

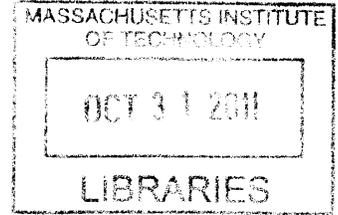
Enforcement without Autonomy:
The Politics of Labor and Environmental Regulation in Argentina

by

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ABSTRACT

How can states with weak and politicized bureaucracies enforce labor and environmental regulations? Through a study of subnational variation in Argentina, this dissertation develops a framework to explain why bureaucrats are able to enforce regulations in some cases and not others. The framework focuses on two factors: the strength of linkages between bureaucrats and civil society organizations, and the level of administrative capacity in the bureaucracy. Strong linkages can facilitate routinized resource sharing and the construction of pro-enforcement coalitions, and administrative capacity determines whether bureaucrats passively or strategically use societal resources. By explaining variation in patterns of enforcement that are obscured by existing approaches, this research opens up new possibilities for crafting strategies to strengthen regulatory institutions. The dissertation draws on data collected during sixteen months of field research, including over 250 semi-structured interviews and an original survey of labor inspectors.

Thesis Supervisor: Richard M. Locke
Title: Class of 1922 Professor of Political Science and Management

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Chapter 1: Introduction and Theory

This dissertation examines the politics of enforcing labor and environmental regulations in Argentina. In Argentina, as in many countries, there are strong laws to protect workers and the environment on the books, but these laws are often violated, and the state bureaucracies charged with enforcement are highly politicized. Weak regulatory institutions result in concrete consequences: workers being cheated out of legally mandated benefits, pollution being left unmitigated, and firms being left with few incentives to invest in sustainable practices. Although institutional weaknesses are widespread, especially in middle-income and developing countries, debates about political economy have until recently tended to side step these problems.¹ Strengthening regulatory institutions through enforcement remains a key challenge. This dissertation explores the question: How do states with weak and politicized bureaucracies enforce labor and environmental regulations?

Most theories, either implicitly or explicitly, argue that the creation of a strong, autonomous bureaucracy is crucial for enforcement. A contested concept, autonomy can be defined broadly as the ability of a bureaucracy to take actions on its own accord and to resist the influence of organized interests.² Although autonomy is not sufficient for enforcement, it appears necessary because when bureaucracies are politicized (i.e. when they can be directly influenced or captured by organized interests), resources are often redirected for patronage and powerful actors block state action.³ Where bureaucracies are politicized and weak—due, for instance, to inadequate budgets and limited staff—they appear destined to fail even if there are a number of other factors, such as support from elected leaders, in favor of implementing regulations.⁴ Although analysts do not assume that bureaucracies achieve perfect autonomy, nearly all of the mechanisms that can potentially trigger enforcement depend on high levels of corporate coherence within the state. In short, the lesson from dominant theories is that developing strong bureaucracies with sufficient autonomy is *the* path to enforcement. Therefore, in Argentina, where almost all regulatory bureaucracies are politicized and many lack administrative capacity, enforcement seems all but impossible.

A closer look at Argentina, however, reveals broad variation in enforcement—across provinces, economic sectors, and time—that cannot be easily accounted for with dominant approaches. In the province of Córdoba, for example, the labor inspectorate has a series of organizational failings that undermine the prospects for autonomy: inspectors are paid low salaries, are not exclusive employees of the state, do not have prospects of career advancement, and have not been selected through a meritocratic

¹ Levitsky and Murillo 2009

² The definition of the concept of autonomy and its relation to state capacity is contested in the literature (for a recent review see: Soifer and vom Hau 2008). In this study, I use a relatively weak definition of autonomy that does not make presumptions about the preferences of bureaucrats. On the relation between autonomy and capacity, see: Skocpol 1985; Geddes 1990; Geddes 1994; Evans 1995; Carpenter 2001.

³ Geddes 1990; Grzymala-Busse 2003

⁴ For example: World Bank 1995; Dasgupta 2000; O'Rourke 2002; Inter-American Development Bank 2002; Inter-American Development Bank 2004; Bensusán 2006; Goldin 2007; Anner 2008; McAllister 2008; McAllister, Van Rooij, and Kagan 2010.

process. Most conventional theories would expect the inspectorate to fail due to capture or corruption. In contrast, however, the inspectors in Córdoba have worked with unions and the construction industry association to inspect construction sites regularly, punish firms that ignore health and safety laws, and to conduct onsite training that can enable firms to comply. Córdoba's labor inspectorate is certainly politicized, and perhaps even captured by unions, but that has not proven an insurmountable barrier to enforcement. In contrast, in the neighboring province of Santa Fe, which shared all of the same bureaucratic deficiencies and was equally permeable to unions, for many years the state did comparatively little to enforce health and safety regulations in construction. Such pronounced variation cannot be explained solely by examining bureaucratic autonomy.

In addition to variation across Argentine provinces, there have also been substantial changes in enforcement over time. From the mid-1980's to 2003, environmental officials in the northern Tucumán province took samples of water pollution from sugar mills producing ethanol and found contaminants at levels over one hundred times the legal limits. Until 2003, there was little if any effort either to punish violators or to enable firms to comply. Efforts to improve compliance increased gradually, and by 2008 the local environmental agency began taking far-reaching steps to enforce regulations, which triggered over fifty million dollars in investments by the industry to reduce pollution. Still, Tucumán never formed an autonomous bureaucracy. On the contrary, the regulatory agency took on more features that should have left it open to political interference. For instance, the officials who were hired had preexisting ties with industry and were on short-term contracts that offered few career prospects within the state bureaucracy. *How can this variation in enforcement, all within the context of weak bureaucracies, be explained?*

This dissertation develops a framework to explain variation in enforcement that does not depend primarily on the bureaucracy being autonomous. In brief, the framework is built around the interaction of two factors: the *administrative capacity* of the bureaucracy, and the strength of *linkages* between bureaucrats and civil society organizations. First, even within the category of weak and politicized bureaucracies, there are substantial differences in administrative capacity. When bureaucracies have relatively low levels of administrative capacity, they cannot easily take enforcement actions on their own. Second, state bureaucracies often have linkages—routinized processes of consultation and interpersonal networks—with civil society organizations, broadly defined to include unions, environmental groups, and industry associations. Bureaucrats can use these linkages to extend state capacity by drawing on resources from civil society organizations.

In combination, administrative capacity and linkages interact to result in qualitatively different patterns of enforcement. When there are high levels of administrative capacity but weak linkages, the resulting pattern is *state-driven enforcement*, in which all resources are mobilized by the bureaucracy on its own. State-driven enforcement, which is generally the only pattern recognized in the literature, is unlikely to reach high levels where bureaucracies lack autonomy and bureaucrats need to take steps that go against organized interests. When administrative capacity is low but linkages are strong, the result is *society-dependent enforcement*, in which bureaucrats rely

on societal resources to enforce regulations. In these cases, enforcement occurs despite the fact that the bureaucracy lacks capacity, but it is limited to places where linked-organizations have considerable resources. By contrast, when both linkages and administrative capacity are strong, bureaucrats use societal resources strategically to supplement the state. This combination leads to patterns of *co-produced enforcement*, in which there are high levels of enforcement, and the distribution of enforcement does not reproduce the inequalities of civil society organization. By identifying these alternative patterns of enforcement and their formation through combinations of administrative capacity and linkages, this dissertation explains variation that is obscured by existing approaches.

This study contributes directly to debates about the role of the state in the economy and the ability of the state to uphold the rule of law. During the peak of neoliberalism, much of the research on regulation analyzed legal reforms, not policy implementation. For instance, in the midst of an apparent convergence towards labor flexibility in Latin America, scholars focused almost entirely on the intense battles over labor law reform, but selecting laws was just the beginning, not the end, of politics.⁵ Much less attention has been paid to the politics of enforcing regulations that are on the books.⁶ Yet, the problem of enforcement has only become more critical to understanding the political economy of regulation in Latin America. With widespread disillusionment about neoliberal reform, a wave of elections ushered in left-oriented leaders who promised a return of the state as a regulator.⁷ Little is known, however, about whether or not this political change will translate into better social or environmental protections, especially given the condition of many enforcement bureaucracies in the region. This dissertation shifts the focus (once again) from policy selection to implementation.

Enforcing regulation is part of a broader class of problems that arise when institutions are weak and states are unable or unwilling to put the weight of their administrative apparatuses behind upholding laws.⁸ Scholars studying such diverse areas as human rights, crime, impartial justice, and public goods provision, highlight the problem of building strong institutions.⁹ Research on labor and environmental regulations provides an opportunity to examine the processes that promote and block enforcement in two policy areas that share similar administrative challenges but have very different political dynamics. Enforcing regulation in both issue areas requires monitoring violations and taking a variety of steps to improve compliance. But, while labor politics in Argentina is highly partisan and marked by a history of corporatist interest group organization, environmental conflict is detached from partisan politics and

⁵ Bronstein 1997, Etchemendy and Palermo 1998; Levitsky and Way 1998; Cook 1998; Etchemendy 2001; Murillo 2001; Madrid 2003; Murillo 2005; Murillo and Schrank 2005; Cook 2007; Burgess 2010.

⁶ In recent years, there have been some notable exceptions on which this dissertation builds: Marshall 2007; Anner 2008; Piore and Schrank 2008; Pires 2008; Schrank 2009; Ronconi 2010; Coslovsky 2011; Coslovsky, Pires, and Silbey 2011; Pires 2011.

⁷ Even if there are debates of what constitutes left, there was clearly a strong shift in the beginning of the 2000s: Castañada 2006; Arditi 2008; Baker and Greene 2011.

⁸ For example on rule of law see: O'Donnell 1993, and on weak institutions, see: Levitsky and Murillo 2005; Levitsky and Murillo 2009.

⁹ Helmke 2002; Brinks 2003; Chavez 2004; Peruzzotti and Smulovitz 2006; Brinks 2008; Mainwaring and Scully 2010

dominated by relatively unstructured pluralist interest groups. By contrasting politics and holding constant the administrative mechanics of the task, we can draw lessons from labor and environmental regulation in Argentina that speak to the broader problems of governance characterized by uneven and politicized implementation.

The remainder of this introduction and theory chapter is organized as follows. First, I review the literature on regulation and, more broadly, on bureaucracies and state capacity. Second, I offer an alternative explanation for variation in enforcement in places with weak bureaucracies. Third, I describe the empirical context of the dissertation—Argentina in the period after the economic crisis of 2001. Fourth, I lay out the subnational comparative research design employed in the study. The chapter concludes with an overview of the dissertation, previewing the empirical analysis and outlining the chapters that follow.

Enforcing Regulation

In order to analyze regulatory enforcement, it is helpful first to unpack what enforcement means in practice. The regulations studied in this dissertation set out standards that constrain the actions of firms and establish a number of rights for workers and communities. In labor policy, these standards include the payment of minimum wages, benefits, severance pay, and health and safety requirements.¹⁰ Environmental standards include limitations on pollutant discharges to the air, water, and soil, as well as a number of process standards for pollution management and treatment. Violations either deny, or threaten to deny, the rights of workers to enjoy basic protections and of people to live in a safe and clean environment. Violations also undermine the strength of institutions that structure labor markets and balance the goals of sustainability and economic development.

Enforcement is about the state's role in ensuring that firms meet their obligations, rights are respected, and institutions are strong. For many analysts, enforcement primarily occurs through deterrence; the higher the probability of detection, and the greater the penalties, the more likely it is that rational firms will choose to comply.¹¹ Using this model, it appears simple to operationalize and measure enforcement through the number of inspections and fines. Closer examination of regulation in practice, however, reveals that while deterrence is important, it only captures a small portion of what regulators do.¹² In addition to monitoring and penalizing, these tools include instructing firms on how to comply,¹³ appealing to firms' normative or identity commitments,¹⁴ conciliating conflict among actors,¹⁵ or using some combination of these

¹⁰ This study focuses entirely on individual, not collective, labor rights.

¹¹ Becker 1968

¹² The literature on regulation is too vast to completely review in this section. For a recent review, see: Coslovsky, Pires, and Silbey 2011

¹³ Piore and Schrank 2008

¹⁴ Kelman 1981; Lee 2008

¹⁵ Hawkins 1984

actions.¹⁶ Seen in this light, it becomes clear that enforcement is much more than simple application of previously chosen policies. Rather, it becomes a process of interpreting regulations and adapting rules to the settings in which they are applied.¹⁷

While recognizing the complexities of regulation in practice, it is helpful for analytic purposes to distill enforcement into a stylized process in order to better specify the types of resources bureaucrats need. First, bureaucracies need information about compliance and non-compliance in an economic sector. This information can be gathered actively, by sending inspectors out to firms, or passively, by waiting for individuals and civil society organizations to bring the information to the state. Second, bureaucracies need to be able to process the information and craft a response that creates incentives for firms to comply and enables them to respond to those incentives. Third, bureaucracies need to be able to resist efforts to block enforcement by organized interests that may have immediate costs imposed on them by regulations. Compared with firm owners or managers for whom regulations can impose costs or constraints, the beneficiaries of regulations are generally diffuse (as in environmental protection) or in a position of weakness (as in labor protection). Therefore, state agencies need some way to go against the power imbalance.¹⁸ If any one of these three capabilities is disrupted or blocked, enforcement will be reduced.

Building on this analysis, we can develop a strategy for operationalizing and measuring levels of enforcement. Most studies tend either to eschew measuring levels of enforcement altogether (e.g. opting only for comparison of enforcement styles) or to use only quantitative indicators of enforcement (e.g. numbers of inspectors to estimate enforcement intensity).¹⁹ Both approaches are problematic. Focusing only on enforcement styles (e.g. whether regulators use penalties or instruction) ignores the question of *how much* action regulators take in the first place. This oversight is significant because one of the major problems in enforcement is that regulators are blocked or lack the capacity to reach many places where there are violations. Using only a small number of quantifiable indicators of enforcement levels, which are often not contextualized, leaves out much of what regulators do in practice and can result in tremendous measurement error (e.g. giving comprehensive inspections the same weight as superficial ones).

In contrast to both of these approaches, I use a wide variety of data sources (e.g. numbers of inspections and first-hand accounts of their quality) to construct context-sensitive measures of relative enforcement levels that alleviate measurement problems.²⁰ And to provide clarity in comparisons among many cases, I create a simple spectrum

¹⁶ Kagan and Scholz 1984; Scholz 1991; Ayers and Braithwaite 1992; Hunter and Waterman 1992; Hawkins 2002; May 2004; Gunningham, Thornton, and Kagan 2005; May 2005; Fiorino 2006; Pires 2008; Coslovsky 2009; Locke, Amengual, and Mangla 2009

¹⁷ For two more elaborate treatments of the pragmatic nature of regulation, see: Piore 2004; Coslovsky, Pires, and Silbey 2011

¹⁸ Wilson 1980

¹⁹ For the strategy approach, see: Piore and Schrank 2008; McAllister 2010. For the broad indicator approach, see: Anker, Chernyshev, Egger, Mehran, and Ritter 2002; Almeida and Carneiro 2005; Marshall 2007; Kus 2010; Ronconi 2010.

²⁰ Adcock and Collier 2001

(outlined in Table 1.1) that gives precise definitions to low, medium, and high levels of enforcement. This scale is insensitive to *why* the state is enforcing regulations in any particular case. A triggers are treated the same, ranging from a union leader who has a conflict with a manager, to a firm that wants to gain an advantage over its competitor, to a neighborhood group that has a problem with pollution, to a bureaucratic decision based on a technical analysis of an industry. The benefit of this approach is that it treats the *act* of enforcement separately from the *motivations* for enforcement, allowing the two to be analyzed independently.

Table 1.1: Levels of Enforcement

Level of Enforcement		Definition	Observable Indicators
▲ ↓ ▼ High	Low level of enforcement	Enforcement is rare, and regulators allow violations to occur widely without crafting a response	<ul style="list-style-type: none"> Regulators generate very little information, if any, about violations There are few inspections Penalties are not credible and/or regulators do not take steps to help firms comply
	Medium level of enforcement	Enforcement occurs consistently, and regulators resolve violations on a case-by-case basis	<ul style="list-style-type: none"> Regulators generate a steady flow of information about violations There are routine inspections Responses to violations sometimes include penalties or instruction
	High level of enforcement	Enforcement is intense and systematic; regulators go beyond case-by-case resolution and take broad steps to create the conditions for higher rates of compliance	<ul style="list-style-type: none"> Regulators systematically and actively generate information about violations There are strategically targeted inspections Responses to violations combine credible penalties with other tools (e.g. pedagogy or publicity)

Approaches to Explaining Enforcement

The first place many analysts look to explain variation in enforcement is the bureaucracy, especially features of the bureaucracy leading to autonomy. Although there is debate in the literature about which features are most important, many studies take the elements identified by Weber's classic analysis of bureaucracy as a starting point.²¹ First, the bureaucracy should be meritocratic, which means that officials should be recruited

²¹ Gerth and Mills 1946. For an example of this approach, see Kiser and Schneider 1994; Rauch and Evans 2000; Henderson, Hulme, Jalilian, and Phillips 2007. For other standards by which bureaucracies are judged, see: Schneider and Heredia 2003.

through competitive exams and should have minimum levels of education. Second, officials should also have long-term career prospects for advancement and be protected from arbitrary firing. Third, officials should be dedicated employees of the state (without outside employment that can potentially conflict with their official duties), and office holding should not be a source of personal rents. Fourth, Weberian bureaucracies should be governed by abstract, rational, hierarchical rules, that reinforce vertical relations and make subordinates responsive to the instructions of their superiors. Beyond Weberian prescriptions, scholars also argue that bureaucracies can, and should, have additional sources of cohesion (at times in contradiction to hierarchical relations and formal rules), which include professional norms and strong organizational cultures.²² Working in concert, the elements described above give officials strong incentives against corruption and insulate them from political interference.

When many of these features are absent, there is an expectation that the bureaucracies will become politicized, which exacerbates factors that work against enforcement and disables factors that work towards enforcement. First, enforcing regulation almost always entails going against some organized interests that experience concentrated losses from regulations.²³ Since politicized bureaucracies appear ripe to be captured by business interests, anti-regulatory pressures should be even more potent than they would be in places where bureaucracies are autonomous.²⁴ As businesses can wield more power, through directly lobbying or the credibly threatening to divest, enforcement should become less likely.²⁵ In short, the expectation that derives from this argument is that in places where firms are sensitive to regulatory costs and powerful, politicized bureaucracies should be easily blocked and enforcement should be unlikely.

Second, the problems associated with politicization and bureaucratic weakness are seen as undermining the influence of political leaders who might favor enforcement. Many studies of bureaucratic behavior in advanced industrial countries focus on the preferences of the political principals who oversee agencies.²⁶ For example, regulatory agencies, such as the United States Occupational Safety and Health Administration, do react to the preferences of politicians, increasing enforcement when the party in power is aligned with labor unions.²⁷ The responsiveness of bureaucracies to politicians is greatest when issues are highly salient and political principals can use their powers of appointment, oversight (hearings, investigations, etc.), and budgeting to influence the bureaucratic action.²⁸ This top-down control, however, is contingent on the ability of the bureaucracy to resist the influence of organized interests that do not come through formal channels of hierarchy. When hierarchical control is weak, leaders should be unable to

²² Wilson 1968; Van Maanen 1973; DiLulio 1994; Kaufman 2006; Piore and Schrank 2008. These are similar to the “non-bureaucratic foundations of bureaucratic functioning” of Rueschemeyer and Evans 1985, p. 59 and organizational models for explaining bureaucratic performance, see: Brehm and Gates 1993; Brehm and Gates 1997.

²³ Wilson 1980

²⁴ Schneider 1998

²⁵ Hacker and Pierson 2002

²⁶ For example: Moe 1985; Scholz, Twombly, and Headrick 1991; Carpenter 1996

²⁷ Scholz, Twombly, and Headrick 1991

²⁸ McCubbins and Schwartz 1984; McCubbins, Noll, and Weingast 1987; Carpenter 1996

direct the front-line officials who undertake the everyday tasks of enforcement.²⁹ Supporting this view, a recent study of political control models demonstrated that when bureaucracies lack capacity, politicians have more difficulty influencing policy implementation, and bureaucrats have fewer incentives to comply with legislative mandates.³⁰ Therefore, under conditions of weak and politicized bureaucracies, enforcement should be *insensitive* to changing preferences of political leaders who formally control the bureaucracy. Instead, even when elected officials prefer implementing regulations, bureaucrats will either lack the ability to undertake key tasks or be easily blocked, thereby making enforcement unlikely.

Third, weak bureaucracies are also seen as eroding the prospects for productive collaboration with civil society. Many scholars find that enforcement is much more likely when civil society organizations demand state action.³¹ The logic of this argument is that civil society organizations can hold regulatory agencies accountable and bring attention to specific issues. For example, one recent analysis of labor law enforcement in Latin America argued that “active unionism in the workplace coordinated with labor inspections is far more efficient than relying on spot inspections or hoping that an individual employee will have the courage and knowledge to report a violation.”³² The influence of civil society organizations, however, also appears to be contingent on bureaucratic organization. For example, Evans argues that “internal bureaucratic coherence should be seen as an *essential precondition* for the state’s effective participation in external networks.”³³ Without an autonomous bureaucracy, the common wisdom is that civil society organizations will capture the state and misdirect its resources, undermining the possibility of effective policy implementation. Once again, mechanisms that otherwise should lead to enforcement appear to be undermined when bureaucracies are weak and politicized.

Success and Failure in Regulatory Enforcement

Behind most accounts of successful enforcement are bureaucracies that embody most, if not all, of the features that promote autonomy. For example, one enforcement bureaucracy that has many of the features described above is the French labor inspectorate.³⁴ In the French system, labor inspectors are highly qualified, enter the bureaucracy through a merit-based exam, have a high rank relative to other civil servants, and enjoy robust civil service protection. Moreover, they are socialized into the inspectorate through a training program that establishes a strong organizational culture and high levels of cohesion. By virtue of these features, the French labor inspectorate is highly impermeable to capture, corruption, and political influence. The result is that French labor inspectors are able to enforce labor regulations without barriers.

²⁹ Wilson 1968

³⁰ Huber and McCarty 2004 Congruently, one of the few studies that directly takes on the problem of political control of the bureaucracy in Argentina, found that political control by congress of tax administration was weak due to widespread corruption among officials in the bureaucracy. Eaton 2003

³¹ Sabatier 1975; Wiarda 1978; Keck and Sikkink 1998; O’Rourke 2004; Hochstetler and Keck 2007; Anner 2008; Van Lo Rooij, Benjamin, Carlos Wing-Hung 2010

³² Ibid p. 43, see also: Tandler 2006

³³ Evans 1995 emphasis added, p. 50

³⁴ Schrank and Piore 2007

In Latin America, the few cases in which scholars have identified broadly positive cases of regulatory enforcement have been in places where bureaucracies also exhibit many of the characteristics that promote autonomy. In Brazil, for instance, successful enforcement of environmental regulations is often driven by the prosecutors of the *Ministério Público*, who are “politically independent” and governed by professional norms.³⁵ The crucial features of the *Ministério Público* are similar to those of the French inspectors: officials are selected through a rigorous and competitive exam, have competitive salaries, are systematically socialized into the organization, and have rewarding long-term careers. In labor law enforcement, one of the few contemporary transitions from low to high levels of enforcement comes from the inspectorate of the Dominican Republic. Dominican workers were left unprotected by the weak inspectorate inherited from the Trujillo era until the late 1990s when there was a far-reaching reform in the inspectorate. Many of the elements of the reform are by now familiar: merit-based hiring with minimum standards for education (all new inspectors were lawyers), salaries that are competitive with the private sector, civil service protection, and promising career prospects.³⁶ The argument follows that the adoption of these practices was fundamental for improving labor law enforcement.

Notwithstanding these positive examples, many observers note that such advanced bureaucracies are more often the exception than the rule.³⁷ Quite simply, most regulatory bureaucracies have organizational features that are considered antithetical to autonomy.³⁸ They are neither Weberian nor professional. Rather, due to the absence of autonomy-producing organizational structures, bureaucrats appear to be unable to resist the influence of interest groups and meet the challenges involved in enforcement. And in fact, political interference is commonly observed. To further compound this problem, most regulatory bureaucracies also do not have the minimum staff necessary for the task of enforcement.³⁹ For example, one recent work argued, “regulatory agencies that are charged with implementing and enforcing environmental laws are chronically underfunded and understaffed.”⁴⁰ When put together, enforcement agencies that are weak *and* politicized appear to be determined not to succeed. The logic of the argument

³⁵ See: McAllister 2008; Coslovsky 2009; McAllister 2010. In Brazil, labor regulation offers another example. The Brazilian labor inspectorate developed a bureaucracy of highly trained professionals with strong civil service protection, who, by virtue of the strength of their organization, have been able to effectively enforce labor regulations in many instances. See: Pires 2008; Pires 2009

³⁶ This section draws mainly on: Murillo and Schrank 2005; Schrank 2005; Schrank 2009. Schrank argues that the changes in the Dominican Republic depart from classic Weberian features in important ways, but the logic of the argument still very much depends on the creation of a strong, cohesive, bureaucracy.

³⁷ On labor, see: Castillo 1999; Goldin and Feldman 2001; Jatobá 2002; Inter-American Development Bank 2004; Bensusán 2007; Goldin 2007; Anner 2008. On environment, see: World Bank 1995; Dasgupta 2000; Carruthers 2001; VanDeveer and Dabelko 2001; O'Rourke 2002; Di Paola 2002a; Inter-American Development Bank 2002; Nonna 2002; McAllister 2008; Henry 2010; McAllister, Van Rooij, and Kagan 2010

³⁸ Such as: no merit-based awards, no long term careers, no officials without a professional status, and weak civil service protection.

³⁹ For example, many countries fail to meet the International Labor Organization recommendations for the minimum number of labor inspectors, which is defined as 1 inspector for every 20,000 in the economically active population for middle-income countries. See: ILO 2006a

⁴⁰ McAllister 2008 p. 1. In labor regulation the problem is just as evident in Latin America. See: Bensusán 2006

holds that these bureaucratic failings constitute one of the central reasons why regulations are rarely enforced, especially in middle-income and developing countries. In short, bureaucratic weaknesses, it appears, are at the root of low levels of enforcement.

The common denominator across all of these works is that in order to explain why regulations are, or are not, enforced, we need to examine how resources for enforcement are generated *primarily through the organization* of the bureaucracy. While other factors are clearly important—such as market conditions, the balance of power among interest groups, and the party in power—these variables become moot when the bureaucracy is the weakest link. Although researchers part company about which features are most important, all agree that bureaucratic cohesion and autonomy are central for explaining variation in enforcement. Indeed, the primacy of a depoliticized bureaucracy has become dominant, leading to a research agenda that seeks to identify which conditions lead to a reduction in politicization of the state. For example, scholars working on Latin America and Eastern Europe have sought to tie party competition to the reduction in state politicization.⁴¹ The assumption behind this research agenda is that the path to good government is moving towards the creation of bureaucratic autonomy.

While it is important to improve bureaucracies, we have an insufficient understanding of why poorly organized bureaucracies, which exist in the majority of countries, sometimes perform well. Contrary to theoretical expectations, weak bureaucracies that appear determined to fail sometimes do enforce regulations, even if enforcement is very uneven. Conventional theories offer few clues into where to look for answers to the questions: Are there alternative ways to counter efforts by cost-sensitive businesses to block enforcement? What levers of bureaucratic control might be available to politicians interested in promoting enforcement when regulatory agencies lack internal coherence? How can civil society organizations productively collaborate with bureaucracies that are not autonomous? Without an understanding of these questions, we cannot explain enforcement within the context of weak and politicized bureaucracies.

An Alternative Explanation

In contrast to dominant approaches, I identify how weak and politicized bureaucracies *are* able to enforce regulations, and develop a framework to explain why regulators act in some places and not others. Building on insights from research on state-society relations,⁴² a central claim in this study is that, to explain variation, it is necessary to examine whether, and how, bureaucrats generate resources for enforcement through their relationships with civil society organizations (broadly defined to include labor unions, environmental groups, neighborhood groups, and business associations). The explanatory framework highlights the interaction of two factors: the administrative capacity of the bureaucracy and the linkages between bureaucrats and civil society organizations.

⁴¹ See, for example: Geddes 1990; Geddes 1994; Grzymala-Busse 2003; Chavez 2004; O'Dwyer 2004

⁴² Mann 1993; Evans 1995; Evans 1996; Ostrom 1996; Tandler 1997; Migdal 2001; Evans 2005; Soifer 2008

Administrative Capacity

Administrative capacity depends on the bureaucracy's human resources, material resources (cars, computers, etc.), and planning capabilities. The central conceptual difference between administrative capacity and bureaucratic autonomy is that having administrative capacity does not necessarily enable bureaucracies to resist political pressure. By focusing on administrative capacity rather than autonomy, we reintroduce features of the bureaucracy that are often left to the wayside but that are, in fact, crucially important for understanding variation in enforcement. For example, the number of inspectors can make a tremendous difference in the prospects for enforcement, but there is no reason that the size of the bureaucracy should influence its autonomy. In fact, some studies of the state use growth in the size of the bureaucracy as an indicator of politicization and, therefore, evidence of a *decline* in capacity of the state to implement policies.⁴³ Similarly, while there is no expectation that a bureaucracy with greater access to cars or computers would be more insulated from political influence, access to such resources is crucial for enforcement.⁴⁴ Table 1.2 below compares simplified indicators of administrative capacity (discussed below) with those of autonomy outlined above. Although there are some overlaps between the two, there is a clear conceptual difference and it is possible to measure levels of capacity and levels of autonomy as two different dimensions of a bureaucracy.

Table 1.2: Indicators of Administrative Capacity and Autonomy

Indicator	Administrative Capacity	Autonomy
Civil service protection		X
Exclusive employment for state		X
Meritocratic recruiting		X
Long-term career prospects		X
High salaries	X	X
Large staff	X	
Material resources (cars, computers, etc.)	X	
Planning capabilities	X	

It is helpful to analyze administrative capacity in terms of its influence on two enforcement tasks—gathering information and crafting a response to violations.⁴⁵ The first, and quite basic, component of administrative capacity is human resources. Simply stated, a bureaucracy with almost no inspectors will be more constrained in its ability to

⁴³ Presumably because a bigger bureaucracy means more patronage. See: Grzymala-Busse 2003 p. 1126.

⁴⁴ For example, Evans and Rauch (1999) study of economic effect of bureaucratic quality uses a number of indicators to measure the “Weberianess” of the bureaucracy, but do not include any measure of the actual size of the bureaucracy. This measurement strategy does make sense if the main worry is politicization. After all, bureaucrats with resources might even be better to capture than bureaucrats who are limited in their operational abilities.

⁴⁵ Administrative capacity only can influence the two of the three tasks, not resisting efforts to block enforcement, because administrative capacity does not include autonomy.

gather information about violations *on its own* than one with many inspectors. Regulators may still be able to gather information, but will likely have no choice but to do so through civil society organizations. Second, bureaucracies need basic material resources to function. In regulatory agencies, the weak point is almost always transportation, which tends to have a high cost relative to other inputs. In Honduras, for instance, labor inspectors without access to cars depended on workers who have complaints about labor law violations to pay for their taxi fare in order to inspect the factory.⁴⁶ These resources directly influence the operating abilities of the bureaucracies. Third is the capacity of the bureaucracy to construct a plan of action. A bureaucracy that can plan operations in the short-term can take a systematic approach to enforcement. Short-term planning capacity has important implications for the way the bureaucracy works with civil society organizations, and ultimately the way enforcement occurs.⁴⁷

In sum, administrative capacity differs among bureaucracies that lack autonomy and influences enforcement. At the extreme, a bureaucracy with absolute *no resources* will be unable to enforce regulations—quite simply the agency will become irrelevant and societal forces will completely dominate. But administrative capacity does not have a simple, direct, effect on levels of enforcement because weak bureaucracies can combine their resources with those of civil society organizations.⁴⁸ It is only in *combination* with linkages that the effect of administrative capacity becomes clear.

State-Society Linkages

A second factor that influences enforcement is the structure of state-society linkages, which consist of routinized processes of consultation, formal and informal agreements, and interpersonal networks that facilitate direct interaction between bureaucrats and civil society organizations. These ties play a central role by determining whether or not bureaucrats can access the resources of civil society organizations. Linkages can be contentious or collaborative; they can be strong or weak; and they can be between bureaucrats and many civil society organizations, or just between a few select organizations. Again, it is helpful to analyze linkages in terms of how they affect the key tasks that bureaucrats undertake during enforcement.

First, linkages facilitate the flow of information about violations into the bureaucracy. For example, neighborhood organizations can monitor pollution levels from nearby firms, and linkages can help that information be transmitted to regulators.⁴⁹ Without linkages, transmission of this information becomes much more costly and may

⁴⁶ Source: Author interviews with labor inspectors in Honduras in 2006.

⁴⁷ Weil 2008

⁴⁸ We would not expect a bureaucracy that had absolute no staff to be able to enforce regulations, or any other policy. For example, a large city with one police officer would not get very far in prosecuting crime. However, the threshold for administrative capacity is not very high. For instance, the United States Equal Employment Opportunity Commission in the 1960s only thirty investigators to enforce Title VII of the 1964 Civil Rights Act. This is an very low level of administrative capacity, yet, in this case, low levels of administrative capacity were combined with pressure from society that rendered it sufficient for enforcement. Pedriana and Stryker 2004

⁴⁹ For examples of this from the United States, Vietnam, and Brazil, see: Lemos 1998b; O'Rourke and Macey 2003; O'Rourke 2004

simply be blocked, leaving bureaucrats to gather information on their own. Therefore, the ultimate effect of the existence of an environmental group in a particular community is to a large degree contingent on the linkages that the group has with regulators. Second, linkages can facilitate the sharing of material resources that bureaucrats need to respond to violations. For instance, in many places there are routinized practices of unions providing transportation for labor inspectors.⁵⁰ Similarly, ties with business associations can help regulators identify technical solutions that can be diffused to firms and make widespread compliance possible. Again, access is contingent on linkages; even if unions have cars that they can put at the disposal of labor inspectors, without linkages these resources are likely to be out of reach.

Third, linkages between bureaucrats and civil society organizations that already share the joint project of enforcement can provide political resources that help bureaucrats overcome resistance by organized interests. In a weak and politicized bureaucracy that lacks autonomy, the internal organization of the bureaucracy cannot be counted on to prevent political interference. Violators of regulations always have a seat at the table, and therefore an opportunity to influence bureaucrats, but beneficiaries of enforcement often do not.⁵¹ Even if there is support for enforcement among organizations in society, if bureaucrats lack linkages to those groups, it will be more difficult for them to mobilize that support. In other words, linkages create opportunities for building coalitions across state and society that can be used to resist efforts to block enforcement.⁵² And where the bureaucracy suffers from widespread corruption, linkages with civil society organizations can increase transparency and raise the likelihood of exposing inspectors who take bribes from businesses.

When linkages are established, their ultimate effect depends on the features of the particular linked-organizations. Civil society organizations differ both in the interests that they aggregate and the resources they have to offer the state bureaucracy. The scope of interest aggregation of civil society organizations can be narrow or broad. For example, environmental groups often fall into two general categories, local groups that focus on immediate neighborhood problems, and professional groups that focus on regional problems. Bureaucrats that have linkages to the former and not the latter will likely gain support for enforcement in a comparably smaller range of cases.⁵³ In addition, organizations may be particularly well suited to provide some resources but not others. Groups of neighbors that can mobilize protests around environmental issues may be effective partners in overcoming resistance to enforcement by organized interests, but they cannot help bureaucrats with technical know-how to craft responses to pollution

⁵⁰ Labor unions also manage their own lists of firms that have been inspected and need follow-up, a practice that can supplement the organizational capacity of the bureaucracy to manage the process of enforcement. A similar argument was made in: Anner 2008. This type of interaction is not confined to labor unions in Latin America. See: Joshi and Moore 2004; Hardy and Howe 2009.

⁵¹ In labor regulation, workers who are the beneficiaries of enforcement often have a seat at the table, but have relatively little power to influence the regulatory process without the support of unions or an organization.

⁵² For a similar argument about coalitions of regulators and civil society, see: Lemos and Looye 2003.

⁵³ In some cases, bureaucrats have linkages with multiple organizations with competing agendas, making the bureaucracy an arena in which these organizations compete. However, even in these cases bureaucrats are much more likely to be able to extend their capacity than when bureaucrats have no such linkages at all.

problems. Labor unions, neighborhood groups, professional organizations, and industry associations all have different sets of resources that can potentially be leveraged by bureaucrats. Therefore, the specific capacities of linked-civil society organizations need to be taken into account when analyzing their function.

In sum, the establishment of linkages can play a critical role in enabling weak bureaucracies to generate the three key resources for enforcement—information about violations, capacity to craft a response to violations, and the ability to withstand efforts by powerful actors to block enforcement. Strong linkages can also, of course, promote capture, in which civil society organizations control how bureaucrats enforce regulations. Moreover, the structure of linkages—i.e. which groups are included and which are left out—is crucial for determining the ultimate enforcement outcome. Bureaucrats are often linked with one set of groups in a way that crowds out other groups, and civil society organizations do not always work towards socially beneficial outcomes that are consistent with the rule of law.⁵⁴ However, in places with weak and politicized bureaucracies, linkages have the potential to make the difference between almost no enforcement and very high levels of enforcement. Therefore, we should examine capture’s effects instead of assuming that it is universally antithetical to enforcement.

Combining Administrative Capacity and Linkages: Patterns of Enforcement

Combining administrative capacity and state-society linkages, I offer an explanation for variation in patterns of enforcement in settings where the bureaucracy is not autonomous. To contrast outcomes, I propose three ideal-typical patterns: state-driven enforcement, society-dependent enforcement, and co-produced enforcement. These ideal types bring differences in enforcement into relief and clarify the role of key actors. Table 1.3 below shows the expected outcomes of the interaction between low/high administrative capacity and weak/strong linkages. These two dimensions do not capture every aspect of administrative capacity or linkages (e.g. they focus only on strength of linkages between regulators and civil society organizations concerned with a particular industry or community, not on the overall structure of linkages between all groups). However, they provide a way to identify distinct pathways to enforcement and the likely result of building either administrative capacity, linkages to civil society organizations, or both in concert.

Table 1.3: Expected Patterns of Enforcement

	Weak Linkages	Strong Linkages
Low Administrative Capacity	Enforcement unlikely	Society-dependent enforcement
High Administrative Capacity	State-driven enforcement	Co-produced enforcement

⁵⁴ Berman 1997

When the state has high levels of administrative capacity, but has weak linkages with civil society groups, the result is *state-driven enforcement*. With state-driven enforcement, our expectations converge with those commonly held in the literature; without autonomous features *or* linkages to civil society, it should be difficult for the bureaucrats to overcome resistance and sustain intense enforcement. Where enforcement does occur, regulators should determine without consultation with civil society that a particular industry is a priority (for either technical or political reasons), and attempt to take action *without* drawing on resources from society. Therefore, state-driven enforcement will likely be limited and susceptible to political resistance. There should be *medium* levels of enforcement when there is an industry with highly salient violations *and* political support from elected officials. Otherwise, enforcement levels should remain *low*. There are two distinctive observable characteristics of state-driven enforcement. First, the distribution of enforcement should not directly reflect the distribution of resources of civil society organizations, and, second, we should observe changes in the level of enforcement without changes in the strength of civil society organizations. State-driven enforcement is usually the only pattern assumed in the literature, but there are two additional patterns—society-dependent and co-produced enforcement—that are often overlooked.

When the state has strong linkages with civil society organizations but has low administrative capacity, enforcement occurs only where the civil society groups themselves have high levels of resources. I label this pattern *society-dependent enforcement* because bureaucrats are limited in their ability to take an active role in determining where enforcement takes place. In politicized bureaucracies with low levels of administrative capacity, bureaucrats lack the ability to generate their own information about violations; often cannot effectively craft responses to violations on their own; and do not have the ability to overcome resistance by organized interest groups. However, bureaucrats can use civil society organizations to generate the resources they need for enforcement. For instance, in Vietnam, despite extremely low levels of administrative capacity, environmental regulations are enforced when bureaucrats are pushed by community protesters who contribute resources—political and operational—to enforce regulations at a specific factory.⁵⁵ With low administrative capacity, bureaucrats have little choice but to enforce only where there is social mobilization. In effect, bureaucrats are dependent, and action by linked-civil society organizations *is a necessary condition* for enforcement to occur in any particular case.

In society-dependent enforcement, the *level* of enforcement depends entirely on the capabilities of the civil society organizations that have strong linkages with bureaucrats. When linked organizations are well equipped to generate information about violations, can help formulate a response, and are strong partners against political interference, enforcement is likely to occur at a medium level. As a consequence, society-dependent enforcement is likely to be limited in scope, leaving out economic sectors or communities where linked-civil society organizations have few resources (or there are no organizations at all). If regulators have no linkages with civil society

⁵⁵ O'Rourke calls this "community-driven regulation." I chose a more general term, society, rather than community, because in some policy areas (e.g. labor regulation) the civil society actor is not a community, but a sector-level association (e.g. a unions). O'Rourke 2004.

organizations that can help them in any particular case, they simply will not enforce, no matter the social or economic conditions. In other words, society-dependent regulation results in highly uneven enforcement that follows a very specific pattern based on the landscape of linked organizations in civil society.⁵⁶ For this reason, in cases of society-dependent regulation the *structure* of linkages is critical, and it becomes necessary to analyze which societal groups are included and which are left out.

When there are both high levels of administrative capacity and strong linkages, there is likely to be what I label *co-produced enforcement*.⁵⁷ This combination results in the greatest likelihood of high levels of enforcement in the context of politicized bureaucracies that lack autonomy. In these cases, strong linkages facilitate bureaucrats' use of societal resources. Some barriers to enforcement—such as the lack of capacity for monitoring compliance—can be overcome by drawing on partners in civil society. Other barriers, such as resistance by organized interests, can be diminished by creating coalitions between bureaucrats and civil society groups that share the objective of enforcement. And, when the bureaucracy has high levels of administrative capacity, regulators can strategically shift resources to places where civil society groups are weak so that enforcement goes beyond the immediate demands of the strongest groups. This is the chief difference between society-dependent and co-produced enforcement. Bureaucracies with high levels of administrative capacity are not completely dependent on linked civil society organizations, and, therefore, action by civil society organizations is *not* a necessary condition. For there to be co-produced enforcement, there should be evidence of bureaucrats taking action in places where there have been no specific demands by linked civil society organizations.

In sum, there are multiple pathways to enforcement, either by shifting levels of administrative capacity or by building linkages. And different combinations of administrative capacity and linkages result in distinct patterns of enforcement. Figure 1.1 (placed at the end of this chapter) provides a diagram of the expectations that follow this argument, highlighting how certain patterns of enforcement are more sensitive to civil society resources than others.

Political Origins of Linkages and Administrative Capacity

The analysis above raises a number of questions. How do we account for the development of linkages? Where do these combinations of linkages and administrative capacity come from? Why would governments build linkages but not invest in administrative capacity? To provide answers to these questions, it is necessary to unpack the ways in which local politics influences the development of linkages, administrative capacity, and therefore enforcement. The focus needs to be on the broader political context because for low-level bureaucrats to form linkages with civil society organizations, they need support from the hierarchy of the state bureaucracy even when the bureaucracy has weak internal discipline. Political support is crucial because when bureaucrats draw on civil society organizations, these organizations gain influence over

⁵⁶ Silbey makes a similar argument about the organization of enforcement around responses to consumer complaints. See: Silbey 1984

⁵⁷ This builds on Ostrom 1996.

the implementation process. Low-level bureaucrats cannot simply transfer such power on their own, even when it is the only way for them to do their jobs. In addition, promoting or curbing linkages is one way by which political leaders can reward, control, or punish groups while steering weak bureaucracies. There are two main mechanisms through which civil society organizations become politically viable partners for bureaucrats to build linkages: partisan exchange and conflict. Each mechanism results in different strategic interactions between political leaders and civil society organizations, which, in turn, changes the likelihood that linkages will become a substitute for investing in administrative capacity.

One pathway through which linkages form is partisan exchange.⁵⁸ In exchange for support, elected leaders (e.g. governors, presidents, etc.) take steps to encourage linkages with specific civil society organizations.⁵⁹ For example, when a labor union-supported-candidate is elected, he or she can reward the unions by appointing officials with existing ties to unions. In turn, these appointed officials encourage the development and maintenance of linkages between labor inspectors (the low-level bureaucrats in this case) and unions. This type of linkage formation reduces the likelihood of bureaucrats working with the competitors of unions, such as (non-union) organizations that represent the interests of workers without strong unions. The general mechanism at work is that of exchange—support for preferential access—that results in strong linkages that are often limited to a portion of the possible universe of civil society organizations.

When linkages are formed through partisan exchange, they will likely substitute for investment in administrative capacity. The leaders of pro-enforcement groups often want both access to the regulatory agency and investment in the agency. Under conditions of partisan exchange, if pro-enforcement groups agitate for investment in administrative capacity they can jeopardize their alliance that guarantees access. Faced with this dilemma, individual civil society organizations will often select access over administrative capacity; for favored civil society organizations, a regulatory agency with greater capacity that is uncontrollable is not worth nearly as much as an under-resourced agency that can be controlled. In addition, when there is a strong political alliance, it is much less costly for politicians to cede control to civil society organizations than to allocate scarce resources for administrative capacity. Therefore, somewhat paradoxically, avowedly enforcement-friendly elected officials are less likely to invest in administrative capacity.

Partisan exchange is not, however, the only way in which linkages form; an alternative pathway is through conflict. When politicians do not have a partisan coalition with pro-enforcement groups, appointed leaders of the bureaucracy are not tasked with keeping select groups happy, but they need to keep conflict under their control. Often, the success of appointed officials is related to their ability to avoid scandal. Protests, critical media reports, and civil lawsuits remove control from the regulatory bureaucracy. In addition, when conflict exits regulatory institutions, it increases uncertainty for

⁵⁸ This analysis builds on research on partisan exchange, see: Etchemendy and Palermo 1998; Murillo 2001; Murillo 2005.

⁵⁹ This process functions in a similar to “stacking the deck” in favor of allied groups, but it relies on informal practices instead of formal administrative procedures, see: McCubbins, Noll, and Weingast 1987.

businesses and jeopardizes the future prospects of elected officials. Therefore, when civil society organizations are able to foment conflict and gain powerful allies who can act outside of the regulatory system, bureaucrats are more likely to be able to form linkages with these organizations. For example, when environmental groups gain access to courts to directly take action against polluting firms, they circumvent the regulatory system. In these circumstances, forming linkages with environmental groups become politically expedient because linkages channel conflict into the bureaucracy and away from the streets and courts. As a result, low-level officials, the regulators attempting to enforce regulations in a particular firm, can draw on the resources of environmental groups and (potentially) expand their capacity.

When linkages form through conflict, it is unlikely that politicians will be able to substitute linkages for investment in administrative capacity. Under conditions of conflict, pro-enforcement groups do not risk putting an alliance in jeopardy by demanding both greater capacity and access. They never had such an alliance in the first place and there are few incentives for groups to moderate their demands. In addition, when politicians do not have a strong alliance with pro-enforcement groups, the costs of ceding control by allowing linkages to grow very strong are greater relative to the allocation of scarce resources for investment in administration capacity. Therefore, politicians who have relatively neutral positions with regards to enforcement (i.e. they are neither the allies of pro-enforcement groups nor strongly against regulations) are *more likely* to invest resources in administrative capacity than those who have partisan alliances with pro-enforcement groups.

In short, the ability of civil society organizations to gain power outside the regulatory system, either through partisan exchange or through conflict, shapes the way in which linkages form and the likelihood of investment in administrative capacity. These processes, of course, can happen in reverse. When politicians are elected who are in opposition to the pro-enforcement coalition, they take steps to curb linkages with opposing groups. And when civil society organizations are unable to credibly circumvent the regulatory system, regulators are less likely to be able to build linkages with those groups. In short, the power of groups outside of the regulatory system directly influence their power within the system.

