

CHAPTER III EXTENT OF KNOWLEDGE ABOUT INSTITUTIONS

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I. KNOWLEDGE OF INSTITUTIONAL FUNCTIONS

In Argentina, the level of knowledge about functions performed by the most important institutions in the country is satisfactory. Even so, the low levels of “no reply” recorded in this set of questions is surprising.

The table on the next page shows that the highest levels of knowledge about functions performed by the different institutions have to do with judges (judging delinquency), the Electoral Judiciary (organization of elections), Ombudsman (protection of people’s rights) and a few functions of the national Congress (approving government expenses, and taxes). It is important to point out that a certain amount of confusion about the functions of the different institutions is evident. For example, although 69% of respondents correctly attribute the job of organizing elections to the Electoral Judiciary, a no-small 19% erroneously attribute this job to the Congress, and 7% to the president. We also see that the population credits the job of directing the economy mainly to the president (64%), while 26% attribute this job to Congress. The protection of people’s rights is attributed more to the Ombudsman than to the judges.

Argentina: Knowledge of Institutional Functions

	Ombudsman	The Electoral Judiciary	Nation’s President	National Congress	Judges	Other	Not known	No answer
	%	%	%	%	%	%	%	%
Judge delinquents	7	4	4	4	84	1	2	1
Organize elections	2	69	7	19	2	2	5	1
Approve government expenses	5	2	26	64	1	3	5	1
Protect people’s rights	63	2	12	11	22	3	4	2
Approve taxes	4	2	26	61	2	3	8	1
Direct the economy	2	1	64	26	1	7	6	2
Approve international treaties	1	1	62	33	1	2	9	1

II. PERCEPTION OF THE PRESIDENCY OF THE NATION

There is a noted tendency to attribute various functions in different areas to the president, some of them out of his reach, such as approving taxes and international treaties. This is understandable because many people identify the figure of the president as responsible for “everything” to do with governing in the broadest sense of the word (decision, administration and implementation), and they have no clear idea of the boundaries regarding institutional responsibilities.

There is a tendency among the lowest levels of society and among young people to attribute more functions to the president in the areas of taxes, treaties and expenses. This tendency is also seen in the heartland.

In foreign affairs a kind of overlapping is detected between the President’s and Congress’s functions because, even if the latter is responsible for approving international treaties, 62% attribute that job to the president, who in turn has the job of signing them and ratifying them.

Generally speaking, the percentage of correct responses increases among more educated people and among the middle and upper classes of the social ladder.

This perception confirms what has been observed in this respect throughout history, that is, a “hyper-presidentialism” that has violated the balance of powers inherent in our constitutional system.

It should also be understood that this confusion about the functions of the president and Congress springs from the growing performance of legislative functions by the former through emergency measures, such as delegated legislation or emergency decrees.

III. PERCEPTION OF THE NATIONAL CONGRESS

As observed in the analysis on the level of trust in institutions and political actors, the level of trust that the national Congress inspires among citizens is very low (12% in grades of 7 and more, on a scale of 1 to 10). This stems from an alarming lack of interest in matters discussed there and disbelief regarding the motivations behind its work.

In fact, interest in projects and initiatives discussed in the national Congress is low (35%). Sixty-three percent care little or nothing for what is discussed there. Moreover, 93% think that decisions are made in Congress without any thought for the people.

We also learned from the data that more than half of the people polled have no interest in the activities of Congress. That is evident from their perception of legislators’ performance; the little credibility of congress people and senators (or representatives) among the population, and the low levels of interest in politics. The attitude is of concern for two reasons: first, the primary source for laws in Argentina is in legislation, and second, Congress exercises important measures of control that are part of a democracy. So, to the extent that citizens have no interest in Congress’s activities, their detachment from government processes guarantees low levels of political control among government agencies.

Despite these perceptions, 69% of respondents stated that laws made by Congress should be obeyed, even if they oppose people’s way of thinking. This idea grows in proportion to financial level and education, and with the age scale, and it is also more prevalent among men and residents of the metropolitan area.

The high levels of mistrust towards Congress are not exclusive to Argentines. On the contrary, in Latin America indicators of confidence in this institution oscillate between 44% (highest recorded) and 8% (lowest recorded), according to data from the Latinobarometer 2004. A majority of the countries in the region show little confidence in their Congresses, notably Ecuador, Peru and Bolivia, with the lowest indicators.

As to Congress granting special powers to the President through delegated legislation, 42% of the people polled disagree, plus another 15% who disagree very strongly. They constitute a significant majority over the 23% who agree and only 1% who agree very strongly. On this point, 11% did not answer and 8% did not know.

