two-thirds qualified majority for override; however, the president wanted to shape the content of the bill, not preserve the status quo, so he chose an amendatory observation despite a lower override threshold.

The president rewrote the article, specifying that the NAO would have to make public reports about accused officials when there was "proof of relevant irregularities." The president argued that the status quo was problematic because it gave NAO officials the power to use ongoing investigations for politically motivated reasons; however, he also criticized the congressional bill, which in his view was too far-reaching in restricting public access to NAO investigations.\(^{31}\) The presidential observation, while limiting the access available under current legislation, effectively left the discretion to make investigations public in the hands of the NAO.

The president's party (ARENA) came out in support of the amended version, while the comptroller's party (PCN) appeared indifferent, arguing that the observation was substantively similar to the article originally approved by Congress. The PDC, which during congressional debate had unsuccessfully offered an amendment to allow for greater public access, was also sympathetic to the observation.

In early December the amended version of article 46 sent by the president passed in the Legislative Assembly with the support of ARENA, PCN, and PDC in a vote that was not recorded or publicized in the media. The president, who had successfully mitigated an unwanted change, signed the new bill on December 18, 2002.

In this example, a president endowed with the power to make amendatory observations successfully amended a controversial bill despite being vulnerable to an override by a majority of members of Congress. The president faced not only a majority override but also possible congressional inaction (= SQ). Through the clever use of an amendatory observation, Flores was able to mitigate unwanted changes and gather the support of a congressional majority to enact an alternative proposal.

\(^{31}\) *Newspaper La Prensa Gráfica*, San Salvador, October 19, 2002.
THE ADVANTAGES AND LIMITS OF A PARTIAL VETO: THE PATENT
BILLS DURING THE MENEM ADMINISTRATION IN ARGENTINA

Argentine President Menem (1989–99) first sent a patent bill to the
lower chamber in October 1991. It included a modification of the Med-
icines Law, enacted in the middle of the nineteenth century and con-
sidered by the government to be obsolete and an impediment to foreign
investment in the industry. After the bill entered the Chamber of
Deputies, committee members and other legislators from the Peronist
party (PJ) majority publicly voiced their opposition, arguing, among
other things, that a reciprocal lifting of agricultural barriers in developed
countries was a prerequisite for a new patent law. Without having come
out of committee, the bill was withdrawn in early 1993. The executive's
next move was to send the patent bill to a friendlier Senate (also con-
trolled by the president's PJ), which in May 1993 began a series of pub-
lic meetings with several interest groups, academics, and the minister of
economy. The bill was very controversial, pitting local pharmaceutical
companies and other industrialists, who emphasized the consequences
of higher prices and foreign monopolies, against foreign pharmaceuti-
cal companies with operations in the country, backed by the diplomatic
muscle of the United States, Germany, and other European countries.

The bill passed the Senate in July 1994. The most controversial
modifications introduced by the Senate included

1. a transitional period delaying royalty payments for eight years on medicines
2. a requirement to start local or Mercosur\footnote{Trade bloc that includes Argentina, Uruguay, Brazil, and Paraguay.} manufacturing after three years
   of having a license
3. a series of requirements precluding “monopolistic” practices, including re-
   quirements to sell medicines at “reasonable” prices, to keep license ownership
   and to produce the licensed item within three years or lose exclusivity
4. a provision that makes patent exceptions for new pharmaceutical discov-
   eries that offer significant benefits to people's health, and
5. provisions for the organization, duties, and oversight of the agency with
   authority over patent rights, including the agency's ability to decide challenges
to patent decisions, and the establishment of a bicameral committee to oversee
the functioning of the patent agency

The government had sought new patent recognition and a royalty
payments regime to start the following year, few exemptions for forced
issuance of patents, no compulsory local manufacturing, and a larger
role for the executive in the whole process. The main opposition, the
Radical Party (UCR), had pushed for a longer transition period, but the PJ version finally won, setting it to start eight years later, in 2003. The lower chamber endorsed the bill as it came from the Senate and passed it on March 1995 (law 24,481).

Despite congressional warnings to the contrary, President Menem vetoed the bill. He introduced “16 objections,” deleting 9 articles in their entirety and parts of 7 others in a bill made up of 105 articles. The partial veto introduced changes on all five areas previously mentioned.