Illustrating the Argument

To illustrate the argument more completely, it is helpful briefly to return to one of the cases introduced at the beginning of this chapter. In Tucumán (discussed in detail in Chapter 7), regulators were unable to enforce environmental policies for many years. In this case, inspectors could gather information about violations, which were mainly in ethanol-producing sugar mills and citrus processing plants that released high concentrations of pollutants into streams. But inspectors could do little once they were aware of the violation of the law. Inevitably, regulators would be blocked at some stage by firms that had the political and economic strength to prevent them from issuing fines or shutting down operations. Regulators were exposed to the pressures of firms but lacked linkages with environmental groups that could potentially have been their allies in supporting enforcement.

A series of shocks beginning in 2001, which included the activation of courts and protests against pollution, changed the relationship between regulators and environmental groups. Bureaucrats slowly were able to establish linkages with environmental groups that before would have been politically untenable. The bureaucracy did not, however, become autonomous. If anything, as time went on, bureaucrats were more exposed to outside pressures because newly hired staff had short-term contracts and no civil service protection. Conventional theories would expect little change in enforcement because without establishing some form of autonomy, or at least a strong enough organization to respond to hierarchical control, there would be no way these bureaucrats could resist the influence of powerful firms that sought to avoid enforcement. Contrary to these expectations, enforcement increased to high levels. For the first time, regulators were able temporarily to shut down firms that were intransigent, and regulators used combinations of advice, sanctions, and joint problem solving to find ways to reduce pollution.

Close examination reveals that bureaucrats were able to take such steps without an autonomous bureaucracy by exploiting their linkages with environmental groups. For instance, bureaucrats gave environmental groups copies of the plans that detailed firms' promised pollution-reduction investments, allowing environmental groups to monitor progress directly. When firms did not meet their goals, bureaucrats could leverage the threat of social mobilization in a way that was not possible before. But the role of linkages did not stop at providing political support. Neighborhood associations also proved to be effective at monitoring local firms and relaying information to regulators about illegal pollution discharges. In Tucumán, the administrative capacity of the bureaucracy became relatively high. Regulators had their own cars to check compliance even where there were no neighborhood groups sending them information. In effect, the bureaucrats were not dependent on civil society, but they could still draw upon societal resources. The result was *co-produced enforcement* that was at a high level.

In contrast with Tucumán, in the province of Santa Fe environmental regulators exhibited a different pattern of enforcement (discussed in detail in Chapter 6). During the period of economic expansion after the crisis of 2001, environmental regulators in Santa Fe had very low levels of administrative capacity and lacked the ability to resist efforts by firms to block enforcement. However, in the case of one single soy and sunflower oil processing plant in the city of Rosario, regulators were able to establish ties with a community organization that mobilized against pollution from the plant in their neighborhood. With linkages to this community group, regulators were able to put pressure on the firm to comply. After a series of inspections and a number of visits to the firm by their neighbors, regulators were able to push the plant to reduce pollution. But enforcement was limited only to the plant in the community where regulators had linkages. Other nearby plants were left to pollute without triggering enforcement. In effect, the pattern resembled *society-dependent enforcement*, in which the state is opportunistic and dependent on civil society.

The differences between these two provinces would be hidden by approaches that focused primarily on the bureaucracies' approximation to a strong and autonomous ideal. By identifying these patterns it becomes possible to explain variation and identify

alternative paths to enforcement. These two examples do not, of course, substantiate the claims made thus far. Instead, they are a prelude of the cases that will be analyzed in the chapters that follow.

Main Contributions of the Argument

The argument advanced in this dissertation builds on existing work on state-society relations and policy implementation.⁶⁰ Many scholars have argued that connections between the state and society potentially can contribute to policy implementation in a variety of issue areas, including regulation.⁶¹ Yet, there are significant limitations to dominant studies that draw on the state-society relations approach. First, as stated above, many scholars view Weberian bureaucracies with high levels of autonomy as an “*essential precondition*” for collaboration with civil society organizations.⁶² Otherwise, there is no way of avoiding capture that comes with thick ties.⁶³ By placing so much emphasis on autonomy, politicized bureaucracies are effectively homogenized and scholars assume that politicization always leads to undesirable outcomes. Although strong ties between civil society organizations and politicized bureaucracies may lead to capture, in many cases this does not block state action. Instead of privileging autonomy, the framework outlined above opens up the black box of the weak and politicized bureaucracy and is attentive to *which* organizations gain access to the state, and *how* they can influence enforcement.

Also, by ignoring politicization, these theories miss the underpinnings of how linkages between bureaucrats and civil society organizations form. This leads to the second limitation in conventional theories; while there is often a recognition that state-society relations are important, there have been few attempts to explain how they emerge. Therefore, we know little about the conditions under which state-society relations lead to positive outcomes. In contrast, the argument advanced in this dissertation provides a way to systematically distinguish between cases where state-society relations support enforcement and those where they do not.

This argument also builds on previous studies of regulation and the role of the state in the market. As stated above, political science research on regulation has been highly biased towards studies of policy choice, not implementation. Research on the implementation process has tended to bifurcate between those studying strong and autonomous bureaucracies and those studying failed bureaucracies.⁶⁴ In the former case, street-level agents are the locus of study because they have so much discretion that they can determine how, and whether or not, to enforce regulations largely on their own. In the latter case, the state is often presented as completely hollow, so that civil society groups bypass the state and directly pressure firms. We lack theories that can explain enforcement in the great number of countries that exist somewhere between these two extremes—that neither have highly autonomous bureaucracies nor are practically failed

⁶⁰ For example: Evans 1995; Evans 1996; Ostrom 1996; Tandler 1997; Evans 2005; Tsai 2007

⁶¹ Lam 1996; Ostrom 1996; Lemos 1998b; Lemos 1998a; Lemos and Looye 2003; Joshi and Moore 2004; Braithwaite 2006; Hochstetler and Keck 2007; Anner 2008

⁶² Evans 1995 emphasis added, p. 50.

⁶³ Geddes 1990; Ellermann 2005

⁶⁴ McAllister, Van Rooij, and Kagan 2010

states. This dissertation provides such a framework by including the role that civil society plays providing important resources, while still treating the bureaucracy as the central actor.

*A National Swing Towards Regulation of the Market in Argentina*⁶⁵

The combination of a broad swing towards stronger regulatory laws, high levels of noncompliance, weak bureaucracies, and decentralized enforcement make Argentina an ideal setting for exploring the politics of enforcement. Once the so-called poster child of economic liberalization, Argentina dismantled many of the state's regulatory functions in the 1990s. However, following the economic crisis in 2001, there was an explicit rejection of free-market policies, which intensified under the presidencies of Néstor Kirchner and Cristina Fernández de Kirchner. During this period, labor unions rebounded and took the offensive and the environmental movement reached a milestone with its first major march on the Plaza de Mayo. National level political change brought with it a number of reinforced regulatory laws, including the General Environmental Law and the labor law reform in 2004.⁶⁶ The era of neoliberal dominance had clearly come to an end in Argentina.

While changing laws was relatively easy, ensuring that policy shifts resulted in concrete changes on the ground was much more problematic. The economic crisis and years of state retreat resulted in high levels of structural regulatory violations. For example, one main indicator of noncompliance with labor law is the percentage of workers who are unregistered (these workers often lack most labor law protections). The portion of unregistered workers increased substantially in Argentina during the 1990s and reached a peak of nearly 50% following the crisis.⁶⁷ Consequently, although the laws were changed to strengthen protections for workers in 2004, nearly *half* the workforce was left out. In this context, a simple change in legislation has little effect, and enforcement needs to play a large role in making laws matter.⁶⁸

State bureaucracies, however, were particularly ill equipped to confront high levels of violations. Nearly all regulatory bureaucracies in Argentina lacked the characteristics associated with being autonomous. In addition, years of neglect had also left many bureaucracies with low administrative capacity, lacking fundamental resources such as transportation, information systems, and in some cases even typewriters.

⁶⁵ Chapter 2 contains a more detailed analysis of national level regulatory politics and federalism from which this summary is drawn.

⁶⁶ Most of the changes in legal frameworks have been national in scope. The vast majority of labor laws and collective bargaining agreements cover the entire country, with provinces only making slight adjustments with their own laws and agreements. Similarly, all provinces are required to meet minimum standards of environmental protection, and provinces can only pass laws that "complement" national legislation

⁶⁷ Source: Data from the federal Ministry of Labor and Social Security, calculated based on national household surveys in urban areas.

⁶⁸ There are not equivalent data for environmental violations, but it appears that in many provinces environmental regulators faced a situation in which the great majority of firms violated pollution limits. For example, in 2003, nearly every major industrial site in Tucumán grossly violated water pollution control laws, effectively depriving residents of the province (and neighboring provinces) of their right to a clean environment. For a broader view, and a discussion of the limitations of data, see: Di Paola 2002b

Therefore, while there was a clear national push towards a greater regulatory role of the state, bureaucracies charged with enforcement were mostly weak and politicized. In sum, at a national level, three conditions in the post-crisis period—strengthened laws, the key role of enforcement in reducing high levels of violations, and weak and politicized bureaucracies—make Argentina a particularly good context for this study.⁶⁹

Design of the Study

Underneath national uniformities in regulatory policy, there are high levels of subnational variation in Argentina. These differences are driven, in part, by the decentralized nature of enforcement—provincial governments with substantial independence from the national government are responsible for enforcing most regulations.⁷⁰ Exploiting decentralization, this study adopts a subnational comparative approach that analyzes variation across and within provinces.⁷¹ The primary unit of analysis in this dissertation is enforcement of a particular type of regulation (i.e. labor or environmental), in one economic sector, in one province, at a certain point in time.⁷² For instance, health and safety regulation in the construction sector in Córdoba from 2003-2009 is one distinct unit of analysis, distinguishable from other economic sectors in Córdoba, and from the construction sector in other provinces.

Working at this micro-level is advantageous for three main reasons. First, enforcement is best measured in relation to specific economic sectors. One of the main difficulties in studying enforcement is the paucity of data and the difficulties in measurement—one cannot simply examine the text of the law, as is often the practice in studies of regulatory reform. Quantitative indicators, such as number of inspections and fines, often are not available. And, as stated above, using raw numbers without putting them in context risks serious measurement biases. By examining the actions of relatively small bureaucracies in specific economic sectors, it is possible to use accounts from the actors involved—the firms, unions, environmental organizations, and regulators themselves—to construct a more complete assessment of relative levels of enforcement and of changes over time. Second, linkages between bureaucrats and civil society organizations are often distinct for each industry. For example, each sector has its own labor union and often its own firm association. A bureaucracy might establish strong linkages with one union, but not another. Simply taking some average of linkages would miss important variation. In addition, when analyzing specific civil society

⁶⁹ Even though these conditions are particularly pronounced, the Argentine context is by no means an anomaly; as described in the literature review above, many countries in Latin America, and indeed the world, have regulatory violations that are widespread and weak bureaucracies for enforcement.

⁷⁰ Jurisdictions are partially shared and contested, as in the recent push by the national Ministry of Labor to take a greater role in inspection, but the provincial governments still command the most important enforcement agencies. On the question of Argentine federalism and the autonomy of provinces, see: Jones, Sanguinetti, and Tommasi 2000; De Luca, Jones, and Inés Tula 2002; Eaton 2004; Gibson 2005.

⁷¹ On the subnational method, see: Locke 1995; Snyder 2001b. Scholars are increasingly examining subnational variation in Argentina to test and develop a wide variety of theories, including: Jones, Sanguinetti, and Tommasi 2000; Remmer and Wibbels 2000; Auyero 2001; Chavez 2004; Gibson 2005; Cleary and Stokes 2006; McDermott 2007; Gervasoni 2010b.

⁷² This is similar to the method used by Murillo (2001), only it moves down from the country level to the provincial level.

organizations, one can identify the kinds of resources they have to offer the state (e.g. if they have cars or people who can gather information) and determine if these resources were, in fact, mobilized for enforcement. Therefore, the strength and function of linkages is best measured by assessing the ties between specific organizations and the bureaucracy at the micro, not macro, level.⁷³

Third, examining enforcement in particular industries allows for a large number of case comparisons, while holding constant a variety of factors that could potentially confound the analysis. These include national level factors, such as the macroeconomic conditions, large national events, and political and economic institutions (e.g. trade policy). Also, examining multiple economic sectors within provinces controls for provincial level factors, such as patterns of party competition and levels of socioeconomic development. If provincial level factors are more important than linkages between particular bureaucracies and civil society organizations, variation across provinces should be greater than variation within provinces. And comparing similar economic sectors across provinces makes it possible to contrast political, rather than economic, variables (e.g. production systems).⁷⁴ For instance, regulators enforcing health and safety regulation in the construction sector confront similar challenges in many provinces, a condition which allows for comparisons across provinces that capture the political, not technical, nature of enforcement.⁷⁵

This dissertation focuses on four, of the twenty-four, Argentine provinces—Córdoba, the Federal Capital, Santa Fe, and Tucumán—that provide a set of highly similar and highly different contexts within which to examine enforcement.⁷⁶ These four provinces have diversified economies that include industrial sectors and face serious labor and environmental challenges.⁷⁷ Two provinces—Córdoba and Santa Fe—are broadly similar in terms of level of socio-economic development, economic structures, partisan competition, and size. The other two provinces—the Federal Capital and Tucumán—vary considerably between one another, and, in comparison with Córdoba and Santa Fe, across all of these dimensions. By including two provinces that are similar and two that are different, it is possible to make maximal use of variation in Argentine social and political contexts.

⁷³ This strategy gets past some of the “empirical lag” in studies of state-society relations Schneider 1998.

⁷⁴ Snyder 2001a

⁷⁵ All provinces included in this study have major cities with multistory buildings under construction, which pose the greatest risk to worker death in the Argentine construction industry.

⁷⁶ Including the Federal Capital, there are twenty-five subnational units. While technically not a province, the Federal Capital is the equivalent of a province in many policy areas, including labor and environmental regulation.

⁷⁷ I selected these provinces by coding the economies of all provinces in terms of their mixture of industrial, commerce, and service sectors using data from the Ministry of the Interior. The four selected provinces, and two additional provinces, Buenos Aires and Mendoza, met the criteria for mixed economic structures. I did not choose Mendoza because it is too similar to Córdoba and Santa Fe to provide as strong a contrast as Tucumán or the Federal Capital, but it did not match with Córdoba or Santa Fe in a way that allowed for paired comparison. I did not choose the province of Buenos Aires because the regulatory agencies in the province are highly decentralized. For example, there are forty-five delegations of the provincial Ministry of Labor, many of which are of significant size. In the four provinces I selected, most officials are concentrated in one or two offices, making it possible to study the entire province.

For each province, I analyze a number of cases of enforcement in two issue areas (shown in Table 1.4 below). As stated above, labor and environmental regulations are very similar policies, both involving the imposition of a set of rules on firms and enforcing their compliance. The types of resources the bureaucracy must generate, the tasks of enforcement, and the need to balance protection and economic growth are all common to these two policy areas. However, the politics and histories of these two issue areas are extremely different in Argentina (see Chapter 2).⁷⁸ By including these two policy areas, it is possible to generalize across issue areas with broadly diverse types of interest-group organization. The details of these differences will be outlined in Chapter 2.

Table 1.4: Table of Cases

Case	Policy	Province	Economic Sector	Pattern of Enforcement (Level)
1	Labor	Córdoba	Construction	Co-produced (High)
2	Labor	Córdoba	Brick	Society-dependent (Low)
3	Labor	Córdoba	Metal	Society-dependent (Medium)
4	Labor	Córdoba	Shoes	Society-dependent (Medium)
5.1	Labor	Federal Capital	Garment (T1)	Low level of enforcement
5.2	Labor	Federal Capital	Garment (T2)	Co-produced (High)
5.3	Labor	Federal Capital	Garment (T3)	State-driven (Medium)
6.1	Labor	Federal Capital	Construction (T1)	Co-produced (Medium)
6.2	Labor	Federal Capital	Construction (T2)	State-driven (Medium)
7.1	Labor	Federal Capital	Commercial Laundry (T1)	Co-produced (Medium)
7.2	Labor	Federal Capital	Commercial Laundry (T2)	State-driven (Low)
8	Labor	Santa Fe	Laundry	Co-produced (Medium)
9.1	Labor	Santa Fe	Metal (T1)	Society-dependent (Medium)
9.2	Labor	Santa Fe	Metal (T2)	State-driven (Medium)
10.1	Labor	Santa Fe	Construction (T1)	Society-dependent (Low)
10.1	Labor	Santa Fe	Construction (T2)	State-driven (Medium)
11	Labor	Tucumán	Construction	Society-dependent (Low)
12	Labor	Tucumán	Metal	Society-dependent (Medium)
13	Labor	Tucumán	Citrus	Society-dependent (Medium)
14	Labor	Tucumán	Sugar	Society-dependent (Low)
15	Env	Federal Capital	Meat Packing	Co-produced (Medium)
16	Env	Federal Capital	Metal	Co-produced (Medium)
17	Env	Santa Fe	Metal	Low level of enforcement
18.1	Env	Santa Fe	Cereal Processing (T1)	Low level of enforcement
18.2	Env	Santa Fe	Cereal Processing (T2)	Society-dependent (Medium)
19.1	Env	Tucumán	Citrus (T1)	State-driven (Low)
19.2	Env	Tucumán	Citrus (T2)	Co-produced (High)
20.1	Env	Tucumán	Sugar (T1)	State-driven (Low)
20.2	Env	Tucumán	Sugar (T2)	Co-produced (High)
21.1	Env	Tucumán	Meat Packing (T1)	State-driven (Low)
21.2	Env	Tucumán	Meat Packing (T2)	State-driven (Medium)
22.1	Env	Córdoba	Tannery (T1)	Low level of enforcement

⁷⁸ This methodology builds on Lowi's argument that "*policies determine politics.*" Lowi 1972

Case	Policy	Province	Economic Sector	Pattern of Enforcement (Level)
22.2	Env	Córdoba	Tannery (T2)	Society-dependent (Medium)
23	Env	Córdoba	Metal	Low level of enforcement

In labor regulation, I focus on the construction, metal manufacturing, garment, commercial laundry, brick making, and industrial food processing industries. Construction and metal working are important industries in all four provinces, and have nationally strong unions with representation in every province.⁷⁹ The additional industries allow for contextualized comparisons of cases with similar problems and social organization.⁸⁰ For example, the garment industry in the Federal Capital and the brick making industry in Córdoba both are characterized by large numbers of migrant workers, weak unions, and high levels of child labor. Although these industries have different production practices and markets, including them in the analysis provides an opportunity to examine how labor inspectors respond to violations in industries without strong unions.

In environmental regulation, I focus on the metal, sugar, citrus, meat packing, and vegetable oil industries. These industries are among the most problematic in terms of industrial pollution in their respective provinces. Some industries, such as sugar mills and vegetable oil processing plants, have visible impacts that provoke local mobilization and protest. These industries provide an opportunity to compare enforcement in communities with active neighborhood groups that have linkages with regulators, and in those without, identifying the importance of linkages within a particular province. Other industries, like metal plating, are dominated by small firms with locally invisible impacts (often solvents are discharged into sewers), which thereby reduce the likelihood of bureaucrats forming linkages with civil society organizations around these issues. Contrasting enforcement across these industries allows for additional tests of the central argument.

The data used in the analysis were collected during sixteen months of field research in Argentina in 2008 and 2009. The primary source of data is over 260 in-depth interviews that I conducted (a list of interviews is included in the appendix).⁸¹ In each province, I interviewed current and past heads of regulatory bureaucracies, street-level bureaucrats, labor union leaders, industry association representatives, leaders of environmental organizations, leaders of neighborhood organizations, and politicians. These interviews provided first-hand accounts of interactions between the state and diverse organizations in society, as well as accounts of enforcement in practice.⁸² For labor regulation, I complement the in-depth interviews with an original written 69-point

⁷⁹ There are two major union structures in Argentina: national unions, and national federations. The former tend to be more centralized, and the latter provide more autonomy to the provincial units.

⁸⁰ Locke and Thelen 1995

⁸¹ The interviews lasted between twenty minutes and over four hours. The majority of them (189) were recorded and transcribed.

⁸² During this time, I was also often able to directly observe regulation in practice. On three occasions, I was able to join labor inspectors in the field, spending the day with them while they inspected worksites. On other occasions, I sat in on meetings between government officials and firms, and on meetings among labor unions.

survey of 166 labor inspectors in six provinces.⁸³ The survey allows for statistical tests of some of the findings from the in-depth interviews and expands the geographic coverage of the analysis beyond the four main provinces.

To supplement these data, for each province I systematically searched local newspaper archives.⁸⁴ These searches produced thousands of media reports that made it possible to construct accounts of provincial politics and to triangulate interview data. I also gathered documentary evidence—including internal audits, databases, and reports—from regulatory bureaucracies and provincial governments. Finally, I use a variety of national micro-data that provide an additional way to measure some of the key variables.⁸⁵ When put together, these multiple sources of data provide a way to measure differences in state-society relations, bureaucratic quality, and enforcement.

Overview of Dissertation

The remainder of the dissertation is organized as follows. Chapter 2 sets up the provincial cases by recounting the history of labor and environmental politics in Argentina. It shows how regulatory laws were solidified in the post-crisis period at the national level and that the locus of enforcement politics sits at the provincial level. This chapter also clarifies the similarities and differences of labor and environmental regulation, specifying the types of questions that can be answered by analyzing both issues.

In Chapter 3, I examine variation in labor regulatory enforcement in two provinces with highly politicized bureaucracies that lack administrative capacity. Specifically, this chapter focuses on Córdoba's wage and hour division and Tucumán's inspectorate. Notwithstanding their serious constraints, in some industries, such as metal manufacturing in Córdoba and the citrus industry in Tucumán, labor inspectors were able to enforce labor regulations. Enforcement, however, was not universal and in other industries, such as brick-making in Córdoba and construction in Tucumán, inspectors have largely failed to enforce regulations. A series of common arguments—such as those that focus on levels of socioeconomic development, the political preferences of governors, or the characteristics of specific industries—fail to account for the observed variation in enforcement. In contrast, the combination of low levels of administrative capacity and strong inspector-union linkages explain the particular pattern of enforcement. The chapter concludes by highlighting the tensions inherent in society-dependent enforcement revealed in these cases.

⁸³ The four case study provinces, plus two additional provinces Corrientes and Santa Cruz that provide variation in the political party in power (Corrientes was governed by the center-right UCR and Santa Cruz by the labor-based PJ), level of socio-economic development (Corrientes was one poorest provinces, Santa Cruz one of the richest), and region (Corrientes is in the North, Santa Cruz in Patagonia). An original and translation of the full survey is in the appendix.

⁸⁴ The primary newspaper archives I employed are: Córdoba: , *La Voz Del Interior*, *La Mañana de Córdoba*; Federal Capital: *Clarín*, *La Nación*, *Página/12*; Tucumán: *La Gaceta de Tucumán*; Santa Fe: *La Capital*, *El Litoral*.

⁸⁵ Such as rates of labor violations from the Permanent Household Survey (*Encuesta Permanente de Hogares*).

Chapter 4 turns to two cases that differ in economic structure, party politics, and interest organization, but still have similar patterns of enforcement. I begin by contrasting health and safety regulation in Córdoba's construction industry with the cases in the previous chapter. First, I show how Córdoba's health and safety division enforced labor regulations in the construction industry in a way that reached high levels by combining penalties with on-site trainings for workers and managers. Although inspectors collaborated with unions, enforcement was not dependent on societal resources and went beyond union demands. I then show how these high levels of enforcement can be explained through the combination of greater administrative capacity in the health and safety division complemented by strong linkages among inspectors, union leaders, and the local industry association.

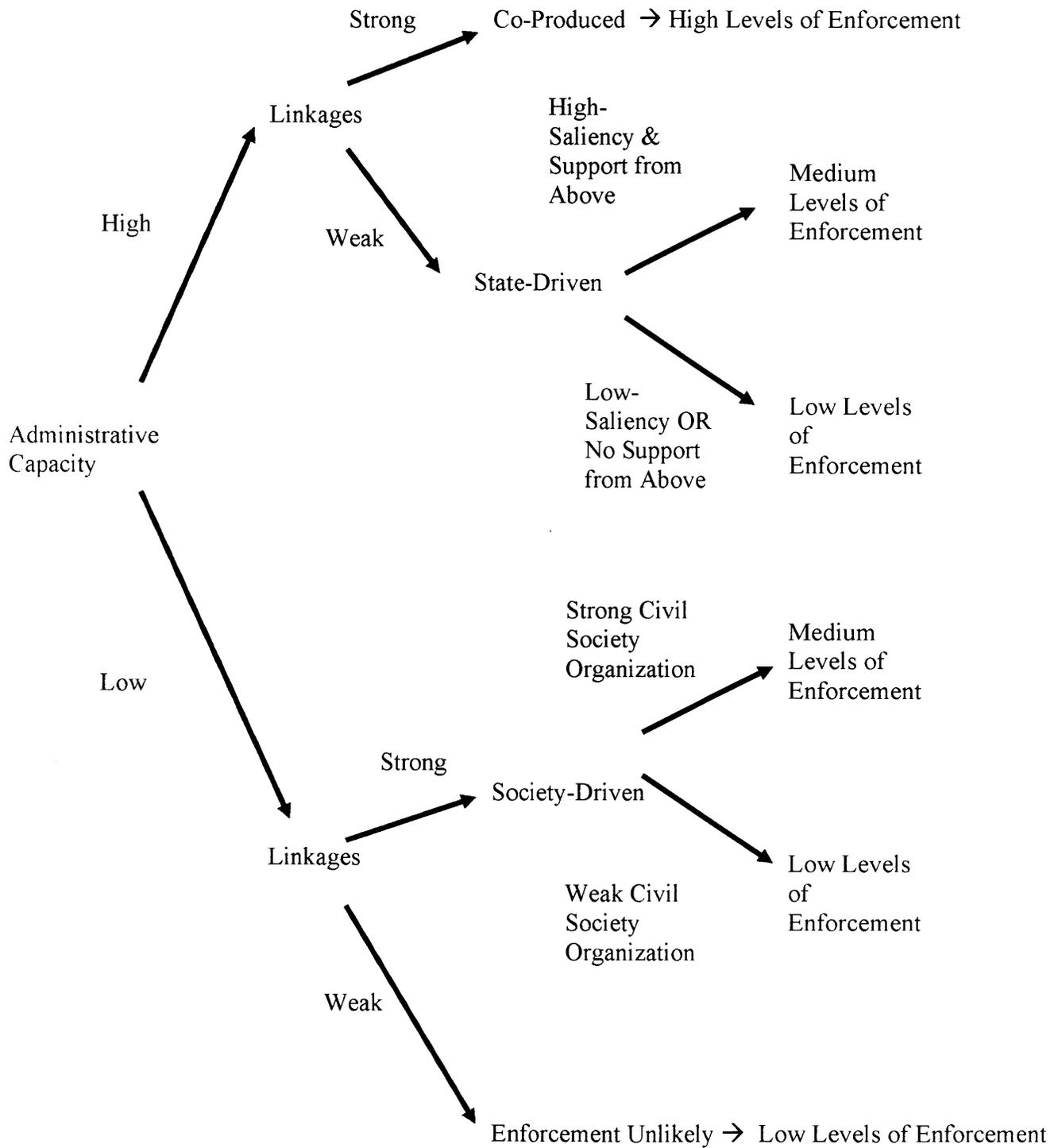
The second half of the chapter examines labor inspection in the Federal Capital of Buenos Aires focusing on the garment industry. Following the economic crisis, there was a boom in garment production, but little enforcement and violations became extreme. I analyze the series of events that followed a tragic fire in a garment workshop, which made this industry highly salient and enabled inspectors to form linkages with a community organization. The community organization sent workers to "infiltrate" garment workshops and passed information about violations to inspectors, thus enabling regulators to target their actions. The inspectors, who had substantial levels of administrative capacity, undertook extensive campaigns that shut down hundreds of illegal workshops. I trace the pattern of enforcement, which was similar to that in Córdoba's construction industry, to a combination of strong linkages and high levels of administrative capacity. These two cases demonstrate that, notwithstanding the stark differences across provinces and industries, a common set of factors leads to high levels of enforcement.

Chapter 5 explores the questions: Why do some regulatory agencies establish linkages with unions? Why do some agencies have greater administrative capacity than others? I begin by analyzing a cross-section of administrative capacity and linkages. Using a statistical analysis of the survey data from labor inspectors, I establish a clear connection between partisanship of governors and inspector-union linkages. However, I find no such connection between partisanship and administrative capacity. To explore the mechanisms behind these relationships, I examine attempts at reform to alter either linkages, administrative capacity, or both. The main case of the chapter is the province of Santa Fe. For twenty-five years, linkages served as a substitute for administrative capacity in Santa Fe. But when a governor from the Socialist party was elected without broad union support in 2007, everything changed. The new governor was unwilling to placate the unions by giving them control over inspection, but he still supported enforcement. Consequently, the governor took steps to curb linkages and invested in extensive reforms that improve administrative capacity. I then use the case of the construction industry to illustrate the consequences of this change on enforcement. As comparative cases, I then contrast Santa Fe with Córdoba and Tucumán, which exhibit the very same mechanisms at different periods of time. The chapter concludes arguing that linkage formation and investment in administrative capacity can be explained through the nature of partisan exchange.

Chapters 6 and 7 turn to environmental regulation, thereby pushing the scope conditions of the analysis beyond corporatist labor politics. In Chapter 6, I analyze enforcement in Santa Fe and Córdoba. In both of these provinces, routine enforcement dispersed across industries is at a very low levels, but there are peaks of state action in response to local protests against specific firms. I explain the variation across these cases by examining the processes through which regulators are enabled through linkages with small community organizations but constrained with very low levels of administrative capacity. In Chapter 7, I focus on efforts to control industrial pollution from the sugar/ethanol and citrus industries in Tucumán. This case, which was summarized above, traces the processes by which enforcement changed radically in Tucumán.

In the conclusion, I systematically compare the cases from all provinces in both issue areas and contrast the central argument of this dissertation with common alternatives. The chapter goes on to place the provincial cases in comparative context, showing that the patterns identified in this dissertation are not only the product of specific features of Argentine politics. I then summarize the main contributions of the analysis to debates in state-society relations and regulation.

Figure 1.1: Diagram of Argument with Expected Levels of Enforcement
 (unit of analysis = sector in province)



Chapter 2: National Regulatory Politics and Institutions

*“Dios está en todas partes, pero atiende en Buenos Aires”*⁸⁶

“God is everywhere, but His office is in Buenos Aires.”

Labor and environmental regulation in Argentina is the product of national policies and local enforcers. This chapter sets the stage for the provincial-level case studies, examining the history of national regulatory politics. The focus of the analysis is on the legacies that the development of these policies had for enforcement in the post-crisis period. For each issue area, I recount the origins of laws that were put into place to address labor and environmental concerns and identify the period in which interests were organized around each issue area. The sequences of regulatory adoption and processes of interest organization had far-reaching implications for the structure of politics years after they were complete. The primary goal of this chapter is not to explain national regulatory politics, but to place the provincial-level case studies in the following chapters into their broader political context.

Examining national level regulatory politics also elaborates the basis for the subnational methodology introduced in Chapter 1. First, the provincial-level comparisons employed in this dissertation depend on provinces having substantial variation in enforcement, yet similarities in the rules that they are enforcing. Recounting the political struggles over federalism in regulation will demonstrate that this was, with few exceptions, the case in Argentina in the post-crisis period. Second, studying both labor and environmental regulation allows for comparisons of policies with some similarities and many differences. On the one hand, the distinct structures of interest organization in these two policy areas resulted in very different types of politics. On the other hand, both labor and environmental regulations have been consistently stronger on the books than in practice—especially in the post-crisis period. The chapter is divided into two main sections, which address labor and environmental politics, in turn.

Labor Institutions

Argentina’s labor laws, along with the nascent state apparatus to implement them, were created during the period of social unrest that occurred before labor unions were fully incorporated into the political system.⁸⁷ As early as 1905, laws were established that prohibited factory work on Sundays and limited excessive work hours.⁸⁸ In 1907, Argentina became the first Latin American country to establish a labor inspection service.⁸⁹ Labor administration was a federal affair from the beginning; many provinces—including Cordoba (1914) and Santa Fe (1923)—established their own labor offices to enforce legislation, and the federal government maintained jurisdiction only

⁸⁶ Traditional Argentine saying.

⁸⁷ Collier and Collier 2002

⁸⁸ Vasquez Vialard and Julio Navarro 1990

⁸⁹ Poblete-Troncoso 1935

over the Federal Capital and a few provinces.⁹⁰ The federal nature of enforcement was one of the few attributes of the initial period of adoption that had a lasting imprint on Argentine labor institutions.

The ascent of Juan Domingo Perón in 1943 as Secretary of Labor, and later as president, radically transformed labor politics, administration, unions, and law. First, Perón furthered the development of labor regulations that improved working conditions and increased wages.⁹¹ Crucially, he also expanded enforcement and constructed labor courts that would consistently rule in favor of workers. Not only did these regulations have a short term effect of increasing worker welfare, they also formed a template for relatively strong labor laws that have, for the most part, persisted in Argentina.

Second, Perón made a series of changes to labor administration that enabled him to implement labor policies at a wide scale. In 1943, he removed control of labor administration and inspection from the provinces and created seventeen geographic zones for labor administration that were under the federal government's control. In addition, as president, Perón gave his union allies key positions in the Ministry of Labor and he stressed in his statements that the Ministry of Labor was "*their*" ministry.⁹² These two actions foreshadowed the politics of labor administration in the years to come; struggles over jurisdiction continued throughout Argentina's history, resulting in five more transfers of jurisdiction between the provinces and the federal government over the next forty years,⁹³ and politicians used appointments in labor administration continually to reward union allies.

Third, Perón used his position as Secretary of Labor to enact a series of policies that strengthened labor unions and laid down the blueprint for labor organization that persists to this day. While in the 1943, approximately 20% of urban workers were organized, by 1953 43% of all salaried workers were in a union; in absolute numbers, total union membership increased from 520,000 to 2.3 million between 1946 and 1951.⁹⁴ Unions were structured in a highly centralized, corporatist, fashion. The principal elements of this corporatist structure included: the designation of only one legally recognized union that can collectively bargain for each economic sector; collective bargaining agreements that cover all workers in the sector regardless of whether they are in a union; and giving power to the federal Ministry of Labor to oversee union elections. Unions were organized into confederations at the national and provincial level.⁹⁵ At both levels, the dominant central became the General Labor Confederation (CGT,

⁹⁰ Ibid.

⁹¹ Doyon 1975; Buchanan 1985; James 1988; Torre 1989; McGuire 1997

⁹² Buchanan 1985

⁹³ Palomino, González, and Garro 2005

⁹⁴ James 1988 pp. 9-10

⁹⁵ There are confederations of unions across industry, and within industry structures. Within each industry, there are two main forms of organization. One is a "union", such as the construction workers' union UOCRA, which is one organization. Another is a federation, such as the sugar workers' union FOTIA, which groups together individual unions at a lower level. There are significant formal organizational differences between these two structures. For example, in federations, the unions budget is controlled at the local level, and in unions, the budget is set in Buenos Aires.

Confederación General del Trabajo), although there were almost always rival factions.⁹⁶ In addition to factions among unions, there were, from the beginning, elements of the labor movement that existed completely outside of the formal union structures, but these elements were consistently marginalized. The dominant unions of the labor movement have maintained the corporatist and hierarchical structure created by Perón through this day.

Fourth, Perón's support of workers gained him the loyalty of many workers and union leaders, creating the foundations for the partisan alliance between Peronism and the labor movement, which had far-reaching influence on Argentine labor politics.⁹⁷ Under Perón, the corporatist union structures and the Ministry of Labor were used to aid, and to control, the labor movement.⁹⁸ Union leaders who were politically loyal were approved by the state and given power, while those who were not had their unions declared illegal and were replaced. The complex relationship between Perón and the unions evolved into a partisan alliance between the Peronist *Partido Justicialista* (PJ) and the labor unions that was never institutionalized.⁹⁹ The PJ's main base of support was from the labor movement, but, unlike working class parties in other countries, there were no formal structures to give union leaders power within the PJ. Just like the corporatist structure of labor unions, the partisan alliance between unions and the PJ also had a lasting legacy on labor politics.

Return to Democracy: Defeated Reforms, Weakened Institutions

The years following the return to democracy marked another crucial period of change for labor market institutions, politics, and administration. The literature on labor politics in Argentina during this period has focused largely on accounts of legislative reform, collective bargaining, and privatization.¹⁰⁰ Unions were weakened in the 1980s and 1990s, initially due to the oppression they suffered during the military regime, and later due to structural changes in the economy.¹⁰¹ In addition, the PJ began to rely more on clientelism than on mobilizing labor unions, diminishing the place of organized labor in the party.¹⁰²

Despite reduced union strength and an international convergence towards liberalization, organized labor was surprisingly able to prevent some far-reaching labor law reforms. Between 1983 and 2002, many proposals designed to weaken the position of workers were either blocked or short lived. When presidents attempted changes to labor law, they were often met by large union-led protests. A series of thirteen general strikes occurred during the administration of Alfonsín. Although unions only organized

⁹⁶ For example, in Córdoba there are two CGTs that are aligned around the metal workers' union and auto workers union, which have been rivals since the 1950s. See: Brennan 1994

⁹⁷ Levitsky and Way 1998; Murillo 2001; Levitsky 2003

⁹⁸ See: Collier and Collier 1979; Buchanan 1985; Collier and Collier 2002

⁹⁹ This relationship between the PJ and the unions has been analyzed extensive. See: James 1988; McGuire 1997; Levitsky 2003

¹⁰⁰ The politics of labor law reforms in this period have been described in detail in the literature. See: Etchemendy and Palermo 1998; Cook 1998; Etchemendy 2001; Murillo 2001; Etchemendy 2004; Murillo 2005; Murillo and Schrank 2005; Cook 2007

¹⁰¹ Palomino 2005

¹⁰² Levitsky 2003

one general strike in response to the deregulatory policies of Menem's first administration (1989-1995), by the end of Menem's second term (1995-1999) organized labor had won back many legal protections for workers. President De la Rúa (1999-2001) was able to get a labor reform bill passed, but the passage of the bill was mired with corruption. By the time the turbulent period of reforms ended and the economy began to recover in 2004, most legal protections for workers had been restored.

Notwithstanding the attenuated affects of neoliberalism on formal labor laws, two related developments significantly weakened both labor administration and labor market institutions. First, under Alfonsín in the 1980s, labor inspection was decentralized and nearly all provinces passed laws that made the provincial government the sole authority to administer labor matters in the provincial territory.¹⁰³ Decentralization had two immediate consequences, it moved the locus of political conflict over labor inspection to the provincial level, and it created tremendous variation in the quality of inspection across the country. While political contestation over labor laws was structured around cleavages between national organizations of labor and capital, questions over decentralization were more matters of federalism than of labor politics. Once the governors won control (again) over enforcement, provincial-level politics, which are partially independent from national level trends, became the dominant drivers of labor enforcement.

Many provinces were, however, simply unprepared to take on the task of labor inspection and the national government did not provide adequate resources to support the provinces or reduce levels of heterogeneity in enforcement across the country. An ILO mission to study labor inspection in 1989 concluded that inspectors lacked training, often had double employment in jobs that created conflicts of interest, lacked job security in ways that reduced their independence, and were insufficient in number to meet their objectives.¹⁰⁴ In short, notwithstanding the success that national unions had preventing many labor law reforms under Alfonsín, they were unable (or unwilling) to protect labor law enforcement, and overall inspection declined.

In the 1990s, the federal government regained additional formal authority over labor administration and inspection, but not to the same degree as in earlier periods. By virtue of the 1994 constitutional reform, the federal Ministry of Labor had the ability to oversee Argentina's compliance with ILO Convention 81, which meant it could take action when provincial labor inspectorates failed.¹⁰⁵ The Ministry of Labor did not, however, exercise this power—not only did it allow provinces to violate Convention 81 without intervening, but Argentina even fell short of meeting basic information collection and reporting requirements of the convention (e.g. not sending an annual report between 1987 and 1997).¹⁰⁶ In practice, the federal Ministry of Labor primarily served as a

¹⁰³ Vasquez Vialard and Julio Navarro 1990

¹⁰⁴ ILO 1989

¹⁰⁵ ILO 1997. Interview: B64, Department of Labor Inspection, Province of Buenos Aires Ministry of Labor, Buenos Aires, 3/4/2008

¹⁰⁶ Technically, the Ministry of Labor could intervene in provinces if they failed to comply with the convention. Almost all provinces were in some violation of the convention, but the Ministry of Labor never intervened.

coordinator of provinces and enforcer of labor law in inter-provincial areas (such as ports, long-range transportation, and in the Federal Capital).¹⁰⁷ By the end of the 1990s the ILO's evaluation of Argentina's ability to implement labor laws was highly negative:

*The Committee notes that...the Latin American Confederation of Labour Inspectors alleges the absence of inspection services in several provinces of the country,...the absence of correspondence between the remuneration of labour inspectors and that of other civil servants having lower or equal responsibilities..., the absence of adequate training of labour inspectors for the performance of their duties..., the inadequacy of the number of inspectors, of the frequency of inspection visits..., and non-reimbursement of traveling expenses to labour inspectors..., It also alleges that the Superintendency of Risks at Work is not performing its functions efficiently and does not take into consideration prevention of accidents.*¹⁰⁸

In addition to inspection, structures that existed at the federal level for labor administration languished during the 1990s. The federal Ministry of Labor lost the task collecting social security payments in 1996, thereby further reducing its power.¹⁰⁹ In addition, the Ministry of Labor's National Directorate of Occupational Health and Safety (*Dirección Nacional de Salud y Seguridad en el Trabajo*) was replaced with the Superintendency of Risks at Work (*Superintendencia de Riesgos del Trabajo*, SRT). Instead of directly regulating health and safety conditions, the SRT oversaw privatized health and safety insurance organizations and provided minimal support for provincial inspectorates.¹¹⁰ In sum, the 1980s and 1990s had two important legacies for labor administration in Argentina: decentralization and an overall decline in administrative capacity.

A second, and related, major development of the 1980s and 1990s was a decline in compliance with labor laws, which led to a reduction in the strength of labor market institutions. One of the main indicators of labor law compliance, and the one that is most often used by officials in Argentina, is the percentage of workers who are unregistered with social security (*en negro*). Workers who are unregistered are less likely to benefit from most labor regulations, such as being paid salaries that comply with provisions in collective bargaining agreements, enjoying legally mandated benefits (e.g. vacation time), receiving legally mandated severance pay, and working in safe conditions. An official at the federal Ministry of Labor summed up the differences between registered and unregistered workers, stating: "*We have two universes: the universe of formal labor in which we are almost first world, and informal work in which we are practically Bangladesh.*"¹¹¹ In 1990, household surveys found that approximately 25% of workers were unregistered. This number grew dramatically, reaching 36% by 1997, and 44% in

¹⁰⁷ Comejo 2007

¹⁰⁸ ILO 2000

¹⁰⁹ Palomino, González, and Garro 2005. Structures were put into place to coordinate provincial efforts, most importantly the Federal Labor Council (CFT, *Consejo Federal del Trabajo*). The CFT, however, did not harmonize labor administration across provinces beyond setting a standard scale for fines.

¹¹⁰ Beccaria and Galin 2002

¹¹¹ Interview: B53, Senior Official, Ministry of Labor, Employment and Social Security, Buenos Aires, 9/4/2008

2002 following the economic crisis.¹¹² These changes signified a tremendous decline in the portion of employment relations that were actually structured by labor market institutions. In addition to declines in compliance with individual worker protections, collective labor market institutions, such as wage bargaining, also broke down.¹¹³ With these fracturing institutions, a new unemployed workers movement threatened to displace traditional unions.¹¹⁴

In sum, during the 1980s and 1990s, formal changes to labor market institutions were only marginal, but these institutions became extremely weak and failed to structure employment relations in much of the economy. The success of unions in fighting off attempts at legislative reform at the national level did not translate to labor inspection. The center of conflict over inspection moved to the provincial level and, as I will show in Chapter 5, preserving labor inspection capacity was not always unions' top priority. By the start of the 2000s, the Argentine state had little ability to respond to the challenges of weakened institutions. Moreover, labor unions were diminished both in their capacity to mobilize and in their place in the PJ.¹¹⁵ Combined with the economic crisis of 2001 that triggered high levels of unemployment, these factors rendered Argentine labor market institutions utterly dismantled in practice.

Challenges After the Economic Crisis of 2001

The period of economic growth after the economic crisis of 2001 marked another major shift in labor politics. At the outset of the recovery, there was a strong backlash against Menem-style neoliberalism and a renewed effort to increase the state's role as a regulator of the market. President Néstor Kirchner (2003-2007) selected Carlos Tomada, a prominent labor lawyer and adviser to the CGT for many years, to lead the Ministry of Labor (MTESS).¹¹⁶ In 2004, under Kirchner, a new labor law was passed that restored many worker protections that had been lost under De la Rúa's reform. Collective bargaining also restarted during this period, with agreements once again being negotiated at the national level. Helped by their alliance with Kirchner and the high levels of economic growth, unions also regained some of the strength that they lost in the 1990s and the unemployed workers' movement petered out.¹¹⁷ Despite these advances, the recovery of labor market institutions in the post-crisis period was challenged by high levels of labor law violations, which prevented many workers from seeing the benefits of strengthened regulations.

¹¹² Source: Ministerio de Trabajo, Empleo, y Seguridad Social

¹¹³ Etchemendy and Collier 2007

¹¹⁴ Garay 2007

¹¹⁵ Unions did manage to keep politics in place that allowed them to survive. These included control over lucrative social welfare and health funds called *obras sociales*.

¹¹⁶ There were a number of changes in the name of the Ministry of Labor over the years. From 1971-1999 it was the *Ministerio de Trabajo y Seguridad Social*. From 1999-2002, it was the *Ministerio de Trabajo, Empleo y Formación de Recursos Humanos*. In 2002, it became the *Ministerio de Trabajo, Empleo y Seguridad Social*, or MTESS.

¹¹⁷ Etchemendy and Collier 2007

From his position as Minister of Labor, Tomada attempted to “*recuperate the capacity of the state to govern*” the labor market and reduce violations of labor laws.¹¹⁸ Accordingly, Tomada included a provision in the proposed 2004 labor law reform to re-centralize labor inspection, giving the federal MTESS control over inspection once again. Senior officials in the MTESS recognized that enforcement was going to be key to completing the recovery of labor institutions and had little faith that the provinces would undertake this effort. The labor inspection provision, however, turned into one of the most controversial parts of the labor law reform. The issue was framed around questions of federalism and provincial governors did not want to give up the power they had over labor enforcement. Tomada lost the battle, and the proposed law was modified by Congress to prevent the MTESS from gaining power over inspection.¹¹⁹

Despite this setback, the Tomada moved ahead with an alternative effort to increase the federal government’s role in enforcement. Although the MTESS did not have jurisdiction to enforce all aspects of labor law, it did have the ability to enforce worker registration with the social security system. Leveraging federal jurisdiction over social security, Tomada created the National Plan for Regularization of Work (PNRT *Plan Nacional de Regularización del Trabajo*), which evolved into a massive effort to register workers.¹²⁰ The PNRT was uncontroversial except for its encroachment on provincial autonomy, which was resented by many involved in labor administration in the provinces. The CGT and the main business association, the Industrial Union of Argentina that had been in the center of battles of labor law reforms, were mostly neutral when it came to the creation of the PNRT.¹²¹

The PNRT involved deploying inspectors throughout the country to enforce social security registration. There was substantial investment in the administrative capacity to make the PNRT possible. The MTESS increased its staff dedicated to enforcement tenfold by hiring 400 new “labor inspectors.” The MTESS attempted to ensure that all new inspectors were “professionals”, mostly lawyers and accountants. Many of inspectors, however, were still in university and had yet to receive their formal degrees. Even though they would compare unfavorably to inspectors in other countries (e.g. Brazil), they had more training than their predecessors. In addition, the MTESS mustered ample material resources and equipped the inspectors with computing systems that linked in the national tax collection agency. With this new capability, the MTESS conducted over 100,000 inspections a year, dramatically increasing the state’s presence.¹²²

¹¹⁸ Tomada, Carlos. “La recuperación del trabajo y de sus instituciones rectoras”, *Revista de Trabajo No. 4*, Ministerio de Trabajo y Seguridad Social, Buenos Aires, 2007. p. 76.