On the subject of the President enacting necessity and urgency laws, a majority, 53%, disagree, while 31% consider it good or very good, 10% do not answer and 8% do not know.

These last two aspects tell us that there is a growing awareness in the country about excessive intrusion by the president in the performance of legislative functions, given that the legislative delegations of Congress and necessity and urgency laws draw a clearly negative opinion from the majority of people.

IV. PERCEPTIONS OF THE JUDICIARY AND THE JUSTICE SYSTEM

1. Lack of confidence in the judges

On a scale of 1 to 10 to measure confidence in judges, common judges received a vote of 4.64 points, those belonging to the Electoral Judiciary 4.33, and those in the Supreme Court 4.21. The data show a marked mistrust in these judicial officials.

To the above statistic, we can add the observations stated in the chapter about law infringement, where 41% of the people polled perceive that judges are the most frequent violators of the laws.

These data from the poll are particularly serious and relevant in terms of the smooth functioning of the republican system, because independence and correct operation of the judicial system is one of the fundamental bases of our political and constitutional regime.

2. Lack of independence of lower judges

Most of the people polled (51%) perceive that lower-ranking judges are not very (38%) or not at all (13%) independent, compared with 40% who think the opposite (28% maintain they are fairly independent, and 12% totally independent). Eight percent said they did not know and 1% did not answer.

The highest indicators about the judges' lack of independence come from older age groups, residents in the metropolitan area and those with a higher educational level.

3. Lack of independence of judges of the Supreme Court

In this case, the perception about lack of independence is greater than for that of the lower judges, because 35% claimed they are not very independent and 17% said they are

not at all independent, compared with 27% who consider them fairly independent, and 11%, completely independent. Nine percent say they did not know and 1% did not reply. The largest percentage of people to view judges as not very independent is in the 45 to 49-year-old age group, while those who stated they are not at all independent are residents in the metropolitan area and males.

As for the question as to whether the present Court is more independent than the previous one, the people polled insisted on maintaining their majority criteria about the judges' virtual lack or total lack of independence (30% and 14% respectively). Thirty percent consider them fairly independent and 9% fully independent.

4. The deficiency in the Judiciary

Most of the people polled (71%) have not had contact with the Judiciary in recent years. Of the 28% who have, 73% rated the Judiciary's response as average (41%) and poor (32%), compared to 25% who rated it as good (21%) and very good (4%). So the conclusion of the majority underscores the deficient functioning of the Judiciary.

5. Appraisals of justice

To the question about the chances of winning a lawsuit against the national government, 67% said the chances are few (46%) or none (21%), while 27% thought the opposite is true. Seven percent did not know or did not answer. The results confirmed a majority perception of the Judiciary being neither independent nor efficient.

The question of whether or not it is worthwhile going to court to file a lawsuit received an affirmative answer by 56%, a negative reply by 36%, with 8% of people unsure. These data are worrisome, especially the negative reply (38% of the negative replies came from young people).

Finally, to the question of what is worse in the eyes of society: incarcerating an innocent person or allowing a guilty person to remain free, 42% chose the first alternative, 48% the second, while 6% replied that it depends on the circumstances.

In the first answer, closer to liberal standards characteristic of the rule of law, the highest percentages were seen in older age groups, in people living in the metropolitan area and people with a higher education. To the contrary, the second reply, inclining more to repressive standards, came from groups of young people, from residents of provincial cities, from women and from people with a lower education.

6. Appraisals of judicial proceedings

On the subject of the death penalty, 45% of the people polled disagree with it and 12% disagree very strongly. These data contrast with the 39% who declared themselves in favor of that penalty. The highest percentage for the former opinion came from more educated people.

As to whether it is preferable for a citizen to shoot someone who committed a crime instead of letting him/her escape, 50% disagreed and 8% strongly disagreed about shooting a perpetrator, while 35% approved the citizen's option of defending himself in such a situation.

The sentence "*It is hard to obey the law when many people do not*" received 53% of concurring opinions and 9% strongly concurring opinions, compared with 36% opposing opinions.

Finally, the question about the police holding people while a crime is being investigated, even without sufficient evidence, showed that 55% of the people polled agree and 15% strongly agree that they should be held, while only 21% disagreed and 4% disagreed strongly. The highest percentage to agree with this measure came from the oldest participants.

These figures are worrying inasmuch as they indicate a conformity with more repressive views that imply cutting back on individual rights and guarantees. The data must be analyzed in the context of a society that admits to its transgressions, to not being very law abiding , not trusting public institutions, while perceiving that the government and others also fail to obey the law.