The Senate voted on the president’s veto in mid-May. It was the first time the Argentine Congress confronted such a procedure since the enactment of the Constitution of 1994 and it was considered a landmark case. Senators voted to override some objections, while letting others stand. On the plenary floor Senators exceeded the two-thirds override threshold to insist on 9 articles, referring to points 1, 3, 4, and 5 mentioned previously. The Senate did not insist on the provision that required local manufacturing of medicines, referred to as point 2, and on other minor aspects of exemptions. The Chamber of Deputies voted later that month in the same fashion as the upper house.33

Soon after the bill passed, the president began talks with PJ legislators on a new bill that would introduce changes to this controversial legislation. In early June Senator Molina, chair of the committee on health, announced agreement on new legislation (Ley Correctiva). The new bill introduced important changes: it established a five-year timetable to start paying royalties to foreign pharmaceutical companies, thus reducing the original timetable by three years (point 1); it modified the appointment of the board of the agency in charge of patents (INPI), which moved from the Senate to the hands of the president, modified grievance duties, which moved to the judicial branch and changed the oversight agents, which moved from a bicameral committee to the general auditor office (point 5); last, it eliminated exemptions for new pharmaceutical discoveries that offer significant benefits to people’s health (point 4). The new bill eventually passed the Senate (July 1995) and the lower chamber (September 1995) with the support of the PJ majority, and the president enacted it without vetoes.

In this particular event, the Argentine president improved his position by rejecting certain provisions and introducing a subsequent (more consensual) proposal. Rules imposed limits that forced him to go an extra round (a new bill) and be subject, once more, to congressional

33The economy minister, Domingo Cavallo, lashed out at legislators for overriding these changes, accusing them of falling prey to the lobby of industrialists and Argentine pharmaceuticals (that is, UIA and CILFA).
modifications. Had the president been able to introduce his modifications as take-it-or-leave-it amendatory observations the first time around, we believe he would have fared better. The executive veto employed in Argentina is powerful indeed, but it is more restrictive for the president than is the power to make amendatory observations.

CONCLUSION

This article has examined the diverse veto procedures employed in Latin America. The analysis shows that differences in institutional detail matter and it emphasizes the advantages of one kind of power, presidential amendatory observations. Although this practice is present in half of the Latin American countries, it has so far escaped scholarly scrutiny.

Contrary to the conventional view, veto power in Latin America is quite frequently accompanied by amendatory observations that provide the president with significant agenda-setting powers. We show why this is a fundamental prerogative even when the president’s counterproposal is overridable by a majority vote. In general, Latin American constitutional designs confer both negative and positive power on presidents at the last stage of the lawmaking process. The games implied by the different rules reveal how far presidents can go and show why the ability to make positive suggestions to vetoed bills allows the president wider discretion than the more familiar block veto. These findings led us to reassess prior evaluations of presidential power in Latin America that tend to give considerable weight to override thresholds but ignore the right to make amendatory observations and the related default rules. Our analysis leads to results that have practically no correlation with the indices presented in the literature. Why is it significant if, say, Uruguay and El Salvador have stronger presidents, as we suggest, as opposed to weaker ones, as other classifications indicate? Because if the presidents of Uruguay and El Salvador were to have weak veto powers, their preferences would be less likely to have a considerable impact upon legislation and Congress would be able to override their vetoes as prior analyses imply. Yet we saw that historical examples corroborate our expectation that they will be able to affect policies significantly. Understanding the impact of institutional structure at the last stage of the lawmaking process would lead us to have very different priors when there is a conflict between the Congress and the president.

We have presented a theoretical model, as well as some corroborating evidence, of how presidents affect legislative outcomes. However,
the empirical analysis is anecdotal. The need now is for systematic cross-country comparison of veto incidence with legislative outcomes in different countries, in order to assess the frequency of use of these procedures as well as the effect of the institutional provisions we have described in this article.

APPENDIX

\[ \begin{align*}
\text{P} & = \text{President} \\
\text{C} & = \text{Congress} \\
\text{B} & = \text{Bill as originally passed by congress} \\
\text{SQ} & = \text{Status quo, no bill} \\
\text{X} & = \text{Partially Vetoed Bill = B minus the parts deleted by the President} \\
\text{Y} & = \text{Amended Bill = B with modifications introduced by the President}
\end{align*} \]

GAME FORM 1: BLOCK VETO

Countries: Guatemala, Honduras and Dominican Rep.

\[
\begin{array}{c}
\text{P} \\
\text{sign} \quad \text{veto} \\
\text{B} \\
\text{B} \\
\text{C} \\
\text{override} \\
\text{default} \\
\text{B} \\
\text{SQ}
\end{array}
\]

GAME FORM 2: BLOCK AND PARTIAL VETO (NO PARTIAL ENACTMENT)