¹¹⁹ *Clarín* “Policía del Trabajo, el centro de la discordia de la nueva ley laboral” 02/22/04; *Página/12* “Apuradas y problemas para la reforma laboral” 02/23/04; “El martes, Diputados tratará de aprobar la nueva reforma laboral” 02/26/04

¹²⁰ Interestingly, Tomada did not chose to spend large sums of money to finance provincial inspection. This could have been an alterantive to building the PNRT.

¹²¹ Interview: B58, Political and Social Department, Argentine Industrial Union, Buenos Aires, 4/9/2008

¹²² Internal data provided by the MTESS. Interviews: B06, Senior Official, Department of Labor Inspection, Ministry of Labor, Employment and Social Security, Buenos Aires, 3/13/08 & 2/26/09; B51, Senior Official Department of Labor Inspection, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/8/2008

While the Tomada and other senior officials publically portrayed the PNRT as full labor inspection, the program only covered a very small part of labor law. For many skeptics in the labor movement and in provincial governments, the program was seen as “*tax collection*” and people involved in inspection emphatically stated that the staff were not truly labor inspectors.¹²³ Most importantly, inspectors from the MTESS could not enforce many aspects of labor law that were commonly violated, such as non-payment of wages, illegal overtime, unsafe working conditions, violations of the terms of collective bargaining agreements.¹²⁴ Inspectors only used fines to remedy violations of worker registration; there was absolutely no space for pedagogy and limited follow-up. In addition, inspectors had absolutely no formal discretion and did not work regularly with labor union leaders.¹²⁵ Despite the fact that the PNRT was limited, it was evidence that federal government was serious about strengthening institutions.

Although there were hardly any funds given to provincial governments for inspection, there were also clear signals from Tomada encouraging provinces to improve their inspection services. For instance, in Tucumán, Tomada openly criticized the governor for the lack of action in response to problems with worker registration (as described in Chapter 5). In addition, the MTESS convened annual national workshops around health and safety (*Semana Argentina de la Salud y Seguridad en el Trabajo*) starting in 2003. At these workshops, provincial governments compared their efforts in labor inspection, competing to have the most advanced program.¹²⁶ Through these, and many other similar actions, there was change on the part of the federal government making labor law enforcement a new priority.

In sum, in the period of economic growth starting in 2003, labor laws were made more protective, collective bargaining restarted, the unions gained regained some of their lost strength, and trends in labor administration by the federal government turned towards more enforcement. Notwithstanding these shifts, non-compliance with labor laws and collective bargaining agreements remained extremely high. And with decentralization of labor inspection, the primary part of the state that needed to respond to many of these institutional weaknesses, was in the hands of provincial governments. Some provinces, such as Chaco in the northeast and Neuquén in the south, did not hire new inspectors. Other provinces, as different as the underdeveloped La Rioja in the northwest and the affluent Santa Cruz in Patagonia, nearly doubled the sizes of their labor inspectorates.¹²⁷

¹²³ Based on scores of interviews with labor leaders, many of whom used the adjective *recaudatorio* (in a pejorative way) to describe the PNRT. Interview: B64, Department of Labor Inspection, Province of Buenos Aires Ministry of Labor, Buenos Aires, 3/4/2008

¹²⁴ Based on interviews with labor inspectors and officials working in the program. Inspectors: six in the Federal Capital, three in Tucumán, seven in Córdoba, one in Santa Fe. Heads of the regional MTESS offices of: Córdoba, the Federal Capital, La Pampa, Mendoza, and Tucumán.

¹²⁵ Based on interviews with dozens of union leaders in Córdoba, Corrientes, Santa Fe, Tucumán, and the Federal Capital. Senior officials in the MTESS claim that they do work with unions, but there was consensus among all union leaders interviewed that this claim is based on a few isolated experiences, not a general pattern.

¹²⁶ Author's observation of the 2008 *Semana Argentina de la Salud y Seguridad en el Trabajo* in Buenos Aires.

¹²⁷ Data collected by the author from the provincial governments. La Rioja increased from 10 inspectors in 2003 to 19 in 2008. Santa Cruz increased from 16 in 2003 to 32 in 2008. Interview: CH05, Chaco Labor Subsecretariat, Resistencia, Chaco, 9/10/2008

Beyond the differences in administrative capacity, provincial governments varied tremendously in their willingness to work with unions and other civil society organizations to spur enforcement. These provincial responses to weakness in labor market institutions are the subject Chapters 3 through 5. Before moving to the provincial-level case studies of labor regulation, we first turn to the trajectory of environmental regulatory institutions.

Environmental Institutions

Although labor issues clearly occupy the dominant place in Argentine history, the first environmental law was passed in 1891, before any major labor laws had been established.¹²⁸ For most of the twentieth century, legislation related to environmental issues focused on national parks and managing specific types of natural resources (mining, water, land, etc.), instead of addressing the environment in an integrated fashion.¹²⁹ This changed when international attention turned to environmental issues in the early 1970s, and Argentina began to take the first steps towards creating comprehensive environmental policies. Perón launched the first environmental agency, the Secretariat of Natural Resources and the Human Environment (*Secretaría de Recursos Naturales y Ambiente Humano*), in 1973, under the Ministry of Economy. This agency, however, only lasted two years and was dismantled by the military dictatorship in 1975.¹³⁰

Environmental policy continued to be characterized by uneven development over the next thirty years. During the 1970s and 1980s, Argentina became a signatory to many international environmental agreements and established additional laws governing specific environmental issues, such as creating protected natural areas, wildlife protection statutes, and policies for the recuperation of soils.¹³¹ In addition, a number of provincial governments established environmental laws and clauses in their constitutions. For instance, soon after the return to democracy, Córdoba created a Subsecretariat of Environmental Management and passed a General Environmental Law in 1985, regulating a broad range of activities.¹³² Notwithstanding these policy measures, there were few efforts by the state to enforce environmental laws and regulations. Laws were largely not obeyed and institutions to manage environmental issues in Argentina were born weak.¹³³

The 1990s was a period of further development of formal environmental institutions, with an “*explosion*” of new legislation regulating environmental issues at the beginning of the decade.¹³⁴ For example, the hazardous waste law (passed in 1992) was the first national environmental law that went beyond management of natural

¹²⁸ The first environmental law (2.797) mandated that household and industrial wastewater should be treated before being released into the water. Devia, Coria, Flores, Lamas, Nonna, and Villanueva 2008.

¹²⁹ For example: Law 13273 “Ley de defensa de la riqueza forestal”, 1948. See: Hopkins 1995; Ibid.

¹³⁰ Hochstetler 2003

¹³¹ Hopkins 1995; Acuña 1999

¹³² Interview: C23, Former Official, Córdoba Environmental Protection Agency, Córdoba, 6/3/2009

¹³³ Brailovsky and Foguelman 1991 Chapter 6

¹³⁴ Coria, Devia, Lamas, Nonna, and Villanueva 1998 p. 118

resources.¹³⁵ In 1991, President Carlos Saúl Menem recreated the national environmental agency, the Secretariat of Natural Resources and Environment (*Secretaría de Recursos Naturales y Ambiente*).¹³⁶ Although not a full ministry, the Secretariat of Natural Resources and Environment reported directly to the president, placing it near the top of the hierarchy of government agencies. In addition, the Federal Environmental Council (*Consejo Federal de Medio Ambiente*) was established to serve as a space for dialogue and exchange among provincial and federal environmental agencies. This was the first real effort to coordinate across levels of government and overcome the barriers of federalism.

Another critically important development that occurred during the 1990s was the inclusion of an environmental clause (Article 41) in the 1994 constitution.¹³⁷ Beyond the symbolic significance of enshrining the right to a healthy environment in the constitution, it provided the basis for the federal government to establish minimum environmental standards that apply to all provinces, thereby creating the conditions for future legislation that could address the barriers of federalism.¹³⁸ Although Article 41 gave greater policy making power to the federal government, a separate provision, Article 124, gave provincial governments “original dominion” over natural resources. Thus, while the federal government could pass laws, the provincial governments remained responsible for their implementation. The constitution also empowered individuals (and groups) to bring lawsuits on behalf of collective damages created by environmental degradation (Article 43). Although far from complete, these policies were evidence of progress in developing a legislative framework for environmental regulation during the 1990s.

While environmental laws progressed on paper in the 1990s, implementing these laws was another question entirely. For example, when the federal hazardous waste law was adopted, the Secretariat of Natural Resources and the Environment did not have any staff trained to enforce the law and, even more crucially, there was no facility in Argentina that could receive and process the waste in a way that met the legal standards.¹³⁹ Despite the creation of the Secretariat of Natural Resources and Environment under Menem, by the late 1990s there were still few efforts by the federal government to enforce environmental regulations.¹⁴⁰ Studies that found improvement in

¹³⁵ Di Paola 2002a

¹³⁶ Hopkins (1995, p. 68) argues that Menem acted primarily in response to an oil spill in Chubut that had very high levels of saliency.

¹³⁷ Article 41 of the 1994 constitution states: “*All inhabitants are entitled to the right to a healthy and balanced environment fit for human development in order that productive activities shall meet present needs without endangering those of future generations; and shall have the duty to preserve it. As a first priority, environmental damage shall bring about the obligation to repair it according to law. The authorities shall provide for the protection of this right, the rational use of natural resources, the preservation of the natural and cultural heritage and of the biological diversity, and shall also provide for environmental information and education. The Nation shall regulate the minimum protection standards, and the provinces those necessary to reinforce them, without altering their local jurisdictions. The entry into the national territory of present or potential dangerous wastes, and of radioactive ones, is forbidden.*”

¹³⁸ Sabsay and Di Paola 2002

¹³⁹ World Bank 1995 p. 68; Coria, Devia, Lamas, Nonna, and Villanueva 1998p. 275

¹⁴⁰ For example, between 1997-1999 the Environmental Secretariat averaged identifying 110 violations of the hazardous waste law each year. This is an extremely low number considering the thousands of facilities

the environment during this period claimed that they happened despite of, not because of, environmental policies.¹⁴¹ One of the key barriers to implementation was an unclear demarcation of authority; the federal, provincial, and municipal governments all had jurisdiction over different parts of environmental legislation, and no one level of government took responsibility for enforcing regulations.¹⁴² The consensus among observers was that opaque jurisdictional divisions led to chaos and the inadequate efforts to implement policies at a national level.

Moreover, the federal agency was plagued by corruption at the highest levels. The Secretary of Environment under Menem, María Julia Alsogaray, used much of her time in government to enrich herself.¹⁴³ One scheme, for which she was later found guilty, involved a series of fraudulent contracts that she used to redirect money away from addressing environmental contamination in the Buenos Aires metropolitan area.¹⁴⁴ With such high profile corruption and an overall lack of results, nearly all observers concluded that the national government did not take a strong role in strengthening environmental institutions during the 1990s. At the end of the decade, in 1999, the Secretariat of Natural Resources and Environment was lowered in rank and moved to the Ministry of Social Development.¹⁴⁵ Staff were scattered in the new Ministry and many well-trained officials left the state, further degrading the federal government's ability to implement policies.¹⁴⁶ In short, the federal government was ill-equipped to translate environmental policies into practices.

Notwithstanding these failures, there were some pockets of development in administering environmental regulations at the end of the 1990s. One of the few initiatives touted by officials as successful was the Cleaner Production Program (PPL, *Plan de Producción Más Limpia*). In September 1999, officials from the Department of Technology, Processes and Environmental Services (*Dirección de Tecnología, Procesos y Servicios Ambientales*), joined the Industrial Union of Argentina (*Union Industrial Argentina*, UIA) and the Argentine Council for International Relations to organize a seminar in green-upgrading in industry.¹⁴⁷ The meeting brought together international experts, governmental officials, firms and environmental groups to lay the groundwork

that manage hazardous waste. Source: Data Dirección de Infracciones Ambientales, Environmental Secretariat. See also: Reboratti 2008

¹⁴¹ Chudnovsky, Cap, Trigo, and Rubin 1999

¹⁴² World Bank 1995; Bertonatti and Corcuera 2000; Di Paola 2002a; Nonna 2002

¹⁴³ She was convicted for corruption involving privatization of the telephone company Entel and for various actions as Secretary of the Environment. On her arrest and conviction: *Página/12* "Coleccionista de juicios" 08/08/03; "María Julia está a punto de mudarse" 08/08/03 "Una prueba de que el dinero no hace la felicidad" 05/22/04

¹⁴⁴ In 1998, the Inter-American Development Bank (IDB) gave a 250 million dollar loan to Argentina to clean up the Riachuelo. Investigations of Alsogaray revealed that much of this money was effectively embezzled through fraudulent contracts. As a result, Argentina was fined 6 million dollars by the IDB. *Página/12* "La Plata es lo de Menos" 01/03/00; "Amenazan con denunciar al Estado por la contaminación del Riachuelo" 12/05/03; "Riachuelos de lágrimas" 08/16/03.

¹⁴⁵ Hochstetler 2003

¹⁴⁶ Espach 2009 p. 67

¹⁴⁷ Dirección de Tecnología, Procesos y Servicios Ambientales, de la Secretaría de Recursos Naturales y Desarrollo Sustentable, Secretaría de Ambiente y Desarrollo Sustentable. "*Seminario Internacional Sobre Producción Limpia*." Buenos Aires, 1999.

for a series of projects in provinces, supported by the federal government, to help firms adopt cleaner production practices. The first pilot program began in the province of Salta in 2000 and then expanded to Tucumán in 2002 (Chapter 7).¹⁴⁸ These projects created spaces for collaboration between industry and regulators to identify technological processes and managerial programs that would improve environmental and economic performance. Although PPL did not bolster the punitive side of enforcement, it became one of the primary ways in which the federal government could foster improvement in industries through collaborative efforts.

The most important legislative barriers to environmental regulation in Argentina were finally overcome when, using the power given to the federal government by the 1994 constitution, Congress passed laws mandating minimum environmental standards (*presupuestos mínimos*) in 2002. While not ending debates over federalism, the minimum standards marked a turning point by formally establishing a floor of environmental regulations that was applicable in the entire country.¹⁴⁹ These laws included the first General Environmental Law of Argentina, as well as a series of laws addressing specific issues, including managing industrial waste, PCBs, water, public information, and household waste.¹⁵⁰ Passed during the height of the economic crisis, implementation of this legislation would be defined by the post-crisis period.

In sum, by the end of 2002 there was significant development in environmental regulations that applied to the entire nation, but by all accounts regulations were widely not respected and there were high levels of variation across the provinces in their enforcement capabilities. Responses of the federal government, and most provincial governments, to the institutional weakness were few and scattered. In this context of weak regulatory institutions, there would be serious challenges to enforcement in the period of growth that began in 2003. Before addressing this period, it is helpful to examine the development of the environmental movement.

The Environmental Movement

The environmental movement took shape in Argentina primarily after the return to democracy in the 1980s and 1990s. Before this period, there had been some organizations dedicated to wildlife protection and nature, but they were not templates for most of the organizations that would follow (and eventually become the primary protagonists).¹⁵¹ According to one of the early leaders of the movement, only “*after the fall of the military government and the beginning of democracy,*” was there a “boom”

¹⁴⁸ Interview: B28, Federal Secretariat of Environment and Sustainable Development, Buenos Aires, 9/22/2008

¹⁴⁹ Schiffrin 2005

¹⁵⁰ Devia, Coria, Flores, Lamas, Nonna, and Villanueva 2008. After this initial burst, additional minimum standards laws were gradually adopted, including a law to protect native forests and a controversial law passed in 2010 to protect glacial areas.

¹⁵¹ Some early organizations were: Asociación Ornitológica del Plata founded in 1916 and Asociación de Amigos de los Parques Nacionales founded in the 1940s. The first environmental NGO to focus on both conservation and social issues, *Fundación Vida Silvestre Argentina* formed in 1977, was the only major organization founded during the military dictatorship. Aguilar 2002 See also: *La Nación* “25 años en favor del medio ambiente” 12/22/02

and a “*spectacular emergence of NGOs.*”¹⁵² There are no good estimates of the exact number of environmental organizations that became active in Argentina, but there was clearly a “boom” with hundreds, if not thousands of organizations, being founded across the country.¹⁵³ Unlike other countries in the region, such as Brazil and Bolivia, environmental issues in Argentina did not draw large amounts of international attention and, as a result, there is little question that the protagonists were primarily domestic.¹⁵⁴ The patchwork of environmental organizations grew to be extremely heterogeneous in their bases of support, modes of action, and organizational structures.¹⁵⁵

For analytical purposes, it is helpful to identify two ideal-types of environmental organizations around which many groups cluster. One type is the professional organization, which tends to have staff (or members) who are highly educated elites. Professional environmental organizations have the capability to take cases to court and conduct scientific analyses of environmental problems. These organizations were behind many of the laws described above. One example is the Environmental and Natural Resources Foundation (*Fundación Ambiente y Recursos Naturales*, FARN), founded in 1985, which has played an important role in the development of Argentine environmental policy and jurisprudence. Based in the Federal Capital, FARN, has a paid staff of professionals, a board of directors, and a number of volunteers (who are often college or law students from the United States).¹⁵⁶ To support its activities, FARN raises money from members, international organizations, and foundations, such as the Ford Foundation and the William and Flora Hewlett Foundation. One of FARN’s key roles has been in lobbying Congress for stronger environmental legislation at the national level and conducting legal research to inform the policy. In addition, FARN has continually run courses in environmental law, training students along with judges and government officials. Starting in 1994, FARN published an environmental law supplement to the periodical *La Ley*, which in its first year reached over 10,000 lawyers throughout the country. Finally, FARN gives legal aid to groups that take environmental issues to court through its legal clinic. Combined, this repertoire has made FARN a formidable player in Argentine environmental politics at the national level.

A second ideal-type of environmental organization is the small, neighborhood, group that becomes involved in environmental issues at the local level. Neighborhood organizations are often not primarily concerned with environmental issues, but rather become engaged with environmental problems in response to a pressing matter in their community. These groups lack the human and financial capital of the professional

¹⁵² Interview: C24, Environmental Defense Foundation, Córdoba, 3/5/2009

¹⁵³ Data from a survey of civil society associations conducted in 2004 indicated that 5% of the approximately 100,000 civil society organizations report working on environmental issues. See: Luna and Cecconi 2004

¹⁵⁴ While recent accounts of environmental movements in Latin America have gone to length to correct dominant accounts that focused only on international actors, there are no such debates about the Argentine movement. See: Steinberg 2001; Hochstetler and Keck 2007

¹⁵⁵ This is typical of Latin America. See: Christen, Herculano, Hochstetler, Prell, Price, and Robberts 1998

¹⁵⁶ Its staff include high influential figures in the Argentine legal community. For example, in a poll conducted of lawyers to determine candidates to the Supreme Court in 2003, FARN’s former director, Daniel Alberto Sabsay, was the favorite. *La Nación* “Sabsay y Kemelmajer, preferidos” 07/06/03

organizations and they must depend on government actors, such as *Defensores del Pueblo*, or professional environmental organizations to take cases to court. Some groups also lack formal organizational structures and fashion themselves as “self-convening” (*autoconvocados*), implying that they have no institutional interests (e.g. they do not need to raise money to perpetuate themselves and will disband when the problem is solved). Despite their organizational weaknesses, neighborhood groups often have greater capacity to mobilize protests than professional environmental organizations, and they also tend to have more legitimacy in the eyes of politicians and courts. As a result, while neighborhood groups are not at the forefront of policy research or lobbying Congress, they have played a key role in demanding implementation of environmental regulations in the courts and the streets.

The La Boca Neighborhood Association (*Asociación Vecinos La Boca*), also in the Federal Capital, is an example of a small, neighborhood, environmental organization. When it was founded in 1997, the La Boca Neighborhood Association did not organize around environmental issues.¹⁵⁷ Instead, the primary concerns of its founders were typical issues of a working class urban neighborhood: crime, education, and public health. These issues, as a leader from the association explained, led them to taking on problems of environmental contamination in the Riachuelo River:

*“The area by the Riachuelo River was a beachhead for criminals because, just as the river was degraded, the properties by the river were degraded and criminals occupied and lived in them. The hospital was collapsing due to its proximity to the river... The schools are in the same neighborhood, and with their closeness to the river they were run down. Everything was happening in the riverfront, making it the center [of the problems]. We said: ‘Enough. We are going to get ourselves involved in this [problem]. Enough with working on individual issues.’ It was this way that we started working on environmental issues.”*¹⁵⁸

The La Boca Neighborhood Association had an extremely small budget, with approximately twenty members who paid dues of three dollars per month.¹⁵⁹ Yet, they were surprisingly effective in promoting implementation of environmental laws in the Riachuelo. After years of campaigning with little success, in 2005 the Association came in contact with the *Defensores del Pueblo* of the Federal Capital and Nation, as well as a number of professional environmental organizations (including FARN). With their help, a case from the community made it all the way to the Supreme Court. In a landmark decision, the court ordered regulators from the federal Environmental Secretariat, the province of Buenos Aires, and the Federal Capital to take action to clean up the watershed of the Riachuelo.¹⁶⁰ In the effort to enforce regulations that followed, the La Boca Neighborhood Association was a key societal actor. Although not many organizations make it to the Supreme Court, the La Boca Neighborhood Association is

¹⁵⁷ The Association was founded in 1997, but it was not until 2000 that it registered to get *personaria juridical*, which enables organizations to take cases to court.

¹⁵⁸ Interview: B24, "La Boca" Neighborhood Association, Buenos Aires, 10/4/2008

¹⁵⁹ Ibid.

¹⁶⁰ *Página/12* “Un fallo para salvar el Riachuelo” 06/21/06

typical in terms of its small size, limited resources, local focus, and its ability to gain allies with technical expertise.

Notwithstanding the substantial differences between professional organizations, like FARN, and neighborhood organizations, like the La Boca Neighborhood Association, there are a number of general features of the environmental movement that stand in contrast with the labor movement in Argentina. First, environmental groups are not corporatist, but instead are highly pluralistic; in any given locality, or around any given issue, multiple environmental groups can be active, and there is no state regulatory agency that determines which organization can represent a particular issue (as the Ministry of Labor does for unions). The only type of government oversight of environmental organizations is not mandatory or onerous—many groups apply for legal incorporation (*personaría jurídica*) to have standing in court.

Second, environmental groups do not have a formal hierarchical confederation like the CGT. When environmental organizations collaborate, they are most often structured by relatively horizontal partnerships, federations, and networks. At the national level, there are a number of networks of organizations that have waxed and waned in importance over the years, such as the National Network for Ecological Action (*Red Nacional de Acción Ecologista*), formed in 1984.¹⁶¹ At the provincial level, there are in addition federations, such as the Federation of Environmental Non-governmental Organizations of Tucumán, (*Federación de Organizaciones Ambientales No Gubernamentales de Tucumán*) which formed in 1987 to bring together professional associations and environmental groups. These environmental federations lack the hierarchy of provincial labor CGTs, creating more space for a disagreement, but also limiting the possibilities of collective action at a large scale.

Third, environmental organizations formed without any attachment to a particular political party, and most organizations have gone out of their way to avoid partisan alliances. When the movement began to take shape in the 1980s, environmental issues were not a central cleavage point in electoral politics. None of the major political parties in Argentina had (or have) a reputation for being more pro-environmental than the others. There is a Green Party, founded in 2006 by the former Minister of Environment of the Federal Capital, but it is extremely small and includes only a handful of active politicians.¹⁶² Unlike labor unions, most environmental organizations tend to cautiously guard their independence and avoid entanglement with any political party.¹⁶³ The extent to which they have directly engaged electoral politics, it has been to invite candidates of all parties to either clearly state their positions or sign a statement that they are committed to environmental issues, as groups did in Santa Fe and Córdoba.

In sum, the environmental movement largely formed during the 1980s and 1990s. It is highly pluralistic and heterogeneous, with largely unregulated organizations ranging in size, capabilities, and structure. These organizations largely did not align with any one party nor played a major role in electoral politics. Rather, they used a variety of tactics to

¹⁶¹ Interview: C24, Environmental Defense Foundation, Córdoba, 3/5/2009

¹⁶² Interview: B44, Green Party, Buenos Aires, 10/9/2008

¹⁶³ Based on interviews with scores of leaders from environmental organizations in 2008 and 2009.

promote environmental protection—some groups took to the courts and the streets, while others conducted studies, lobbied the government, and provided legal support. When compared with labor unions, this structure would lead to a very different set of opportunities and constraints for the environmental movement to engage in struggles over enforcement.

Environmental Politics During the Post-Crisis Boom

Environmental politics in the post-crisis period was heavily shaped by a controversy surrounding the construction of a paper mill in Uruguay, which led to the largest protests to date in Argentina over industrial contamination. A combination of Finnish and Spanish multinational companies, with financial support from the World Bank's International Finance Corporation (among others), embarked on plans to build a large paper milling complex dubbed "Botnia" in the Uruguayan city of Fray Bentos, just across the River Paraná from the Argentine city of Gualeguaychú in Entre Rios province. In response to the threat of water contamination from the mill, a series of community organizations formed, eventually leading to the Gualeguaychú Environmental Assembly (*Asamblea Ambiental de Gualeguaychú*), which mobilized massive protests that took the Argentine environmental movement to new levels.¹⁶⁴

In April of 2005, an estimated 40,000 people marched on the international bridge connecting Argentina and Uruguay to protest the paper mill.¹⁶⁵ The marches continued and the bridge was blockaded for periods of time by protesters—some lasting more than forty days—cutting off one of the most important land routes between Argentina and Uruguay. The protesters generated so much attention that in May 2006, President Néstor Kirchner held a rally in Gualeguaychú to support the Gualeguaychú Environmental Assembly, which was attended by nineteen governors, all of Kirchner's cabinet, and 35,000 people.¹⁶⁶ And in December 2007, the first major protests about environmental contamination reached the symbolically important Plaza de Mayo in Buenos Aires.

Botnia moved environmental issues from the margins to the center of the political agenda. The implications of this protest for domestic environmental politics were influenced, however, by the international nature of the conflict; the source of the contamination was not under the jurisdiction of Argentina, but in Uruguay. As a result, the Argentine government had to negotiate with Uruguay, the World Bank, and the multinationals to stop the development. Legal battles were played out in international courts, where Argentina argued that Uruguay violated treaties that governed the Rio de la Plata. The Argentine state did not, however, have to build the capacity to directly enforce regulations and did not have to adjudicate the conflict in its own courts. This meant that the most immediate policy response of the government was diplomacy. However, many players involved in environmental politics were aware that if the movement turned

¹⁶⁴ For a journalistic account, see: Toller, Verónica. *Daños Colaterales: Papeleras, Contaminación y Resistencia en el Río Uruguay*, Editorial Marea, Buenos Aires, 2009.

¹⁶⁵ *Página/12* "Una marcha rioplatense" 05/02/05

¹⁶⁶ *Página/12* "'Es una cuestión ambiental que atañe a todo el país'" 05/06/06. Days later, during a photo session of heads of state attending the European Union-Latin American summit in Vienna, the queen of the carnival in Gualeguaychú surprised the delegation in her carnival costume with a sign protesting Botnia. *Página/12* "Mueva, mueva, mueva, no a las papeleras" 05/12/06

inwards towards Argentine firms, such as the paper mills on the very same river, it could create a major problem for Néstor Kirchner's government.

To stave off this possibility, Kirchner replaced the Secretary of Environment, Atilio Savino,¹⁶⁷ with Romina Picolotti, a lawyer who was representing the assembly of residents of Gualeguaychú in international tribunals in the Hague.¹⁶⁸ Picolotti was the president of the Center for Human Rights and Environment (CEDAH, *Centro de Derechos Humanos y Ambiente*), which she co-founded in 1999 after working in a Washington D.C. as a human rights lawyer. Although Picolotti had become a key figure in the Botnia conflict, she was somewhat unknown in the broader Argentine environmental movement and in national politics. If Kirchner wanted to co-opt the environmental movement through Picolotti, he was mistaken; she maintained support of the principal groups involved in the Botnia conflict, but most major environmental organizations saw her as an outsider and never endorsed her.¹⁶⁹

Picolotti's two-year tenure as Secretary of Environment was marked by controversy and, ultimately, it ended with her being forced to resign amidst accusations of corruption and mismanagement.¹⁷⁰ The international conflict over Botnia continued, mostly outside of the primary competency of Picolotti. Instead, she became a highly visible figure as the Environmental Secretariat confronted a series of domestic challenges. Of these, one of the most salient was contamination in the Matanza-Riachuelo watershed. As mentioned above, the Supreme Court issued a ruling that the government of the province of Buenos Aires and the Federal Capital had failed to implement environmental policies and forced them to create a plan to clean up the watershed and the industry that polluted it. In response, the federal and provincial governments created an inter-jurisdictional initiative called the Matanza-Riachuelo Watershed Authority (ACUMAR, *Autoridad de Cuenca Matanza Riachuelo*), which led to the development of greater enforcement by the Environmental Secretariat for enforcement in that watershed.¹⁷¹ The Environmental Secretariat did not, however, develop the capacity to act in a wider array of regulatory arenas outside of the Matanza-Riachuelo Watershed. By the time Picolotti was forced out at the end of 2008, the federal government played a larger role in supporting environmental causes publicly, but still did

¹⁶⁷ Atilio Savino was not supported by environmental organizations when he was appointed and had an extremely quiet three year tenure in which he barely had a presence in policy debates. *Página/12* "Medio Ambiente" 09/12/03; "La Deuda Ambiental" 07/06/06

¹⁶⁸ *Página/12* "Vos hacé lo que tengas que hacer" 06/28/06; "Desde una ONG a La Haya" 06/28/06. *La Nación* "Kirchner nombró a una nueva secretaria de Medio Ambiente" 07/17/06. *La Nación* "Llega al Gobierno una enemiga de las papeleras" 07/28/06.

¹⁶⁹ Interviews with multiple environmental organizations. See also: *La Nación* "Algunos assembleístas respaldaron a Picolotti y otros celebraron su salida" 12/03/08

¹⁷⁰ *La Nación* "De defensora de los assembleístas, a cuestionada por su gestión" 12/02/08; *Página/12* "No le quedó ni un cuarto de ambiente" 12/03/08; "La secretaria antiBotnia" 12/03/08; "Ambiente caldeado" 12/03/08. *Clarín* "Al final, la Presidenta echó a la secretaria de Ambiente" 12/03/08.

¹⁷¹ Inspections by the Environmental Secretariat increased from an average of approximately 100 per year from 2003-2005, to 464 in 2007 598 in 2005. Source: Response of Environmental Secretariat to information request from researcher.

not have the administrative capacity or jurisdiction to take broad steps that could strengthen environmental institutions nationally.¹⁷²

In sum, at the national level the post-crisis period was marked by high level conflicts and one of the most visible Secretaries of the Environment in Argentine history, two developments that increase the saliency of environmental contamination and its potential political consequences. As I will show in Chapters 6 and 7, in some cases this national attention put additional pressure on the provinces, setting the precedent that courts could indeed order the government to enforce environmental regulations and showing that mobilization around environmental issues could reach massive scales. Moreover, these changes created opportunities for provincial regulators to take advantage of programs that were developed by the Environmental Secretariat, like the Program for Cleaner Production. How these forces played out, however, was determined primarily by local politics, bureaucracies, and environmental organizations, which will be addressed in the coming chapters.

Conclusion

This chapter has recounted the history of labor and environmental policy in Argentina at the national level. The primary objective of this discussion was to set the stage for the provincial-level case studies, which are the central component of this dissertation. In addition, this chapter has highlighted the differences and similarities between the two policy areas. On the one hand, there are clearly many important differences between labor and environmental regulation. One obvious difference is the trajectory of regulatory policy—environmental regulation began much later but was more linear than labor regulation. Another important difference is in the organization of interests; the unions, environmental groups, and other civil society organizations that engage with the state around issues of enforcing regulations were strongly shaped by political forces at work during the times in which they were founded. Comparing labor politics (with its centralized, partisan, corporatist interest organization) to environmental politics (with its plural, decentralized, non-partisan interest organization) will provide an opportunity to test whether or not the theory advanced in this dissertation can travel across policies with different types of politics

On the other hand, this analysis identified three primary commonalities across issue areas, which make comparisons of labor and environmental enforcement during the post-crisis period meaningful. First, both labor and environmental laws became more protective at a national scale in the period after the economic crisis. Second, and related, these regulations were routinely not followed. In other words, labor and environmental institutions formally outlined a series of standards and ways in which conflict around regulatory issues should be structured, but they were often ignored in practice. Third, the federal structure of Argentina made it impossible for the national swing towards greater state regulation to be translated directly to the provinces in both issue areas. The federal

¹⁷² Picolotti was replaced by Homero Bilboni, who had a much lower profile. Bilboni was fired in 2010, presumably for failing to manage the clean up in the Riachuelo. He was replaced by Juan José Mussi in 2010, who was known primarily for his loyalty to President Cristina Fernandez de Kirchner, not his credentials in environmental issues. *La Nación* “La Presidenta sumó a Mussi al Gabinete” 12/29/10

government did take a more active role in promoting enforcement—both through its own programs (e.g. the PNRT and ACUMAR) and with high profile cabinet officials (i.e. Tomada and Picolotti) who put pressure on provincial governments. Nevertheless, the provinces remained the primary loci of struggles over enforcement. Therefore, to understand the politics of enforcement, it is necessary to shift the level of analysis down to the provincial level and examine specific industries, which is the task of the remainder of the dissertation.

Chapter 3: Enforcement with Unions in the Driver's Seat

Enforcing labor regulations is particularly challenging in places where regulatory agencies are politicized and have highly limited resources. This chapter analyzes enforcement by two regulatory agencies that faced many bureaucratic shortfalls: the wage hour division of Córdoba's labor inspectorate (STC) and Tucumán's labor inspectorate (TST). These agencies suffered from a combination of low levels of capacity and a high degree of politicization. Both agencies were staffed with patronage employees who were appointed for their political connections, not their merit. Moreover, both had limited numbers of inspectors with no reliable access to transportation and, in some cases, not even paper to write up inspection reports. In short, nearly all of the organizational features associated with capable bureaucracies were missing, making enforcement appear highly unlikely in both provinces.

Notwithstanding these serious constraints, in some industries, such as metal manufacturing in Córdoba and the citrus industry in Tucumán, labor inspectors were able to enforce labor regulations. Enforcement, however, was not universal and in other industries, such as brick-making in Córdoba and construction in Tucumán, inspectors have largely failed to enforce regulations. This chapter addresses the puzzles that arise from the uneven enforcement in Córdoba and Tucumán. *How are inspectors able to enforce regulations at all with such substandard bureaucratic organization? What explains variation in enforcement across industries in this context?*

Córdoba and Tucumán are a useful context to explore these questions for a number of reasons. On the one hand, Córdoba and Tucumán have a number of similarities. They both are dominated politically by the labor-based PJ party, which has controlled the legislatures and held the governor's seat in both provinces, and had political alliances with the main labor confederations.¹⁷³ Therefore, both provinces have similar top-down political pressure with regard to enforcing labor regulations. In addition, the regulatory agencies in both provinces were highly politicized in the period after the crisis. Neither had merit based hiring or promotion, senior staff were invariably appointees (not people who worked their way up through the bureaucracy), and there was no association of inspectors to create a set of professional norms for regulators. In sum, two factors that are often seen as influencing enforcement—political control from above and bureaucratic autonomy—are held constant in these cases, thereby allowing for analysis of other possible factors.

¹⁷³ In Córdoba, governors from the PJ were in power from 1999 through 2011 and the PJ block in the provincial legislature controlled 57% of the seats from 2003 to 2007 and 53% from 2007-2011. In Tucumán, the governors were also from the PJ from 1999 through 2011 and the PJ held 65% of the seats in the *Camara de Diputados* from 2003 to 2007, and 55% from 2007-2011.

Table 3.1: Indicators of Socioeconomic Development in Córdoba and Tucumán¹⁷⁴

<i>Indicator</i>	<i>Córdoba</i>	<i>Tucumán</i>
Average Income	\$6,256	\$4,475
Taxes Collected (per capita)	\$183	\$135
Education (completed high school or greater)	36%	30%
% Below Poverty Line	5.9%	10.8%
% Households without sanitation services	11%	27%

On the other hand, there are key differences between these two provinces. Most notably, Córdoba has substantially higher levels of socio-economic development than Tucumán. People in Córdoba have higher income, are better educated, and more have escaped poverty than in Tucumán (see Table 3.1). Córdoba is part of the more economically developed central Cuyo region of Argentina and has been highly industrialized for many years, while Tucumán is part of the Northwestern region that has historically been poorest and most underdeveloped in Argentina. This difference allows for a test of how important socioeconomic conditions are in determining levels of regulatory enforcement, as is often suggested in the literature.

This chapter is divided into two main sections. The first section details the patterns of enforcement in the two provinces. It begins with the number and distribution of inspections, placing these two agencies in comparative context with other regulatory agencies. Then it examines the ways in which regulators respond to violations in four specific industries. A close examination of the actions by inspectors in these two provinces reveals that there is enforcement, but that it varies tremendously across industries and has serious limitations.

The second section of the chapter uses this variation to evaluate conventional accounts of enforcement and presents an alternative explanation. First, as suggested above, if socioeconomic differences are the most important factors, enforcement should be at a much lower level in Tucumán than in Córdoba. Second, if enforcement is driven by technocratic planning based on how many violations there are in an industry, enforcement efforts should reflect the industry's propensity for violating labor laws. Third, if enforcement is driven primarily by market forces, there should be a close relationship between firm exposure to competition in international markets and the actions of labor inspectors. These explanations, however, cannot easily account for the observed variation in enforcement across industries in these two provinces.

As an alternative, I argue that variation in these cases can be best explained by the interaction of low levels of administrative capacity, which constrain inspectors, and linkages between labor inspectors and labor unions, which enable inspectors. In

¹⁷⁴ Data: Income (US dollars) and education from EPH for 2009. Taxes collected (US dollars) from the Ministry of Interior for 2006. Percent below poverty line from Ministry of Interior 2007. Households without sanitation services from the census 2001.

combination, the similarities in these two key variables explain why these regulatory agencies, in otherwise very different provinces, exhibit the same pattern of enforcement. The chapter concludes by highlighting the trade-offs in the *society-dependent* pattern of enforcement in Córdoba's wage and hour division and in Tucumán. In the short-term, the very mechanisms that make enforcement possible in some industries undermine the possibility of enforcement in other industries. The longer-term influence of this pattern of enforcement on the state will be analyzed in Chapter 5.

Enforcement

To analyze enforcement it is necessary to measure whether and when regulators undertake a series of key tasks. Do regulators conduct inspections to gather information, craft responses to the violations that they identify, and overcome resistance from reluctant firms? In both provinces, there is evidence that regulators do gather information through over 10,000 inspections a year.¹⁷⁵ Put in comparative context, the inspection rate in Córdoba and Tucumán is greater than other countries, even some that have reputations for having relatively strong labor inspectorates (see Figure 1 below).¹⁷⁶ For example, the STC and TST both conduct many more inspections on a per capita basis than the French inspectorate, which is held as a model in international circles (e.g. the ILO recommendations for the size of the labor inspectorate are based on the French system). Of course, inspections per capita is only a very crude indicator of state action, but it suggests that both Córdoba and Tucumán are able to at least *make contact* with a number of firms and workers to gather information at a level that is comparable to other countries.

¹⁷⁵ For Tucumán, Interview: T12, Senior Official, Tucumán Labor Secretariat, Tucumán, 10/27/2008 & 11/12/2008; For Córdoba, see Table 3.2. The data for Córdoba only include the Capital.

¹⁷⁶ For a comparison of labor inspectorates in the region, see: Jatobá 2002

Figure 3.1: Inspections Per Capita in Comparative Context¹⁷⁷

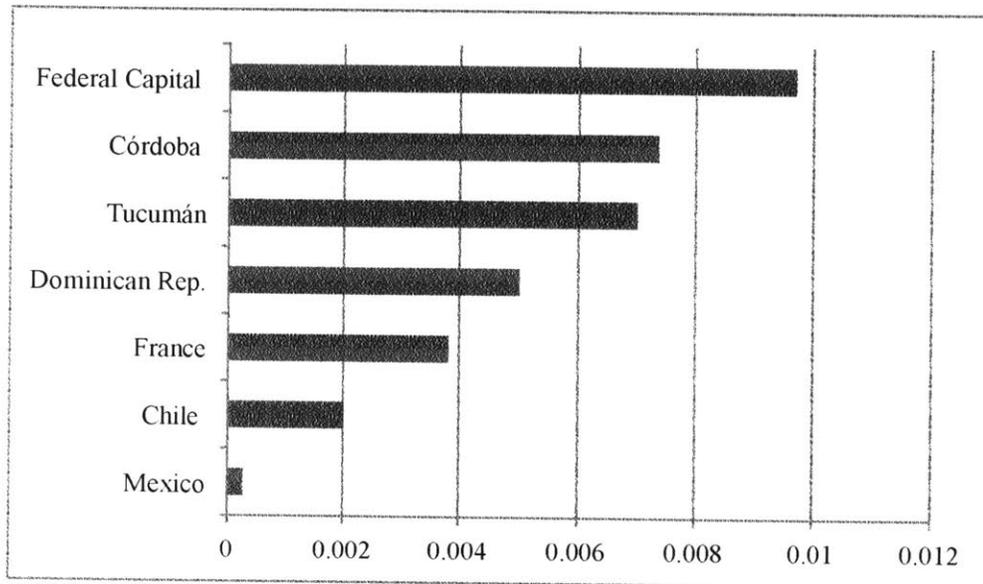


Table 3.2: Wage and Hour Inspections in Córdoba (Capital District) in 2007 & 2008¹⁷⁸

Year	Inspections	Inspection Requested by Unions	Programmed Inspections	Individual Claims	Number of Infractions
2007	10,078	8,098	1,872	89	1,606
2008	9,279	6,131	2,893	314	2,473

There is also evidence that the instances of non-compliance identified during these inspections generate concrete responses in Córdoba and Tucumán. First, inspectors find a substantial number of violations during these inspections. For example, in Córdoba inspections resulted in over 2,000 infractions in 2008 (there is no precise information for Tucumán). Infractions trigger a process by which labor inspectors negotiate a plan for firms to come into compliance or apply a fine to the firm. In many cases, inspections can result in individual workers gaining legally mandated protections they had been denied. An official at the STC provided an illustration of this process with an inspection at an auto mechanic shop:

¹⁷⁷ Inspections per capita are used instead of per worker because of the large uncertainty in estimates of the number of workers in Argentine provinces. Federal Capital and Córdoba data are for 2007, the Tucumán data are for 2008. The Chilean data are for approximates for the 2000s and are from Figuera Valenzuela 2005. The Dominican data are from the Secretaría de Estado de Trabajo for 2006. The Mexican figure is an average from 2001-2006 of the number of visits Federal inspectors conducted. Source: Romero Gudiño 2008. The Spanish data are from the Ministerio de Trabajo e Inmigración de España, Memoria 2007. The French data are from the ILO.

¹⁷⁸ Source: Secretaría de Trabajo, Córdoba.

“One time we did an inspection at a workshop that maintained vehicles, trailers, trucks, buses... We went into the worksite, [where] we saw two or three people, but with many vehicles. There was no way that only these workers were maintaining all of these cars... There was also a big bus in the shop and the inspector asked the employers to open it. The people didn't want to do it, and the inspector forced it open to find eighteen workers inside; the managers had hidden the workers. The inspector took the names of the workers... In the end, we registered half the workers [and]... they had a happy ending.”¹⁷⁹

In this case, inspectors were not deterred by the reluctant employers and a significant portion of the workers gained the legal protection associated with being registered, including health insurance, legally mandated vacation time, social security protection, and the right to collect severance pay. This same type of action is repeated hundreds of times by inspectors in both provinces as they go about their tasks of gathering information about violations and crafting responses. In short, this evidence suggests that there is at least *some* enforcement in Córdoba and Tucumán.

To better understand enforcement, however, we need to go beyond its mere existence. Which firms get inspected? Who decides where to conduct inspections? Which workers are included or left out of the regulatory system? In order to answer these questions, we must unpack the pattern of enforcement in these provinces. Using data from the survey of inspectors, the tables below show the industries where enforcement is concentrated, along with an indicator of which unions request the most inspections. These data indicate a very strong relationship between union demands and enforcement; the correlation between unions that make requests and inspections is high (0.92 in Córdoba and 0.94 in Tucumán),¹⁸⁰ and there are only few exceptions of sectors that are inspected but do not have many union requests.¹⁸¹ Thus, the allocation of enforcement (in terms of which industries are inspected the most) appears to be nearly a direct reproduction of the distribution of union requests.

¹⁷⁹ Interview: C45, Senior Official, Córdoba Labor Secretariat, Córdoba, 6/19/2008

¹⁸⁰ The one exception is the domestic worker sector in Tucumán, which has received many inspections despite the fact that there is no strong union providing resources. In this case, the labor inspectors worked at the behest of another government agency, the Tax Department, that triggered enforcement. Sources: Interview: T11, Province of Tucumán Tax Department, Tucumán, 4/17/2009. *La Gaceta de Tucumán* “Comienzan los controles contra el empleo doméstico informal” 09/07/06; “Fueron regularizadas 1.800 empleadas domésticas en la provincia” 09/09/06; “Arrancan los controles sorpresivos de las casas” 09/11/06; “Multarán desde hoy a quienes empleen domésticas en negro” 09/11/06; “Más controles por el personal doméstico” 09/13/06.

¹⁸¹ For nearly half the inspectors, the sectors that inspectors said are regulated the most perfectly corresponded with the unions that request the most inspections.

Table 3.3: Sector Distribution of Inspections and Union Requests in Córdoba's Wage and Hour Division¹⁸²

Sector	Which sectors are inspected the most?	Which unions request the most inspections?	Difference Between Inspections and Requests
Commercial	21%	20%	1%
Construction	17%	17%	0%
Restaurants	11%	6%	5%
Metal	10%	15%	-5%
Gas Stations	7%	7%	0%
Shoes	6%	7%	-1%
Cleaning	4%	2%	2%
Health Clinic	4%	5%	-1%
Hair Cutting	3%	2%	0%
Private Security	3%	2%	1%
Transportation	3%	7%	-5%

Table 3.4: Sector Distribution of Inspections and Union Requests in Tucumán

Sector	Which sectors are inspected the most?	Which unions request the most inspections?	Difference Between Inspections and Requests
Commercial	22%	22%	0%
Construction	16%	17%	-1%
Metal	12%	9%	+3%
Transport/Trucking	10%	11%	-1%
Citrus/Agriculture	9%	12%	-3%
Restaurants /Hotels	7%	9%	-2%
Domestic Workers	4%	0%	+4%
Sugar	4%	4%	0%
Bakery	3%	2%	-1%

The ratio of programmed (or planned) inspections to complaint-driven inspections provides evidence that unions also select which firms are inspected (not just which industry). Inspections can be programmed, meaning that the inspection target was decided upon by officials in the inspectorate, or they can be driven by complaints from outside the bureaucracy (including complaints from individuals, unions, and other types or social organizations). In both provinces a low percentage, under 20%, of inspections are programmed.¹⁸³ Therefore, the inspectors themselves only select a small portion of the firms that are visited. The great majority of inspections, 80%, in both provinces are driven by complaints. Nearly all of these complaints are from union leaders, not

¹⁸² Based on questions: 16 and 19. See Appendix for full text of the survey.

¹⁸³ For Córdoba: Author's analysis of internal data from Córdoba Labor Secretariat. For Tucumán: Interviews: T56, Inspector, Tucumán Labor Secretariat, Tucumán, 11/6/2008; T12, Senior Official, Tucumán Labor Secretariat, Tucumán, 10/27/2008 & 11/12/2008

individual workers or non-union civil society organizations. For instance, in 2008 in Córdoba, only 3% of inspections were at the request of individuals. In sum, not only is the distribution of enforcement skewed towards industries with active unions, but in both provinces enforcement occurs largely in firms that union leaders select.

The allocation of inspection described above contrasts sharply with other countries. For example, in the Dominican Republic the percentage of programmed inspections is over 60% and the great majority of the complaints are by *individual* workers, not unions.¹⁸⁴ The high ratio of programmed inspections was result of a political decision by top officials and has enabled inspectors to take action to protect workers, such as those in the sugar plantations, who have difficulty lodging complaints.¹⁸⁵ The French labor inspectors also differ substantially from the practices in Córdoba and Tucumán. The French inspectors gather information from a variety of sources, including individual complaints, consultation with unions, and journalists. Once they have this information, regulators allocate inspections in a way that they believe would have the strongest influence on working conditions, which often does not directly reflect the distribution of the demands that they receive.¹⁸⁶ As a result, the industries that are inspected are not necessarily those with the most active unions.

In sum, in both Córdoba's wage and hour division and Tucumán's TST, inspectors appear to be undertaking the key steps of enforcement in some cases, but their actions are very uneven and distorted towards industries with unions that make many requests. The remainder of this section examines four industries—brick-making and metal manufacturing in Córdoba, citrus and construction in Tucumán—that vary considerably in their levels of enforcement. These industry cases provide an opportunity to identify the processes that underlie why there is enforcement in a particular industry and to evaluate the ability of conventional explanations to account for variation in these provinces.

Brick-Making Industry in Córdoba

The production of bricks in Córdoba is a highly marginalized activity. The basic technology and method of production is rudimentary—workers form mud into bricks and bake them in relatively small kilns. The brick kilns are concentrated in the area around the periphery of the metropolitan area of the city of Córdoba. In total, there are approximately 700 worksites that employ workers from approximately 4,000 families.¹⁸⁷ These worksites range from just a handful of workers to larger operations of over forty workers. The labor is unskilled and a high proportion of workers (over 50%) are migrants, mainly from Bolivia and Peru. The primary market for the bricks is the local construction industry, which was booming in the period after the economic crisis, thus creating a spike in demand for bricks. The brick-making industry does not export or compete with imports and it is largely immobile, therefore there is little threat that production could be moved in response to enforcement.

¹⁸⁴ Source: "Memoria 2006", Secretaría de Estado de Trabajo de la República Dominicana, Santo Domingo. See also: Schrank 2009

¹⁸⁵ Ibid.; Amengual 2010

¹⁸⁶ Piore and Schrank 2008

¹⁸⁷ *La Voz del Interior* "Intensificarán controles en los cortaderos" 11/08/08

Labor violations in the brick-making industry are pervasive and severe by all measures. First, estimates of labor informality in the sector are extremely high. In 2006, a survey of workers in the sector found that 96% were informal, which means that nearly all workers are denied their legally mandated benefits, such as social security, and stand little chance of collecting severance pay.¹⁸⁸ The rate of informality in brick-making is much higher than the provincial average of 39% in 2006.¹⁸⁹ In addition, many of the workers, 65% according to a survey conducted by the STC, are unregistered immigrants. There have also been accusations that workers are tricked by traffickers and then are forced to labor long hours to pay off debts incurred during migration.¹⁹⁰ The combination of labor informality and many unregistered migrants make these workers especially vulnerable to abuses by employers.

Second, wages in the industry are often not paid according to the collective bargaining agreement. In 2007, a labor inspector summed up wages in the industry, stating: “*On the brick-making worksites, they treat the horses better than the workers... The employers get 95% of the profits, they spend 3% or 4% on the animals, and 1% or 2% on the workers.*”¹⁹¹ These practices are violations of labor law. For instance, on some worksites laborers are paid \$3 for each thousand bricks, instead of the \$20 mandated by the collective bargaining agreement (the bricks are then sold approximately \$100 per thousand on the local market).¹⁹² There are also widespread reports of workers being denied their wages, including one incident when a worker demanded to be paid and was chased off a worksite by an employer with a gun.¹⁹³

Third, health and safety conditions on the worksites are well below standards. Workers are not given basic safety equipment (gloves, boots, etc.), which is required by the collective bargaining agreement. In addition, workers live in encampments on the worksites in substandard conditions, often lacking basic services such as potable water, sewage, and electricity.¹⁹⁴ Fourth, as a result of whole families living and working in the industry, child labor is often a problem. An article in a local newspaper described a worksite found within the city of Córdoba in 2008:

The labor inspector from the STC could not believe what he saw: children who were two or three years old covered in dirt, hidden with their dogs in holes left behind by piles of recently baked bricks. No adults were nearby. Other children, less than three feet tall, ran after one another in a pool of

¹⁸⁸ The STC even conducted a study of working conditions in the brick-making and horticultural worksites surrounding the city of Córdoba Pizaro 2008. *La Voz del Interior* “Flojos de papeles” 12/24/06.

¹⁸⁹ Author’s calculations based on the *Encuesta Permanente de Hogares*.

¹⁹⁰ *La Voz del Interior* “Investigación por bolivianos esclavizados” 10/20/07, “¿Patrones o traficantes?” 09/09/07.

¹⁹¹ *La Voz del Interior* ““A los caballos los tratan mejor”” 9/09/07

¹⁹² *La Voz del Interior* “El otro lado del “boom” inmobiliario” 4/16/06 “Intensificarán controles en los cortaderos” 11/08/08. There were further increases in the salary negotiated in 2009, but there is no indication that those changes did translated to increase pay. Ministerio De Trabajo, Empleo y Seguridad Social Secretaria De Trabajo Resolución No 894/2009 Registros No 800/2009, No 801/2009 y No 802/2009, Buenos Aires 21/7/2009.

¹⁹³ *La Voz del Interior* “Investigan nuevas denuncias por maltrato a bolivianos” 06/15/06

¹⁹⁴ *La Voz del Interior* “Buscan normalizar situación de inmigrantes” 04/21/06

*water that is used to knead the mud in one of the first stages of the production process. It was that same green and smelly pool where, two weeks earlier at 5 PM, Gilda Valdivia Mendoza, who was only six years old, was found dead floating in the water.*¹⁹⁵

In sum, this industry is easily one of the most precarious in Córdoba. Rules and regulations, both laws and the collective bargaining agreements, have failed to protect workers or structure employment relations. These violations are no secret. If there was a rational planning process for enforcement that prioritized industries based on need or opportunities for improvement, there is little doubt that brick-makers would be near the top of the list.

Notwithstanding the clear need, enforcement levels have remained relatively low in the brick-making industry for the entire period after the economic crisis. Officials in the STC have been aware of the problems in the brick-making sector for years.¹⁹⁶ More recently, there were a number of incidents that could have potentially triggered enforcement, but there were few sustained efforts in the industry. In 2006, the Córdoba newspaper *La Voz del Interior* ran a series of investigative articles about migrant Bolivian workers in the brick-making sector, bringing widespread awareness of the issue.¹⁹⁷ At the same time, the Center for Bolivian Residents of Córdoba (*Centro de Residentes Bolivianos en Córdoba*), which organized the Bolivian community since the 1950s,¹⁹⁸ took the plight of the brick-makers to a variety of government agencies seeking assistance.¹⁹⁹

As a result of a new interest in protecting migrant Bolivians, the brick-makers became well-known to leaders of the STC. A senior official from the time recalled: “*They put the issue of ‘those poor migrant Bolivian workers’ in fashion, but this wasn’t even the case because the Bolivians weren’t unique; the brick-makers were exploiting children...Paraguayans, and Argentines, whoever was working.*”²⁰⁰ In response to these problems, the provincial government created a formal structure, called the Permanent Roundtable of Dialogue for the Rights of Immigrants, to coordinate the efforts of related agencies and civil society organizations. The Permanent Roundtable was convened by the *Defensor del Pueblo* and included the STC, the national Ministry of Labor, the Ministry of Security, the National Department of Immigration, the Department of Human Rights, the Bolivian Consulate, the Center for Bolivian Residents of Córdoba, and the

¹⁹⁵ *La Voz del Interior* “Clausuran por primera vez un cortadero” 11/07/08

¹⁹⁶ At least since 1998, when the problems were discussed in an annual report about labor regulation. Source: Annual communication from Governor Mestre to the legislature of Córdoba, *Archivo del Poder Legislativo*, Córdoba 1998.

¹⁹⁷ *Ibid.*. This media coverage was spurred on by the fire in a Buenos Aires garment workshop that killed a family of workers (discussed in detail in the following chapter). The tragedy in Buenos Aires focused national attention on the problems of migrants workers and spurred debate about similarly situated workers in Córdoba. As evidence that these newspaper reports generated attention, the reporter who wrote the articles, Edgardo Litvinoff, was a finalist in 2007 for an award from the Inter American Press Association.

¹⁹⁸ Ortiz 2002

¹⁹⁹ Defensor del Pueblo de la Provincia de Córdoba, “Informe Anual 2006”

²⁰⁰ Interview: C04, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 3/11/2009

Pro-Bolivia Foundation.²⁰¹

The first step of the Permanent Roundtable was to diagnose the problem by gathering information through inspections and a survey of workers, which verified the extremely high levels of violations among both migrants and Argentine nationals. In addition, the Center for Bolivian Residents gave the STC a list of firms that were violating labor laws. Using this information, the STC proceeded to conduct a series of inspections to put pressure on a few employers and to try to regularize the workers. Officials from the STC, however, never formed long lasting ties with the leaders from the Center for Bolivian Residents and the enforcement campaign did not get further than a few worksites. The head of the STC at the time concluded that even after these changes “*more needed to be done*” to have an impact in the brick-making industry.²⁰² By 2007, the ironically-named “Permanent” Roundtable was dissolved. The attempt to formally institutionalize ties between inspectors and civil society organizations failed. There were few additional inspections in the sector and enforcement essentially ground to a halt.

In 2008, there was another series of changes that could have, once again, increased enforcement in the sector. The first shift was the appointment of a new Secretary of Labor, Omar Sereno, who made child labor a priority.²⁰³ With support from Governor Schiaretti, he created a child labor committee called COPRETI,²⁰⁴ which effectively replaced the Permanent Roundtable as a forum to connect the STC to other government agencies and civil society organizations around issues related to the brick-making industry. In 2009, the STC formally presented a plan to combat child labor that highlighted the need to focus on the problematic brick-making industry.

At the same time, a second change occurred in the union that represents brick-makers, UORLA.²⁰⁵ Until 2008, UORLA’s leadership had not pushed for enforcement. This changed when the provincial leadership of UORLA was dismissed by the central union office (in Buenos Aires) and a new head was appointed. The new union leadership was more active and helped officials from the STC, but UORLA lacked resources to provide the inspectors.²⁰⁶ For example, in 2009 UORLA could count only 200 workers as affiliates, giving them a relatively small network from which to gather information.²⁰⁷ Furthermore, with less than 10% of workers registered, the dues that UORLA could collect were very limited, thereby reducing the union’s capacity. In sum, starting in 2008 there were two factors working towards enforcement in the brick-making industry—officials who exercised political control over the bureaucracy had made the brick-makers

²⁰¹ Defensor del Pueblo de la Provincia de Córdoba, “Informe Anual 2006”.

²⁰² Interview: C04, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 3/11/2009

²⁰³ Interview: C45, Senior Official, Córdoba Labor Secretariat, Córdoba, 6/19/2008. *La Voz del Interior* “Comisión provincial para eliminar el trabajo infantil” 04/10/08; “Hallan a niños que trabajan en cortaderos” 06/12/08

²⁰⁴ *Comisión Provincial de Prevención y Erradicación del Trabajo Infantil*

²⁰⁵ *Unión Obrera Ladrillera de la República Argentina*

²⁰⁶ Interview: C42, Senior Official, Córdoba Labor Secretariat, Córdoba, 3/9/2009

²⁰⁷ *La Voz del Interior* “Cortaderos de ladrillos, tumba para 5 niños” 12/09/09

a formal priority and new union leadership.²⁰⁸

The combined top-down decisions and the more active union only resulted in a modest increase in enforcement efforts for a short time. When in 2008 two more children died by drowning in the worksite of brick-makers,²⁰⁹ the STC began sending inspectors to conduct operations in brick-making sites once again.²¹⁰ For the first time, an inspection resulted in the closing of a worksite with child laborers and atrocious conditions.²¹¹ Yet, enforcement was not sustained in the long-run and the brick-makers were quickly pushed aside by demands on the STC to focus on other industries. The inspectors never closed more than a handful of brick-making sites and inspection operations quickly came to an end. In the second half of 2008, there were an average of 1.8 inspections a month in the brick-making industry, which constituted only 0.2% of all inspections conducted by the STC. In the survey of inspectors conducted in 2009, not one inspector listed brick-makers as being part of the top five most inspected sectors.²¹² According to officials at the STC, the lack of union resources in the brick-making industry limited what the STC could do, even after a policy decision was made to focus on child labor.²¹³ Ultimately, the appointment of an official who prioritized child labor and a change in union leadership only resulted in a small increase in enforcement for a short time.

The failures in the brick-making industry are particularly striking because of the extreme violations combined with the fact that the issue was so salient in the press and among leaders of the STC. In this case, awareness and decisions by top officials to focus on the industry did not translate into enforcement. Civil society organizations, the Center for Bolivian Migrants and UORLA, both failed to spur on enforcement. The Center for Bolivian Migrants was unable to maintain ties with inspectors and UORLA, which had ties to inspectors, did not have resources. Ultimately, there was a lack of routine information gathering about specific worksites through inspections or through civil society organizations that regulators could use to monitor the industry, and regulators only crafted sporadic responses to the violations that they found. In sum, enforcement can be coded as *low* (see Chapter 1, Table 1.1 for definitions of the different levels of enforcement). Without controls, working conditions have not improved in the industry. Levels of informality remained extremely high and children kept dying on brick-making sites throughout 2009. A leader from the union UORLA said at the end of 2009 that “*without a state policy, without an open space for discussion that brings together all of the actors in the sector, without control and without penalties against the people who violated the law, this [problem] is not going to be solved.*”²¹⁴

²⁰⁸ Interviews: C42, Senior Official, Córdoba Labor Secretariat, Córdoba, 3/9/2009; C44, Senior Official, Córdoba Labor Secretariat, Córdoba, 6/26/2008.

²⁰⁹ *La Voz del Interior* “Ladrilleros reclaman por muerte de dos nenas” 11/11/08

²¹⁰ *La Voz del Interior* “Intensificarán controles en los cortaderos” 11/08/08

²¹¹ *La Voz del Interior* “Clausuran por primera vez un cortadero” 11/7/08

²¹² See Table 3.3: Sector Distribution of Inspections and Union Requests in Córdoba’s Wage and Hour Division

²¹³ Interviews: C22, Senior Official, Córdoba Labor Secretariat, Córdoba, 06/23/08 & 03/05/09 & 03/07/09; and C42, Senior Official, Córdoba Labor Secretariat, Córdoba, 3/9/2009

²¹⁴ *La Voz del Interior* “Cortaderos de ladrillos, tumba para 5 niños” 12/09/09

Metal in Córdoba

The metal industry in Córdoba contrasts sharply with brick-makers in many ways, most notably in its relatively lower levels of violations and higher levels of enforcement. The metal sector is made up of 1,800 firms, small and large, that manufacture parts for farm machinery and others industries.²¹⁵ There are certainly violations of labor laws in the metal industry, but they are significantly less extreme and less prevalent than in the brick-making sector. Approximately 30% of workers are informal (unregistered) in the metal industry, lower than the provincial average and much lower than in brick-making.²¹⁶ Some of the main problems in the industry are violations of the collective bargaining agreement and the use of subcontracting to avoid contract obligations.²¹⁷ After the reactivation of the economy, with high growth in the sector, the metal union, UOM'S,²¹⁸ made large gains in collective bargaining.²¹⁹ Part of the challenge of enforcement is making sure employers respect the agreements. However, compared to the brick-making industry, a bureaucratic planning process that prioritized industries based on violations would find the metal workers are clearly in *less* need of enforcement.

Even though the metal industry is not the place of the most egregious (or the highest rates of) violations, it is one of the sectors in which the STC concentrates enforcement. The STC gathers ample information about violations through a high rate of inspections. For instance, in 2008, on average, there were 28 inspections per month in the metal industry (in contrast with the 1.8 inspections per month in the brick-making industry).²²⁰ With less than 2% of the workers in the province, the metal industry accounts for nearly 10% of the inspections.²²¹ Moreover, inspectors collect detailed information about the firms to target inspections from UOM, which has a group of nine leaders who regularly check compliance in the metal workshops. UOM also conducts its own operations—for example, in 2004, the union completed a series of checks for informality that involved over 1,400 workers. UOM leaders also identify inspection targets using their network of approximately 200 delegates, 16,000 affiliates, anonymous complaints to their toll-free number, and through discussions with workers when they come to UOM's health clinic and pharmacy. In addition, inspectors can count on UOM to provide transportation for inspections, intelligence during inspections, and follow-up

²¹⁵ According to the Economic Census of 2004 there were 1,877 localities.

²¹⁶ Using the household survey EPH to construct an estimate of informality rates reveals rates of around 30% in 2008-09 (N=194 households in which people reported working in the sector). Even if this is an underestimate by ten percentage points, the informality rate would be much lower than in brick-making.

²¹⁷ Interviews: C46, Metal Workers' Union (UOM), Córdoba, 3/18/2009

²¹⁸ *Union Obrera Metalurgica de la Republica Argentina*

²¹⁹ These national level agreements (which were at the same level of other powerful unions) increased salary in the order of 16% in 2007, 28% in 2008, and 18% in 2009 (after a tough fight with industry). Sources: *Página/12* "La UOM cerró por el 16,5" 05/04/07; *La Nación* "Metalúrgicos y mecánicos lograron aumentos salariales de casi un 30%" 05/27/08; *Página/12* "Se firmó el último gran acuerdo salarial" 08/06/09. Interview: B41, Lawyer, Metal Industry Association of Argentina (ADMIRA), Buenos Aires, 2/18/2009

²²⁰ Author's analysis of data from the STC.

²²¹ Percentage of workers based on the 2001 Argentine census. "Cuadro 9.24 Total País. Población ocupada de 14 años o más por provincia según rama de actividad económica."

after the inspection to see if the firm complies.²²² In short, inspectors have relatively large amounts of information about violations in the metal industry in comparison with other industries in Córdoba.

Once they find violations, inspectors respond to firms that fail to comply using a variety of tools. In most cases, the inspectors use a combination of “*coercion*” through fines, “*persuasion*”, and negotiation.²²³ Often they will give firms a period of time, approximately a month, to come into compliance. This means registering workers who are informal so that they gain full employment protections and back pay. It also means ensuring that employers respect the collective bargaining agreement. Negotiations over the terms in which the firm will comply almost always involve union leaders, even at times the powerful head of UOM who is also a member of the provincial legislature. This political support helps inspectors overcome opposition from firms. In addition, to protect workers who give them information about violations, inspectors cast their net widely and investigate broad problems in firms instead of singling out the worker who alerted the inspectors to a problem. For instance, if a worker brings an inspector’s attention to a problem, the inspector will check a cluster of firms (including the problematic one) to make it impossible for the employer to seek retribution.

In sum, enforcement is at a *medium* level in the metal industry in Córdoba—clearly much higher level than in the brick-making industry, but still a lower level than in other cases (discussed in the next chapter). Union leaders would certainly like more state action in their industry and they are quick to complain about the poor condition of the STC. But in comparison with other industries in Córdoba, metal is doing relatively well. There is also evidence that, aided by enforcement, levels of informality dropped in the metal industry from their peak during the crisis. For example, according to surveys conducted by union leaders, 52% of workers were unregistered at the beginning of 2004, but by the end of the year this number had dropped to 40%. Although there are many factors that influence compliance, the union leadership attributed this reduction to the joint inspections of UOM with the STC.²²⁴

In some ways, greater enforcement in the metal industry than in the brick-making industry is surprising. First, there is clearly less of a *need* for state intervention on behalf of workers in the metal industry, in which infractions are relatively minor, than in the brick-making industry. Second, firms in the metal industry compete in a market that extends beyond Córdoba, unlike the brick-making industry. Metal firms have been under particular stress in the 2000s because they have been losing ground to their chief competitors in Brazil.²²⁵ As regulations increase costs, the industry can be expected to push back on enforcement. In addition, firms have a strong organization²²⁶ that has had

²²² Interviews: C07, Metal Workers’ Union (UOM), Córdoba, 3/18/2009; C46, Metal Workers’ Union (UOM), Córdoba, 3/18/2009. In addition, *La Voz del Interior* “La reactivación también sumó nuevas afiliaciones a los gremios” 10/16/06

²²³ Interviews: C38, Inspector, Córdoba Labor Secretariat, Córdoba, 7/18/2008; C43, Inspector, Córdoba Labor Secretariat, Córdoba, 6/25/2008; C07, Metal Workers’ Union (UOM), Córdoba, 3/18/2009

²²⁴ *La Voz del Interior* “Acción de la UOM por trabajo en negro” 12/17/2004. These estimates align with survey data from the *Encuesta Permanente de Hogares*.

²²⁵ Interview: C37, Córdoba Metal Components Industry Association, Córdoba, 7/15/2008

²²⁶ *Cámara de Industriales Metalúrgicos y Componentes de Córdoba*.

enough political weight to gain key cabinet appointments in the provincial government. In contrast, the brick-makers association was not influential and scored no major appointments. All of these factors point to the likelihood that the costs of enforcement for the STC should be much greater in the metal manufacturing industry than in the brick-making industry. Yet, these differences clearly *did not* determine the enforcement levels. Before exploring possible explanations for this variation, it is helpful to turn to two cases from Tucumán.

Citrus Industry in Tucumán²²⁷

One of the most important industries in Tucumán's economy, by employment and revenue, is the citrus industry. Tucumán is home to lemon growers, "packing" facilities that process fresh lemons for export, and industrial plants that transform lemons into a number of commodities (e.g. essential oils and frozen pulp) for export. The industry took off in the 1990s, driven mainly by the growth in demand from European markets. Between 1992 and 2007, employment in the industry quadrupled in size, reaching approximately 30,000 workers.²²⁸ By 2007, citrus accounted for over half of the province's exports.²²⁹ Workers in this industry are divided among field laborers, workers in fresh fruit packing facilities, and industrial workers in citrus processing facilities. Although conditions differ among these sub-sectors, towards the end of the 1990s, labor law violations were rampant throughout the industry. There were extremely high levels of informality—the majority of workers were denied benefits—and poor conditions, evidenced by the fact that workers were transported to the fields in trucks "like cattle."²³⁰ The citrus workers union, UATRE, was largely subdued and did not fight strongly for labor law enforcement or wage increases.²³¹ Enforcement levels from the TST were also extremely low. Quite simply, during the 1990s regulators did little to reduce widespread violations.

Low levels of enforcement appear to be especially likely in this case due to two reasons. First, the industry is labor intensive and exports cost-sensitive commodities. These market conditions should give firms strong incentives to avoid compliance when doing so will reduce costs. Second, the industry is well organized in the Tucumán Citrus Association (ATC).²³² The ATC, which includes all of the citrus growers, fresh fruit packing plants and citrus processing plants, has been a strong advocate for the industry. For example, the ATC convinced the government to lobby countries to open up their markets to fresh lemons from Argentina.²³³ With a cost-sensitive, labor intensive, and

²²⁷ I am grateful to Sutti Ortiz for her insightful comments on labor issues in the citrus sector of Tucumán.

²²⁸ Between 1992 and 2007, employment in the citrus industry increased four fold. Gobierno de Tucumán, *Censo Citricola Provincial 2006*.

²²⁹ In 2007 and 2008, citrus sectors accounted for 51% and 53% (respectively) of the value of all exports. Source: Tucumán Ministry of Production

²³⁰ Interviews: T51, Union of Agricultural and Rural Workers (UATRE), Tucumán, 4/15/2009; T12, Senior Official, Tucumán Labor Secretariat, Tucumán, 10/27/2008 & 11/12/2008

²³¹ Multiple interviews. See also: Aparicio, Ortiz, and Tadeo 2008

²³² *Asociación Tucumána del Citrus*

²³³ Interview: T09, Tucumán Citrus Association, Tucumán, 10/28/2008. Additional evidence of their strength comes from their independence. The ATC was part of the FET (*Federación Económica de Tucumán*), but separated from it after the industry became large enough to focus more on its own interests without needing the support of the FET. Instead, the ATC is associated with the substantially weaker UIT

highly organized industry, political pressure against enforcement that could increase labor costs should be strong.

When the economy began to reactivate, there were a number of changes in the industry. First, the union began to fight hard for wage increases in collective bargaining and for the inclusion of citrus workers in the “inter-harvest” program, in which the government provides payments to workers between harvests. The inter-harvest program gave UATRE and workers extra incentives for registration—only registered workers could benefit from the inter-harvest payment. At first, the number of inter-harvest beneficiaries was small, but it increased substantially over time. In 2006, the Secretary of Labor Roberto Jiménez noted that in the citrus sector “*there are not as many problems [with enforcement] because the workers are aware of the need to be registered.*”²³⁴ Second, as UATRE became more active, it developed resources that labor inspectors could use—transportation and staff with money gained through the union social fund. UATRE also organized political action by putting forward candidates in local elections. For further evidence of UATRE’s political weight, its secretary general became the head of the union confederation CGT-Tucumán, beating out the powerful secretary general of the transport union UTA (who also became Secretary of Labor in 2004) who was vying for the position.²³⁵ In sum, there was greater activity and significant organizational and political resources in UATRE.

During this time, enforcement increased dramatically in the citrus sector. First, the TST dedicated a number of inspectors just to the citrus sector, sending them out regularly to conduct inspections. Although exact figures are unavailable, the survey of inspectors indicates that the citrus industry accounted for approximately one tenth of all inspections (see Table 3.4 above). The TST also gathered information through UATRE’s network of sixty delegates in packing firms, as well as from union representatives working in UATRE’s social fund (who control compliance with union dues). Also, UATRE has a constant stream of workers through their Tucumán headquarters seeking a variety of services that the union offers, generating another flow of intelligence. Combined, these sources created an influx of information about working conditions, and the citrus sector became one of the top industries in which inspections were concentrated.²³⁶ Second, inspectors were able to issue fines and pushed firms to formalize their workers. To avoid problems of corruption and any pushback from industry, the union leaders kept photocopies of all inspection records in order to ensure that the inspections resulted in compliance (and not a bribe to the inspector).²³⁷ Enforcement in this industry has not been able to completely escape corruption, but close observers all agree that union oversight has resulted in lower levels of corruption than in other industries. In short, in the period after the crisis, the TST was able to gain information about violations and respond in a way that was consistent with recognized enforcement practices and robust to political interference.

(*Union Industria de Tucumán*), the regional organization of the powerful national industry confederation UIA.

²³⁴ *La Gaceta de Tucumán* “En Tucumán, 112.000 empleados están en negro” 04/02/2006.

²³⁵ *La Gaceta de Tucumán* “El PE exige cambios en la conducción de la CGT” 04/07/07

²³⁶ Interview: T55, Inspector, Tucumán Labor Secretariat, Tucumán, 11/11/2008. See also: Table 5

²³⁷ Interview: T51, Union of Agricultural and Rural Workers (UATRE), Tucumán, 4/15/2009

In sum, even with many factors working against enforcement in the citrus industry, in the period after the economic crisis enforcement changed from being *low* to *medium* levels. Compared with Córdoba's brick-making industry, levels of enforcement in Tucumán's citrus industry were clearly greater. There is also evidence that enforcement has contributed to improving working conditions in this sector. From the view of those most closely involved with inspection, enforcement efforts have contributed to significant changes in compliance in industry. Precise data are not collected at the industry level, but by all accounts, levels of informality have dropped precipitously in the packing plants. Union leaders estimate that in 2001, there were very few workers registered in the citrus sector and receiving the inter-harvest benefit, and that they increased dramatically from 1,000 in 2002, to 3,000 by 2003, and in 2008 estimates were 18,000. By 2009, approximately 27,000 workers were registered and receiving benefits of the union's social fund. And in 2009, nearly all workers in the packing plants were registered, which is a feat for any sector in Argentina, let alone an agro-industrial sector.²³⁸ Even if these estimates are inflated, and market pressures from European buyers contributed to improving levels of compliance,²³⁹ they are congruent with the conclusion that there has been enforcement of labor regulations in a context with an extremely weak and politicized bureaucracy.

Construction in Tucumán

The construction industry in Tucumán offers a sharp contrast to the citrus industry. Construction consistently has one of the highest workplace accident rates of any sector in Argentina, making it a priority for regulators throughout the country, and Tucumán is no different.²⁴⁰ The constantly shifting nature of construction sites make them challenging for inspectors—a site that is safe one day can completely change during the next phase of construction and pose significant hazards to workers. After the economic crisis of 2001, the construction industry in Tucumán exploded; in May 2005, there were 6,600 workers registered in construction in Tucumán, by May 2008 this number reached 15,800.²⁴¹ Tucumán is no exception to the high levels of violations of labor laws in this industry. As the industry grew, accidents increased—two reported deaths in 2004, and five in 2005, and six in 2007.²⁴² These numbers, which only include registered workers, likely understate the magnitude of the problem. In short, the construction sector is widely understood to be one of the most problematic health and safety industries in the province.

²³⁸ Interview: T51, Union of Agricultural and Rural Workers (UATRE), Tucumán, 4/15/2009

²³⁹ In order to export fresh lemons, the most lucrative segment of the citrus sector, Tucumán's firms have to meet European phytosanitary standards. They also had some incentives from European buyers to comply with local legislation. Ultimately, in order to compete in the fresh fruit market, firms had to undertake a number of work organization changes and upgrade production methods to increase quality. These changes had positive effects on labor compliance, which complemented the increasingly stringent state enforcement. Ortiz and Aparicio 2006b; Ortiz and Aparicio 2006a; Ortiz and Aparicio 2007; Ibid.

²⁴⁰ The only higher sector is mining. Source: Superintendencia de Riesgos del Trabajo 2004

²⁴¹ These numbers greatly underestimate the total employment in the sector because the majority of workers were unregistered. Data Source: IERIC "Cantidad de Trabajadores Registrados en la Construcción por Provincia. Argentina. Serie Mensual. Julio 2002/2003/2004 - Enero 2005 - Mayo 2008"

²⁴² Data Source: *Superintendencia de Reisgos de Trabajo*

Notwithstanding the concentration of many violations in the construction industry, enforcement levels remained very low.²⁴³ With only three health and safety inspectors, there is no way for the TST on its own to keep up with the rapid turnover in hundreds of construction projects. As a result, the great majority of worksites go uninspected. In addition, the construction union, UOCRA, in Tucumán does not have its own health and safety specialists to provide regulators with information (as in the case in other provinces, such as the Federal Capital and Córdoba). Unlike UATRE in the citrus industry, UOCRA does not have its own union-“inspectors” who actively control sites to supplement the TST. UOCRA’s network of delegates is also relatively small, with sixty delegates the union does not even have one delegate per large worksite and the union has no delegates in many smaller construction sites.²⁴⁴ Even though UOCRA has the political strength necessary to access inspectors—it is one of the main leaders of the provincial CGT—the union is unable to generate high quality information. UOCRA gives inspectors long lists of worksites that *might* have issues from UOCRA, but there are inadequacies, as a health and safety inspector explains:

*UOCRA, to date, is asking me on average 500 inspections a month. I have three inspectors who aren't completely dedicated to UOCRA...For the operational capacity that I have, it is impossible to comply with this demand...Therefore, if you want to evaluate impact in the construction sector...it is very limited. Yes, it is certain that each time an inspector goes to a worksite they gain some benefits for the worker, a pair of boots, gloves, a helmet...and we can get the firm to incorporate a system [of health and safety]. But I have 500 requests a month from UOCRA and the result is that I only have the operating capacity to do... 16 inspections a month.*²⁴⁵

The only reason that inspectors are able to get out at all is because “UOCRA gives us the cars for the work of the inspector”²⁴⁶ and if the inspectors need to work late UOCRA “pays them, gives them a car, gives them lunch, and dinner.”²⁴⁷ There are, however, still serious barriers to information gathering because UOCRA simply does not have enough resources to make up for the TST’s deficits. In sum, inability of the TST to collect intelligence about violations in the construction industry is evidence of relatively low levels of enforcement.

Second, the TST struggles to react to the violations that they do find in ways that can improve compliance. Unlike other provinces that have tripartite commissions through which inspectors work with the industry association and UOCRA to find solutions to recurring problems in the industry, in Tucumán there is no such coordination. Even on a case-by-case basis, regulators often lack the ability to conduct follow-up

²⁴³ Data on Table 3.4 above indicate that the construction industry is inspected at a relatively high rate compared with other industries, but these inspections are mainly around wage and hour violations, not health and safety.

²⁴⁴ Interview: T06, Construction Workers' Union of Argentina (UOCRA), Tucumán, 4/14/2009

²⁴⁵ Interview: T39, Senior Official, Tucumán Labor Secretariat, Tucumán, 4/17/2009

²⁴⁶ Interview: T39, Senior Official, Tucumán Labor Secretariat, Tucumán, 4/17/2009

²⁴⁷ Interview: T06, Construction Workers' Union of Argentina (UOCRA), Tucumán, 4/14/2009

inspections when they find violations. For instance, one inspector explains that “*after having done an inspection and suspending a part of a worksite, I am unable to go back and check [on their progress] because I am too busy [with new inspections].*”²⁴⁸ In addition, corruption is a constant problem in the industry. Inspectors on their own often do not resist employers who offer bribes instead of actions that will lead to compliance. For example, in one incident an inspector went to a worksite and asked for a bribe in order to avoid an inspection that was planned for the following day.²⁴⁹ One of the main strategies of senior officials in the TST to avoid corruption is to use union leaders who accompany inspections for oversight.²⁵⁰ In the construction industry, however, UOCRA lacks the staff to always follow inspectors (in contrast with the citrus workers’ union that has ample staff to follow inspections).²⁵¹ There are reports of widespread bribe taking by inspectors, further reducing enforcement levels.

The problems of enforcement in the construction industry were brought into sharp focus when a serious accident killed three workers on a construction site in March 2007. The accident stirred up social unrest as relatives of the victims threw stones at police, bringing the issue of construction safety immediately to the attention of the media.²⁵² UOCRA had requested an inspection of the site a week before, but the TST still had not visited it.²⁵³ The Secretary of Labor explained to the local newspaper that “*there are many construction sites and there aren’t enough personnel to conduct the inspections.*”²⁵⁴ The issue was soon picked up by the feeble opposition party, spurred on by the fact that the owner of the construction company was a cousin of the governor, José Alperovich.²⁵⁵ Notwithstanding this public accident and scandal, which was of a magnitude that triggered serious regulatory responses in other cases, there were few changes to enforcement in Tucumán’s construction industry.²⁵⁶

In sum, based on the available data and the assessment of those involved most directly with the construction industry—UOCRA, the industry associations, and the TST—enforcement is at a *low level*.²⁵⁷ There is also no evidence that violations were reduced in the period after the economic crisis. For these reasons, enforcement in construction contrasts sharply with the citrus industry in Tucumán and the metal industry in Córdoba. This outcome is somewhat surprising considering the fact that the construction industry is not very mobile (firms cannot shift production just because of enforcement) and the industry is not very well organized. There are two industry

²⁴⁸ Interview: T45, Inspector, Tucumán Labor Secretariat, Tucumán, 10/31/2008

²⁴⁹ Interview: T06, Construction Workers’ Union of Argentina (UOCRA), Tucumán, 4/14/2009

²⁵⁰ Interview: T12, Senior Official, Tucumán Labor Secretariat, Tucumán, 10/27/2008 & 11/12/2008

²⁵¹ Interview: T06, Construction Workers’ Union of Argentina (UOCRA), Tucumán, 4/14/2009

²⁵² *La Gaceta de Tucumán* “Un muro se derrumbó y causó una tragedia” 03/22/07

²⁵³ *La Gaceta de Tucumán* “Dos de las tres víctimas trabajaban en negro” 03/24/07

²⁵⁴ *La Gaceta de Tucumán* “Ediles le quitan responsabilidad al municipio” 03/23/07.

²⁵⁵ *La Gaceta de Tucumán* “Aseguran que el Estado debe controlar las obras” 03/24/07.

²⁵⁶ In 2009, TST attempted to hire more health and safety inspectors, but the process was continually delayed.

²⁵⁷ Interviews: T48, Argentine Construction Association (CAC), Tucumán, 10/29/2008; T53, Tucumán Construction Association, Tucumán, 11/4/2008; T06, Construction Workers’ Union of Argentina (UOCRA), Tucumán, 4/14/2009; T39, Senior Official, Tucumán Labor Secretariat, Tucumán, 4/17/2009.

associations that divide employers' voice and actively compete against one another.²⁵⁸ One industry association, the Tucumán Construction Associations (CCT),²⁵⁹ is tied to the local Economic Federation of Tucumán (FET),²⁶⁰ while the other is a local branch of the national Argentine Construction Association (CAC).²⁶¹ Still, even with a comparably less organized industry that cannot easily relocate, enforcement levels remained low.

Explaining Enforcement

The industry cases and the overall data on inspection in Córdoba and Tucumán reveal that in these two provinces with highly different levels of socioeconomic development there is a similar pattern of enforcement. Variation in enforcement across these cases is difficult to explain with most conventional approaches. One possible explanation for enforcement focuses on technocratic decision-making processes. Quite simply, regulators allocate enforcement to industries with serious problems. If this was the case, enforcement levels should have been relatively high in the violation-prevalent Córdoba brick-making and Tucumán construction industries. Yet, these industries had low levels of enforcement compared with industries that had many fewer violations.

Another possibility is that levels of enforcement are mainly in response to market conditions and anxieties about maintaining industry competitiveness. Concern for footloose firms could make regulators focus not on the need for enforcement, but on the desire to avoid the so-called "race to the bottom." If this were the case, levels of enforcement should have been relatively low in the Córdoba metal and Tucumán citrus industries, which compete in regional and global markets. Instead, enforcement was relatively high in these industries and low in the brick-making and construction industries that could not easily relocate.

The remainder of this chapter develops an alternative explanation that can account for variation in enforcement in these cases. The first section focuses on the levels of administrative capacity in the two agencies, which constrain regulators. The second section focuses on the linkages between the state and civil society organizations, which structure both the ways in which regulators gain resources for enforcement and the way enforcement is allocated. The combination of two factors—low levels of administrative capacity and strong linkages only with unions—explain why, in these otherwise different provinces, there is the same pattern of enforcement.

Administrative Capacity

To explain why enforcement is so uneven and apparently unrelated to socioeconomic development, need, or market conditions, it is first necessary to examine administrative capacity of the regulatory bureaucracies. Administrative capacity, as described in Chapter 1, is a function of the human resources, material resources (cars, computers, etc.), and planning capabilities of the bureaucracy. The scarcity of these resources in Córdoba's wage and hour division and in Tucumán's inspectorate helps

²⁵⁸ Interview: T48, Argentine Construction Association (CAC), Tucumán, 10/29/2008

²⁵⁹ *Cámara de Construcción de Tucumán*

²⁶⁰ *Federación Económica de Tucumán*

²⁶¹ *Cámara Argentina de la Construcción*

account for why regulators are unable to enforce when there are no viable partners outside of the state from which to draw resources.

Córdoba's Wage and Hour Division

The STC's wage and hour division has relatively low levels of administrative capacity, which limited the ability of officials to deploy enforcement resources without the aid of organizations outside of the state. The wage and hour division had approximately 50 inspectors, which puts it in range of the ILO recommendations for inspectors per worker and at a medium level compared with other Argentine provinces, but the number of inspectors is only one component of administrative capacity.²⁶² A major limitation of the STC has been inspector salaries, which are so low that most inspectors have second jobs. In 2008, for example, inspectors were paid between \$477 and \$636 per month.²⁶³ Some inspector pay has even been off the books, prompting inspectors to complain: "*How are we supposed to give a fine to a firm that pays workers off the books when we also are paid off the books?*"²⁶⁴ In a sympathetic comment, a union leader noted that "*it is very difficult for the inspectors... what they are paid is not sufficient... it is somewhat ironic.*"²⁶⁵ The low pay creates a need for inspectors to work secondary jobs in the afternoons, which is tolerated by senior officials as long as it is not in direct conflict with their official duties.²⁶⁶ As a result, while there are a medium number of inspectors on staff, the amount of actual hours that they are paid by the province to work is limited, reducing their capacity for enforcement.

In addition, the quality of inspector training is relatively low. The inspectors, who are almost universally patronage hires, have relatively low levels of education.²⁶⁷ There is no minimum educational requirement to be an inspector; only 10% of wage and hour inspectors have completed university and 4% of inspectors only went to elementary school.²⁶⁸ These levels of educational attainment fail to meet the MERCOSUR standards that all inspectors should have university degrees by 2010 and are extremely low in international comparative context.²⁶⁹ For example, in the Dominican Republic all wage and hour inspectors are lawyers and in Brazil all inspectors have college degrees and 34% have graduate degrees.²⁷⁰ The uneven quality of inspectors' training further reduces the capabilities of the STC to enforce labor regulations.

Limited material resources and the organizational capacity to plan inspections also prevent the STC from taking up enforcement campaigns on its own. There are extremely short supplies for transportation to inspect sites—in 2008 there were only two

²⁶² There are approximately 35,000 economically active workers per inspector in the province (including health and safety).

²⁶³ Interview: C31, Senior Official, Córdoba Labor Secretariat, Córdoba, 7/17/2008

²⁶⁴ *La Voz del Interior* "Sueldos en negro, en la cartera que debe evitarlos" 06/18/05

²⁶⁵ Interview: C07, Metal Workers' Union (UOM), Córdoba, 3/18/2009

²⁶⁶ Interview: C31, Senior Official, Córdoba Labor Secretariat, Córdoba, 7/17/2008

²⁶⁷ Interview: C38, Inspector, Córdoba Labor Secretariat, Córdoba, 7/18/2008

²⁶⁸ To put the education levels into context, MERCOSUR countries agreed that all labor inspectors should have completed university MERCOSUR 2006.

²⁶⁹ Ibid.

²⁷⁰ Pires 2009; Schrank 2009

cars for all of the inspectors—which limits the ability of the inspectorate to take action without borrowing the transportation of unions (or other government agencies).²⁷¹ The wage and hour division was “*technologically very bad*” with no information management system that would allow it to assess which firms have been inspected, and what was the result.²⁷² The combination of limited transportation resources and no information management system has prevented active enforcement campaigns. For instance, a senior official explains that “*we haven’t done many inspections in agriculture because we didn’t have cars, and the union did not come.*”²⁷³ Despite some efforts, the STC’s wage and hour division has been unable to institute long- or medium-term planning processes to prioritize enforcement and has undertaken few programmatic inspection campaigns.²⁷⁴ A senior official described the resources he is missing, stating: “*To design and undertake a concentrated inspection operation, we need three very basic tools: people, cars, and a computer. Nothing more than that.*”²⁷⁵

The low level of administrative capacity in the wage and hour division helps explain why the STC failed to enforce regulation in industries in which there was clearly a need for enforcement, such as in the brick-making industry. Quite simply, on its own, the wage and hour division does not have the ability to gather information about violations and organize a response that could bring firms into compliance. Given these substantial limitations, it is not surprising that even when appointed officials made child labor a priority, the inspectorate could not effectively react and increase enforcement levels in the brick-making industry. The highly constrained inspectors cannot directly reproduce political demands or social need for enforcement. Rather, they need to gain resources from outside the state to react to any demands. Before turning to linkages, however, it is helpful to examine Tucumán’s administrative capacity.

Tucumán’s Labor Inspectorate

Tucumán’s labor inspectorate has even lower levels of administrative capacity than the STC’s wage and hour division, highly constraining its ability to act without support from organizations outside of the state. The bureaucracy operates without basic technology—there are no computers and inspectors compete for access to manual typewriters to write reports.²⁷⁶ For a period of time, the TST regional division in the city of Concepción even lost its office space and had to operate out of borrowed space in the

²⁷¹ Interview: C22, Senior Official, Córdoba Labor Secretariat, Córdoba, 06/23/08 & 03/05/09 & 03/07/09

²⁷² Information management, until very recently, entailed inspectors writing the number of inspections they conducted in the month on the wall, and marking whether or not they resulted in a violation. In the middle of 2009, steps were taken to modernize the system, but there was still no concrete changes.

²⁷³ Interview: C22, Senior Official, Córdoba Labor Secretariat, Córdoba, 06/23/08 & 03/05/09 & 03/07/09

²⁷⁴ Interviews: C22 & C45, Senior Official, Córdoba Labor Secretariat, Córdoba, 6/19/2008. The inspection campaigns that do exist are generally short bursts that occur in reaction to a crisis or a lull in union demands. For example, during January vacations, union demand for inspections decreases and there is a spike of short-term employment in the tourism sector of the province. Taking advantage of the opportunity created by fewer union requests, the wage and hour division conducted a campaign in the tourism industry in 2009 for one month. They found high levels of violations of worker registration laws—as expected—but they were unable to follow-up systematically with inspections after the campaign to bring firms into compliance.

²⁷⁵ Interview: C22, Senior Official, Córdoba Labor Secretariat, Córdoba, 06/23/08 & 03/05/09 & 03/07/09

²⁷⁶ Multiple interviews with inspectors in 2008 and 2009.

sugar workers' union regional headquarters.²⁷⁷ The TST has no system for monitoring which firms have been inspected in the past or planning enforcement campaigns in the medium-term. Even short-term planning is hampered by organizational failures. For example, the head of inspection attempted to give the inspectors a list of firms to check in a given week, but they were unable to execute and the practice of weekly planning quickly stopped.²⁷⁸ Inspectors also lack access to transportation (there is only one car, and it is often not available to inspectors) and basic supplies, such as paper and pens, are in short supply.

In terms of human resources, the TST has deficiencies in the quantity and quality of inspectors. As of 2009, the TST had only 18 inspectors, considerably lower in per capita terms than in other provinces, and below internationally recognized standards.²⁷⁹ More important than their number, the quality of the inspectors is extremely low. Inspectors were mainly selected by virtue of their political connections to Peronist activists or their connections to unions, not because of their education or merit.²⁸⁰ Only one inspector completed university studies, and nearly a third of the inspectors only completed primary education. Finally, like in Córdoba, inspectors have low salaries of \$528 dollars per month, and most have additional jobs outside of the state to supplement their income.²⁸¹ Consequently, the TST is limited in deploying inspectors beyond the morning hours.

The capacity of the TST is further eroded by pervasive corruption problems, which have reached such high levels that corruption has reduced the ability of senior officials at the TST to use inspectors without support from others.²⁸² Inspectors are widely held to be corrupt by those who interact most closely with them (unions, firms, and government officials) and multiple times between 2002 and 2009 inspectors were publically exposed for graft.²⁸³ Among various schemes, inspectors are accused of taking bribes from businesses to tip them off about inspections before they occur, charging workers for free paperwork, and conducting inspections after hours in which they collect the fine for themselves on the spot and do not report it to the central office. One inspector, just months after commenting during an interview that there are "*many temptations, the businesses will offer bribes equal to my monthly salary,*" was arrested for soliciting a bribe from a farmer.²⁸⁴ A senior official at the TST describes the inspectors plainly as "*criminals.*"²⁸⁵ And after one inspector was arrested for soliciting a

²⁷⁷ *La Gaceta de Tucumán* "Se inicia la mudanza de Trabajo" 08/02/02

²⁷⁸ Interview: T56, Inspector, Tucumán Labor Secretariat, Tucumán, 11/6/2008

²⁷⁹ There are approximately 80,000 people in the province for each inspector, which translates to about one inspector per 40,000 economically active workers. The ILO's recommendation is that there should be 1/20,000 workers in "transition economies" but under the 1/40,000 workers in "developing countries": ILO 2006b.

²⁸⁰ Multiple interviews with inspectors and officials in 2008 and 2009

²⁸¹ One even runs a business of training and certifying soccer referees from his desk in the TST.