Countries: Colombia, Paraguay and Panama

\[
\begin{array}{c}
\text{P} \\
\text{sign} \quad \text{veto} \\
\text{C} \\
\text{C} \\
\text{partial veto} \\
\text{B} \\
\text{override} \\
\text{default} \\
\text{B} \\
\text{SQ} \\
\text{C} \\
\text{override} \\
\text{accept} \\
\text{default} \\
\text{B} \\
\text{X} \\
\text{SQ}
\end{array}
\]
GAME FORM 3: BLOCK AND PARTIAL VETO (WITH PARTIAL ENACTMENT AS DEFAULT)

Countries: Argentina and Brazil

GAME FORM 4: BLOCK VETO AND AMENDATORY OBSERVATION I (NO PARTIAL ENACTMENT)

Countries: El Salvador, Nicaragua, Venezuela, and Peru

GAME FORM 5: BLOCK AND AMENDATORY OBSERVATION II (NO PARTIAL ENACTMENT)

Countries: Bolivia, Costa Rica, and Mexico
GAME FORM 6: BLOCK AND AMENDATORY OBSERVATION II (WITH PARTIAL ENACTMENT AS DEFAULT)

Country: Chile

GAME FORM 7: BLOCK AND AMENDATORY OBSERVATION II (WITH AMENDED BILL AS DEFAULT)

Countries: Uruguay and Ecuador

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ABSTRACTS

DEMOCRACY AND ECONOMIC GROWTH
A HISTORICAL PERSPECTIVE
By JOHN GERRING, PHILLIP BOND, WILLIAM T. BARNDT, and CAROLA MORENO

Recent studies appear to show that democracy has no robust association with economic growth. Yet all such work assumes that the causal effect of democracy can be measured by a country's regime status in a particular year (T), which is correlated with its growth performance in a subsequent period (T+1). The authors argue that democracy must be understood as a stock, rather than a level, measure. That is, a country's growth performance is affected by the number of years it has been democratic, in addition to the degree of democracy experienced during that period. In this fashion, democracy is reconceptualized as a historical, rather than a contemporary, variable—with the assumption that long-run historical patterns may help scholars to understand present trends. The authors speculate that these secular-historical influences operate through four causal pathways, each of which may be understood as a type of capital: physical capital, human capital, social capital, and political capital. This argument is tested in a cross-country analysis and is shown to be robust in a wide variety of specifications and formats.

ELECTORAL CONTROL IN NEW DEMOCRACIES
THE PERVERSE INCENTIVES OF FLUID PARTY SYSTEMS
By JAKUB ZIELINSKI, KAZIMIERZ M. SLOMCZYNSKI, and GOLDIE SHABAD

How do fluid party systems that exist in many new democracies affect democratic accountability? To address this question, the authors analyze a new database of all legislative incumbents and all competitive elections that took place in Poland since 1991. They find that when district-level economic outcomes are bad, voters in that country punish legislators from a governing party and reward legislators from an opposition party. As a result, electoral control in Poland works through political parties just as it does in mature democracies. However, the authors also find that, in contrast to mature democracies, legislators from a governing party tend to switch to an opposition party when the economy in their district deteriorates. When they do so, their chances of reelection are better than those of politicians who remained loyal to governing parties and are no worse than those of incumbents who ran as opposition party loyalists. These empirical results suggest that while elections in new democracies function as a mechanism of political control, fluid party systems undermine the extent to which elections promote democratic accountability.

PRESIDENTIAL CONDITIONAL AGENDA SETTING IN LATIN AMERICA
By GEORGE TSEBELIS and EDUARDO ALEMÁN

Ten Latin American presidents have a power that has not received the study that it deserves: the ability to make positive suggestions to vetoed bills. These "amendatory observations" return to Congress for a final round of voting. Sometimes the presidential version of the bill becomes the default alternative automatically and may require qualified majorities to be overturned. The authors analyze veto procedures in eighteen Latin American countries and argue that amendatory veto power significantly increases presidential weight in legislative decision making.

LIFE OF THE PARTY
THE ORIGINS OF REGIME BREAKDOWN AND PERSISTENCE UNDER SINGLE-PARTY RULE
By BENJAMIN SMITH

This article develops a theory of single-party regime consolidation to explain the dramatic variation in longevity among these regimes. The strength of the opposition and rent scarcity during party consolidation, it argues, structure the choices available to elites as they decide how to build a support base. A weak opposition and ready access to rents makes a low-cost consolidation