²⁸² Interview: T12, Senior Official, Tucumán Labor Secretariat, Tucumán, 10/27/2008 & 11/12/2008

²⁸³ *La Gaceta de Tucumán* "Funcionario detenido por presunto soborno" 05/22/02; "Filmaron y grabaron el presunto soborno" 05/23/02; "El ex funcionario Ibarra fue condenado por pedir coimas" 05/03/03; "Neme y Cabral asumen" 09/20/02; Pocas Palabras 10/26/02

²⁸⁴ Interview: T55, Inspector, Tucumán Labor Secretariat, Tucumán, 11/11/2008; *La Gaceta de Tucumán* "Los empleados sospechados de pedir coimas no declararon aún" 03/02/09

²⁸⁵ Interview: T12, Senior Official, Tucumán Labor Secretariat, Tucumán, 10/27/2008 & 11/12/2008

bribe, the Secretary of Labor acknowledged widespread corruption in the local newspaper.²⁸⁶

The inspectors claim that the corruption accusations are unjustified and meant to disarm them by “*making the inspectors look corrupt so that workers will not come to us to ask for help.*”²⁸⁷ Whether justified or not, the corruption accusations clearly have this effect within the organization of the TST, and senior officials are reluctant to send inspectors out without supervision by union leaders. Even though there is occasional collusion between corrupt inspectors and union leaders, senior officials in the TST (as well as union leaders), find that the presence of a union leader during inspections is a way to reduce the opportunities for inspectors to solicit bribes from employers. For example, one union leader noted that: “*The quality of the inspection depends on the union leader. If you leave the inspector alone, he will do all kinds of things.*”²⁸⁸

In addition to corruption, conflict between inspectors (who enjoy considerable civil service protection) and senior officials has further eroded administrative capacity. The conflict stemmed from a series of corruption crackdowns and failed reforms, in which senior officials attempted to replace all of the existing inspectors. The inspectors, defended by their public sector union, resisted these efforts by effectively refusing to cooperate with the Secretary of Labor.²⁸⁹ In 2008, tensions in the bureaucracy came to a head when an inspector was accused of soliciting a bribe from a businessman and arrested in a sting operation.²⁹⁰ The governor signed a decree transferring all inspectors out of their positions to other parts of the provincial bureaucracy, but the decree was fought by the public sector union, which won an injunction from a judge.²⁹¹ To protest, the inspectors occupied the TST, blocked roads, and went on strike—actions that resulted in violent confrontations with the police.²⁹² Also, to directly attack the governor, inspectors leaked an embarrassing report to the political opposition that showed that a worker in the governor’s home was unregistered (informal)—undermining the governor’s credibility on labor compliance issues.²⁹³

Combined, deficiencies in material resources, human capital, planning capability, as well as pervasive organizational conflict and corruption, result in extremely limited administrative capacity. Consequently, the TST is so constrained that it is almost impossible for officials to undertake many of the basic tasks of enforcement on their own. The TST cannot generate its own information about violations, craft its own responses, or withstand the actions of interest groups that might want to block enforcement by bribing

²⁸⁶ *La Gaceta de Tucumán* “En Trabajo hay inspectores que son “ciegos y sordos” 07/27/09

²⁸⁷ Interview: T58, Inspector, Tucumán Labor Secretariat, Tucumán, 11/11/2008

²⁸⁸ Interview: T51, Union of Agricultural and Rural Workers (UATRE), Tucumán, 4/15/2009

²⁸⁹ *La Gaceta de Tucumán* “Beneficia a las patronales inescrupulosas” 05/03/08

²⁹⁰ *La Gaceta de Tucumán* “Acusado de cobrar una coima” 07/24/08; “Detienen a un inspector acusado de cobrar coima” 07/24/08; “Un arresto reaviva el conflicto laboral en Trabajo” 07/25/08; Encontraron en su carpeta billetes marcados 07/27/08

²⁹¹ *La Gaceta de Tucumán* “Un arresto reaviva el conflicto laboral en Trabajo” 07/25/08

²⁹² Interview: T12, Senior Official, Tucumán Labor Secretariat, Tucumán, 10/27/2008 & 11/12/2008

²⁹³ *La Gaceta de Tucumán* “El gobernador habría tenido una empleada en negro” 08/01/08; “Cano cuestionó el doble discurso del mandatario” 08/01/08; “Trabaja en casa hace 29 años y está en blanco” 08/02/08. Interview: T58, Inspector, Tucumán Labor Secretariat, Tucumán, 11/11/2008

inspectors. These failings help explain why, just like in Córdoba, enforcement simply does not occur in industries where unions lack resources to supplement state capacity, like the construction industry.

Inspector-Union Linkages

Given their constraints, it is surprising that regulators in Córdoba's wage and hour division and Tucumán's inspectorate are able to enforce labor laws at all. To explain enforcement, it is necessary to examine the relationship between state regulators and civil society organizations. Inspectors can draw on resources from civil society organizations only when they have linkages, which consist of routinized processes of consultation, formal and informal agreements, and interpersonal networks that put bureaucrats into direct contact with actors in society. The structure of linkages helps explain why enforcement is at a much higher level in some industries than others under conditions of low levels of administrative capacity.

In both Córdoba and Tucumán, labor inspectors have formed strong linkages with labor unions, and only with labor unions. In both inspectorates, information sharing among inspectors and union leaders is built into the very way work is organized in the bureaucracy. Each day inspectors wait for leaders of labor unions before making decisions about where to conduct inspections.²⁹⁴ The labor inspectors are open to working with nearly all unions that are able to generate lists of violators. In a typical month in Córdoba, over thirty different unions request inspections in the wage and hour division.²⁹⁵ During the act of inspection, inspectors rely heavily on union leaders, who act as "*auxiliaries*"²⁹⁶ by gathering information from workers, directing inspectors towards violations, and providing information about the collective bargaining agreements.²⁹⁷ For example, employers sometimes hide unregistered (informal) workers when inspectors come, often in precarious places like water tanks, but the union leaders usually know the number of workers (and possible hiding places) in advance and help the inspectors discover the workers.

In other provinces, these practices of information sharing are largely forbidden by informal rules in the inspectorate. For example, in the Federal Capital under the Macri administration, unions could not communicate with street-level inspectors to ask for investigations of specific firms, but instead union leaders had to go through a filter in the central dispatch and some unions signed written agreements with the regulators about the number of inspections for which they can ask.²⁹⁸ In addition, during inspections in the Federal Capital, union leaders are not allowed to gather information from workers and sometimes are encouraged to wait outside while the inspection takes place.²⁹⁹ In sum, in

²⁹⁴ Multiple interviews, including: C38, Inspector, Córdoba Labor Secretariat, Córdoba, 7/18/2008; C43, Inspector, Córdoba Labor Secretariat, Córdoba, 6/25/2008; T56, Inspector, Tucumán Labor Secretariat, Tucumán, 11/6/2008; T58, Inspector, Tucumán Labor Secretariat, Tucumán, 11/11/2008

²⁹⁵ Source: Internal data provided by the STC.

²⁹⁶ Interview: C43, Inspector, Córdoba Labor Secretariat, Córdoba, 6/25/2008

²⁹⁷ Interview: C33, Garment Workers' Union (SOIVA), Córdoba, 6/25/2008

²⁹⁸ Interview: B22, Federal Capital Labor Subsecretariat, Buenos Aires, 9/15/2008

²⁹⁹ Interviews: B16, Inspector, Federal Capital Labor Subsecretariat, Buenos Aires, 10/14/2008; B23, Inspector, Federal Capital Labor Subsecretariat, Buenos Aires, 10/14/2008

Córdoba and Tucumán, there are comparatively widespread practices of communication between inspectors and unions, which help account for how regulators gather information about violation in some industries even though they lack capacity to do so on their own.

In addition to sharing information, the sharing of material resources is a crucial attribute of inspector-union linkages. In both Córdoba and Tucumán, all major unions provide transportation for labor inspectors, making up for a key scarce resource in the state. Inspectors also regularly draw on unions for travel costs, and, at times, even paper to write up the inspection report.³⁰⁰ For example, a union leader from the food sector in Córdoba recounts the resources he needs in order to collaborate with the inspectors on an enforcement campaign in his sector: “*we need money... to pay for their food, for breakfast, and for the cars to bring the inspectors to the sites.*”³⁰¹ These practices contrast strongly with other provinces that lack such linkages. For example, in the province of Corrientes, inspectors could not access union resources, including transportation.³⁰² In this case, when inspectors lacked transport, enforcement simply did not occur.

In Córdoba and Tucumán, the inspectors’ dependence on material resources from unions can, at times, lead unions to effectively capture the inspectors. In both provinces, inspectors are compensated directly by the unions for their work in a number of informal ways. A UATRE-Tucumán leader describes how they subsidize the inspectors: “*When the inspector comes with us, they do not have any type of cost. We give them breakfast, lunch, and a soda in the afternoon.*”³⁰³ In some cases, these subsidies include under the table payments by unions to inspectors (and the heads of inspection) to supplement their salaries and perks (e.g. free vacations for inspectors in the union campground).³⁰⁴ Powerful unions, such as the restaurant and hotel workers’ union in Córdoba,³⁰⁵ have been able to “*adopt the inspectors, and they have them, and they use them from Monday to Friday.*”³⁰⁶ In some cases, these ties are so strong that it becomes unclear whether the inspector works primarily for the union, or primarily for the state.³⁰⁷ While this practice undermines the ability of senior officials in the inspectorates to control their staff, it provides a key subsidy that enables enforcement in cases where the regulatory agency lacks the capacity to pay inspectors for the time they need to do their jobs. When union interests align with the regulator’s responsibility to implement labor laws, capture leads to enforcement.

Inspector-union linkages in both provinces also provide a way for inspectors to draw on the political support of unions during enforcement. As described above, union leaders directly observe the inspection process and oversee how the inspector exercises his discretion. In Tucumán, for example, where there are problems of firms bribing

³⁰⁰ Interview: T56, Inspector, Tucumán Labor Secretariat, Tucumán, 11/6/2008

³⁰¹ Interview: C03, Union of Pastry, Pizza, and Alfajor Workers, Córdoba, 7/16/2008.

³⁰² This was during the administration of Governor Arturo Colombi (2005-2009) of the UCR. Interview: CR02, Senior Official, Corrientes labor Subsecretariat, Corrientes, 9/11/2008

³⁰³ Interview: T51, Union of Agricultural and Rural Workers (UATRE), Tucumán, 4/15/2009

³⁰⁴ This is based on multiple interviews with the unions, inspectors, and other observers.

³⁰⁵ Interview: C05, Unión de Trabajadores del Turismo, Hoteleros y Gastronómicos de la República Argentina, Córdoba (UTHGRA), Córdoba 7/15/2008

³⁰⁶ Interview: C31, Senior official, Secretaría de Trabajo de Córdoba, Córdoba 7/17/2008

³⁰⁷ Ibid.

inspectors, many unions follow through after inspections to ensure that reports are not “lost” along the way.³⁰⁸ And after violations are found, inspectors coordinate with unions when setting times for the hearings in which the firm and the inspector negotiate how to resolve violations. Consequently, the union can put its weight behind the inspector and push for strong enforcement even if a powerful firm resists. These practices are an additional way in which inspector-union linkages create the opportunity for greater enforcement in particular industries.

Although inspectors in Córdoba and Tucumán have strong linkages with unions, they do not have linkages with other organizations in society. In Tucumán, for example, there are well over 2,000 civil society organizations, over two-thirds of which either work on social assistance, issues related to workers, or vulnerable groups.³⁰⁹ Yet, labor inspectors do not interact with these organizations in any routine fashion. In addition, industry associations, which in some cases have an interest in working with regulators in enforcement, do not work closely with the TST.³¹⁰ While the TST is highly permeable to unions, non-union groups do not have the linkages that they would need to offer their resources to inspectors.

In Córdoba, the failure of enforcement in the brick-making industry is a striking consequence of the lack of linkages between inspectors and civil society organizations that are not unions. As described above, the union in this industry did not have sufficient resources to offer the STC to make enforcement possible, but there were other organizations in society that did have such resources, notably the Center for Bolivian Residents. Yet, collaboration between the Center for Bolivian Residents and inspectors was short lived and strong linkages never formed. There was an open conflict between the Center for Bolivian Residents and the union. Leaders of the Center for Bolivian Residents said that the Center was doing the work that the union should be doing because the union was “absent”, and the union leaders accused the head of the Center of being complicit with the bosses on the brick-making sites (who were often Bolivian themselves).³¹¹ Within the hallways of the STC, the union clearly won this conflict and maintained linkages with inspectors, while the Center did not. As a result, the resources of the Center were not fully used by inspectors and the union lacked resources, which explains why enforcement stayed at a low level.

In sum, inspectors in both Córdoba and Tucumán have strong linkages with unions, but not with other types of organizations. These linkages have been built into the fabric of the organization of the inspectorate. Many of the practices that underlie them are, as the head of labor inspection in Córdoba described, “*not written down rules*” but “*uses and customs*.”³¹² Still, they are not only condoned in both provinces, but they are

³⁰⁸ Interview: T06, Secretario General de Seccional Tucumán, UOCRA, Tucumán 4/14/2009

³⁰⁹ Luna and Ceconi 2004

³¹⁰ Interviews: T12, Secretaría de Trabajo de Tucumán, Director Provincial, Tucumán 10/27/2008 & 11/12/2008; T48, Cámara Argentina de la Construcción, Tucumán 10/29/2008

³¹¹ *La Voz del Interior* “Cruce entre un abogado y el gremio” 11/08/08

³¹² Interview: C42, Director de la Dirección de Jurisdicción de Fiscalización y Políticas, Secretaría de Trabajo de Córdoba, Córdoba 3/9/2009. There are a number of formal regulations that support inspector-union linkages, such as a legal provision that unions can observe inspections. However, drawing on

encouraged by the leadership of the bureaucracy, even when they appear to be on the edge of legality (in terms of under the table payments to inspectors by unions). By virtue of strong linkages with unions, inspectors have access to more information, material resources, and political backing than they would have otherwise. The ability of inspectors to mobilize these resources explains why, under conditions of low administrative capacity, enforcement still occurs. And the structure of the linkages that limit inspectors to drawing on unions, explains why there is such a robust relationship between union resources and enforcement. This particular pathway to enforcement comes at a cost. Depending on unions makes enforcement highly unlikely in industries and firms with weak unions—leaving out some of the very workers who would benefit most from state intervention.

Conclusion: Society-Dependent Enforcement

The cases of Córdoba's wage and hour division and the Tucumán inspectorate demonstrate how enforcement, although limited, is possible even where regulatory bureaucracies are far from the ideal. Even though both the STC and TST lacked many of the bureaucratic features that are often described as prerequisites for effective states, they still managed to enforce labor regulations. This chapter began with an analysis of aggregate data on inspection on both provinces. These data—such as the low percentage of programmed inspections and the tight correlation between inspected industries and union demands—suggested that union resources appear necessary for enforcement.

The chapter then explored a series of industry cases, summarized in Table 3.6 below, that identified union strength as the principal factor that differentiates low and medium levels of enforcement. In Córdoba's metal industry and Tucumán's citrus industry enforcement is made possible largely by strong unions. In both of these cases, unions had dedicated staff who channeled complaints through the inspectorate and could supplement the inspectors' material resources. However, notwithstanding the strength of the unions, enforcement remained at only a medium level—quite simply the lack of administrative capacity and in the state prevented enforcement becoming systematic enough to reach high levels.

In Córdoba's brick-making industry, modest increases in enforcement occurred after the local branch of the union was “intervened” by the national union and became more active, but these were not sufficient to push enforcement above low levels. In Tucumán's construction industry, even though the labor union was strong politically, it never was able to provide enough resources to make up for the TST's deficits. Two additional cases included in the appendix, shoe-making in Córdoba and metal manufacturing in Tucumán, also conform with the pattern of union action being tied directly to enforcement levels. In these two cases, union strength was insufficient to make up for more of the state's deficits, and enforcement never surpassed a medium level.

comparative evidence from other provinces, it is clear that the way this formal rule is interpreted and put into practice varies tremendously across provinces.

Table 3.6: Summary of Cases

<i>Province</i>	<i>Sector</i>	<i>Union Strength</i>	<i>Enforcement Level</i>
Córdoba	Brick-Making	Low	Low
Tucumán	Construction	Medium	Low
Córdoba	Show Manufacturing	Medium	Medium
Tucumán	Metal	Medium	Medium
Córdoba	Metal	High	Medium
Tucumán	Citrus	High	Medium

To explain the overall pattern of enforcement, the analysis focused on the interaction between levels of administrative capacity and the structure of inspector-society linkages. Low levels of administrative capacity account for why regulators are largely unable to enforce on their own, and strong inspector-union linkages account for how regulators are able to overcome their limitations when they can draw on unions. The combination of these two factors results in a pattern of enforcement in which the resources that unions provide to inspectors has a direct impact on levels of enforcement.³¹³ The theory does not, however, precisely predict every outcome; it cannot, for example, explain the difference between enforcement levels in the construction and metal industries of Tucumán. There are also, of course, other factors that influence enforcement levels—for these two industries, the sheer number of construction sites compared with metal shops combined with the differences within the TST (health and safety inspection that was even weaker than wage and hour inspection) can account for these differences. In spite of this limitation, the argument advanced in this dissertation can help explain much of the systematic variation in the cases of Córdoba and Tucumán, which would be missed by most conventional approaches. In addition, the analysis points to the key mechanisms of weak bureaucracies leveraging resources from society.

Furthermore, this framework helps identify a portion of the trade-offs of society-dependent enforcement (consequences for the long-term development of the state will be analyzed in Chapter 5). On the one hand, unions provide the basic inputs that make enforcement possible; with the help of unions, inspectors are able to reach workers who would otherwise be left unprotected given the limited levels of administrative capacity. On the other hand, the trade-off is that inspectors are dependent on unions and unable to get to workers without strong union advocates; industries with weak unions, and firms that are not the target of particular unions, are largely left out. This is a substantial limitation, which is recognized by those most involved in labor inspection. A senior official at the STC described this trade-off, stating:

³¹³ In these cases, understanding the structure of state-society linkages, which limits civil society participation in enforcement only to unions, also helps account for why resources from other civil society organizations, such as the Center for Bolivian Residents, remained largely out of reach of inspectors.

The unions are natural collaborators in what we do. We cannot leave them on the outside. The union is the one that knows the place that we go, what problems there are, how the sector works, and all the rest. But, we have to control the relationship so the inspectors don't believe that they are employees of the unions. There exists a certain difficulty with the unions....A deformation... because wage and hour inspection is very delegated to the initiative of the unions. When the inspector is a permanent agent of the unions, it prevents inspections at the initiative of the state...I don't worry how much the unions use the inspection, it seems good to me that they use them, and that they use them well. What I worry about is that the excessive relation of inspection depending on the unions impedes the STC from creating a plan that is based on a map of non-registered work, of fraudulent firms, and of child labor. That is to say, the workers that the unions aren't going to see.³¹⁴

This quote implies a counterfactual: if regulators only had greater administrative capacity enforcement could be broader and go beyond the immediate demands of linked civil society organizations. Is this possible without a bureaucracy that has high levels of autonomy? To explore this question, the following chapter examines two additional cases, one in Córdoba's health and safety division and one in the Federal Capital, in which administrative capacity is greater.

³¹⁴ Interview: C45, Secretario de Trabajo, Secretaría de Trabajo de Córdoba, Córdoba 6/19/2008

Chapter 3 Appendix

Additional Case Summary: Metal in Tucumán

Tucumán is the home to a cluster of approximately 220 metal firms that have survived the decimation of industry in the province during the 1990s. There are six large firms with over 300 employees and a number of micro-enterprises that together account for nearly 100 million dollars of Tucumán's exports, making metal the second most important export sector.³¹⁵ The Tucumán section of the metal workers' union UOM³¹⁶ has approximately 2,200 affiliates and occupies key positions in the faction of the unions that supports the governor.³¹⁷ The workers in the sector have consistently high levels of informality, with over 50% of the workers unregistered. In addition, with wage increases in the national metal collective bargaining agreement, there are widespread practices of workers being placed in lower categories than their work corresponds to, thereby cheating them out of wages.³¹⁸

Inspectors draw heavily on UOM for resources for inspection in the sectors—in fact despite UOM's relatively small size, it is one of the largest collaborators of the inspectorate—and as a result firms in the sector are inspected.³¹⁹ Like UATRE, UOM has a network of 52 delegates in the firms that can provide information about violations, and two leaders that can go with the inspectors. As a leader from UOM describes, they are limited in their inspection activity by their resources:

*“We do inspections for the serious problems. We have many firms that are not complying with the law, but we can't go to all of them. We have firms that are not paying the workers benefits and union dues...we do inspections in these firms so that they will come to conciliation.”*³²⁰

Also, like UATRE, UOM tries to avoid inspectors going to firms on their own, without union supervision, because they have had problems of corruption. *“When the inspections are programmed, we can't guarantee anything.”*³²¹ With fewer resources, UOM is more limited than UATRE in its ability to enable the TST to enforce regulations in its sector, but it still ensures that there is at least routine enforcement in many of the firms. And when there was public pressure from UOM in the form of a complaint to local media about the high levels of informality in 2007, in responses the TST conducted an inspection operation with UOM, which resulted in a short-term increase in

³¹⁵ Data from 2007. Metal has had extremely high growth after the crisis; the value of exports from this industry doubled between 2003 and 2007. Source: Dirección de Desarrollo Productivo para la Exportación, Ministerio de Desarrollo Productivo de Tucumán.

³¹⁶ *Unión Obrera Metalúrgica de la Republica Argentina*

³¹⁷ Interview: T57, Metal Workers' Union (UOM), Tucumán, 4/21/2009

³¹⁸ *La Gaceta de Tucumán* “La UOM denuncia que hay grand informalidad en las metalúrgica” 05/20/07.

³¹⁹ Interview: T58, Inspector, Tucumán Labor Secretariat, Tucumán, 11/11/2008. Also see data from the survey.

³²⁰ Interview: T57, Metal Workers' Union (UOM), Tucumán, 4/21/2009

³²¹ *Ibid.*

enforcement.³²² By all accounts, enforcement has occurred at *medium* levels and has helped workers in individual cases, but it has not been effective in systematically reducing violations.

Additional Case Summary: Shoe Making in Córdoba

The shoe making industry is made up of approximately 180 firms with between 20 and 50 employees, as well as a number of completely informal shops in people's homes. The industry has widespread violations of labor laws, including high rates of informality and non-payment of wages during downturns.³²³ It would be extremely difficult for the wage and hour inspectors to enforce regulations on their own in this sector—they simply do not have the capability to identify violators or craft systematic responses to the violations that they do find. However, by drawing on the shoe sector union, UTICRA, inspectors can find the resources they need for enforcement. Through the union's contact with 980 members and delegates, the union car, and a staff member dedicated to helping workers with labor problems, UTICRA regularly enables STC inspectors. Although enforcement is far from perfect in the sector, according to the union leaders "*working conditions have improved...through inspection, and follow-up with the firms.*"³²⁴ In short, using the coding introduced above, there is a *medium* level of enforcement in the shoe making sector in Córdoba.

³²² *La Gaceta de Tucumán* "La UOM denuncia que hay gran informalidad en las metalúrgicas" 05/20/07;

"Inician inspecciones por trabajo en negro en empresas metalmeccánicas" 06/04/07.

³²³ Interview: C12, Córdoba Leather Industry Association, Córdoba, 3/5/2009

³²⁴ Interview: C14, Shoe Workers' Union, Córdoba, 7/16/2008

Chapter 4: Co-produced Enforcement

The previous chapter examined cases in which enforcement was constrained by low levels of administrative capacity. This chapter turns to two cases in which regulatory agencies have greater levels of capacity, assessing whether this difference can shift the pattern of enforcement. The analysis focuses on only two industries: Córdoba's construction industry, which was regulated by the health and safety division of the Córdoba Labor Secretariat (STC³²⁵), and the garment industry of the Federal Capital, which was regulated by the national Ministry of Labor³²⁶ (MTESS) and Federal Capital's labor inspectorate (STBA³²⁷). A variety of factors, including a concentration of low-wage workers, labor intensive production, and market volatility, result in high levels of labor law violations in these industries. Both industries are highly sensitive to labor costs, giving employers strong incentives to resist regulations when they result in increased costs. To complicate matters for regulators, in both of these industries worksites are scattered and often change location. In short, they are prime examples of the types of industries that are politically and technically difficult for regulators to control.

To confront these challenges, in both cases regulators took far-reaching steps to enforce labor regulations. Inspectors collected extensive information about firms that violated labor laws by drawing on their societal partners and by using planned inspection operations. Regulators shut down worksites that posed immediate risks to workers and used other methods, such as training and publicity, to address the underlying factors leading to violations. In these cases, enforcement was not limited to firms where unions were active, but went beyond immediate civil society demands to reach otherwise unprotected workers. These outcomes contrast sharply with the cases analyzed in the previous chapter, in which enforcement either did not occur at all, or occurred only when unions requested, and provided resources for, inspections.

Using these cases, this chapter explores the factors that enabled labor inspectors to enforce regulations broadly and at levels much higher than the industries discussed in the previous chapter. Despite their similar outcomes, the cases differ substantially across many dimensions that could potentially influence enforcement: Córdoba had a PJ governor with an historic alliance with labor unions, the Federal Capital did not when the STBA was enforcing labor laws; construction workers were represented by a strong union, garment workers were not; the construction industry was not exposed to international competition, while the garment industry competed with imports. In sum, there were many political and economic differences that could have possibly lead to divergent enforcement outcomes. However, these factors were not decisive and enforcement patterns in both cases were very similar. Comparing these substantially different cases helps identify the factors that explain common outcomes. This chapter will show how the combination of strong linkages between regulators and civil society organizations—in one case a union, and in another case a community organization—and

³²⁵ *Secretaría de Trabajo de Córdoba*

³²⁶ *Ministerio de Trabajo, Empleo, y Seguridad Social*

³²⁷ *Subsecretaría de Trabajo de la Ciudad de Buenos Aires*

substantial administrative capacity enabled regulators to achieve high levels of enforcement.

This chapter is divided into three parts. The first part analyzes enforcement in Córdoba's construction industry, where enforcement was at a higher level than in the construction industries of any of the other provinces analyzed in this dissertation. This section traces the high levels of enforcement back to events in the late 1980s, when a crisis in the industry laid the groundwork for high levels of administrative capacity and strong linkages between inspectors, the union, and industry. The second part turns to the Federal Capital's garment industry. Examining changes in enforcement—from low levels before 2006, to an intense two-year period of high levels, and back down to medium levels—reveals how political shifts operate to influence enforcement. The chapter concludes by offering an explanation for the commonalities between the two cases and by contrasting them with those of the previous chapter.

Construction in Córdoba

During the commodity boom that followed the economic crisis in 2001, the number of construction workers in Córdoba increased rapidly—from 1,600 registered workers in 2004 to 20,000 in 2005, and up to nearly 30,000 by 2008.³²⁸ The rebound in the residential and commercial construction industry was driven by new investors who had profited from soaring agricultural exports. These investors challenged the traditional, integrated, construction firms by creating new firms that relied heavily on subcontracting and that were dissolved when projects were completed.³²⁹ The combination of rapid expansion of the industry and new, unstable, firms brought a sharp increase in the risk of accidents that challenged regulators.³³⁰ Ensuring that this increased risk did not translate into more workplace accidents is primarily the responsibility of the health and safety division of Córdoba's Labor Secretariat (STC), called CYMAT,³³¹ which operates independently from the wage and hour division discussed in the previous chapter. CYMAT enforces health and safety laws in all of Córdoba's industries, but its primary focus is on construction due to its high rate of workplace accidents and large size.³³²

By all measures, CYMAT has met the increase of workplace risks in the sector with as much, if not more, enforcement than any of the other provinces in Argentina. In contrast with the cases discussed in the previous chapter, CYMAT inspectors are able to gain a substantially large and constant flow of information about working conditions in the construction industry. One source of intelligence for inspectors is the construction

³²⁸ Data provided by the *Instituto de Estadística y Registro de la Industria de la Construcción* (IERIC). The numbers only include workers registered in the *obra social* of UOCRA. Given the high levels of informality in this sector, there were likely twice the number of workers.

³²⁹ By the account of industry leaders, new firms that were created lacked the experience and commitment to address health and safety issues. They would mitigate the risks of accidents by insulating investors through layers of subcontracting, instead of through investment in prevention. Interview: C15, Argentine Construction Association (CAC), Córdoba, 3/3/2009

³³⁰ Interview: C32, Health and Safety Specialist, Construction Workers' Union of Argentina (UOCRA), Córdoba, 06/20/08 & 03/09/09

³³¹ *Condiciones y Medio Ambiente de Trabajo*

³³² The only higher sector is mining. Source: Superintendencia de Riesgos del Trabajo 2004.

union (UOCRA), which passes on tips about unsafe worksites. However, unlike the cases analyzed in the previous chapter, CYMAT does not rely entirely on union requests. A senior official in the inspectorate explained that, in the construction industry, he does not wait for the union because “*if I had to wait for UOCRA to accompany the inspections, we would only do 1,000 inspections [a year]*.”³³³ Instead, CYMAT took the initiative and conducted well over 2,000 inspections a year in the industry.

Nearly all of CYMAT’s inspections are programmed internally, which is evidence of an enforcement stance that goes beyond responses to union complaints.³³⁴ When there is a new construction site planned above a minimum size, CYMAT regulators routinely conduct an initial inspection of the worksite to ensure that construction plans include health and safety considerations. Inspectors also conduct joint campaigns with the municipal government, which is in charge of safety external to construction sites (e.g. people in the street nearby and surrounding buildings).³³⁵ Moreover, CYMAT receives tips about worksites that have had accidents by the national Superintendent of Workplace Risks (*Superintendencia de Riesgos de Trabajo*) and from the wage and hours inspectors.³³⁶ Using this confluence of information sources, regulators put together programmed inspection campaigns that both responded to immediate risks and was preventative. These practices contrast sharply with the wage and hour division of the STC, in which only 20% of inspections were programmed. In addition, when compared with other provinces, there was a substantially higher level of information gathering. For example, in the city Rosario of the neighboring province of Santa Fe, approximately the same size as Córdoba and with a similar construction boom, in 2006 health and safety inspectors reached only 30 worksites a month (the Córdoba inspectors average 190 a month).³³⁷

A second indicator of high enforcement levels is the existence of credible penalties. In the construction industry, suspensions of unsafe workshops are the most important penalties because they impose immediate and high costs (unlike fines, which can be appealed and often do not reach large sums). A business leader observed that “*when the inspectors shut down a worksite, it causes a lot of pain*” for the construction firm in terms of lost time and money.³³⁸ CYMAT inspectors have the ability to unilaterally shut down, or suspend, operations, and the inspectors do exercise this power. In 2004, for example, accidents began to increase and the construction union, UOCRA, publicly criticized CYMAT for not being tough enough on violators.³³⁹ The inspectors responded by drastically increasing suspensions of activity on construction sites that violated norms in a way that posed an immediate danger to workers. Prior to the criticism by UOCRA, inspections resulted in suspensions 1.6% of the time, the month

³³³ Interview: C22, Senior Official, Córdoba Labor Secretariat, Córdoba, 06/23/08 & 03/05/09 & 03/07/09

³³⁴ Interview: C22, Senior Official, Córdoba Labor Secretariat, Córdoba, 06/23/08 & 03/05/09 & 03/07/09

³³⁵ *La Voz del Interior* “Para prevenir accidentes habrá control de obras” 04/02/2009.

³³⁶ Interview: C36, Córdoba Labor Secretariat, Córdoba, 7/14/2008

³³⁷ Interviews: S41, Construction Workers' Union of Argentina (UOCRA), Rosario, 5/13/2009. *La Capital* “En un año, 6 albañiles muertos y 10 heridos” 03/13/2006; “Cuestionan a empresas que no cuidan a obreros de la construcción” 11/01/2006.

³³⁸ The firms are required to continue paying workers in these cases, and by all indications they often do. Interview: C15, Argentine Construction Association (CAC), Córdoba, 3/3/2009

³³⁹ *La Voz del Interior* ““La seguridad laboral se relajó”” 3/9/04

afterwards this number shot up to 19%.³⁴⁰ After this incident, inspectors adjusted to mixing penalties with other approaches. Between February 2007 and February 2009, inspections resulted in partial closures of construction sites 10% of the time, and full suspensions 4% of the time.³⁴¹ To put these rates in comparative context with other provinces, in 2008 in the Federal Capital, inspections resulted in a closure only 1% of the time. Also, inspectors in the Federal Capital were much more reluctant to unilaterally stop worksites.³⁴²

Penalties are rarely enough to improve compliance on their own, especially for health and safety standards. A third indicator of enforcement levels is the degree to which regulators enable firms to comply. When CYMAT inspectors find problems that do not pose an immediate risk, they offer advice to construction managers and workers on how to comply. For example, on one construction site, health and safety inspectors instructed managers on methods for identifying conditions that lead to workers falling from high floors of unfinished buildings and showed them simple ways to reduce accidents (e.g. putting plywood barriers around open elevator shafts to prevent workers from falling). These steps helped managers and workers anticipate coming changes in the worksite that create new risks.³⁴³ Beyond providing instruction during inspections, CYMAT has also systematically taken preventative steps to reduce accidents that go beyond inspection. A senior official in the STC described one of these initiatives:

We have designed training days in the worksites. That's to say... we ask for permission from the firm—either UOCRA asks or I ask. Then representatives of the STC and UOCRA go, and on the day of the training, the firm changes the work schedule so that we can meet with all of the workers and managers. Two of my inspectors talk specifically about what workers are doing (on the site) and what health and safety measures they should take in a practical way.³⁴⁴

For close observers, including union leaders, these *in situ* trainings are a “valuable” way of reducing accidents in the long run and addressing the root causes of violations.³⁴⁵ The mixture of actions in Córdoba—penalties with real teeth and instruction—flexibly applied is a textbook example of best practices in regulation.³⁴⁶ No other province included in this study has developed a similar program in the construction sector (up until 2009).

In sum, there is ample evidence that CYMAT was actively implementing labor

³⁴⁰ Author's analysis of internal inspection data provided by the STC. The average was taken for the year before the public criticism.

³⁴¹ Source: Database of inspections from the STC.

³⁴² Interview: B07, Federal Capital Labor Subsecretariat, Buenos Aires, 10/1/2008

³⁴³ Interviews: C35, Health and Safety Inspector, Córdoba Labor Secretariat, Córdoba, 6/24/2008 and C36, Córdoba Labor Secretariat, Córdoba, 7/14/2008. In addition, I observed health and safety inspections of construction sites during which inspectors interacted with managers from firms.

³⁴⁴ Interview: C22, Senior Official, Córdoba Labor Secretariat, Córdoba, 06/23/08 & 03/05/09 & 03/07/09

³⁴⁵ Interview: C32, Health and Safety Specialist, Construction Workers' Union of Argentina (UOCRA), Córdoba, 06/20/08 & 03/09/09

³⁴⁶ See for example: Ayers and Braithwaite 1992; Pires 2008

regulations in the construction industry. CYMAT also appeared to have an effect on safety in the industry (even though there are clearly multiple factors that ultimately determine compliance levels). Most notably, there has not been an increase in accidents as the number of workers has increased substantially, which union leaders and officials view as an indicator of successful enforcement.³⁴⁷ While there were most certainly limitations to enforcement in this industry—union leaders have not reached their goal of eliminating accidental deaths and inspectors would prefer to have more resources to conduct even more inspections—the *relative* level enforcement is *high* when compared with other cases (for definitions of low, medium, and high levels of enforcement, see the Table 1.1 in Chapter 1). In addition, the *pattern* of enforcement in Córdoba’s construction industry was distinct from the cases analyzed in the previous chapter; regulators clearly took actions that went beyond reacting to UOCRA’s daily demands.³⁴⁸

Explaining Enforcement in Córdoba’s Construction Industry

Why was enforcement so different in the case of Córdoba construction compared with the cases analyzed in the previous chapter? A close examination of the way in which enforcement became possible points to a particular combination of inspectors using linkages with unions *and* high levels of administrative capacity. Like the wage and hour inspectors analyzed in the previous chapter, CYMAT inspectors have access to union cars, information, and political support. The head of health and safety inspection describes CYMAT’s relationship with the unions stating, “*We complement one another. When the unions have a problem, we advise them... and they... come with the cars... which they put at our service so we can complete our objectives and conduct inspections.*”³⁴⁹

In the construction industry, CYMAT inspectors can draw on the particularly strong construction union, which boasts a health and safety specialist who works full time with a staff dedicated to conducting their own controls of construction sites. UOCRA in Córdoba can gather information in a sophisticated way (much more so than in Tucumán or Santa Fe), and, at times, resolve health and safety problems on its own. UOCRA’s leaders actively work to build and maintain their relationship with the inspectors. For example, the union hosts a barbecue (*parrilla*) with inspectors a few times a year to “*integrate*” and “*unite*” the inspectors with UOCRA around common goals.³⁵⁰ The union’s health and safety leader describes how they work with inspectors: “*When there is a particular zone that has high risks, we go together. Or when we hear that things are messed up in a certain place, we work together,*” otherwise they take care of the problem

³⁴⁷ Interview: C32, Health and Safety Specialist, Construction Workers' Union of Argentina (UOCRA), Córdoba, 06/20/08 & 03/09/09. Data on accidents are notoriously bad. The best estimate comes from combining employment data from the *Obra Social del Personal de la Construcción* and deaths in the industry from the STC and SRT. Using these numbers, it appears that deaths have fallen per-thousand workers (in 2002, there were 3.6 deaths per 1,000 workers, while in 2007 there were only 0.3).

³⁴⁸ In addition, looking beyond the construction industry, CYMAT inspectors carve out resources to address industries with weak unions. For example, CYMAT has inspectors who are dedicated to other industries and they actively seek out unions in high-risk industries that do not come looking for inspections, such as mining.

³⁴⁹ Interview: C44, Senior Official, Córdoba Labor Secretariat, Córdoba, 6/26/2008

³⁵⁰ Interview: C32, Health and Safety Specialist, Construction Workers' Union of Argentina (UOCRA), Córdoba, 06/20/08 & 03/09/09

themselves.³⁵¹ In short, UOCRA provides key resources for inspectors in difficult cases, which can also reduce inspectors' workload by responding to less complex violations.

Given the role of unions in labor regulation in Córdoba broadly (described in the previous chapter), strong inspector-union linkages are not surprising in the construction industry and they alone cannot explain higher levels of enforcement. Two attributes, however, distinguish enforcement in the construction industry from the cases discussed up to this point: linkages between the labor inspectorate and the industry association, and the administrative capacity of CYMAT. To understand these differences, it is necessary to briefly examine their development in the late 1980s when the STC was being re-established after the return to democracy (which will be analyzed in more depth in Chapter 5). In the 1980s, Córdoba was governed by the Radical Party, which did not have an alliance with the main unions. In 1987, UOCRA started to take an aggressive stance against workplace accidents, which leaders began to see as preventable. According to the head of health and safety for UOCRA at the time, union leaders took steps to "*punish the government, the firms, and the industry association*" for the lack of safe working conditions. As a result of the "*crisis*" generated by this action, "*the government felt pressure*" to do something about accidents.³⁵²

The provincial Minister of Labor at this time was a labor lawyer, Jorge Sappia, who had existing ties to many labor unions but was also seen by business leaders as a fair actor.³⁵³ In response to the crisis generated by workplace accidents and UOCRA's protest, the Minister of Labor created a special division dedicated to health and safety (CYMAT) and "*called for the social actors to get together in conversation and meeting.*"³⁵⁴ These meetings involved officials from the STC, UOCRA, and the industry association (*Cámara Argentina de la Construcción*, or CAC), and eventually led to the formation of a formal consultative Commission (the "Four-Part" Commission³⁵⁵). Through the Commission, the provincial Minister of Labor, CAC, and UOCRA worked together to develop a legal reform to the outdated national health and safety legislation that governed the construction industry. More importantly for the implementation of health and safety laws, the Commission created an institutionalized basis for dialogue among key actors.

The Commission waned in importance in the deregulatory 1990s, but it provided a means through which regulators could develop linkages with the firm association in the years of economic growth after the crisis. Following the reactivation of the economy in 2003, the Commission grew to include representatives from the City of Córdoba (that gives building permits), the professional association of architects, the workplace accident

³⁵¹ Ibid

³⁵² Interview: C17, Construction Workers' Union of Argentina (UOCRA), Córdoba, 7/15/2008

³⁵³ Interviews: C15, Argentine Construction Association (CAC), Córdoba, 3/3/2009; C13, Industrial Union of Córdoba, Córdoba, 6/19/2008; C01, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 06/18/08 & 03/10/09

³⁵⁴ Interview: C17, Construction Workers' Union of Argentina (UOCRA), Córdoba, 7/15/2008

³⁵⁵ "Four-Part" because it included employers, employees, provincial regulators and a variety of other actors, such as professional associations and city government officials. The Commission focuses on Córdoba Capital, but there is also a similar commission in another city. *La Voz del Interior* "Por más seguridad para obreros de la construcción" 06/18/03.

insurance industry, and the core members from the STC, UOCRA, and the CAC. It became a space for dialogue and regular communication around health and safety issues. For instance, the Commission worked with local universities that train architects in order to improve education about safety in construction. This effort, advocated by inspectors and UOCRA, showed architects how to incorporate worker well-being into the planning of projects from the very beginning. In effect, the Commission formed the basis of additional linkages between CYMAT, the industry association, and a variety of other organizations.

When the former provincial Minister of Labor created a specialized health division in the 1980s, he also laid the foundation for greater administrative capacity years later. Despite the ups and downs of reform in the STC, which lost capacity in the 1990s and then gradually built it back up after 1999, CYMAT was somewhat protected as an independent division that maintained its capacity. In the period after the crisis, the administrative capacity of CYMAT was at a relatively high level compared to other inspectorates in Argentina, including the wage and hour division of the STC.

First, CYMAT had a computer system that gave it the basic ability to plan inspections and keep systematic records of its actions. This capability, although quite elementary, was fundamental for the inspectorate to identify firms to inspect, monitor rates of violations in industries, and keep track of the actions of inspectors.³⁵⁶ Second, CYMAT inspectors have had priority access to material resources (e.g. cars), which enabled inspectors to take action even when there are no immediate resources available from the unions. There were still shortages of cars and the inspectors used unions for transport, but they were not nearly as dependent as in the other cases. Third, the health and safety inspectors had greater levels of expertise than wage and hour inspectors; all nine health and safety inspectors had technical training as health and safety specialists. This expertise equipped the inspectors to identify violations and craft responses on their own without having to wait for union leaders to indicate which situations constitute violations of labor law.

In total, these rather simple features enabled CYMAT to actively enforce regulations—inspectors did not have to depend on unions for resources, but could mobilize their own resources when enforcement was merited. This feature distinguishes CYMAT from groups of inspectors discussed in the previous chapter—the wage and hour division in Córdoba and the Tucumán inspectorate—both of which lacked basic resources and had little choice but to depend on unions. For example, the senior officials at the STC, who oversee both the wage and hour division and CYMAT, attempted to induce more state-initiated enforcement throughout the inspectorate. In the wage and hour division, however, officials were constrained by low levels of administrative capacity and unable to take actions without union resources. They “*worried*” about “*excessive dependence*” on unions that “*prevent the STC from creating a plan*” in the wage and hour division.³⁵⁷ In CYMAT, no such constraint existed, allowing inspections to occur broadly in the sector.

³⁵⁶ Interview: C36, Córdoba Labor Secretariat, Córdoba, 7/14/2008

³⁵⁷ Interview: C45, Senior Official, Córdoba Labor Secretariat, Córdoba, 6/19/2008

The greater administrative capacity in CYMAT also altered the strategy of its union allies. A leader from UOCRA explained how he gives the inspectors leeway to conduct inspections on their own: “*the inspectors have a list of construction sites that comes from above. We know that they have to progress in making it through this list of sites, so we don't call them except when we know that there is a problem.*”³⁵⁸ This approach by UOCRA differs substantially from that of the unions analyzed in the previous chapter. Union leaders in Tucumán, for example, are skeptical of allowing inspectors to work on their own because the inspectors have such little training that “*when the inspections are programmed, we can't guarantee anything.*”³⁵⁹ Consequently, union leaders in Tucumán work hard to control the way inspections take place and do not support efforts of the inspectorate to collect information on its own. The contrasts between these cases suggest that administrative capacity changes the way in which inspector-union linkages function; there is less of a need for unions to invest the resources necessary to capture regulators when regulators themselves are apt to implement policies in a way that benefits union members.

High levels of administrative capacity did not, however, make CYMAT a professional, Weberian, or autonomous bureaucracy. Indeed, CYMAT lacked many of the features scholars find are necessary for autonomy. Although inspectors had civil service protection, they also had relatively low salaries that required them to have jobs in the private sector as health and safety consultants (clearly in conflict with their duties as enforcers).³⁶⁰ In addition, although they had expertise, they gained their positions through patronage, not through a merit-based process.³⁶¹ And there is little chance of a long-term career of merit-based promotion within the state, thereby reducing incentives for loyalty to the bureaucracy. In this way, the organization of CYMAT inspectors does not resemble that of their equivalents in the Dominican Republic and Brazil, who are insulated from political interference by the organizational strength of their bureaucracies.³⁶² Even though CYMAT does not satisfy many of the tests that theories of state capacity hold as important, there is still a substantial difference between the administrative capacity in CYMAT and that of other inspectorates in Argentina.

In sum, there were three important features of health and safety enforcement in Córdoba's construction industry that account for the relatively high levels of enforcement. First, CYMAT inspectors had strong linkages with the construction union UOCRA, and UOCRA had resources to offer the inspectors. Second, the officials at the CYMAT had institutionalized linkages with the industry association through the Commission. Third, CYMAT had relatively high levels of administrative capacity. These last two attributes distinguish this case from those cases analyzed up until this point. The next section turns to a case that also reached high levels of enforcement,

³⁵⁸ Interview: C32, Health and Safety Specialist, Construction Workers' Union of Argentina (UOCRA), Córdoba, 06/20/08 & 03/09/09

³⁵⁹ Interview: T5T57, Metal Workers' Union (UOM), Tucumán, 4/21/2009

³⁶⁰ Interview: C40, Health and Safety Inspector, Córdoba Labor Secretariat, Córdoba, 6/24/2008

³⁶¹ Multiple interviews with labor inspectors. For example, when the Bank of Córdoba was privatized, politically connected civil servants who previously worked in the bank were transferred as health and safety inspectors to avoid laying them off. *La Voz del Interior* “25 ex bancarios ya dependen de la Secretaría de Trabajo” 09/15/04.

³⁶² *Ibid.*; Schrank 2009

providing an opportunity to examine whether similar factors can explain enforcement in a context that differs in terms of industry, local politics, and societal organization.

Clandestine Garment Workshops in the Federal Capital

Garment manufacturing in the Federal Capital also accelerated rapidly during the period of economic growth after the devaluation in 2001. Between 2002 and 2006 there was a 70% increase in activity in the sector nationally, much of it concentrated in the Federal Capital.³⁶³ By 2007, the industry had reached nearly 6 billion dollars in production, the great majority of which was for the domestic market (external sales accounted for only 80 million dollars).³⁶⁴ Although they do not export, domestic producers do compete with imports, which account for 25% of consumption. An integral part of the industry is a vast network of small home-based workshops that operate through a system of outsourcing and piecework for local and foreign apparel brands; 74% of producers have fewer than five employees and 23% have between 6 and 40 employees.³⁶⁵ It is impossible to know the precise number of workers and workshops, but officials estimated that in 2009 there were between 3,000 and 3,500 workshops in the Federal Capital.³⁶⁶

Work in this sector is regulated by the general law of labor contracts (that is, when there is a worker who is employed by a workshop owner) and a special law of home-based work that sets the terms of putting out piecework.³⁶⁷ A commission of unions, industry associations, and the federal Ministry of Labor, Employment, and Social Security (MTESS) sets the piece rates for wages in the industry. This bargaining structure gives the sector a degree of flexibility that goes beyond the general Argentine system of collective bargaining, but problems of compliance have rendered the details of formal rules (and any flexibility built into them) moot.

By all measures, the garment industry in the Federal Capital has extremely high levels of labor violations. The factors that contribute to poor working conditions in all garment industries—relatively low skilled workers, highly fluctuating demand, and low levels of investment³⁶⁸—are amplified in the Federal Capital by the large number of undocumented migrant workers. The migrants, who are mostly from Bolivia, for the most part do not have legal status in Argentina (many are brought to Buenos Aires in human trafficking networks and have to repay their debt once they arrive).³⁶⁹ Their illegal status makes them especially vulnerable because workers believe (erroneously) that they will be deported if they complain to government authorities about labor conditions—a belief cultivated by workshop owners, themselves often Bolivian

³⁶³ Centro de Estudios para la Producción. “Las marcas como motor del crecimiento de las exportaciones en el sector indumentaria” 2007.

³⁶⁴ Source: Cámara Industrial Argentina de la Indumentaria

³⁶⁵ Source: Fundación el Otro 2007.

³⁶⁶ *Clarín* “Imágenes de los talleres clandestinos, una forma de esclavitud moderna”, 4/12/09

³⁶⁷ Law 12.713

³⁶⁸ Abernathy, Dunlop, Hammond, and Weil 1999; Piore 2004

³⁶⁹ *La Nación* “Una ruta clandestina: de Bolivia a Retiro” 04/01/06; *Página/12* “Una cámara oculta para comprobar cómo opera la trata de personas” 05/05/07.

migrants.³⁷⁰ Descriptions of working conditions in the industry were staggering. In 2008, industry leaders estimated that nearly 80% of workers were informal (unregistered).³⁷¹ An inspection operation in 2006 checking 13,000 workers found that 1,600 were in conditions that approximated “slavery” and, in total, worker advocates estimated that 25,000 Bolivian migrants were “reduced to slavery in clandestine workshops”.³⁷²

An investigation from the *Defensor del Pueblo*³⁷³ described conditions in two workshops in the Parque Avellaneda neighborhood.³⁷⁴ They produced various garment products for domestic brand name apparel companies; one had twenty-one machines and twenty-five employees, the other had fifteen machines and twelve employees. The workers, who were undocumented migrants, lived in the workshops in crowded conditions, which were illegally operated in buildings that were not approved (or safe) for factories. The workshops violated nearly every labor law: they did not meet basic health and safety standards, there was no legal payroll, working days began at seven in the morning and lasted until past midnight with only short breaks for meals, salaries were only 100 dollars per month, and workers were denied all legally mandated benefits. When the workers’ children returned from school, they were locked in small, unsafe rooms with exposed wires. The workshop owners bribed local police for protection, threatened workers that if they went to officials, the owners would be arrested and deported. Workshop owners also kept the workers’ passports under their control to prevent escape. Workers who were fired were denied their last payment and tossed out in the street. The bosses would then travel to Bolivia to look for new workers, tricking them with false promises and then trafficking them to Buenos Aires.

Unfortunately, the workshops described above were hardly unique; thousands of small factories spread out in wide swaths of the city had similar conditions.³⁷⁵ And in 2006, the safety risks were brought into horrific view when a fire killed a family that was living in a garment workshop.³⁷⁶ Responding to these extreme violations of labor (and other) laws posed a formidable challenge to regulators. Workshops were hidden in residential buildings, constantly moving around, and workers were reluctant to come forward with complaints. Once they discovered violations, regulators had the complicated task of ensuring that displaced workers did not wind up in more dire

³⁷⁰ Interview: B11, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 02/12/09 & 02/17/09

³⁷¹ *La Nación* “Talleres clandestinos: el negocio de la explotación” 05/11/08

³⁷² *La Nación* “Aún quedan 25.000 bolivianos que trabajan como esclavos” 10/16/06

³⁷³ The *Defensor del Pueblo* is a mix between an ombudsman and a public prosecutor.

³⁷⁴ Court filings from the *Defensor del Pueblo* against Juan Carlos Salazar Nina in case N° 15803/05, 2005.

³⁷⁵ Interviews: B46, La Alameda Foundation, Buenos Aires, 2/23/2009; B11, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 02/12/09 & 02/17/09; B20, Lawyer, Argentine Human Rights League, Buenos Aires, 3/25/2009; B13, Defensor del Pueblo, Buenos Aires, 2/26/2009. See also: Lieutier 2010 and various media reports, including: *La Nación* “Descubren que hay “esclavos” bolivianos en dos talleres” 10/28/05; “Denuncian que hay casos de esclavitud” 11/18/05; “El drama de vivir como esclavos” 04/01/06; “Clausuraron otros once talleres textiles” 04/05/06; “Nueva denuncia por trabajo esclavo en talleres textiles” 04/27/06; “Aún quedan 25.000 bolivianos que trabajan como esclavos” 10/16/06; *Página/12* “Centro clandestino, esta vez de confección” 03/31/07; *Clarín* “Imágenes de los talleres clandestinos, una forma de esclavitud moderna” 04/12/09.

³⁷⁶ *Página/12* “El infierno del trabajo esclavo” 3/31/06. *La Nación* “Mueren seis personas en un incendio” 3/31/06.

circumstances on the streets. This meant finding workers housing, employment, and helping them with immigration issues. Enforcement also entailed confronting a powerful industry that was reliant on low wage workers in factories located near the largest retail centers of the country. Tracing the response of regulators to these challenges provides a way to identify drivers and barriers to enforcement.

Dormant Regulators

Before 2006, jurisdiction for enforcing labor regulations in the garment industry was primarily under the national MTESS.³⁷⁷ Even though officials from the MTESS were aware of the problem in the workshops, especially after the *Defensor del Pueblo* began to file cases against employers in 2005, enforcement levels were very low. First, the MTESS collected little information about working conditions in the industry. Inspection intensity in the industry was low; in 2005, for example, 1.4% of all inspections in the Federal Capital were in the garment industry, including larger factories that are not the main violators.³⁷⁸ In addition, inspectors from the MTESS did not have systematic ways of gathering information through unions and neighborhood organizations. The MTESS attempted to enforce regulations in the garment industry largely on its own. For example, a senior official described the way intelligence gathering functioned in this sector: “*One has to go to all places, crossing the city looking...where garments are coming in and out, where there is fabric in the garbage...or where you hear sewing machines. All of this is intelligence work old style.*”³⁷⁹ These actions are highly inefficient compared with using civil society organizations and workers who know exactly where factories are located in their communities.

Second, the MTESS took few steps with the information it had, such as shutting down workshops or publicizing enforcement in the industry in order to put pressure on brand name firms that sourced from clandestine workshops. Characterizing enforcement in this period, the *Defensor del Pueblo* issued a report stating that “*the applicable law, 12.713 ‘home-based work’, has not provided adequate protection for workers because an inspection mechanism to enforce compliance does not exist.*”³⁸⁰ In short, notwithstanding a clear need for state intervention, enforcement levels were *low* before 2006.³⁸¹

Why were there such low levels of enforcement? Examining the characteristics of the MTESS does not provide any easy explanations. On the one hand, the MTESS had comparatively high levels of administrative capacity relative to other labor inspectorates

³⁷⁷ The divided jurisdiction had its roots in the incomplete transfer of power from the national government to the Federal Capital in 1999, by which the STBA gained jurisdiction over labor inspection for all laws *except* the enforcement of “putting-out” agreements, which are the norm in the garment workshops. Until 2006, jurisdiction over the primary law regulating garment workshops stayed with the MTESS.

³⁷⁸ Data provided by the Ministry of Labor. The total were 324 inspections in the entire garment industry and over 20,000 in Federal Capital.

³⁷⁹ Interview: B06, Senior Official, Department of Labor Inspection, Ministry of Labor, Employment and Social Security, Buenos Aires, 3/13/08 & 2/26/09

³⁸⁰ Evidence submitted by the *Defensor Del Pueblo* in the case N 15803/05.

³⁸¹ For its part, the STBA did not undertake major campaigns in the industry either, but this was primarily due to the jurisdictional division. There was debate within the bureaucracy about whether enforcement in the workshops would violate the mandate of the STBA and result in jurisdictional conflict. Interview: B66, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/24/2009. See also: *Ibid.*

in Argentina. Beginning 2003, the MTESS had invested heavily in labor inspection aimed at the registration of workers (as described in Chapter 2), hiring hundreds of new inspectors, nearly 70 of whom were responsible for the Federal Capital. Inspectors at the MTESS were largely young professionals, trained (or in training) as lawyers or accountants, who had ample resources at their disposal (computer systems, access to transportation, and a relatively large budget).³⁸² The MTESS had more resources than any provincial inspectorate at the time and, with this capacity, conducted 20,000 inspections in the Federal Capital during 2005 (across all industries). In short, when employment (and violations) in the garment industry began to increase dramatically, the MTESS had relatively high levels of administrative capacity and could have potentially responded.

On the other hand, the MTESS lacked many organizational features that are considered necessary for bureaucratic quality. There were no meritocratic exams for hiring inspectors. Nearly all inspectors held short-term contracts that could be terminated at any time, leaving them exposed to political pressures (in violation of the ILO Convention 81 on labor inspection to which Argentina is a signatory).³⁸³ In addition, long-term career prospects were dim for inspectors and turnover very high; most inspectors were hired when they were still in university and most left after just a few years when they completed their degrees.³⁸⁴ In short, the MTESS had high levels of administrative capacity, but lacked many of the organizational features that are often associated with an autonomous or coherent bureaucracy.³⁸⁵

In addition, it is unclear whether or not the structure or strength of civil society organizations can account for the lack of enforcement. There were two civil society organizations that could have potentially worked with the MTESS to address the problem of the garment workshops before 2006. One was the garment workers union, SOIVA, the other was a community organization called La Alameda. Although there were few political barriers to the MTESS working with unions, SOIVA was largely inactive and did little, if anything, to support precarious workers in this sector.³⁸⁶ Consequently, the union did not offer resources to inspectors. La Alameda, on the other hand, was highly active and had much to provide regulators in support of enforcement. La Alameda was founded in a working class neighborhood by community leaders in the wake of the economic crisis in 2001 as a popular assembly.³⁸⁷ With their extensive network of

³⁸² Interviews: B63, Department of Human Resources, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/22/2009; B51, Senior Official Department of Labor Inspection, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/8/2008; B52, Inspector, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/23/2008; B45, Department of Planning, Ministry of Labor, Employment and Social Security, Buenos Aires, 9/17/2008

³⁸³ See ILO Convention 81, Article 6

³⁸⁴ Interview: B63, Department of Human Resources, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/22/2009

³⁸⁵ Evans 1995

³⁸⁶ Multiple interviews with government officials, NGOs, and media accounts. See also: Lieutier 2010 p. 145.

³⁸⁷ While many of the neighborhood assemblies that formed in response to the crisis quickly disbanded, La Alameda was solidified as an organization providing multiple services for the community. The organization took over an abandoned building and started a soup kitchen to help the wave of unemployed workers, which was the beginning of its labor advocacy.

contacts in the Bolivian community, and their location in a neighborhood with garment workshops, they had ample information about violations in the sector.³⁸⁸ By 2005, La Alameda began to act on this information, denouncing the problem of illegal garment workshops to anyone who would listen, including to the MTESS.³⁸⁹

Even though leaders from La Alameda “*tried to establish a dialogue with the MTESS*”,³⁹⁰ inspectors from the MTESS “*could not go with La Alameda because it is not a union*”,³⁹¹ and linkages were effectively blocked from forming. Legally, there was little to stop the MTESS inspectors from working with La Alameda (as inspectors from STBA did after 2006). At this time, however, the MTESS was under the administration of Néstor Kirchner, who had a political alliance with the main union confederation (the CGT) and had appointed a long time union-advisor, Carlos Tomada, as Secretary of Labor (see Chapter 2). There would have been a political cost to allowing inspectors to work with La Alameda, which was not part of the union movement and was threatening to compete with SOIVA to represent workers in the industry.³⁹² Senior officials in the MTESS simply did not allow this linkage to form, even though they acknowledged that “*the information from La Alameda is useful.*”³⁹³ Just as in the case of the brick-makers in Córdoba from the previous chapter, inspectors were unable to work with a civil society organization that was *not* a union.

In sum, before 2006, notwithstanding extensive and extreme violations of labor laws, there were *low* levels of enforcement in the garment industry. These low levels cannot readily be explained by examining only the features of the bureaucracy—the MTESS had relatively high levels of administrative capacity, but it also clearly had a number of organizational shortcomings. Nor can these enforcement levels be explained entirely by examining civil society organizations; La Alameda had the ability to offer key resources to regulators, especially information about the location of illegal workshops, which is difficult for inspectors to gather. However, the MTESS inspectors lacked linkages with La Alameda and, consequently, inspectors could not access their resources.

Intensified Enforcement

In 2006, there was a tremendous shift in enforcement, triggered by a fire in a garment workshop that killed two adults and four children, all Bolivian migrants.³⁹⁴ This incident set off a flurry of criticism of both the STBA and the MTESS, which created

³⁸⁸ Interview: B46, La Alameda Foundation, Buenos Aires, 2/23/2009

³⁸⁹ Defensor del Pueblo. “Resolution N° 3301 / 05”, 2005. The STBA was less relevant because of the problem with jurisdiction.

³⁹⁰ Interview: B46, La Alameda Foundation, Buenos Aires, 2/23/2009

³⁹¹ Interview: B06, Senior Official, Department of Labor Inspection, Ministry of Labor, Employment and Social Security, Buenos Aires, 3/13/08 & 2/26/09

³⁹² These barriers are similar to the political difficulties of officials going against partisan coalition’s with unions in Tucumán and Santa Fe. Interviews: T37, Former Senior Official, Tucumán Labor Secretariat, Tucumán, 4/14/2009; S11, Former Senior Official, Santa Fe Labor Secretariat, Reconquista, Santa Fe, 12/16/2008

³⁹³ Interview: B06, Senior Official, Department of Labor Inspection, Ministry of Labor, Employment and Social Security, Buenos Aires, 3/13/08 & 2/26/09

³⁹⁴ *Página/12* “El infierno del trabajo esclavo” 3/31/06. *La Nación* “Mueren seis personas en un incendio” 3/31/06.

pressure for resolution of the conflicts of jurisdiction over home-based work and a clear line of responsibility for the industry. The STBA, which had been blamed even though it lacked jurisdiction to enforce the home-based work law, began taking ownership over the problem and defying the formal jurisdictional barrier.³⁹⁵ In the eleven days that followed the fire, a series of operations by inspectors from STBA closed 122 workshops. In forty-percent of these workshops, the workers (and often their families) lived and worked in the same place. The closures immediately resulted in the displacement of 110 Bolivian migrants who had been employed in workshops that were shut down or had been thrown out by their employers in anticipation of inspections.³⁹⁶ By September of 2006, the STBA had conducted 1,700 inspections in the sector and closed 500 clandestine workshops. The crisis quickly grew in scale as officials from the Bolivian embassy became involved and displaced workers had to be housed in government shelters.

The initial reaction of the STBA to the fire was somewhat expected, but enforcement did not end after saliency of the issue waned. Instead, the STBA began a multipronged effort to reduce the worst forms of abuse in the garment industry. The STBA undertook an extensive campaign to gather information about the industry. Working with La Alameda, the STBA targeted workshops that produced for well-known local brands. In one case, after finding workshops that produced for the brand Kosiuko, the government of the Federal Capital forced the brand to provide addresses for their other producers. Inspectors then worked with La Alameda to send Bolivian undocumented migrants to look for work in these factories. In one case, a “spy” was given a job at one of the workshops and found that it violated a series of laws, including a lack of fire extinguishers or emergency exits, and salaries did not conform to wage and hour regulations. La Alameda then passed this information back to the STBA, which followed up with inspections.³⁹⁷ The information that La Alameda generated through its network in the community of Bolivian migrants was extremely valuable—inspectors found violations in 97% of the workshops that La Alameda identified.³⁹⁸ To put this number into context, wage and hour regulators in the United States’ garment industry found violations in 49% of their investigations between 1996 and 2000.³⁹⁹

With the information they gathered, the STBA took far-reaching steps to raise the costs of non-compliance for workshops that continued illegal practices, prosecute the firms at the top of the supply chain that sourced from clandestine factories, and to create employment in cooperatives that did not exploit workers. Inspection campaigns and extensive closures continued over a full year after the fire. In the first eight months of

³⁹⁵ Interview: B39, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/6/2009. On June 22, 2006, the government of Federal Capital formally signed an agreement (Convenio N° 14-GCBA/06) with the MTESS to take primary jurisdiction over home-based work. This agreement did not go into legal effect until the end of 2007, but its existence made it possible for the STBA to increase its involvement in regulating the garment sector.

³⁹⁶ Página/12 “Tras los controles, las textiles ilegales ya se mudan al conurbano”, 4/11/06; *La Nación* “Tras el incendio, combaten el empleo ilegal” 04/01/06; “Bolivia en Buenos Aires: la vida después de las clausuras” 04/26/06.

³⁹⁷ *Clarín* “Trabajo esclavo: usaron a espías para investigar talleres” 09/06/06; “Se infiltró en un taller ilegal para denunciar a una marca de ropa” 09/07/06.

³⁹⁸ Source: Auditoria General la Ciudad Buenos Aires 2006

³⁹⁹ Weil 2005 p. 242

2007 alone, the STBA closed down 713 workshops.⁴⁰⁰ To complement this strategy, inspectors, with their allies in the public prosecutors office and La Alameda, started mapping out the entire supply chain of the garment industry in Buenos Aires and began a campaign against lead firms. The first brand that the STBA publically denounced was a local apparel firm called Cheeky. Inspectors linked Cheeky to a number of clandestine workshops, resulting in a series of articles detailing exploitation and child labor among Cheeky's suppliers.⁴⁰¹ After a number of investigations, the STBA put together information on five more local brand name apparel firms that produced in clandestine workshops and held a press conference to publicize the information.⁴⁰² This put direct pressure on the firms, embarrassing them and sparking public protests in front of their stores.

The campaign in the media was complemented with new judicial actions against firms that sourced from clandestine workshops. The STBA made an effort to use laws that make firms responsible for the actions of their subcontractors in order to pressure firms further up on the supply chain. In justifying this tactic, a former Subsecretary of Labor explained that the "*function*" of the STBA "*was not to inspect, but to change the working conditions.*"⁴⁰³ Collaborating, once again, with La Alameda and the public prosecutors, the STBA identified an intermediary supplier that produced for a number of brands (including Puma) and had a network of smaller clandestine subcontractors. Inspectors were able to locate these workshops, which were in extreme violation of labor laws, and not only shut them down, but also prosecute the intermediary factory.⁴⁰⁴ These actions began to impose a cost not only on the workshop owners, but also up the supply chain, thereby creating a greater deterrent.⁴⁰⁵

Not all cases were successful in court. One case in which prosecution failed involved a local apparel brand called SOHO.⁴⁰⁶ Inspectors learned about the brand's direct use of clandestine workshops from employees of a firm that supplied SOHO with materials. Upon investigating, the STBA discovered four workshops in the Federal Capital that produced for SOHO and began to piece together their ownership structure. A series of inspections discovered serious labor law violations, including illegal overtime, wage violations, and health and safety violations in the supply chain. The STBA worked with prosecutors to take both the brand and the workshop owners, who were themselves Bolivian nationals, to court on charges of exploitation and violation of immigration statutes. A judge, however, ruled in favor of the workshop owners on the grounds that their actions were legitimate "cultural" practices of Bolivians. The ruling was widely criticized as ridiculous, prompting condemnation from the Bolivian embassy and the

⁴⁰⁰ *Clarín* "Trabajo esclavo: la Comuna denunció a seis marcas textiles" 07/31/07

⁴⁰¹ *Página 12* "Ropa infantil con manchas legales" 01/16/07; "Nos pagaban centavos por prendas que en vidriera estaban a 30 pesos" 01/17/07.

⁴⁰² *Página 12* "Denuncian a cinco marcas deportivas por explotar a los indocumentados" 07/30/07

Interview: B66, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/24/2009

⁴⁰³ Interview: B66, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/24/2009

⁴⁰⁴ See: Lieutier 2010 p. 169

⁴⁰⁵ This practice is somewhat similar to the highly effective use of the "hot goods provision" by the U.S. Department of Labor to increase costs for firms that source from illegal workshops. See: Weil 2005.

⁴⁰⁶ *Página 12* "Otra marca de ropa en el banquillo por una denuncia de trabajo esclavo" 03/28/07; "Allanan un taller clandestino en Parque Avellaneda" 11/20/07; "Con la marca del trabajo esclavo" 12/13/07

Argentine association of anthropologists, both of which claimed that exploitation of workers was hardly an accepted cultural practice.⁴⁰⁷ Notwithstanding these setbacks, multiple prosecutions against firms at various levels of the supply chain put significant pressure on workshops that violated labor laws.

In addition to penalizing violators, the STBA worked with the National Institute of Industrial Technology (INTI)⁴⁰⁸ to create two programs to support garment production that did not exploit workers. One program, modeled on international private-voluntary regulation, was designed to reduce labor abuses by using the power of consumers and brand name firms.⁴⁰⁹ Brands could participate in the program and have their supply chain certified by INTI as being free of the worst forms of labor abuses. In addition, INTI would offer training on management systems to help brands upgrade their supply chain. This program ultimately failed because brands did not sign up. A second program, to create employment for displaced workers, was successful in building a cooperative.⁴¹⁰ The cooperative became a part of La Alameda and employed 200 people who had worked in the clandestine factories. The cooperative sold the clothing under the label “slavery free” in the fashionable Palermo neighborhood of Buenos Aires and made uniforms for the police and Ministry of Defense. A coordinator for INTI explained that “*due to the labor inspections, which have closed many workshops and left hundreds of workers out in the street and without employment... we are working to develop a garment cluster that will provide job opportunities for these people.*”⁴¹¹

Finally, the STBA was able to resist pressure against enforcement from those firms that had immediately benefitted from labor law violations. Even though workshop owners were able to bribe police for protection, there is no evidence that they were able to bribe labor inspectors. The industry also lobbied against enforcement, putting pressure on the STBA.⁴¹² Inspectors came to see the industry associations as an enemy.⁴¹³ The large brands made little progress putting pressure on the agency, so they changed tactics. Instead of preventing enforcement, they eventually attempted to alter the law to reduce their responsibility for compliance in their supply chains.⁴¹⁴ This legislative strategy also failed.

In sum, over a two-year period (2006-2008) enforcement levels were sustained at *high levels* and the actions undertaken by the STBA approximated best practices of labor inspection.⁴¹⁵ While there were limitations—notably in the prosecution of SOHO and the

⁴⁰⁷ *Página/12* “Explotación, esa ‘costumbre ancestral’” 05/15/08; “Rechazo del cónsul de Bolivia”: 05/15/08; La explotación no es herencia cultural 06/27/08

⁴⁰⁸ *Instituto Nacional de Tecnología Industrial*

⁴⁰⁹ “Programa de Certificación INTI Compromiso Social Compartido Empresas de Indumentaria” Instituto Nacional de Tecnología Industrial, 2006.

⁴¹⁰ Interview: B46, La Alameda Foundation, Buenos Aires, 2/23/2009. See also: Lieutier 2010.

⁴¹¹ *Página/12* “De ilegales a cooperativistas” 12/04/07.

⁴¹² Interviews: B66, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/24/2009; B39, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/6/2009

⁴¹³ Interview: B11, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 02/12/09 & 02/17/09

⁴¹⁴ *Clarín* “Ya se generó polémica por la ley contra ‘el trabajo esclavo’” 8/21/08. This proposed law was eventually defeated.

⁴¹⁵ Many of the steps taken by the STBA fit in the model of “strategic inspection.” See: Weil 2008

failure of the INTI program to engage lead firms as collaborators—enforcement was substantial when compared with the cases discussed in the previous chapter. For instance, after the children of workers died in the brick-making sites in Córdoba, only a handful of worksites were closed down and inspection operations quickly ended. Whether or not the inspections had an impact on working conditions in the garment industry is a difficult question to answer (the workshops, after all, are clandestine and no reliable data exist on working conditions). There were still illegal workshops in Federal Capital after the campaign, but there was also a noticeable change.⁴¹⁶ Between 2005 and 2008 nearly 1,000 workshops were closed down, creating a real deterrent for garment producers that selected the low road of exploitative workshops.⁴¹⁷ A lawyer with the *Defensor del Pueblo*, who was closely involved in defending the rights of migrant workers, described the changes this way: “*My view is that this effort already created a change ... From the total impunity at the beginning, to not having total impunity.*”⁴¹⁸ In short, the institutions that were meant to structure the labor market became somewhat stronger.

Explaining Enforcement: Linkages and Administrative Capacity

What drove this dramatic shift in enforcement? The fire in the workshop clearly set the change into motion, but it was by no means decisive.⁴¹⁹ There were other cases of tragedies in Argentine workplaces of equal (or greater) magnitude that did not result in intense enforcement.⁴²⁰ How did the inspectors in the STBA undertake a broad, sustained, enforcement campaign that went well beyond just responding to complaints? Similarly to the case of construction in Córdoba, the answer lies in a combination of strong linkages with capable civil society partners and significant administrative capacity accounts for the high levels of enforcement.

First, linkages with La Alameda were crucial in enabling the STBA to take such far-reaching actions. While, as described above, officials in the MTESS would not collaborate intensively with a civil society organization that was “*not a union,*” the STBA did not have the same constraints.⁴²¹ Non-union civil society organizations did not challenge the coalition of the head of government, Jorge Telerman of the center-left Alianza Party.⁴²² If the STBA could have only worked with unions, like the inspectors in Córdoba, enforcement levels would likely have been much lower. The union, SOIVA,

⁴¹⁶ Some workshops have also moved out of the Federal Capital, where enforcement has been less concentrated.

⁴¹⁷ *La Nación* “El lado oscuro del negocio textil” 5/11/08

⁴¹⁸ Interview: B13, Defensor del Pueblo, Buenos Aires, 2/26/2009

⁴¹⁹ Tragedies of this nature are often cited as the prime causal force behind reforms, but they are usually not decisive. Many tragedies fail to trigger change, and for those that do, a variety of factors influence what kind of policy change occurs. See: Carpenter and Sin 2007.

⁴²⁰ For example, the cases of the brick-makers in Córdoba and construction workers in Tucumán analyzed in the previous chapter. In 2006, over 600 registered workers were killed on the job in Argentina. Superintendencia de Riesgos del Trabajo 2007

⁴²¹ Interview: B39, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/6/2009

⁴²² Telerman’s relationship with the unions was reflected in the officials he appointed to be in charge of the STBA, only one of whom had strong ties with unions. This union-linked official was actually forced to resign soon after the fire in the garment workshop. Interview: Interview: B19, Metal Workers’ Union (UOM), Buenos Aires, 2/12/2009; *La Nación* “Mueren seis personas en un incendio” 3/31/06.

simply did not request many inspections of the STBA,⁴²³ an official in the division of the STBA responsible for the garment workshops recounted: *“To me, the unions don’t come.”*⁴²⁴ Senior officials at the STBA invited SOIVA to participate in the operations and press conferences when clandestine firms were discovered and closed, but they did not.⁴²⁵ In fact, there were widespread accusations that the garment workers’ union SOIVA is captured by management, or a “yellow” union that discriminated against Bolivian migrants.⁴²⁶

In contrast with the union, La Alameda had ample resources for the inspectors. A lawyer closely involved with the industry explained that La Alameda’s great advantage was that *“it worked directly with the people”* in the workshops. These ties with workers in the industry began around the time of the economic crisis of 2001, when La Alameda started a soup kitchen to address social needs of its neighborhood:

*“They began to build rapport with the Bolivian workers because the bosses from the clandestine workshops sent their workers to the soup kitchen to eat, so they didn’t have to pay. After workers started to go and eat, leaders of La Alameda began to understand what was going on...workers started to tell stories...and La Alameda began to help people escape from the workshops and make formal complaints.”*⁴²⁷

According to officials from the STBA, La Alameda became a key partner in providing *“logistics, and [information] before, during and after”* inspection operations.⁴²⁸ An inspector explained that the people from La Alameda are crucial because they: *“provide training and teach the garment workers. They tell them what their rights are, what to do when a labor inspector comes, how they can collaborate with the inspectors.”* The inspector went on to explain that these actions are important *“because the bosses scare workers by saying that if they go out in the street or see the police they will be deported to Bolivia...It is all a lie, they won’t be sent to Bolivia. We don’t deport anyone. We help them get their documentation.”*⁴²⁹ The intermediary role of La Alameda was essential to making worker collaboration with regulators possible.

The simple fact that La Alameda had resources did not mean that they could automatically be used for enforcement by inspectors. Instead, an additional crucial step was the ability of La Alameda to generate political strength by taking to the streets, which

⁴²³ Auditoria General la Ciudad Buenos Aires. “Informe Final: Dirección General De Protección Del Trabajo” 2006.

⁴²⁴ Interview: B11, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 02/12/09 & 02/17/09

⁴²⁵ Interview: B66, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/24/2009

⁴²⁶ Interview: B13, Defensor del Pueblo, Buenos Aires, 2/26/2009; B29, Federal Capital Labor Subsecretariat, Buenos Aires, 6/30/2008. To put pressure on the union, workers involved with La Alameda began running in shop elections contesting SOIVA’s delegates. They also created their own union, the *Unión de Trabajadores Costureros de Buenos Aires* (UTCBA) to challenge SOIVA to represent the workers. This action created competition for SOIVA, but still little changed.

⁴²⁷ Interview: B13, Defensor del Pueblo, Buenos Aires, 2/26/2009

⁴²⁸ Interview: B39, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/6/2009

⁴²⁹ Interview: B11, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 02/12/09 & 02/17/09

lead to linkage formation. The leader of La Alameda describes how he got access to the STBA in 2006:

“After the fire, the STBA went and did a ton of inspections in small workshops that worked for small brands. They said that they didn’t find large brands, so we brought together all of the media outlets and went to knock on the doors of the clandestine workshops of the large brands. All the while we were making the government look ridiculous in the view of the public... During that time, La Alameda was really well known and had a strong relationship with the journalists in the press. For this reason, politicians were afraid... In this way, La Alameda had a lot of weight... and that is the way we got access. Not for any other reason.”⁴³⁰

At first, there was a lot of “*distrust*” between the two sides, which did not know each other beforehand. But with political expediency and congruent objectives, linkages began to develop. The Subsecretary of Labor saw value in collaborating because La Alameda came with “*ideas and suggestions*” to go beyond an “*indiscriminate policy of inspection from workshop to workshop*” in order to have a greater impact.⁴³¹ After only a few months of working with La Alameda, however, the Subsecretary was forced to resign in September 2009.⁴³² When he left the government and returned to a legal practice representing workers, he became an advisor of La Alameda on legal matters.⁴³³

Linkages were initially shaken with the transition to a new Subsecretary of Labor, Ariel Lieutier. Lieutier did not have a prior relationship with La Alameda, but he was selected in part because he had experience working with unemployed workers’ movements. When he came into office, Lieutier, “*went looking for allies*” to address the problems in the garment industry and La Alameda was the biggest player. No matter what Lieutier did, La Alameda was going to be in the press and collaborating with the *Defensor del Pueblo* to go after the brands. At first, Lieutier and La Alameda had trouble coming to an agreement and it took some time before they could work together, but once again the power of La Alameda and the objectives they shared with the regulators allowed the two to build strong linkages. By the end of 2006, the STBA under Lieutier had gained significant intelligence from La Alameda, laying the groundwork for the 2007 campaign against the brands. Just like Pereyra, when Lieutier eventually left the STBA, he continued collaborating with La Alameda, volunteering his advice to the organization and its members.

⁴³⁰ Interview: B46, La Alameda Foundation, Buenos Aires, 2/23/2009. On the protests and attention that La Alameda was able to generate, see: *La Nación* “Marcha de trabajadores bolivianos” 04/05/06; “Protesta contra el trabajo esclavo” 09/15/06.

⁴³¹ Interview: B39, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/6/2009

⁴³² The motivations for firing of Pereyra are not obvious, but it is clear that his replacement was not discouraged from enforcing labor law in the garment sector. There was speculation in the press and observers that Pereyra was fired because of pressure coming from the garment industry, but this explanation does not appear to be true because, if anything, Lieutier *increased* pressure on the garment industry. *Página/12* “Despido y polémica” 09/09/06; *La Nación* “Una renuncia sorpresiva” 09/10/06.

⁴³³ Interview: B39, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/6/2009

The linkages with La Alameda were extremely important, but they alone cannot explain why enforcement had such a broad reach. If inspectors of the STBA worked with La Alameda in the same way that wage and hour inspectors in Córdoba or in Tucumán worked with unions (discussed in the previous chapter), enforcement would be limited to occasions in which La Alameda subsidized inspectors by giving them necessary material resources, such as transport and overtime pay. This clearly was not the case and the STBA went well beyond responses to immediate complaints. To understand how, we need to examine the administrative capacity of the STBA.

The STBA had a relatively high number of inspectors, one per 15,000 workers in 2007 (see Table A.1 in the Appendix). This helped the STBA meet the demands for enforcement without becoming so overwhelmed by complaints that programmed inspections were crowded out. In addition, the STBA had a number of other features of high administrative capacity, including an advanced database, which allowed officials to plan and keep track of their actions. This technology made large campaigns on targeting workshops, and analysis of the results of these campaigns, possible. In 2007 the STBA created a specialized division within the labor inspectorate to only enforce regulations in home-based work. The creation of a new division had three consequences. First, it dedicated a number of inspectors, more than 15% of the total, to the problem of the clandestine workshops. This change ensured that inspection capacity would be apportioned to the garment industry even if other industries demanded many inspections. This tactic contrasts strongly with the cases analyzed in the previous chapter, in which the demands of powerful unions occupy most of the time of the inspectors and there is little effort to reduce these pressures on a segment of inspectors.

Second, these inspectors received special training in human rights, child welfare, and migration issues that prepared them to deal with the complex, and often extremely difficult, problems that they encountered in the clandestine workshops.⁴³⁴ Third, creating a division put in place a certain amount of stability that would ensure inspection in the sector even with a change of government. According to the officials at the time: *“We wanted to do something sustainable, to create a part of the bureaucracy that would be dedicated to the problem of the clandestine workshops...by creating a division, it would be difficult for others to change it.”*⁴³⁵ These investments in the bureaucracy are similar to those in Córdoba during the creation of CYMAT. They also stand in stark contrast to the approaches used by officials in the cases analyzed in the previous chapter—the STBA matched linkages with increased administrative capacity instead of becoming dependent on societal resources.

The high levels of administrative capacity did not, however, mean that the STBA was a highly Weberian bureaucracy. Nearly all (99%) of inspectors had precarious contracts and a number of inspectors were actually contracted as employees of the University of Buenos Aires, with the government paying the university for their services.⁴³⁶ One inspector in the STBA described the limitations his short-term contract

⁴³⁴ Interview: B11, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 02/12/09 & 02/17/09

⁴³⁵ Interview: B66, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/24/2009

⁴³⁶ *Página/12* “La paradoja de los inspectores” 09/18/08

posed: “*in this position, if you don’t have civil service protection, you are prone to all kinds of pressure ... you feel somewhat constrained in front of powerful corporations.*”⁴³⁷ Another inspector explained, “*At any moment they can unilaterally rescind our contract. If we go and ring the bell (to inspect) the cousin of an important official, and he says to me, ‘Shut up you’ll lose your contract’, we are done.*”⁴³⁸ In addition, many inspectors have jobs outside of the STBA to supplement their income (a practice that is tolerated). While there have been some efforts to hire inspectors with a minimum level of education, there has been no exam system to ensure meritocracy. And some of the immediate managers of inspectors were appointed for patronage, rather than experience. In fact, the political support for the expansion of the inspectorate was based, in part, on promises that legislators could influence the hiring process.⁴³⁹ In short, the success of the STBA cannot readily be explained by the fact that it had organizational characteristics that led to be a particularly Weberian or autonomous bureaucracy.

In sum, the increases in enforcement can be traced back to a series of political shifts that followed the tragic fire, which transferred jurisdiction over enforcement to the government of the Federal Capital and empowered La Alameda. In turn, the combination of linkages with La Alameda and a high level of administrative capacity in the STBA enabled regulators to undertake the far-reaching enforcement campaign described above. Without linkages with La Alameda, it would have been nearly impossible for inspectors to identify so many hidden garment workshops. And without administrative capacity, inspectors would not have been able to go beyond the immediate demands of La Alameda and conduct broad operations.

Putting the Brakes on Enforcement

The election of the center-right Mauricio Macri (PRO), in December 2007, to the head of government in the Federal Capital marked another shift in enforcement in the sector. Macri was not the favorite candidate of any workers’ rights groups; he only had support of two relatively small private sector unions.⁴⁴⁰ Under the new leadership, administrative capacity stayed relatively high and the Home-Based Work Division remained intact.⁴⁴¹ There was only a slight decrease in the number of staff; in the entire STBA five inspectors who left were not replaced. However, upon his taking office, Macri replaced a number of the senior officials at the STBA, removing many of those who had developed ties with La Alameda.⁴⁴² The newly appointed officials then took steps to curb linkages. The Subsecretary of Labor instituted new rules within the bureaucracy to control how civil society organizations (including unions) gained access to labor inspectors, creating formal agreements guaranteeing access for some

⁴³⁷ Interview: B16, Inspector, Federal Capital Labor Subsecretariat, Buenos Aires, 10/14/2008

⁴³⁸ *Página/12* “Trabajamos en forma precaria” 08/15/10

⁴³⁹ Interview: B39, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/6/2009

⁴⁴⁰ *Clarín* “Los gremios también juegan sus porotos por los candidatos” 05/24/07

⁴⁴¹ There were some decreases in the numbers of inspectors, but the STBA continued to have the highest administrative capacity of any provincial-level inspectorate in Argentina. Interview: B11, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 02/12/09 & 02/17/09

⁴⁴² In a similar fashion to previous changes in leadership, a few of these officials continued to work with La Alameda as advisors after they left office. This is further evidence of the strength of ties between these officials and La Alameda.

organizations, while leaving others out.⁴⁴³ This new policy had a direct impact on enforcement in the garment sector. A leader of La Alameda recounted:

“With Macri, we have tried to collaborate. We have sent more than 200 addresses of workshops that have not been denounced [by the STBA].... Nor have they denounced any of the brands that work with those workshops. We have waited a year, patiently, for them to act—the time has already passed by.”⁴⁴⁴

The weakening of linkages with La Alameda meant that the overall amount of resources that could be mobilized for enforcement was substantially reduced. For example, the quality, and quantity, of information about violations available to the inspectors decreased.

The inspectors at the STBA were also blocked from pursuing certain actions, such as enforcement campaigns. Even though they had discretion on the street, there was little that labor inspectors could do to override the will of the political appointees when it came to large campaigns. And because the political change also weakened their linkages, they could no longer use their alliance with La Alameda to muster the backing for strong actions against violators. La Alameda still had the same (if not more) capacity to generate information about violations and to generate attention that could translate into political support, but these resources were now much more difficult for inspectors to mobilize.

As a consequence, levels of enforcement declined. A close observer noted that the new Subsecretary of Labor *“has not stopped working on this issue, but he does not do it as well as the others.”⁴⁴⁵* La Alameda and its allies were highly critical of the new administration, writing in an open letter to Macri:

“During the period 2006-2007, the Defensor del Pueblo and the STBA closed hundreds of clandestine workshops, denounced dozens of brands, and brought workshop owners to Federal justice for servitude, human trafficking, and slavery and significantly reduced the quantity of workshops with a policy of inspection, penalties, and publicity... After [Macri] took office, there was a significant reduction in the fight against slave labor... his policy consisted of bean counting inspections without penalties for factories that exploited undocumented workers nor collecting fines that were placed on closed workshops that have once again mysteriously began functioning recently.”⁴⁴⁶

In sum, the enforcement in the garment industry was fleeting. Although administrative capacity did not significantly decline, linkages between inspectors and capable allies in

⁴⁴³ Interviews: B08, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 9/23/2008; B49, Laundry Workers' Union (UOETSYLRA), Buenos Aires, 6/30/08 & 10/20/08

⁴⁴⁴ Interview: B46, La Alameda Foundation, Buenos Aires, 2/23/2009

⁴⁴⁵ Interview: B13, Defensor del Pueblo, Buenos Aires, 2/26/2009

⁴⁴⁶ An open letter from La Alameda and the *Asociación Civil Que no se Repita* to Mauricio Macri 9/27/2010. See also: *Página/12* “Una carta abierta sobre la corrupción” 9/27/2010

civil society were fragile, and enforcement was reduced dramatically when political support was lost.

Conclusion: Co-Produced Enforcement

At first brush, the cases of the construction industry in Córdoba and the garment industry in the Federal Capital appear to be quite different from one another. These two industries involve distinct technologies of production and different types of markets (one with international competition and another largely local). The way interests are organized in each industry also varied considerably. In Córdoba inspectors worked with a labor union, UOCRA, through formal and informal institutional arrangements that built on the corporatist structures of Argentine labor politics. In contrast, in the Federal Capital inspectors collaborated with an organization that was anything but a union. In fact, La Alameda directly challenged the privileged access that labor unions had to the state and functioned without the organizational inducements (or constraints) under which unions operate. This attribute of La Alameda casts doubt on the possibility that linkages between inspectors and civil society organizations are only a vestige of Argentina's historical corporatist legacy. In addition, the political coalitions of elected officials were very different across these cases. In Córdoba, the governors were from the labor-based PJ party that had a strong alliance with unions. In the garment industry case, the industry started out under the MTESS, which was overseen by politicians from the PJ, but when enforcement had reached high levels, the political leaders above the regulators were from the center-left Alianza party that controlled the Federal Capital.

Notwithstanding these differences, there were a few key similarities. In contrast with the cases analyzed in the previous chapter, in both Córdoba construction and Federal Capital garment industry, inspectors drew upon civil society resources without being dependent on them. While in Tucumán inspections were limited to places where unions could physically accompany inspectors, in both Córdoba health and safety and the Federal Capital, there was no such constraint. CYMAT inspectors in Córdoba went to construction sites *even when* UOCRA did not request an inspection. Similarly, inspectors in the Federal Capital took an approach that did not depend on La Alameda. Regulators, in both cases, had the administrative capacity to take actions on their own. The result was a pattern of enforcement that approximated the *co-produced* ideal-type.

Table 4.1: Summary of Cases

<i>Industry (Time)</i>	<i>Administrative Capacity</i>	<i>Civil Society Strength</i>	<i>Linkages</i>	<i>Enforcement Level</i>
Córdoba Construction (2003-2009)	High	High	Strong	High
Federal Capital Garment (2003-2006)	High	High	Weak	Low
Federal Capital Garment (2006-2008)	High	High	Strong	High
Federal Capital Garment (2008-2009)	High	High	Weak	Medium

These cases provide evidence that enforcement is not merely a matter of political will, administrative capacity, or civil society strength alone, but rather a combination of these factors. Consistent with theories of political control of the bureaucracy, top-down support for enforcement was key. In Córdoba, CYMAT inspectors were pushed by appointed officials who supported enforcement in the construction industry; and before Macri took power, senior officials at the STBA made the garment industry a priority. Political support from appointed officials worked directly on the bureaucracy, but also indirectly by altering linkages between inspectors and their allies in society that provided key inputs for enforcement. In addition, civil society organizational strength alone does not appear to be doing all of the work. La Alameda's capacity, either to provide resources to inspectors or to mobilize politically, did not change dramatically from 2005 onward. Yet, the availability of those resources to inspectors did change as linkages were formed when jurisdiction was transferred to the STBA, and then broken with the election of Macri. In a similar manner, the defining feature of enforcement in the construction industry in Córdoba was not union strength. UOCRA clearly had many resources to offer inspectors and was strong politically, but it was not substantially better positioned than many of the unions in industries analyzed in the previous chapter (e.g. the metal workers' union in Córdoba). The difference between enforcement in construction and in other industries was in the how the inspectors utilized societal resources—with more administrative capacity CYMAT had options that were simply unavailable to the inspectors in the wage and hour division. These findings suggest that the resources of civil society organizations *on their own* are not determinant of enforcement levels, but that linkages and administrative capacity need to be taken into account as well.

Finally, an important feature of both these cases was that civil society resources were not used as a substitute for state resources, but as a complement. This development, perhaps more than anything, appears to be a key factor in building enforcement capacity in the long-term. The following chapter examines the politics behind linkage formation and investment in capacity to develop a more complete explanation for enforcement.

Chapter 5: Partisanship, Linkages and Capacity

The argument advanced thus far in this dissertation highlights the role that combinations of linkages and administrative capacity play in determining whether, and how, regulations are enforced. Chapter 3 analyzed cases of society-dependent enforcement. This pattern of enforcement was traced back to particularly low levels of administrative capacity, which constrained the state labor inspectors, combined with strong inspector-union linkages, which enabled regulators to take action in specific industries. While enforcement was made possible by linkages, it was also clearly limited. By contrast, in the cases of co-produced enforcement discussed in Chapter 4, linkages were combined with high levels of administrative capacity, thereby creating the conditions for enforcement beyond instances in which societal groups could supplement the state. A series of questions emerge from this analysis: *What explains these combinations of linkages and administrative capacity? Why do linkages sometimes substitute for administrative capacity?*

This chapter explores these questions by tracing the history of labor administration in Santa Fe, and comparing it with Córdoba and Tucumán. In Santa Fe during the 1980s, systematic appointments of leaders from organized labor effectively gave unions control over labor administration, and inspectors built strong linkages with unions. Despite the pro-labor political appointments, there was very little investment in administrative capacity. This pattern, by which linkages were used as a substitute for capacity, persisted for over twenty years until, in 2007, there was major reform that significantly increased administrative capacity, mainly in the health and safety division. In Córdoba, the trajectory of the inspectorate was nearly a mirror image of Santa Fe. In the 1980s, there was significant investment in administrative capacity in Córdoba. Over time, administrative capacity declined and, after the economic crisis in 2001, unions pushed to increase investment in labor inspection once again. Instead of capacity, unions were given key appointments and attempts at reform failed. Similarly, in Tucumán, in 2003 Governor Alperovich attempted to reform the inspectorate, reduce the influence of unions, and increase administrative capacity by hiring new inspectors. When the plan was met with resistance from labor inspectors and union leaders, investment was halted and union control was reaffirmed through the appointment of union leaders. As a result, linkages remained strong while administrative capacity stayed weak. These cases, which will be described in detail below, demonstrate that linkages and administrative capacity are not set in stone and there are differences across time and space. They also suggest that the politics of enforcement are more complex than a simple translation of the agenda of politicians for or against regulation into bureaucratic budgets or practices, as is often central to explanations of regulatory politics.

This chapter offers an explanation for these changes, focusing on the ways in which interactions between union leaders and elected officials are conditioned by their partisan contexts. When the partisan allies of unions are in office, it is much less costly for elected officials to reward key union leaders with appointments that facilitate linkages than to allocate scarce resources for investments in administrative capacity. The most powerful union leaders gain appointments and, by virtue of these appointments, *de facto*

control over the agency. As a result, unions become relatively reticent to agitate for more investment in the inspectorate; for favored unions, an under-resourced agency they can control is more valuable than an agency with greater capacity that they cannot control. When the governing party does not have partisan ties with the unions, the dynamics of this interaction change substantially. For the elected official, the cost of giving opposition unions control over a regulatory agency is relatively high compared with that of allocating scarce resources to invest in administrative capacity. And unions have less to risk when criticizing the government about the lack of investment in administrative capacity when serious labor law violations are (inevitably) discovered. Under these conditions, linkages are less likely to substitute for capacity. It follows that the elected officials most likely to invest in capacity are those who both favor strengthening institutions through enforcement and *are not* partisan allies of unions.

This argument builds on the literature of the politics of economic reform. To account for why reforms tended to reward certain groups and not others, scholars focused on context in which interest groups interact, especially the role of partisanship.⁴⁴⁷ This literature provides a starting point for identifying the political underpinnings of linkages and administrative reform. Dominant arguments about the politics of labor policy in this line of research, however, suggest that the combination of political uncertainty (due to close elections) and partisan alliances between organized labor and the political party in power are likely to result in pro-labor policies.⁴⁴⁸ In contrast, the argument advanced in this chapter further disaggregates the rewards that workers gain, finding that partisan alliances can result in more uneven benefits for workers, privileging strong unions at the expense of investment that enables broad enforcement. This analysis of the politics of regulatory agencies raises questions about how far studies of changes in labor law, which have dominated the literature, can be generalized to other aspects of regulatory politics.

The first section of this chapter analyzes a snapshot of variation in linkages and administrative capacity in 2008-09 across a number of provinces. The cross-sectional survey finds that there is a robust relationship between partisanship and linkages, but the association between partisanship and administrative capacity is less clear. The second section traces the history of Santa Fe in detail, focusing on key moments in the development of labor administration and the ways in which partisanship context influenced union-governor interactions and, ultimately, labor administration. The third section contrasts Santa Fe with Córdoba and Tucumán, placing Santa Fe in comparative context and evaluating alternative explanations for reforms of regulatory agencies.

Variation in Administrative Capacity and Linkages

The previous two chapters introduced variation in linkages and administrative capacity in labor regulation. In some cases, such as in Tucumán's TST and Córdoba's wage and hour division, inspectors and union leaders had very strong linkages that allowed for a constant flow of information and unfettered sharing of material resources that, at times, bordered on capture. In other cases, such as in the Federal Capital under

⁴⁴⁷ For example: Gibson 1997; Levitsky and Way 1998; Murillo 2000; Kingstone 2001; Snyder 2001a; Schneider 2004; Murillo 2005; Murillo and Schrank 2005

⁴⁴⁸ Murillo 2001; Murillo 2005; Murillo and Schrank 2005

Macri, linkages were more controlled and filters within the bureaucracy limited the inspectors' ability to access the resources of some unions (along the resources of other civil society organizations). Table 5.1 shows inspector responses to survey questions related to union involvement in inspection. These data compare linkages in a systematic fashion across the three provinces discussed above, as well as the provinces Corrientes, Santa Cruz and Santa Fe.⁴⁴⁹ Inspectors' responses are divided between those who work in provinces with the partisan allies of unions in power (PJ) and those who work in provinces with governors from other parties (Non-PJ).

These data suggest that there is a strong relationship between partisanship and inspector-union linkages. For nearly all of the questions, inspectors from PJ provinces indicated greater union participation than in the Non-PJ provinces. The questions with the most striking contrasts are about types of union participation that give the most control to the unions over how the inspection occurs. In PJ provinces, only 23% of inspectors indicate the unions "*never*" help the inspector collect information from workers during inspections, contrasting sharply with the 50% of inspectors in non-PJ provinces who chose this response. Congruently, when asked whether, after finding a violation, the inspectors talked with union leaders and give the firm time to comply "*only if the union leader agrees*", 22% of inspectors in PJ provinces responded "*never*", in contrast with 81% of inspectors from non-PJ provinces. Responses to other questions about union leaders accompanying inspections, observing inspections, providing cars, orienting inspectors towards the most important problems during inspections, and collaborating with follow-up after the inspection all had similar results. In sum, these data support the conclusion that partisan alliances between the governor and labor unions influence linkage formation.

⁴⁴⁹ The survey was conducted in 2009 of inspectors in six provinces. See Chapter 1 for a description and the appendix for a full English translation.

Table 5.1: Union Participation in Inspections⁴⁵⁰

During Inspections, how often does a union representative:				
		<i>Never</i>	<i>Sometimes</i>	<i>Almost Always</i>
Accompany the inspection	PJ	8%	49%	43%
	Non-PJ	22%	56%	22%
Observe the inspection	PJ	7%	36%	57%
	Non-PJ	22%	52%	27%
Provide a car	PJ	19%	52%	29%
	Non-PJ	37%	51%	12%
Orient the inspector towards the most important problems	PJ	19%	55%	26%
	Non-PJ	35%	46%	18%
Help the inspector with knowledge about the collective bargaining agreement	PJ	17%	47%	36%
	Non-PJ	35%	45%	20%
Help the inspector collect information from the workers	PJ	23%	47%	31%
	Non-PJ	60%	33%	6%
Collaborate with follow-up after the inspection	PJ	19%	43%	38%
	Non-PJ	47%	35%	19%
When you encounter a violation of labor laws, how often do you:				
		<i>Never</i>	<i>Sometimes</i>	<i>Almost Always</i>
Talk with the union and give the firm time to comply when the union agrees	PJ	22%	34%	43%
	Non-PJ	81%	13%	6%

There could be, however, other factors besides partisanship that drive these differences in union participation in inspections. Maybe linkages are really a result of union strength, rather than union-governor alliances? Or perhaps linkages are driven by an alignment between union and inspector attitudes about appropriate enforcement? To control for these, and other, variables, I statistically examine the relationship between partisanship and inspector-union linkages using a series of regression analyses. To operationalize the indicators of inspector-union linkages, I scored all responses to questions about the frequency of union participation (never=-1, sometimes=0, and almost always=1). I then created a “union score” for each individual inspector based on their

⁴⁵⁰ Non-responses are not shown. Columns do not add up to 100 because of rounding and non-responses. See Table A5.1 in the appendix for summary statistics.

average responses to the union participation questions. The main explanatory variable of interest is the party of the governor in power (coded using a simple dummy variable). The expectation is that this variable will have a statistically significant positive relationship with indicators of linkages.

The control variables explore a series of potential compounding factors. First, the number of inspectors per capita tests for whether the correlation between linkages and partisanship is merely a product of different levels of staffing. Second, the rate of union participation in the province indicates the degree to which the power of unions, independent of partisanship, drives differences in linkages.⁴⁵¹ Third, field research indicated that health and safety inspectors, for a variety of reasons, tend to have different relationship with unions than wage and hour inspectors.⁴⁵² Therefore, the regression analyses include an indicator of whether or not inspectors work primarily in health and safety. Fourth, inspector-union linkages may be influenced by the inspectors' attitudes towards enforcement, instead of partisanship. To control for whether or not inspectors with more strict attitudes towards enforcement are more apt to work with unions, the regressions include a variable coded by inspector agreement with the statement: "Sometimes, it is more important that the workers have jobs than that the firm complies with all of the laws." Finally, linkages could be the result of bureaucratic practices related to autonomy, such as civil service protection, that could make inspectors more or less likely to work with unions. Therefore, for each inspector, a variable is included that indicates whether they have a short-term contract or civil service protection.⁴⁵³

Table 5.2 presents the results of a series of regressions that analyze the average union score, as well as the particular union actions during inspections. The results of all the regressions indicate that governor-union partisan alliances are correlated with strong inspector-union linkages, even after including controls.⁴⁵⁴ In the first regression (Model 1), which analyzes the union score, the estimated effect of the dummy variable for governor-union partisan alliance is positive and statistically significant. Of the controls, only two were significant.⁴⁵⁵ The remaining regressions (Models 2-5) examine responses to questions about specific types of union participation.⁴⁵⁶ For every individual question, the coefficient on the governor-union alliance variable is positive and statistically

⁴⁵¹ All data from the survey of inspectors. Union strength data is calculated from the SIEMPRO National Survey in 2001. This method is imperfect, but it is one of the best available estimates of union strength. See: Marshall and Perelman 2004.

⁴⁵² The reason for health and safety inspectors having different relationships appears with unions appears to stem from union priorities—many union leaders are more concerned with, and knowledgeable about, wage and hour issues than health and safety issues.

⁴⁵³ This captures whether or not unions are more likely to be linked with inspectors who are most exposed to political influence.

⁴⁵⁴ Model 1 uses a simple linear regression, with standard errors clustered by province.

⁴⁵⁵ Inspectors in provinces with more inspectors per capita, and health and safety inspectors, are less likely to work with unions

⁴⁵⁶ These regressions use an ordered logit model with standard errors clustered by province.

significant.⁴⁵⁷ The results of these regressions further support the argument that that partisan alliances are behind inspector-union linkages

Table 5.2: Partisanship and Inspector-Union Linkage Regressions⁴⁵⁸

	(1) Total union score	(2) Provide car	(3) Gather information	(4) Follow-up after	(5) Advice on flexibility
Governor-union partisan alliance	0.31** (0.07)	1.8** (0.59)	1.9** (0.29)	0.93* (0.43)	2.7** (0.29)
Provincial insp./ population	-0.60** (0.05)	-3.5** (0.84)	-0.97** (0.28)	-1.6** (0.33)	-1.1** (0.28)
Provincial union affiliation rate	-0.19 (0.31)	2.7 (1.6)	-8.8** (2.8)	-6.8* (2.9)	-1.0 (1.7)
Health & safety specialist	-0.52** (0.09)	-2.9** (0.74)	-0.71 (0.76)	-1.7* (0.78)	-1.2 (1.4)
Flexibility on jobs vs. compliance	0.07 (0.08)	0.066 (0.31)	0.14 (0.49)	0.41 (0.27)	-0.04 (0.47)
Civil service protection	0.22 (0.11)	0.042 (0.61)	0.03 (0.43)	1.1* (0.5)	0.84** (0.29)
Number of observations	153	148	146	145	152

The analysis above suggests that partisanship plays a large role in shaping linkage formation, but what about administrative capacity? The previous two chapters described levels of administrative capacity in Córdoba, the Federal Capital, and Tucumán, which varied substantially. Table 5.3 below summarizes the differences in administrative capacity across these three provinces along with Santa Fe in 2009 (more detailed indicators of administrative capacity are in Table A1 in the dissertation appendix). The snapshot of data at a single point in time *does not* reveal a relationship between capacity in places where the partisan allies of unions are in power. For instance, Tucumán, a province with the PJ in power, clearly has the lowest levels of administrative capacity of all. Córdoba, also with the PJ in power, has relatively low levels in the wage and hour division, but higher levels of administrative capacity in the health and safety division. In contrast with the PJ cases, the Federal Capital clearly has the highest levels of administrative capacity across both dimensions. And Santa Fe is an intermediary case, with the health and safety division having greater capacity than wage and hour. Across these provinces, it appears that partisan alliances between governors and unions *may not* increase investment in administrative capacity.

⁴⁵⁷ With the exceptions of union strength in Models 3 and 4, the controls that have significant coefficients are all in the expected direction. This appears to be due to the fact that some PJ provinces actually have substantially lower levels of union affiliation than non-PJ provinces.

⁴⁵⁸ Clustered standard errors are in parenthesis. Model 1 is a robust linear regression with standard errors clustered by province. Models 2-5 are ordered probit models with standard errors clustered by province. *p<0.05; **p<0.01. Descriptive statistics are provided in Table A5.1 in the appendix.

Table 5.3: Simplified Comparison of Administrative Capacity (2009)

Inspectorate	Governor-Union Partisan Alliance	Size of Staff	Material Resources
Córdoba (wage & hour)	PJ	Medium	Low
Córdoba (health & safety)	PJ	Medium	High
Federal Capital	Non-PJ	High	High
Santa Fe (wage & hour)	Non-PJ	Low	Medium
Santa Fe (health & safety)	Non-PJ	Medium	High
Tucumán	PJ	Low	Low

This cross-sectional analysis of the relationship between partisanship and administrative capacity cannot, however, rule out alternative explanations. For example, within the provinces of Córdoba and Santa Fe, there are substantial differences between divisions of the inspectorate, which cannot be accounted for by partisanship alone. Provincial wealth also appears to be a factor—the richest province, the Federal Capital, has the highest levels across both dimensions, and the poorest province, Tucumán, has the lowest levels. Therefore, we cannot draw any firm conclusions from static data of a small set of provinces. To better understand the relationship between partisanship, administrative capacity, and linkages, the remainder of the chapter analyzes changes in provinces over time.

Labor Administration in Santa Fe

The recent history of the labor politics in Santa Fe had three distinct political periods (see Table 5.4). First, between the return to democracy and 1991, the labor-based PJ took power and the main unions were important players in the governing coalition. Second, between 1991 and 2007, the PJ remained in power and the governors had a partisan alliance with the union centrals, but the Peronist faction that won the gubernatorial elections was not closely aligned with unions and provincial policies took a decidedly pro-market turn. Third, in 2007, Hermes Binner from the Socialist Party (PS) was elected and the PJ lost control of the province for the first time. The following three sections examine each of these periods in turn, focusing on changes in linkages and administrative capacity. To explore the impact of these changes on enforcement, these sections are followed by an analysis of enforcement in the construction industry between 2003 and 2009.

Table 5.4: Governors of Santa Fe (1983 – Present)

Period	Years	Governor	Relationship with Organized Labor
1	1983-1987	José María Vernet (PJ)	Partisan tie and from union faction
	1987-1991	Víctor Reviglio (PJ)	Partisan tie and from union faction
2	1991-1995	Carlos Alberto Reutemann (PJ)	Partisan tie, not from union faction
	1995-1999	Jorge Obeid (PJ)	Partisan tie, not from union faction
	1999-2003	Carlos Alberto Reutemann (PJ)	Partisan tie, not from union faction
3	2003-2007	Jorge Obeid (PJ)	Partisan tie, not from union faction
	2007-2011	Hermes Binner (PS)	No partisan tie to unions

Formation of the Secretaría de Estado de Trabajo de Santa Fe (1983-1991)

For the first eight years after the return to democracy, Santa Fe was led by governors who were closely allied with organized labor. The first governor, José María Vernet, had been an accountant for the metal workers union (UOM), and the second governor, Víctor Reviglio, drew on unions for significant support.⁴⁵⁹ Both of these governors had partisan ties to organized labor through the PJ, and, during the 1980s, unions had a strong position in the PJ (both nationally and in the province). In 1985, the province regained control of labor inspection from the national government (which had been centralized under the military regime) and formed the *Secretaría de Estado de Trabajo de Santa Fe* (STSF).⁴⁶⁰ By creating a *secretaría de estado*, which is the second-highest designation for an agency, Vernet sent a signal that labor administration was politically important.⁴⁶¹

The initial staffing of the STSF was heavily marked by union involvement. Governor Reviglio gave his allies from organized labor key slots in the management of the STSF, placing union leaders in all appointed positions; a longtime official recalled: “*When the STSF formed, the Secretary of Labor was from a union, below him the Director was from a union, and the Sub-director was from a union.*”⁴⁶² In addition to

⁴⁵⁹ Zapata 1994; Levitsky 2003 p. 93, 123

⁴⁶⁰ The legislature passed the law to authorize the STSF in 1985 under Vernet, but the province did not hire staff and fully take over the task of labor administration until 1988 when Reviglio was in office; as a consequence, both governors played a key role in the early days of the STSF. Interview: S12, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/12/2008; S27, Labor Lawyer and advisor to CGT, Rosario, 5/13/2009

⁴⁶¹ In the hierarchy of agencies, ministries are the highest, followed by *secretarías de estado* (state secretariats), then by secretariats (which are contained within ministries), then by sub-secretariats and departments. These ranks have significance both in terms of resources (ministries tend to have larger budgets) and in political control (ministers and the heads of *secretarías de estado* respond directly to governor without any intermediaries). As of 2008, approximately 20% of provinces have labor administration as a *secretaría de estado* or greater (see Table A5.3 in the appendix).

⁴⁶² Interview: S15, Inspector, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/11/2008. These officials included union leaders from the water utility union and the food workers’ union. Interview: S02, Senior Official, Santa Fe Ministry of Labor and Social Security, Rosario, 5/5/2009

political appointments, the governor also rewarded unions with patronage positions that filled out the ranks of the bureaucracy:

*“When they were forming the agency, unions sent lists of people who could work for the inspectorate, and the governor chose from those lists. Labor inspectors were not selected based on their education, experience, or an exam... [Instead], a scheme of politically designated people was put together.”*⁴⁶³

Not only did the unions get to place people in valuable public sector positions, but they also ensured that their allies completely permeated the STSF. After a year, these initial hires were given civil service protection, locking them in the STSF for decades; over 60% of wage and hour inspectors in 2009 had been hired before 1990 under this patronage system.⁴⁶⁴ In short, organized labor in Santa Fe was given nearly complete control over the STSF through political appointments and unions permeated the bureaucracy.

Governor Reviglio did not, however, give workers a regulatory agency that could enforce labor laws on its own. There was no effort to train the new inspectors so that they could become experts; an inspector recalled that senior officials *“just told us how to fill out the forms, nothing more, and we went out into the street.”*⁴⁶⁵ The STSF essentially had no budget beyond the minimum to cover the salaries of the officials. To fund all non-salary operating costs, the STSF was expected to rely on the money collected through fines.⁴⁶⁶ But the fines were not enough to provide basic resources, such as cars inspectors could use to reach firms. Not surprisingly, regulators were highly dependent on union leaders; inspectors drew on union leaders for much of their material resources, one inspector recounted that *“when you have few cars, and you have to do a number of inspections that aren’t local, the union leaders say ‘Come in our car’ and you go.”*⁴⁶⁷ For over two years, the STSF only responded to complaints and never conducted any programmed inspections. In addition, inspectors were not expected to be experts in labor law or in managing conflict, instead they were appendages of the union leaders who were able to use inspectors as they wanted.

In sum, in the first two administrations after the return to democracy, the STSF was formed with low levels of administrative capacity and high linkages. Governors Reviglio and Vernet gave their union allies extensive control over labor administration through appointments, but did not invest budgetary resources in the STSF.

⁴⁶³ Interview: S12, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/12/2008

⁴⁶⁴ Source: Survey of inspectors. For example, one inspector, who was hired in 1988 because she was the personal assistant of the secretary general of the health care workers’ unions, remained an inspector until the time of this research. Interview: S05, Inspector, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/11/2008

⁴⁶⁵ Interview: S15, Inspector, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/11/2008; S02, Senior Official, Santa Fe Ministry of Labor and Social Security, Rosario, 5/5/2009

⁴⁶⁶ This arrangement greatly influenced the behavior of the inspectors: one of their central goals was “tax collection” to keep the organization going. To evaluate their actions, inspectors were asked “how much did we collect this month?”, not “what was the result of inspection?” Interview: S12, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/12/2008

⁴⁶⁷ Interview: S12, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/12/2008

Decline in Union Influence and a Chance at Reform (1991-2007)

The gubernatorial elections of 1991 in Santa Fe marked the end of strong union influence in the governing coalition. Internal competition among factions of the PJ resulted in the election of the outsider, Carlos Alberto Reutemann, as governor.⁴⁶⁸ Reutemann was aligned with President Carlos Menem, who, at the national level, pursued a pro-market agenda and attempted to liberalize labor laws.⁴⁶⁹ Even though Reutemann retained his partisan alliance with key elements of organized labor through the PJ, he was not a close ally to the unions. He pursued an agenda that was in line with the “neoliberal” policies of Menem, including large scale privatization of services and provincial-owned enterprises. In 1995, Reutemann’s successor, and ally, Jorge Obeid was elected governor. Following Obeid’s first term, these two men were both reelected in succession, with Reutemann serving a second term from 1999-2003, followed by Obeid’s second term from 2003 to 2007. As a consequence, organized labor in Santa Fe found itself in a difficult position: their partisan allies were in power, but unions did not hold high levels of sway in the governing coalition.⁴⁷⁰

During this time, the administrative capacity of the STSF declined from its already low levels. Staffing was inconsistent and the material resources for enforcement were further reduced.⁴⁷¹ Between 1995, 1996 and 1997, the number of labor inspectors fluctuated rapidly—dropping from 41 to 10, and the increasing to 22, where it stayed until 2000.⁴⁷² These levels of human resources were extremely low for the size of the province—to put Santa Fe in comparative perspective, it had approximately half the number of inspectors per capita in Córdoba at the end of the decade. The cuts in personnel in Santa Fe occurred during a time in which the number of public employees in the province actually increased, indicating that the reductions in staffing for labor inspection were not only part of a broader policy of state downsizing.⁴⁷³ For the inspectors who remained through these changes, there were fewer material resources to use for enforcement. Inspectors only had one vehicle to cover the entire province, which is over 400 miles long. Moreover, with a series of economic crises, self-financing through fines became extremely difficult. An official from this period recounted:

“We had many internal contradictions. On the one hand, we lived better when we collected many fines, because we used those funds to operate the STSF, but on the other hand, we didn’t have the will to collect.”⁴⁷⁴

During the crisis of 2001, instead of conducting pedagogical inspections, inspectors essentially stopped working. No efforts were made to train inspectors or to hire staff with

⁴⁶⁸ Zapata 1994; McGuire 1997; Levitsky 2003; Petracca 2003

⁴⁶⁹ Etchemendy and Palermo 1998; Murillo 2005

⁴⁷⁰ This was the same political arrangement at the national level, in which the CGT had a partisan alliance with Menem, who tried to liberalize labor laws (described in Chapter 2).

⁴⁷¹ Interview: S19, Senior Official, Inspection Department, Santa Fe Ministry of Labor and Social Security, Rosario, 5/7/2009

⁴⁷² Data from various sources, including Lucas Ronconi. See: Ronconi 2010

⁴⁷³ The provincial public sector increased from 28 public employees per 1,000 residents in 1990 to 34 per 1,000 in 2000. Source: Ministry of Economy and Public Finance data.

⁴⁷⁴ Interviews: S32, Former Senior Official, Santa Fe Labor Secretariat, Santa Fe, 12/15/2008

higher levels of education. As the salaries declined, corruption festered.⁴⁷⁵ A senior official in the STSF from 1999-2003 explained: “*The corruption was very entrenched and really tough to fight against. And after four years...that I worked on it, I couldn’t eradicate it.*”⁴⁷⁶ For the inspectors, accusations of corruption “*took away their prestige*” so that workers would not come to them with problems. When a prominent businessman accused inspectors of being corrupt in 2000, the provincial government did little to defend them; one inspector noted “*How do you think I felt when my daughter came to me and said: ‘Dad, are you one of them? Are you corrupt?...And what did the government do to support us. Nothing.’*”⁴⁷⁷ In combination, all of these factors reduced the capacity of the STSF.

In a weaker position within the governing coalition, organized labor lost some political influence in the leadership of the STSF, but union leaders still kept very strong linkages with labor inspectors. After 1991, unionists were no longer able to gain the top Secretary of Labor position, which instead went to a series of outsiders who were well connected politically within the PJ (from non-union factions).⁴⁷⁸ For example, Reutemann appointed a Sub-Secretary of Labor who was a Peronist party activist with no ties to labor unions.⁴⁷⁹ The appointed officials who were not from the labor movement had misgivings about the heavy involvement of unions in inspection. An official described the problem: “*Our job is to protect the workers, we needed to have a relationship equidistant from workers and employers, to have the objectivity necessary to analyze conflicts. But if the union is giving me food to eat, and a car, I lose objectivity.*”⁴⁸⁰ Despite their absence at the top of the bureaucracy, union leaders managed to gain middle management positions in the STSF and the lower level union leaders retained their allies in the civil service. These appointments kept linkages strong, and union leaders remained influential by continuing to give inspectors the resources they needed, including cars and payments for travel. The partisan alliance between the PJ and organized labor was sufficient to keep linkages open, even against the will of some of the people appointed to run the STSF.

In 2003, a national change in labor policy created an opportunity for reform in the STSF. The election of President Néstor Kirchner, and the national rejection of Menem-style free-market policies, put labor law enforcement back on the agenda (as described in Chapter 2). In the post-crisis period, Santa Fe’s economy had some of the highest growth

⁴⁷⁵ Interviews: S35, CGT Rosario, Rosario, 5/4/2009; S38, Labor Lawyer and advisor to CGT, Rosario, 5/5/2009

⁴⁷⁶ Interviews: S32, Former Senior Official, Santa Fe Labor Secretariat, Santa Fe, 12/15/2008

⁴⁷⁷ Interview: S34, Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/5/2009

⁴⁷⁸ Interview: S02, Senior Official, Santa Fe Ministry of Labor and Social Security, Rosario, 5/5/2009. For example, in his second administration, Reutemann appointed Ruben Dunda as Secretary of Labor. Dunda was a politician who went on to be candidate for congress and was not a favorite of the unions.

⁴⁷⁹ Interview: S32, Former Senior Official, Santa Fe Labor Secretariat, Santa Fe, 12/15/2008

⁴⁸⁰ Interview: S32, Former Senior Official, Santa Fe Labor Secretariat, Santa Fe, 12/15/2008. In some cases, the unions captured the inspectors and their interaction devolved into corruption: “*In Rosario, the unions would always look for the [same] inspectors and would use them. In construction, this happened a lot. The union would go get the inspector, leave him in the car, and the union leaders went to get a bribe from the firm, saying that if they don’t pay, they will be inspected.*” Interview: S11, Former Senior Official, Santa Fe Labor Secretariat, Reconquista, Santa Fe, 12/16/2008

rates in the country, and organized labor shifted from the defensive to the offense. Union leaders were no longer worried primarily about retaining jobs in the face of high levels of unemployment, but now could fight for salaries and benefits.⁴⁸¹

There was also new interest from organized labor in increasing capacity of the STSF. Unions in Rosario started to complain about the lack of inspectors in the press; the head of the commercial sector union was quoted in the newspaper saying: “*To control the cascade of abuses that we know are occurring, [our union] would need ten inspectors every day... but today there are no more than seven inspectors for all of the unions.*”⁴⁸² Within the diverse currents of organized labor, a faction of unions that had broken off from the main Peronist centrals and gave its support to an opposition deputy from the Radical party who proposed a reform that would increase the budget of the STSF by nearly 60% and hire more inspectors.⁴⁸³ In addition, the election of Governor Obeid in his second term had been extremely close; he won without even a plurality and the PJ’s total vote share was only 43%.⁴⁸⁴ If the interaction of labor-based candidates, close elections, and competition within the union leadership leads to pro-labor policies, as the literature suggests, the early period after the crisis was ripe for reform investment in administrative capacity.⁴⁸⁵

Notwithstanding these seemingly favorable conditions, investment in the STSF was very modest compared with other provinces during this period. The newly appointed officials complained that they found the STSF practically “*disappeared*” due to the “*neoliberal*” policies of the 1990s.⁴⁸⁶ They made statements to the press indicating there had been “*a political decision by Governor Jorge Obeid to reinforce [labor inspection]*” and that the STSF made it “*a top priority to hire more agents and to train them.*”⁴⁸⁷ But new inspectors were never hired; a senior official explained: “*We didn’t get to hire new staff, and we lost some to retirement. The Governor was very strict... with funding.*”⁴⁸⁸ The resources were simply not forthcoming. In one delegation of the STSF, the head of the local office complained that: “*From 2005 to today (2007) we have put three formal requests to the STSF asking for more people and a car, but nothing changed.*”⁴⁸⁹ The health and safety division was “*insufficient*” according to the Secretary of Labor—the STSF only had five (three in Rosario and two in the city of Santa Fe) health and safety inspectors who were paid for by the national government (not out of the provincial budget).⁴⁹⁰ In response to requests to open a new delegation in the growing industrial city of San Lorenzo, the STSF opened the office, but gave it no resources. After a worker died in a construction accident, the head of the CGT-San Lorenzo complained

⁴⁸¹ Interview: S35, CGT Rosario, Rosario, 5/4/2009

⁴⁸² *La Capital* “Por gremio: cuántos son y cuánto ganan” 11/30/03

⁴⁸³ *La Capital* “Gremios del cordón impulsan una reforma laboral” 07/13/06

⁴⁸⁴ In 2003, Santa Fe had a double simultaneous voting system, which gave Obeid victory because the total votes for the PJ (43%) were greater than those for the rival PS (38%). Obeid’s ticket, however actually a smaller portion of votes (21%) than the main Socialist candidate, Hermes Binner (36%).

⁴⁸⁵ Murillo 2001; Murillo 2005

⁴⁸⁶ Interview: S11, Former Senior Official, Santa Fe Labor Secretariat, Reconquista, Santa Fe, 12/16/2008

⁴⁸⁷ *La Capital* “En Rosario se detectó un 30% de empleo informal” 04/28/05.

⁴⁸⁸ Interview: S11, Former Senior Official, Santa Fe Labor Secretariat, Reconquista, Santa Fe, 12/16/2008

⁴⁸⁹ *La Capital* “Limitaciones para combatir trabajo en negro” 07/19/07.

⁴⁹⁰ *La Capital* “Pocos inspectores para evitar los accidentes laborales” 01/13/05

*“the delegation doesn’t have personnel, a telephone... or even a car for the officials. Like this, they can’t regulate... and businesses are never going to respect them.”*⁴⁹¹

Senior officials were, however, successful in getting some resources for the STSF. For example, they managed to upgrade the information technology in the STSF: *“when we arrived, there were seven computers, and when we left there were one hundred.”*⁴⁹² The investment aligned with the modernization of inspection that was occurring at the national level, linking the STSF to the database of the national tax agency (AFIP). It was supported by both union leaders and by the main industry association, the Industrial Federation of Santa Fe (*Federación Industrial de Santa Fe*), because it *“simplified”* the regulatory process.⁴⁹³ Close observers noted that these investments were *not* the primarily the result of union pressure, but rather due to a broader effort to modernize public administration.⁴⁹⁴

Notwithstanding these improvements, according to union leaders, the STSF simply *“did not have the resources”* it needed for enforcement.⁴⁹⁵ By the end of Obeid’s term, an official in the STSF lamented the inability of the state to confront labor violations, and described the situation by stating: *“when the inspectors go out to conduct programmed inspections, they are labeled corrupt [coimeros]. Meanwhile, the union leaders don’t come when it isn’t in their interest to go out on the street with corrupt inspectors. The problem is extremely grave.”*⁴⁹⁶ In sum, there was only a partial investment in administrative capacity, which focused on material resources instead of hiring more inspectors or reforming the inspectorate to decrease corruption.

Although Obeid only allocated funds for a modest increase in administrative capacity, the governor, once again, gave organized labor influential positions of the STSF (below the level of the Secretary of Labor). When he was elected for his second term, Obeid appointed a former judge, Alberto Gianneschi, to head the STSF as Secretary of Labor and gave rival union leaders from the auto workers’ union (SMATA) and the metal workers union (UOM) the top posts at the main regional offices in Rosario and Santa Fe Capital, respectively.⁴⁹⁷ By splitting the STSF between two major factions of unions, the governor did not alienate either group and was able to bring conflict among these two unions into the STSF itself.⁴⁹⁸ And with appointments in key positions, union leaders

⁴⁹¹ *La Capital* “Firmat- Piden una delegación de la Secretaría de Trabajo “ 08/25/04; “Nuevo local de la Secretaria de Trabajo en San Lorenzo” 04/07/05; “Murió un joven al caer del techo de un silo en Timbúes” 03/16/06. Interview: S19, Senior Official, Inspection Department, Santa Fe Ministry of Labor and Social Security, Rosario, 5/7/2009

⁴⁹² Interview: S11, Former Senior Official, Santa Fe Labor Secretariat, Reconquista, Santa Fe, 12/16/2008

⁴⁹³ Interview: S24, Industrial Federation of Santa Fe, Rosario, 5/13/2009

⁴⁹⁴ Interview: S39, Deputy, Santa Fe Chamber of Deputies, Rosario, 5/6/2009

⁴⁹⁵ Interview: S35, CGT Rosario, Rosario, 5/4/2009

⁴⁹⁶ *La Capital* “Limitaciones para combatir trabajo en negro” 07/19/07

⁴⁹⁷ Gianneschi was not initially considered for the STSF position, but instead was appointed as Ministry of Government. However, the Obeid faced to Gianneschi appointment the governor immediately transferred Gianneschi to the STSF. *La Capital* “Gianneschi cree que lo echó la prensa rosarina” 03/17/04.

⁴⁹⁸ An inspector describe the consequences: *“When the senior officials are from the unions, it is over, because what you have is that the head is from UOM and SMATA both want you to do inspections in the UOM’s firms. And then they fight, saying “Why did you go out on an inspection with SMATA when the*

continued to have unfettered access to inspectors, and linkages remained strong. The STSF did make new attempts to undertake inspection operations and to address previously ignored issues, such as child labor, but serving the unions remained the priority.⁴⁹⁹

In sum, throughout twenty-five years of Peronist rule in Santa Fe, the labor inspectorate was marked by low levels of administrative capacity and very strong linkages with unions. Although the ability of unions to gain top positions decreased when organized labor's position within the PJ was diminished, the pattern of exchange remained the same. Even weakened, labor union leaders were able to remain influential in the day to day operations of labor inspection and inspectors had access to union resources. However, despite their efforts and the fact that their partisan allies were in power, union leaders did not win meaningful investments in administrative capacity. Instead of allocating scarce resources to labor administration, governors left the STSF to rely mainly on fines to finance operations and, short on funds, administrative capacity languished. Clearly, the election of the partisan allies of organized labor, close elections, and even a national shift towards regulation were not sufficient in transforming labor inspection.

The Socialist Party and Reform

The 2007 elections pitted the Peronist candidate, Rafael Bielsa, against the center-left Socialist candidate, Hermes Binner, who had been the mayor of Rosario. Just before the election, the head of the political organization of the CGT-Rosario stated that “*the union leaders clearly understand that the enemy is not Peronism, but...Hermes Binner.*”⁵⁰⁰ For the first time the unions' ally did not prevail; Binner won with 54% of the votes, beating out Bielsa, who only won 43% of the votes.

Upon his election, Binner made two important decisions to signal that he was serious about building up the ability of the provincial government to enforce labor laws. First, he passed a law upgrading labor administration from a *Secretaria de Estado* to a full ministry, transforming the STSF to the Santa Fe Ministry of Labor and Social Security (MTSF).⁵⁰¹ This was not just a symbolic renaming, but it also allocated greater funds and political power to labor administration within the executive branch (and gave labor administration in Santa Fe a higher rank than 80% of Argentine provinces). Even a PJ deputy in the provincial legislature observed: “*When you create a ministry, you are signaling that labor is a priority, and you are going to incur costs.*”⁵⁰²

Second, Binner appointed a technocrat with an impeccable resume, Carlos Aníbel Rodríguez, to be the new Minister of Labor. Rodríguez, a medical doctor by training, had over thirty years of experience with issues related to worker health and safety at very high levels, including stints at the ILO in Turin (Italy) and various faculty positions in the

firm is from UOM?’ This is what happened in the last administration.” Interview: S15, Inspector, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/11/2008

⁴⁹⁹ Interview: S11, Former Senior Official, Santa Fe Labor Secretariat, Reconquista, Santa Fe, 12/16/2008

⁵⁰⁰ *La Capital* “Las 62 dieron libertad para elegir candidato” 03/14/07.

⁵⁰¹ Law 12.817, adopted 12/06/07.

⁵⁰² Interview: S39, Deputy, Santa Fe Chamber of Deputies, Rosario, 5/6/2009

Universidad Autónoma de Barcelona in Spain, Universidad de Buenos Aires, and Universidad Tecnológica Nacional in Buenos Aires. From 2003 to 2007, just before becoming Minister of Labor in Santa Fe, he served as head of the national occupational health and safety agency (SRT) under the President Néstor Kirchner. Rodríguez had planned to retire after finishing his term at the SRT, but given the opportunity to reform labor administration in Santa Fe, he postponed retirement.⁵⁰³ His background contrasted with previous heads of labor administration in Santa Fe, who were either labor union leaders (in the early period) or well-connected Peronists with little experience in labor issues (in the later period).

Not only was Rodríguez technically competent, but he was seen as legitimate to the unions without being one of them.⁵⁰⁴ Union leaders complained that the “*Socialists don’t know the unions*”⁵⁰⁵ and they had many problems with Binner, but they found it difficult to criticize Rodríguez. A story in *La Capital* about Binner’s choices for cabinet posts reported: “*A [Peronist] union leader stated: ‘The designation of Carlos Rodríguez as Minister of Labor has been well received. He is an excellent person, familiar with the ILO, [and] a friend of Carlos Tomada’*”, the federal Minister of Labor under Kirchner.⁵⁰⁶ Some major industry associations also supported Rodríguez, describing him as “*very well known*” and citing his work with the ILO.⁵⁰⁷

Raising the rank of labor administration and appointing a technocrat with a very strong background sent a message that, although Binner did not have the support of the CGT, he was going to take labor administration seriously. Rodríguez came into office with plans for radical reforms. In his first week on the job, he stated that he would intensify inspections and start a “*merciless fight against corruption and inefficiency*” in the bureaucracy.⁵⁰⁸ While the rhetoric was not substantially different than that of the PJ, the actions that followed were. Rodríguez focused his attention on the health and safety division, where the existing inspectors had short-term contracts and could easily be removed (unlike the wage and hour inspectors, who had civil service protection).⁵⁰⁹ With the chance to completely reshape health and safety inspection, Rodríguez fired the existing inspectors and began a meritocratic process for recruiting new inspectors using a civil service exam. This was the first time an exam was given to hire inspectors in Argentina since the 1980s in Córdoba (described below). The civil service exam was combined with psychological screening to “*see how [applicants] managed corruption and honesty*” along with a set of educational requirements (70% of the new health and safety inspectors had post-graduate degrees).⁵¹⁰ Most of the inspectors came from the

⁵⁰³ Interview: B76, Minister of Labor, Santa Fe Ministry of Labor and Social Security, Buenos Aires, 3/15/2008

⁵⁰⁴ For example, union leaders complained about the PS playing politics with collective labor disputes, but Rodríguez was not seen as part of these games. Interview: S37, Metal Workers’ Union (UOM), Rosario, 6/1/2009. See also: *La Capital* “Futuro, dirigencia gremial y Ministerio” 11/25/07

⁵⁰⁵ Interview: S37, Metal Workers’ Union (UOM), Rosario, 6/1/2009

⁵⁰⁶ *La Capital* “Seguridad: el gran desafío” 10/16/07

⁵⁰⁷ Interview: S08, Argentine Construction Association (CAC), Rosario, 4/29/2009

⁵⁰⁸ *La Capital* “Rodríguez: ‘Haremos cumplir los derechos del trabajador’” 12/21/07

⁵⁰⁹ Health and safety inspectors were not actually paid by the province, but by the federal government’s SRT.

⁵¹⁰ Interview: S06, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/10/2008

private sector, where they had worked as health and safety experts or engineers. The inspectors were given two trucks—still not adequate, but more than they had before—and each two-person team of inspectors was issued a laptop so they could complete their reports while they were in the field.

New inspectors were given probationary contracts to be converted into full civil service contracts after one year. They were required to sign a “code of ethics”, which placed strict limits on actions that were not considered professional.⁵¹¹ Unlike other provinces (and Santa Fe in previous years), the new inspectors were not allowed to have secondary jobs and were paid a salary that was competitive with private sector employment. An official explained: “*No one makes less than (US) \$1,450.... We already had to fire someone because... he was consulting outside. There is zero tolerance.*”⁵¹² These practices contrast strongly with other inspectorates, including the Federal Capital where salaries are almost half, \$780 per month, and most health and safety inspectors have outside consulting employment.⁵¹³

When they were hired, inspectors were given two months of training, full time, by Rodríguez himself. The training not only provided the inspectors with an understanding of the rules of the agency, but involved detailed discussions of strategies to improve compliance in specific industries (going well beyond past inspector training).⁵¹⁴ In addition, the health and safety division was moved from the MTSF’s main headquarters in Rosario to its own building so that the new inspectors would not be influenced by the practices of the wage and hour inspectors who remained in the MTSF. The new inspectors were told that they constituted an “*elite team*”, set in contrast with the wage and hour inspectors.⁵¹⁵ In addition, the MTSF published photos of all inspectors on their website, increasing transparency.

Rodríguez also took steps to shift the relationship between inspectors and civil society by reshaping linkages. For key appointments, Rodríguez chose a mixture of officials that included technocrats (e.g. former labor inspectors from the federal MTESS and the Federal Capital) and a PS activist who had experience working on labor issues (including a stint with the ILO). Only one member of the appointed staff was from organized labor, Luis Ortega of the bank workers’ union, who was part of the CGT but was also close with the PS.⁵¹⁶ Ortega only lasted two years, and when he left, there were no union leaders in the MTSF (for the first time since the 1980s). The appointments were structured in a way to reinforce technical expertise, maintain some relationships with the unions, but to control these relationships by steering them to more formal channels than

⁵¹¹ “Codigo de Etica de la inspección de Trabajo” Resolution 001/2008, Ministerio de Trabajo y Seguridad Social, Santa Fe.

⁵¹² Interview: S26, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/13/2009. This is similar to the insider-outsider dynamic that Schrank found in the Dominican Republic. Schrank 2009

⁵¹³ See Table A1 in the appendix.

⁵¹⁴ Interview: S09, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/12/2009

⁵¹⁵ Interview: S20, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/12/2009

⁵¹⁶ See Table A5.2 in the Appendix

had previously been common practice. While under the PJ administrations, union leaders would go directly to their fellow unionists inside the government, when Ortega left and there were no more unmediated ties—the heads of the CGT had to go to Rodríguez or to a number of newly created commissions (described below) when they wanted access to the upper levels of the MTSF.⁵¹⁷

The appointed officials set out to eliminate situations that would make inspectors the “*property*” of unions, and to reduce corruption.⁵¹⁸ For the new health and safety inspectors, this process was fairly simple—all the inspectors were new and none came with strong existing ties to unions. The operating procedures that they put into place were that “*no union leader can come here and just take an inspector*” and union leaders cannot work with inspectors “*without the coordinator knowing*.”⁵¹⁹ Unions that collect information about working conditions, such as the commercial laundry workers’ union, continued to give health and safety inspectors lists of firms with violations, but under modified conditions.⁵²⁰ An inspector described the system: “*if a union wants to make a complaint... we go and conduct the inspection... [but] we always manage the inspection ourselves*.”⁵²¹ This structure allowed inspectors to access union information, but limited their use of material resources so that “*we do not become the arm of any union*.”⁵²²

In short, linkages were allowed between unions and health and safety inspectors, but they were restricted to avoid capture. In addition, appointments to reward loyal unions, which were the currency of political exchange and the basis of strong linkages, ended. Instead, Binner used investments in administrative capacity to deflect criticism from the opposition and the unions. When unions complained about the lack of progress in enforcement to the press, Rodríguez responded with credible statements about improvements. In private, union leaders even admitted that the PS did more than the PJ had ever done; a former official in the STSF, and Peronist political appointee, described the changes under Binner as “*excellent*” because when the PJ was in power “*occupational health and safety... had been totally abandoned*.”⁵²³

In the wage and hour division, personnel reform and altering linkages were both more complicated. Unlike the health and safety inspectors, wage and hour inspectors had civil service protection and the public sector union fought to keep them from being replaced. As one official commented, the newly appointed officials could not “*throw a bomb in the [wage and hour division] and start from scratch*.”⁵²⁴ Rodríguez’s long-term plan was to raise the educational requirements for the inspectors. This way, any

⁵¹⁷ Interview: S35, CGT Rosario, Rosario, 5/4/2009

⁵¹⁸ Interview: B76, Minister of Labor, Santa Fe Ministry of Labor and Social Security, Buenos Aires, 3/15/2008

⁵¹⁹ Interview: S26, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/13/2009

⁵²⁰ Interview: S44, Laundry Workers' Union (UOETSYLRA), Rosario, 5/8/2009

⁵²¹ Interview: S20, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/12/2009

⁵²² Interview: S26, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/13/2009

⁵²³ Interview: S32, Former Senior Official, Santa Fe Labor Secretariat, Santa Fe, 12/15/2008

⁵²⁴ Interview: Anonymous official, Santa Fe Labor Secretariat, Rosario.

inspectors who did not get a university degree could legally be transferred to other tasks within the MTSF to make room for new, professional, staff. However, by the time the new health and safety inspectors were hired and senior officials could concentrate their attention on wage and hour, the global financial crisis hit Santa Fe hard, and plans for expansion were put on hold. As a result, the wage and hour division had two layers of staff that existed in tension: the new appointed officials who were technocrats aligned with the PS, and the old inspectors who had extremely close ties to both the unions and to Peronism. The wage and hour inspectors did not get any of the benefits of the reform—their salaries were one third of the health and safety inspectors. Nor did the inspectors have to meet all of the new standards (one inspector worked as a taxi driver in the afternoon to supplement his salary).⁵²⁵ In short, reform was decidedly incomplete in the wage and hour division.

In the wage and hour division, senior officials were hesitant to send inspectors out into the street on preventative operations. One senior official explained they “*have very little trust*” in the inspectors. If sent out alone, “*you don’t know what they are doing to get themselves involved in.*”⁵²⁶ When a corruption scandal hit the MTSF in 2008, Rodriguez publically compared the wage and hour division to the “*protection racket of Al Capone*” in which inspectors would charge a monthly fee to firms to prevent inspections.⁵²⁷ To keep up enforcement in the face of these limitations, the appointed officials allowed linkages to stay strong enough so that union leaders could be accountability agents in the street. The logic behind this decision was that it would be harder for inspectors to solicit bribes with union leaders observing the inspection.

Despite a more open attitude towards inspectors relying on union resources in the wage and hour division compared with the health and safety division, new rules were put into place to reduce collusion and stamp out the most obvious corrupt practices. The appointed officials told the union leaders: “*We don’t have a problem when you bring complaints, and you can participate in the inspection, but we need to know where you are taking our inspectors.*”⁵²⁸ Identifying inspection targets beforehand made it difficult for inspectors to conspire with union leaders in threatening a firm with enforcement unless the firm paid a bribe (which had been common in some industries in earlier years). With this use of linkages, senior officials at the MTSF did not have to stop all enforcement while they waited to replace the inspectors, and they could calm the concerns of the unions that worried about losing access to the state under the PS.

For the unions with the most developed systems of supporting enforcement, the changes in their relationships with inspectors were not major. A leader from the metal workers union described his relationship with inspectors as mostly same as it had been before, but whereas with the PJ “*to do an inspection we would go to the delegation and get the inspectors and go, it was spontaneous...now we have to say where we are going.*”⁵²⁹ Similarly, for the commercial laundry workers’ union, the “*rhythm hasn’t*

⁵²⁵ Interview: S34, Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/5/2009

⁵²⁶ Interview: S42, Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/5/2009

⁵²⁷ *La Capital* “Una mafia opera en Trabajo para frenar las inspecciones laborales” 08/30/08

⁵²⁸ Interview: S06, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/10/2008

⁵²⁹ Interview: S37, Metal Workers’ Union (UOM), Rosario, 6/1/2009

changed' with the new administration.⁵³⁰ The union asks for three inspections a week, and the MTSF responds with three inspections. Union leaders can still point out key problems, such as in the case of the laundry workers when a union leader tipped off the inspector that a firm was hiding unregistered workers in the bathrooms. In sum, without reform in the wage and hour division, shifts in linkages were relatively minor, allowing information to keep flowing between the inspectors and the unions, but there were new attempts to reduce corruption and capture.

The changes to linkages were not, however, limited to new rules about inspector access. Rodríguez worked to create a number of formal spaces of dialogue to bring in a wider variety of non-state actors to work alongside unions in collaboration with the MTSF. One of the first acts of Binner upon taking power was to sign a memorandum of understanding with the ILO's Argentine office to create a provincial program for "decent work."⁵³¹ The agreement constituted a mechanism by which the MTSF could draw on technical assistance from experts in the ILO. It also gave legitimacy to Rodríguez because it was the first provincial collaboration with the ILO in Argentina.⁵³² In addition, it created a vehicle for the MTSF to form a series of commissions that brought a wide variety of actors, including non-union civil society organizations, into dialogue with the state around labor issues.⁵³³ These commissions started developing new forms of linkages between the MTSF and society, diversifying the groups that had access to the state and reducing union dominance (as will be described below for the construction industry).

In sum, the change of the party in power in Santa Fe led to a major shift in labor administration. Binner did not give unions control over the inspectorate in exchange for their support. Instead, Binner appointed Rodríguez who could show that the province was seriously addressing issues of labor violations. A part of that strategy was the first serious effort in thirty years to professionalize the inspectorate and expand administrative capacity. This initiative was successful in the health and safety division, but failed (at least up to the time of this research) in the wage and hour division. In addition, with the PS in power, the structure of linkages between regulators and society shifted. In some ways, ties between inspectors and unions were weakened due to the imposition of greater hierarchical control. New linkages, however, were fostered through the series of formal commissions created in the decent work initiative. Ultimately, the political realignment changed the structure of state-society relations, which, in turn, should alter patterns of enforcement.

⁵³⁰ Interview: S44, Laundry Workers' Union (UOETSYLRA), Rosario, 5/8/2009

⁵³¹ Provincia de Santa Fe. "Agenda Provincial de Trabajo Decente en Santa Fe" April 2009.

⁵³² Santa Fe was the second subnational government in all of South America to work directly with the ILO. In 2009, Rodríguez was invited to present the changes in the MTSF to an ILO meeting in Germany, giving him positive press. *El Litoral* "Santa Fe expone en la OIT su inspección de trabajo decente" 09/28/09

⁵³³ The commissions included a construction commission, a rural workers commission, a "Four-Part Inter-institutional Commission for the Eradication of Child Labor" (which had already existed under the previous administration), and "Four-Part and Inter-institutional Commission for Equal Opportunity." Interview: S16, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/15/2008

Changes in Enforcement in the Construction Industry (2003-2009)

Without looking at the actions of the MTSF, it is difficult to assess the meaning of hiring new inspectors and instituting new policies governing inspector-union linkages. What concrete differences in enforcement resulted from these investments in administrative capacity and alterations in linkages? The case of the construction industry in the city of Rosario provides a way to examine the consequences these changes had for enforcement. This section recounts the shift from *society-dependent enforcement* at low levels under the PJ, to *state-driven enforcement* under the PS that reached *medium* levels.

Just as in Córdoba and Tucumán, there was a tremendous increase in construction activity in Rosario in the post-2003 boom.⁵³⁴ With rapid expansion there were dramatic workplace accidents that made unsafe conditions in the industry highly salient.⁵³⁵ The principal local newspaper, *La Capital*, began to keep count of the deaths, which regulators estimated reached one hundred workers every year in the province.⁵³⁶ In addition to the deaths and serious injuries, investigations found atrocious practices, including “1,500 migrant construction workers living on the construction sites” in dangerous conditions.⁵³⁷ The construction industry was clearly in crisis, and nearly every month there was an article in the newspaper focusing attention on the industry and the horrific consequences of labor law violations (significantly more attention than any other industry).

By their own assessment, officials in the Obeid’s administration stated that responding to these challenges in construction was “one of our failures.”⁵³⁸ After the death of two workers on a construction site in 2005, the Secretary of Labor, Gianneschi, was quoted in *La Capital* saying: “In Rosario, where we have nearly 200 construction sites of tall buildings and 8,000 small sites at the same time, we only have three employees for inspection.”⁵³⁹ After yet another accident, officials stated that there “exists a marked impotence of the state” in tackling the problem.⁵⁴⁰ With the resources that they had, and with some borrowed from the SRT, the STSF attempted to step up enforcement in the industry in 2006. Inspectors conducted what they called a “mega operation” over eleven days and issued 200 fines for violations, but they did not suspend any worksites or

⁵³⁴ The increases in registered construction workers in the province illustrate this explosive growth. In July, 2004, there were 1,208 registered workers, this shot up to 27,915 by July 2005, and reached 35,925 by July 2007. Source: *Instituto de Estadística y Registro de la Industria de la Construcción* (IERIC).

⁵³⁵ *La Capital* “Un obrero murió al caer al vacío desde un 14° piso” 06/07/05; “Murió un obrero en San Lorenzo al caer desde 20 metros de altura” 12/22/05; “En un año, 6 albañiles muertos y 10 heridos” 03/13/06; “Un paredón de una escuela cayó sobre dos obreros” 10/27/06; “Otro albañil sufrió lesiones” 11/01/06; “Cuestionan a empresas que no cuidan a obreros de la construcción” 11/01/06.

⁵³⁶ *La Capital* “En un año, 6 albañiles muertos y 10 heridos” 03/13/06; “Descartan que paraguayos vivan dentro de una obra” 03/06/07; “Cuestionan a empresas que no cuidan a obreros de la construcción” 11/01/06

⁵³⁷ *La Capital* “Más de 1.500 albañiles migrantes viven en obras en construcción” 09/10/06; “Los inmigrantes ven la cara oscura del “futuro mejor” que buscan en el país” 08/13/06.

⁵³⁸ Interview: S11, Former Senior Official, Santa Fe Labor Secretariat, Reconquista, Santa Fe, 12/16/2008

⁵³⁹ *La Capital* “Pocos inspectores para evitar los accidentes laborales” 01/13/05

⁵⁴⁰ *La Capital* “Un obrero murió al caer al vacío desde un 14° piso” 06/07/05

continue these inspections for a sustained period of time.⁵⁴¹ Enforcement efforts during this period were mostly limited to issuing suspending worksites after accidents, not preventative efforts.⁵⁴² In short, levels of enforcement remained *low* throughout the Obied administration.

Why such an inadequate reaction from the government to the challenges in the construction industry? Part of the answer was the lack of administrative capacity. As described above, the STSF simply did not have the inspectors or resources sufficient for enforcement. In a similar fashion as the cases analyzed in Chapter 3, enforcement in Santa Fe was highly dependent on civil society organizations with which inspectors had linkages. Unlike UOCRA in Córdoba, in Rosario the construction union did not have its own health and safety specialist to check the worksites.⁵⁴³ In addition, UOCRA-Rosario had serious problems with its own internal corruption; union leaders had a reputation for soliciting bribes from employers that wanted to avoid inspections. The limiting factor was not that inspectors' access to UOCRA (linkages were strong), but the problems within UOCRA itself. With their allies in power, UOCRA-Rosario did not publically criticize the government in the press for its failures (in fact, in most of the press coverage the officials were more critical of their lack of enforcement than UOCRA).

There was one additional civil society organization, formed in 2005, that advocated for worker safety in the construction industry called *Manos a la Obra*. The group, which functioned as a loose cooperative of workers, directly challenged UOCRA by going to sites after accidents, protesting, denouncing union leaders, and trying to organized workers in an alternative movement. Officials at the STSF could have allied with this group to gain a vocal partner in civil society, but inspectors stayed with the union, even though UOCRA was not helping with enforcement. Leaders from *Manos a la Obra* approached the STSF with little success: “*Everyone sent us...to the STSF. They sent us to the viper pit. We went...[and] they threatened me and told me to keep my mouth shut.*”⁵⁴⁴ In short, low levels of enforcement were due to the general pattern of *society-dependent* combined with a failure in the *linked* groups on which the state relied.

This pattern of enforcement drastically changed after the election of the Socialists. Even before he was able to hire new inspectors Rodríguez, undertook an intensive campaign in the industry.

“We came into office on December 11...on the 18th we put together an inspection operation using people from the office in the city of Santa Fe, because the inspectors in Rosario were very questionable. It was a huge shock to the industry. After a week, we visited 33 construction sites, and we suspended operations in 32...This was all without advising anyone in advance. Afterwards, we had a press conference. It was a way of

⁵⁴¹ *La Capital* “La seguridad laboral” 03/14/06; “Inician plan de inspección en obras de construcción en Santa Fe” 03/21/06; “Detectan fallas de seguridad en la construcción” 03/21/06

⁵⁴² *La Capital* “La Secretaria de Trabajo clausuró la obra donde se mató un albañil” 06/08/05;

“Suspendieron las obras del edificio del que cayó un tirante a un jardín” 09/01/07

⁵⁴³ Interview: S41, Construction Workers' Union of Argentina (UOCRA), Rosario, 5/13/2009

⁵⁴⁴ Interview: S23, Manos a la Obra, Rosario, 5/7/2009

*marking the field to say: 'Here we are and we aren't going to permit these violations'.*⁵⁴⁵

The message was received by the industry as intended—representatives of the local industry association also described the operation “*as a shock*”, noting that “*some firms complained... because some of the violations were small and did not merit closures.*”⁵⁴⁶ A few days later, the MTSF held a meeting with firm owners to begin dialogue around what needed to be done to reduce construction accidents.⁵⁴⁷ Shutting down 32 out of 200 major construction sites that were operating around that time in Rosario was a very significant first week in office, and inspections did not stop after this initial operation. Whereas under the Obied administration, the STSF fined on average one firm a week and suspended operations after major accidents, during the first year of the Binner administration (between May and October of 2008) inspectors were averaging 8.3 suspensions a week.⁵⁴⁸ These actions indicate a tremendous increase in penalties for firms that violated health and safety laws.

Once the process of hiring and training new inspectors was complete, enforcement increased even more in construction. By 2009, there were 2,800 health and safety inspections in the Rosario metropolitan area, the majority of which were in the construction industry (reaching the same quantity of inspections as in Córdoba).⁵⁴⁹ This number was equal to the total of all inspections (wage and hour plus health and safety) conducted in the entire province in 2006 under Obeid. The MTSF mapped out different zones of Rosario where there were worksites and the regulators systematically inspected them.⁵⁵⁰ In short, this evidence points to a marked increase in enforcement with greater information collection about violations, a stronger response to these violations (at least the component of sanctions), and shows that the MTSF did not succumb to resistance and kept shutting down worksites. Although enforcement did not include some components that were evident in other provinces—such as the training programs in Córdoba’s construction industry—preventing it from reaching high levels, there was a clear increase from the previous period in Santa Fe.

The change in enforcement cannot be traced back to any new ability of pro-enforcement civil society organizations to work with the state. Mired in its own conflicts, UOCRA remained with very little operational capacity and never was able to hire its own health and safety officer to work with the state.⁵⁵¹ Leaders in UOCRA did not have

⁵⁴⁵ Interview: S06, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/10/2008. Also reported in: *La Capital* “Rodríguez- “Haremos cumplir los derechos del trabajador” 12/21/07;

“Suspenden 31 obras en construcción por “faltas graves” en seguridad” 12/21/07

⁵⁴⁶ Interview: S08, Argentine Construction Association (CAC), Rosario, 4/29/2009

⁵⁴⁷ *La Capital* “Obras en las que detectaron fallas vuelven a trabajar” 12/28/07

⁵⁴⁸ Source: Internal data from the MTSF.

⁵⁴⁹ *La Capital* “Trabajo provincial realizó 2.800 operativos en 2006” 02/20/07; Trabajo tiene sólo 13 inspectores para controlar siete departamentos” 01/14/10.

⁵⁵⁰ Interview: S26, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/13/2009

⁵⁵¹ In 2008, there was an election for secretary general that was actually contested election (the first contested election since the 1980s). To make sure there was no violence, there were 160 police officers present to ensure that the elections occurred without violence. The incumbent secretary general won with only 791 of the 9,000 affiliates voting. After the election, in 2010, a group of union leaders attempted to

problems accessing the new inspectors—one leader explained that he had “*direct phone numbers*” for officials in the MTSF who “*never impeded the union, and never rejected requests for information.*”⁵⁵² But the MTSF found that information that UOCRA provided the MTSF was not very accurate or useful; an inspector explained that in the one month during 2009, “*62% of the UOCRA’s requests were inconclusive, meaning that the address did not exist or the construction project had ended.*”⁵⁵³

The MTSF restructured linkages with other civil society organizations through the creation of the Tripartite Construction Commission, which helped inspectors with enforcement. The Commission met monthly, overseen directly by Rodríguez, and included UOCRA, the construction industry association (CAC), and various professional associations. One of the first problems that the CAC brought to the table was the prevalence of subcontracting in the industry and a number of fly-by-night construction firms that were undercutting the established firms and were responsible for safety problems.⁵⁵⁴ This was an issue that UOCRA had already brought up during the Obeid administration, citing the trouble in fighting “*ghost*” firms that are “*insolvent*” and only stay in business for “*constructing one building.*”⁵⁵⁵ In response, Binner issued a decree mandating that all construction sites have a large sign that indicated all of the investors, managers, architects, and insurance companies involved in the site.⁵⁵⁶ This new rule helped the inspectors identify those responsible for putting workers at risk. It was praised by the business community in part because, as described by worker advocates, it “*separated the wheat from the chaff*” when it came to construction firms.⁵⁵⁷

The relationships established between the MTSF and the business community also helped fight corruption. A manager from a construction firm came to Rodríguez to report an official in the MTSF’s collection department who solicited a bribe from a firm in order to make some paperwork disappear and to eliminate penalties. After a two month investigation, the MTSF worked with a provincial anti-corruption agency to set up a sting operation that caught the official taking a bribe of nearly 1,000 dollars in a café near MTSF headquarters.⁵⁵⁸ The arrest led to a broader inquiry into corrupt practices among the old inspectors. The businessman involved was from the Housing Business Association (*Asociación Empresaria de la Vivienda*) explained that his collaboration in the sting “*was part of the ongoing cooperation we have with the Ministry of Labor since*

displace the secretary general of the union because of his lack of effort in protecting the workers and alleged corruption. *La Capital* “Sin violencia ganó el oficialismo en la Uocra” 12/12/08. *Rosario/12* “Secretario cuestionado” 07/28/10. Interview: S43, Construction Workers' Union of Argentina (UOCRA), Rosario, 5/13/2009

⁵⁵² Interview: S41, Construction Workers' Union of Argentina (UOCRA), Rosario, 5/13/2009

⁵⁵³ Interview: S26, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/13/2009

⁵⁵⁴ Interview: S08, Argentine Construction Association (CAC), Rosario, 4/29/2009

⁵⁵⁵ *La Capital* “La Uocra develó la cara oculta de la construcción” 07/18/07

⁵⁵⁶ *La Capital* “Seguridad: mayores exigencias para la exhibición de carteleriam en obras” 07/22/08

⁵⁵⁷ *La Capital* “La provincia sacará 20 inspectores a la calle” 01/06/09

⁵⁵⁸ *La Capital* “Un abogado fue detenido por coimear a empresarios de la construcción” 08/27/08; Desde el “Ministerio de Trabajo dicen que habría más implicados” 08/27/09; “Detienen a inspector de Trabajo por pedir una coima a una constructora” 08/28/08; “El inspector que pedía coimas tenía 33 expedientes guardados en su casa” 08/29/08; “Una mafia opera en Trabajo para frenar las inspecciones laborales” 08/30/08

we have been working, side by side, in the Tripartite Construction Committee, along with the CAC and UOCRA."⁵⁵⁹ In sum, the Tripartite Commission created the opportunity for a different kind of relationship between the regulators and organizations in society. Whereas before the state depended on the unions and did not work closely with other organizations, now regulators and a broader range of organizations discussed actions that would improve enforcement in the construction industry, and the MTSF followed through.

The MTSF's relationship with organizations outside of the state was not, however, always cooperative. Industry associations and unions pushed back on plans to create new health and safety committees in the workplace.⁵⁶⁰ And although leaders of UOCRA privately praised the efforts of the MTSF, they publically criticized the provincial government for not doing enough to reduce accidents.⁵⁶¹ During the Obeid administration, UOCRA and the other CGT unions never protested about health and safety problems in the worksites or petitioned the Secretary of Labor in the media. Not even four months after Binner took power, UOCRA organized a protest of 100 workers who marched to the MTSF to demand "*implementation of safety measures and the provision of inspectors because without these actions the accidents, many of them fatal, will not stop.*"⁵⁶² As the accidents continued, demands from the unions grew, protests went on, and the CGT-Rosario demanded more inspections.⁵⁶³ The local newspaper quoted the head of the CGT stating "*from November until today (May 2008), every time an inspector is requested they aren't there. It took people dying once again to get the inspectors out into the street.*"⁵⁶⁴ These statements, which contrast sharply with the private accounts of a number of unions (including UOCRA) that praised Rodríguez, illustrate the more aggressive stance that the unions took against a governor with whom they had no partisan alliance.

In summary, the case of the construction industry demonstrates how shifts in the MTSF translated into changes in patterns of enforcement. Under the PJ, administrative capacity in health and safety inspection was weak, the state was dependent on unions for enforcement, and UOCRA did not have the resources to make up for the state's deficiencies. As a result, despite the saliency of the crisis in the industry, there was failed *society-dependent* enforcement at *low* levels; the union had unfettered access to the few inspectors who were on staff and UOCRA; and the CGT did not protest or make public statements demanding more resources be allocated to health and safety inspection in construction. Everything changed when the PS came into power. With investments in administrative capacity, enforcement was possible even without drawing on resources from society. Enforcement increased sharply due to decisions made by Rodríguez, even without any major change in the capabilities or actions on the part of UOCRA. In

⁵⁵⁹ *La Capital* "Un abogado fue detenido por coimear a empresarios de la construcción" 08/27/08

⁵⁶⁰ Interview: S24, Industrial Federation of Santa Fe, Rosario, 5/13/2009

⁵⁶¹ Interviews: S43, Construction Workers' Union of Argentina (UOCRA), Rosario, 5/13/2009; S41, Construction Workers' Union of Argentina (UOCRA), Rosario, 5/13/2009

⁵⁶² *La Capital* "Trabajadores de la construcción marchan en reclamo de más seguridad" 03/07/08; "Obreros de la construcción marcharon para exigir seguridad" 03/08/08

⁵⁶³ *La Capital* "La Uocra y otros 35 gremios irán con reclamos a Trabajo" 05/19/08

⁵⁶⁴ *La Capital* "Ahora la CGT pide controles "más frecuentes" en las obras" 05/22/08

addition, with their opponents in power, UOCRA and the CGT went on the offensive and publically demanded more state action and investment, keeping the pressure on Binner. The MTSF did not cut off all linkages with society, but the inspectors could not draw on resources of outside groups in as significant an operational way as in the cases analyzed in Chapter 4. Instead, regulators were mostly on their own, and of the increases in enforcement were a result of bureaucratic decision processes within the MTSF.⁵⁶⁵ Ultimately, enforcement in the construction industry became *state-driven at medium* levels. Increases in enforcement were notable, but levels did not reach the same intensity as the cases of construction in Córdoba or the garment industry of the Federal Capital.

Control Instead of Capacity

Contrasting Santa Fe with other Argentine provinces provides a way to further examine the relationship between partisanship, linkages, and administrative capacity, and to assess alternative explanations. Perhaps, the reforms in Santa Fe were really just a matter of national politics. After 2003, there was a strong swing towards enforcement all over Argentina, it may be that Santa Fe just finally became caught up in this trend? Or, perhaps there changes were due to some factor other than partisanship, such as a response to high levels of violations, weakness among business, electoral uncertainty, or economic growth? To help answer these questions, the first part of this section analyzes changes in Córdoba over the same period of time (1983-2009). In contrast with Santa Fe, Córdoba had high levels of investment in the 1980s, but not in the 2000s. The second part of this section briefly recounts an attempt to reform the Tucumán inspectorate in 2003. The case of Tucumán helps bring into view the importance of union-governor exchanges over control of the inspectorate even when there is a commitment from the governor to invest in administrative capacity. These two additional cases help refine our understanding of the political underpinnings of enforcement capacity.

Córdoba

The trajectory of Córdoba's labor administration is, in many ways, the reverse of that of Santa Fe. The similarities between labor and administration in Córdoba in the late 1980s and Santa Fe in 2007-09 are striking. Following the return to democracy, the first governor of Córdoba was Eduardo Angeloz from the Radical Party (UCR).⁵⁶⁶ Like the Socialists, the UCR was in opposition to the PJ. Under Angeloz, Córdoba created a Ministry of Labor (MTC, *Ministerio de Trabajo de Córdoba*) in 1985, signaling the importance of labor administration. To head the MTC, the governor selected a well-known labor lawyer, Jorge Sappia, as Minister of Labor. Sappia was a member of the Radical party and not an ally of the unions, but he had experience working with unions as a lawyer, and was seen as highly skilled by both the business community and union leaders.⁵⁶⁷ Under Angeloz, politically appointed officials were mainly labor lawyers,

⁵⁶⁵ And although enforcement clearly increased, the numbers of fatal accidents did not decline in 2009 and 2010. It is uncertain what exactly was driving the high levels of accidents. *Rosario/12* "El récord más triste del año" 01/21/11

⁵⁶⁶ The Radicals also controlled both changes of the provincial legislature, dominating the province.

⁵⁶⁷ Interviews: C13, Industrial Union of Córdoba, Córdoba, 6/19/2008; C03, Union of Pastry, Pizza, and Alfajor Workers, Córdoba, 7/16/2008; C46, Metal Workers' Union (UOM), Córdoba, 3/18/2009

from a variety of backgrounds, including the union movement.⁵⁶⁸ Sappia described the initial hiring of labor inspectors:

*The majority of inspectors we hired with a civil service exam. We gave them the best pay that we could within the salary scales of the provincial government, and on top of that we gave them overtime, travel compensation, and bonuses.... When I was the minister, the inspectors... were required to take training courses of 70 hours a year.*⁵⁶⁹

The MTC in 1988 had 57 labor inspectors, including a technically trained health and safety division. And they had access to cars and other basic material resources. In short, the MTC was founded with relatively high levels of administrative capacity. With these resources, inspectors were able to conduct over 20,000 inspections in 1990 (nearly double the number of inspections in 2007). There is consensus among those involved in labor politics in Córdoba, both from unions and industry, that Sappia's tenure was the high point of labor inspection in the province.⁵⁷⁰

Linkages between the MTC and organizations and unions were controlled in a similar fashion as in Santa Fe under Binner. Inspectors could routinely draw on union resources, but they were prohibited from undertaking practices that could most readily turn into capture. Sappia described the structure of linkages:

*Traditionally, the unions came at seven in the morning and asked for inspectors. During my administration, we maintained this system to not make it bureaucratic or difficult. What I intended to do was to suppress the gifts that the unions give to the inspectors, (prevent) union leaders taking inspectors in the car of the union to do the inspection... I had cars of the MTC. They weren't many, but we were not completely dependent on the unions for resources.*⁵⁷¹

For union leaders, this system was seen as effective—unions did not have to subsidize inspectors' salary but they still could get a response from the state.⁵⁷² In addition to these informal linkages, the MTC also facilitated more formal consultations. The most lasting of these was the Tripartite Construction Commission (discussed in Chapter 4), which served as a space for UOCRA, the CAC, and the MTC to coordinate enforcement in the construction industry.⁵⁷³

The similarities between labor administration under governors Angeloz and Binner in Santa Fe are striking: both gave labor administration a high rank in the executive branch by making it a ministry; both were led by neutral technocrats; both

⁵⁶⁸ Interview: C01, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 06/18/08 & 03/10/09.

Also: Government Report title: "Gobierno de Córdoba: Secretaría Ministerio de Trabajo 1985-1987"

⁵⁶⁹ Interview: C01, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 06/18/08 & 03/10/09

⁵⁷⁰ In dozens of interviews in Córdoba there was consensus about the quality of Sappia's term as Minister of Labor.

⁵⁷¹ Interview: C01, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 06/18/08 & 03/10/09

⁵⁷² Interview: C46, Metal Workers' Union (UOM), Córdoba, 3/18/2009

⁵⁷³ Interview: C15, Argentine Construction Association (CAC), Córdoba, 3/3/2009

involved investment in administrative capacity; both allowed inspector-union linkages while taking steps to reduce the most pernicious forms of capture; and both supplemented inspector-union linkages with more formal processes of collaboration that involved a variety of civil society organizations. The political conditions that led to these outcomes in Córdoba were remarkably similar to those in Santa Fe. Without a partisan alliance with unions, Angeloz could not easily give unions control in exchange for support. Instead, to show that he was serious about enforcement, he allocated scarce resources to building administrative capacity. The unions, for their part, were not limited by partisan commitments and could take an aggressive stance towards the governor. A union leader from this period summed up the success of organized labor under Angeloz in comparison with the Peronist governors, stating:

When Angeloz was the governor and Sappia the Minister, they were from the other party—because unionism is Peronism—we demanded a ton and they were afraid...and because of that, they complied with our demands. When we were from the same party as the governor, they would say ‘Not so fast, wait.’ It is because there is an alliance. We won much more in the years of the Radicals than in the years of the Peronists.⁵⁷⁴

Just as in Santa Fe under Binner, union leaders were not shy in criticizing the governor and keeping pressure on for labor law enforcement during the Angeloz administration. In sum, the initial investment in labor inspection in Córdoba can be explained by the particular combination of political circumstances that made it impossible to substitute linkages for administrative capacity.

After Angeloz and Sappia left office in 1995, labor administration was dismantled by the new governor, Ramón Mestre. Although he was also from the UCR party, Mestre had a much more free market orientation than Angeloz. During Mestre’s administration, the province had a debt crisis, unemployment spiked, and the provincial government worked with the World Bank to institute a series of structural reforms.⁵⁷⁵ In this context of cuts, labor administration was disproportionately targeted. The number of inspectors was reduced drastically between 1995 and 1996 from 56 to 36—a rate much greater than the overall reduction in Córdoba’s public sector.⁵⁷⁶ Overall, resources were cut off from inspection, which “*political was considered a secondary task.*”⁵⁷⁷ The MTC was downgraded three levels to become a Sub-Secretariat of Labor, leaving it diminished in terms of political strength and budgetary resources. To head the Sub-Secretariat, Mestre appointed a labor lawyer, Noberto Ciaravino, who had close ties to Sappia and to the construction union. Ciaravino did not take steps to supplement the decreased administrative capacity with stronger inspector-union linkages. Instead, during his administration more constraints were put on inspector-union collaboration. Ciaravino instituted a policy in which there were “*two days a week for programmed inspections,*

⁵⁷⁴ Interview: C17, Construction Workers' Union of Argentina (UOCRA), Córdoba, 7/15/2008

⁵⁷⁵ Ladrone and Cingolani 2006

⁵⁷⁶ The number of public sector employees per 1,000 inhabitants in Córdoba only dropped from 28 to 26. Source: Ministerio de Economía y Finanzas Públicas, Dirección Nacional de Coordinación Fiscal con las Provincias

⁵⁷⁷ Interview: C01, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 06/18/08 & 03/10/09

and three days a week for the others [union requests]”, which effectively limited the ability of inspectors to draw on unions.⁵⁷⁸ In short, under the Mestre administration, there was a substantial decline in administrative capacity and a weakening of linkages.

The “*deactivation*”⁵⁷⁹ of labor inspection in Córdoba under Mestre is, in many ways, not surprising. Mestre was not an ally of the unions and was a self-proclaimed advocate of reducing state intervention in the market. Moreover, the mid-1990s were a period of fiscal crisis in Córdoba and a swing towards liberalization in Argentina. Unions could not block Mestre’s action and were more concerned about preserving jobs than preserving labor inspection. The dismantling of labor inspection under a UCR administration confirms the simple (and obvious) fact that the election of a union foe is not sufficient for investment in administrative capacity (as might be suggested by the Binner and Angeloz administrations).

More surprising than the change under Mestre was the only modest investment in labor inspection when the PJ took power. In 1998, for the first time since the return to democracy, a PJ candidate, José Manuel De la Sota, won the election for governor in Córdoba. De la Sota rewarded unions for their support by elevating labor administration from a Sub-Secretariat to a full Secretariat (STC). In 2003, De la Sota won reelection and, in 2007, he was followed by his ally from the PJ, Juan Schiaretti. For twelve years (at least), the unions’ partisan allies were in power, thereby creating the opportunity for unions to win investment in labor law enforcement. However, the dynamic in Córdoba during this period closely mirrored that of Santa Fe in the 1980s—unions consistently won key appointments, inspector-union linkages were strengthened, but investments in administrative capacity were modest in comparison with those under Binner in Santa Fe.

After De la Sota was elected, union factions jockeyed to get their favorite candidate to be Secretary of Labor.⁵⁸⁰ For Secretary of Labor, De la Sota chose the labor lawyer, Luis Eugenio Angulo who was supported by one union faction (and had strong connections to De la Sota’s allies within Peronism). To run the labor inspection division, De la Sota chose the preferred candidate of the other union faction, Alberto Castro.⁵⁸¹ This strategy was extremely similar to Obeid in Santa Fe, who distributed appointments in the STSF across rival unions. Angulo stayed in office until 2004 when there was a moment of “*open conflict*” between the unions and the governor, mainly over salary disputes with some public sector unions.⁵⁸² Upon resigning, it was leaked to the press that Angulo was leaving because he was “*angry that the STC suffered from being dismantled in the recent years.*”⁵⁸³ De la Sota’s response to the conflict was to replace

⁵⁷⁸ Interview: B53, Senior Official, Ministry of Labor, Employment and Social Security, Buenos Aires, 9/4/2008. As a result, in 1998, only half the inspections were conducted at the requests of unions, which is a very low number when compared with the period after the 2001 crisis, when upwards of 80% of inspections were at the request of unions.

⁵⁷⁹ Interview: C15, Argentine Construction Association (CAC), Córdoba, 3/3/2009

⁵⁸⁰ *La Voz del Interior* “Angulo y Castro para Trabajo” 07/06/99

⁵⁸¹ *La Voz del Interior* “Los gremios se reacomodan luego del recambio” 07/19/99

⁵⁸² *La Voz del Interior* “Más tensión entre los gremios y De la Sota” 05/16/04

⁵⁸³ *La Voz del Interior* “Enojado, Angulo dejará este mes la Secretaría de Trabajo provincial” 05/09/04; “Enojado, Angulo dejará este mes la Secretaría de Trabajo provincial Llegó la hora de agitar las banderas” 05/10/04

Angulo with the powerful head of the public sector union UPCN, Miguel Benedetto. While organized labor did not win more resources for inspection, they were able to effectively chose the Secretary of Labor and, for the first time, they had a sitting secretary general of a union at the helm of the STC.⁵⁸⁴ In addition, the rest of the appointments in the STC went to lawyers “*aligned with distinct unions*,” thereby rewarding key unions with positions inside the state.⁵⁸⁵ In short, instead of responding to labor demands by investing in administrative capacity, unions were rewarded with appointments.

In 2007, not long before the coming elections, De la Sota fired Benedetto and replaced him with José Luis Farré, a politician who was an ally of the favorite candidate for governor, Juan Schiaretti.⁵⁸⁶ When Benedetto left, so did all of the union-affiliated political appointees. Two weeks later, now on the outside, the two Córdoba CGT factions made demands for greater investment in administrative capacity. The union leaders argued that the STC should become a full Ministry because it suffered due to “*budgetary limitations*” and “*complete dependence on the Ministry of Production*.”⁵⁸⁷ Still, the majority of the unions once again supported the PJ candidate, Juan Schiaretti, in the election of 2007.⁵⁸⁸

Once Schiaretti had won the election, a group of unions from both CGT factions united in pushing once more for the STC to be converted to a full ministry: “*We want it to stop being a secretariat, and to be changed to the level of a ministry, or at least a secretaria de estado*.”⁵⁸⁹ As an official in the STC (and union leader) explained: “*Everyone wants there to be a Ministry of Labor. The structure, a Ministry...more than anything it is about the budget...If they convert us into a Ministry, we will be able to act in a different way. It would be ideal, for the population, for the people inside, for the unions, for everyone*.”⁵⁹⁰ Instead, once again, the governor gave the unions key appointments that allowed them to control the STC. For Secretary of Labor, Schiaretti chose the labor lawyer Omar Hugo Sereno, who previously worked in the STC under Benedetto and was the “*man of SMATA*”, the strong union auto workers union.⁵⁹¹ Like Benedetto, Sereno was put forward by one of the CGTs and then accepted by the governor after political wrangling that alienated some factions of organized labor.⁵⁹² Schiaretti also made an effort to reward a variety of unions, giving key appointments to labor lawyers who worked for unions from each faction.

Besides the appointments, the governor made promises to double the number of labor inspectors, increase the number of cars, build a new office for the Rio Cuarto

⁵⁸⁴ Interview: C04, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 3/11/2009

⁵⁸⁵ *La Voz del Interior* “Benedetto confirmó su gabinete” 06/03/04

⁵⁸⁶ *La Voz del Interior* “Molesto con Benedetto, De la Sota lo reemplazó por Farré en Trabajo” 01/31/07. The circumstances surrounding the firing are unclear and appear to be mainly due to a personal conflict between Benedetto and the governor.

⁵⁸⁷ *La Voz del Interior* “Cautela de gremios por gestión de Trabajo” 02/12/07

⁵⁸⁸ *La Voz del Interior* “En campaña” 8/30/07

⁵⁸⁹ *La Voz del Interior* “Gremios por un Ministerio de Trabajo” 11/20/07

⁵⁹⁰ Interview: C31, Senior Official, Córdoba Labor Secretariat, Córdoba, 7/17/2008

⁵⁹¹ *La Voz del Interior* “Sereno es el nuevo secretario de Trabajo” 12/12/07

⁵⁹² Sereno had been a legal advisor to SMATA for many years, and his father was member of SMATA during the *Córdoba*.

delegation, and upgrade the information management system.⁵⁹³ These investments, however, were never made. The number of inspectors increased from 45 in 2006 to 56 in 2008, but they did not double (as promised) and remained lower than the 63 who were employed in 2001. In fact, the absolute number of labor inspectors was almost exactly the same in 2008 as it was in 1988, but the province had grown in population by a over half a million people. Furthermore, the new inspectors were hired based on patronage, not on merit.⁵⁹⁴ In other aspects of administrative capacity—including technology, transportation and training—the STC continued to lag (see Chapter 3). Only the division of health and safety inspection, that had been put into place under Sappia and had been somewhat protected, had high levels of administrative capacity. In short, the STC still had not regained the position it had under the UCR administration of Angeloz in the late 1980s and early 1990s.

Union leaders were, however, able to foster strong inspector-union linkages through their positions within the STC. When Benedetto was appointed Secretary of Labor, unions gained open access to the bureaucracy—“*the general secretaries of the unions all had my cell phone number, no one in the waiting room, no one asking for an official hearing. They had totally free access to my office.*”⁵⁹⁵ Benedetto made union requests for inspection a priority, “*we did the programmed inspections that we were able to, the ones that the unions gave us.*”⁵⁹⁶ These practices continued under Sereno, who wanted to reduce inspector dependence on unions, but would not do so at the expense of weakening linkages with unions.⁵⁹⁷

In sum, despite over ten years of PJ rule, a massive economic expansion, and a change in the trends of national policy towards enforcement, there were few investments in administrative capacity. Instead, in exchange for their support, allied unions gained strategic appointments in the state that guaranteed their access to inspectors. In short, linkages substituted for capacity. A union leader summed up this outcome, stating:

*We have lost due to the fact that the labor movement has put forth its demands in a segmented way... The unions... created the possibility that their people could be a part of the STC. [This way] the STC would give them more weight... Therefore, if the governor gave unions positions in the STC, ... it didn't matter that it was Secretariat, when in reality it should be a Ministry.*⁵⁹⁸

This dynamic helps explain the underinvestment in labor inspection, which led to the pattern of society-dependent enforcement in the wage and hour division of the STC. Only CYMAT, which had been given marginally better resources (in part due to

⁵⁹³ *La Voz del Interior* “Schiaretti duplica la cantidad de inspectores laborales” 04/29/08

⁵⁹⁴ Many of the staff that came into the inspectorate were transferred from other parts of the government, such as the provincial bank, which was privatized. *La Voz del Interior* “25 ex bancarios ya dependen de la Secretaría de Trabajo” 09/15/04. Interviews: C38, Inspector, Córdoba Labor Secretariat, Córdoba, 7/18/2008

⁵⁹⁵ Interview: C04, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 3/11/2009

⁵⁹⁶ Interview: C04, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 3/11/2009

⁵⁹⁷ Interview: C45, Senior Official, Córdoba Labor Secretariat, Córdoba, 6/19/2008

⁵⁹⁸ Interview: C46, Metal Workers' Union (UOM), Córdoba, 3/18/2009

subsidies from the national government), was able to co-produce enforcement with UOCRA.⁵⁹⁹

Tucumán

The politics of reform in Tucumán provide an example of unions prioritizing linkages over increases in administrative capacity. As described in Chapter 3, Tucumán's labor inspectorate (TST) had extremely low levels of administrative capacity and particularly severe problems with inspector corruption in the post-crisis period. In 2003, José Alperovich (PJ) was elected governor with support from the main faction of the provincial CGT. At that time, levels of labor law violations in Tucumán were extremely high; in 2004, 59% of workers were unregistered, giving Tucumán the second highest level of informality in the country.⁶⁰⁰ Being one of the worst performers in the country, the federal MTESS put pressure on Alperovich to take measures to address the issue.⁶⁰¹ Alperovich proposed, and eventually passed, a law increasing penalties for employers who contracted workers off the books, including fines up to \$10,000 dollars.⁶⁰² The province also started using its tax inspectors, sometimes in joint operations with labor inspectors, to enforce worker registration laws. These inspectors undertook a series of operations aimed at domestic workers, commercial workers and the construction industry.⁶⁰³

In addition to these measures, Alperovich attempted to invest in the administrative capacity of the TST. As part of this effort, he broke with the tradition of appointing union leaders to the top Secretary of Labor slot and chose Rogelio Mercado, a labor lawyer who was more of a technocrat than a union ally.⁶⁰⁴ Mercado, along with other top officials at the TST, travelled around Argentina to learn about best practices in labor inspection from other provinces that they could emulate. They concluded that Tucumán

⁵⁹⁹ UOCRA took a different strategy than other unions towards the STC. Notwithstanding its size and political weight, UOCRA did not push to get its leaders appointments in the STC. Instead, it worked to maintain CYMAT and its relationship with the inspectors.

⁶⁰⁰ Author's analysis of EPH data.

⁶⁰¹ Interview: T12, Senior Official, Tucumán Labor Secretariat, Tucumán, 10/27/2008 & 11/12/2008

⁶⁰² The law also called for firm closures between three and ten days, and a prohibition on these firms receiving public contracts. It was of questionable legality due to the federal structures that set rates for fines in the entire country. *La Gaceta de Tucumán* "Alperovich anunció sanciones contra el trabajo no registrado" 05/12/07; "Se intensifica la lucha contra el trabajo en negro" 06/12/07; "Aplicarán duras penas a quienes tengan personal sin registrar" 01/17/08

⁶⁰³ *La Gaceta de Tucumán* "Comienzan los controles contra el empleo doméstico informal" 09/07/06; "Fueron regularizadas 1.800 empleadas domésticas en la provincia" 09/09/06; "Arrancan los controles sorpresivos de las casas" 09/11/06; "Multarán desde hoy a quienes empleen domésticas en negro" 09/11/06; "Más controles por el personal doméstico" 09/13/06; "Por no emitir facturas, clausuraron bares, garajes y hasta consultorios" 11/01/07; "Este fin de semana, los "sabuesos" visitarán boliches, bares y pubs" 11/02/07; "Detectan ilegalidad en obras y en comercio" 11/02/07; "Rentas va por el blanqueo de 14.000 empleadas doméstica" 11/03/07; Rentas apunta a 89 negocios que pueden ser clausurados 11/23/07; Por el empleo no registrado, controlan hoteles y heladerías 12/01/07; "El control de empleo en negro derivó en la clausura de un local" 02/14/08; "Controlarán día y noche que no haya empleo en negro" 01/30/00; "La construcción es el sector con la mayor cantidad de empleados en negro" 02/04/08; "El Gobierno detectó hasta ahora 88 empleados en negro" 02/07/08.

⁶⁰⁴ Alperovich did select a union leaders Sub-secretary of Labor (Ramón Aguirre) and Director (Jorge Blasco), thus maintaining the ties between the TST and the unions.

should introduce merit based hiring to bring in “*professionals*”, improve training, and prohibit inspectors from having employment outside the state—many of the steps that Rodríguez took in Santa Fe.⁶⁰⁵ They also decided that they needed to replace the existing inspectors to reduce rampant corruption.

In order to complete the reform, senior officials concluded that they needed to initiate a number of steps that would reinforce hierarchical control of the inspectors. This meant preventing inspectors from being completely dependent on unions. Mercado’s assault on union control over inspection was fairly direct—he ordered inspection campaigns that officials described as going beyond just “*protecting the union*” interests.⁶⁰⁶

Not surprisingly, unions resisted changes that would weaken their linkages with labor inspectors. As the conflict escalated, it threatened the union’s alliance with governor Alperovich. Powerful union leaders criticized the governor and called for Mercado’s resignation.⁶⁰⁷ Moreover, with the support of the public sector unions, labor inspectors went on strike and blocked roads. The conflict grew and fist-fights broke out, leading to the arrest of some inspectors.⁶⁰⁸ Alperovich tried to resist the pressure, proclaiming that he would “*support [Mercado] to the death.*”⁶⁰⁹ He also proposed legislation that the TST could keep the money from fines to supplement its budget—a policy that the unions had long ago demanded.⁶¹⁰ But as the conflict escalated and further threatened the governor’s alliance with key unions, Mercado was forced out and the reform halted.

To keep his coalition together, governor Alperovich reinstated the exchange with unions and appointed the head of the “62” Peronist Organizations (the political wing of the unions aligned with the governor) Roberto Jiménez, Secretary of Labor.⁶¹¹ Jiménez, who was the head of the powerful transport workers’ union (UTA), maintained his position as a union leader while serving as Secretary of Labor. The exchange was successful in subduing conflict; as a union leader observed: “*The governor chose Roberto Jiménez so that he could control us, the unions, so we don’t go out on the street and mobilize... Jiménez is a sort of bridge, a nexus, between the unions and the governor.*”⁶¹² Jiménez put on hold the process of reform that could have weakened inspector-union linkages, stopping Mercado’s proposals in their tracks.

⁶⁰⁵ Interview: T37, Former Senior Official, Tucumán Labor Secretariat, Tucumán, 4/14/2009

⁶⁰⁶ *La Gaceta de Tucumán* “Blanquean” a obreros por la presión oficial” 12/17/03; also there is some pushback against enforcement in the agricultural sector: “Alivia a los productores el repunte en el precio de la papa” 11/13/04

⁶⁰⁷ *La Gaceta de Tucumán* “Los gremios marcharán mañana y el jueves por un básico de \$ 350” 05/27/04; “Habría 8.000 obreros azucareros en negro” 06/28/04.

⁶⁰⁸ *La Gaceta de Tucumán* “Jornada de paro en la Secretaría de Trabajo” 06/05/04

⁶⁰⁹ *La Gaceta de Tucumán* “Alperovich avaló con un abrazo a dos funcionarios de su gabinete” 05/27/04; “Se autofinanciaría la Secretaría de Trabajo” 06/14/04; “Trompadas en la Secretaría de Trabajo” 06/06/04; “Empleados de la Secretaría de Trabajo cortan el tránsito” 07/14/04

⁶¹⁰ *La Gaceta de Tucumán* “Se autofinanciaría la Secretaría de Trabajo” 06/14/04; “Trompadas en la Secretaría de Trabajo” 06/06/04; “Empleados de la Secretaría de Trabajo cortan el tránsito” 07/14/04.

⁶¹¹ *La Gaceta de Tucumán* “Alperovich suma a un sindicalista al PE” 08/17/04; “Repercusiones sobre la modificación en Trabajo 08/17/04; “Jiménez asumió y pidió un mayor presupuesto” 08/20/04

⁶¹² Interview: T06, Construction Workers’ Union of Argentina (UOCRA), Tucumán, 4/14/2009

Union leaders were ambivalent about the stalled reforms, effectively choosing control over capacity.⁶¹³ Alperovich tried new approaches to reform, including a corruption crack down that involved a sting operation and an executive decree removing all existing inspectors.⁶¹⁴ But he was stalled in court by a lawsuit from inspectors claiming that the executive decree violated their civil service protection. Alperovich received no support from the unions in these efforts. Ultimately, his attempts to reduce unregistered work were shifted from the TST to the tax agency. Alperovich gave the tax agency additional staff who acted as para-inspectors and only enforced registration laws (much in the same way as the MTESS *Plan Nacional de Regularización de Trabajo* discussed in Chapter 2).⁶¹⁵ Up until the time of this research, reforms of the labor inspectorate in Tucumán never came to pass, but the unions maintained high levels of control over the inspectors.

The case of Tucumán is instructive of the dynamics of partisan exchange and the hierarchy of union-interests. Unions in Tucumán did not have to supply the pressure for reforming the inspectorate, this came from the national government. Still, reform was blocked because leaders of some of the most powerful unions preferred control to capacity. And even after Alperovich reaffirmed his ties with the unions through the appointment of Jiménez, he faced new barriers in the form of civil service protection of the existing inspectors. In sum, the influence of partisan exchange on the politics linkages and administrative capacity was strong enough that it essentially blocked reform even when the governor had political will to invest in the inspectorate.

Conclusion

This chapter has argued that in order to explain linkages and administrative capacity, we need to examine the ways in which union-governor interactions are structured by partisan context. The analysis began by examining a cross-section of provinces in 2009, using data from the inspector survey to show that there is a strong relationship between partisanship and linkages. The discussion then focused on changes over time in Santa Fe, Córdoba, and Tucumán. Table 5.5 below summarizes the findings from these cases, as well as the case of the Federal Capital discussed in the previous chapter. When the PJ was in power, unions were much more likely to win strong linkages, but governors were less likely to invest in administrative capacity. Only with a centrist governor (without a deregulatory agenda) who did not have a partisan alliance—as in Córdoba in the 1980s, Santa Fe after 2007, and in the Federal Capital (in 2003 and again in 2006)—were there major investments in capacity.

⁶¹³ Interview: T57, Metal Workers' Union (UOM), Tucumán, 4/21/2009; T06, Construction Workers' Union of Argentina (UOCRA), Tucumán, 4/14/2009

⁶¹⁴ *La Gaceta de Tucumán* "Acusado de cobrar una coima" 07/24/08; "Detienen a un inspector acusado de cobrar coima" 07/24/08; "Un arresto reaviva el conflicto laboral en Trabajo" 07/25/08; Encontraron en su carpeta billetes marcados 07/27/08; "Un arresto reaviva el conflicto laboral en Trabajo" 07/25/08.

⁶¹⁵ Interview: T11, Province of Tucumán Tax Department, Tucumán, 4/17/2009

Table 5.5: Summary of Analysis

Province (year)	Partisan Context	Political Position of Governor	Investment in Admin. Capacity	Trends in Linkages
Córdoba (1984-1995)	No Alliance	Neutral	High	Neutral
Córdoba (1995-1999)	No Alliance	Deregulatory	Low	Weakening
Córdoba (1999-2009)	Alliance	Regulatory	Low	Strengthened
Santa Fe (1984-1991)	Alliance	Regulatory	Low	Maintaining
Santa Fe (1991-2003)	Alliance	Deregulatory	Low	Maintaining
Santa Fe (2003-2007)	Alliance	Regulatory	Low	Maintaining
Santa Fe (2007-2009)	No Alliance	Regulatory	High	Weakening
Tucumán (2003-2009)	Alliance	Regulatory	Low	Maintaining
Federal Capital (2002-2007)	No Alliance	Regulatory	High	Strengthened
Federal Capital (2007-2009)	No Alliance	Deregulatory	Low	Weakened

These cases have shown that there *can be* changes over time in the key factors that influence enforcement patterns. The provinces studied in this chapter have moved in two directions—some investing more in state bureaucracies, while others allowed those bureaucracies to decline—they were not stuck in one pattern or another. This chapter, however, has only analyzed cases in which partisanship plays a central role in regulatory politics. Yet, the case of enforcement in the garment industry in the Federal Capital in Chapter 4 and the environmental cases introduced in Chapter 1 suggest that there are other ways in which linkages form and potentially different pathways to enforcement. The following two chapters shift the focus to environmental regulation, moving away from partisan politics to an issue with very different interest organization.

Table A5.1: Descriptive Statistics of Data

Variable	Description / Coding	N	Mean	Stand. Dev
PJ Dummy	0 = Current governor not part of PJ 1 = Current governor part of PJ	166	0.46	0.50
Education	Estimated years of schooling	165	15	3.7
Civil Service Protection	0 = No civil service contract (not " <i>planta permanente</i> ") 1 = Civil service contract	163	0.45	0.49
Experience	Years of experience as a labor inspector	159	8.2	7.6
Number of Inspectors	Natural log of the (number of residents in the province / number of inspectors)	166	0.37	0.41
Union strength	The percentage of workers in the province who self-identify as being affiliated with a union.	166	0.41	0.054
Jobs more important than compliance	Based on response to the question: Do you agree with the following statement: "Sometimes, it is more important that the workers have jobs than that the firm comply with all of the laws" Yes=1 No=0	158	0.25	0.43
Advice on Flexibility	Based on the response to the question: When you encounter a violation, how often do you talk with the union leader and give the firm time to comply only if the union leader agrees (Never=-1, Sometimes=0, Almost Always=1)	161	-0.29	0.82
Accompany Inspection	During an inspection, how often do unions accompany the inspection: Never=-1, Sometimes=0, Almost Always=1	162	0.16	0.67
Observe Inspection	During an inspection, how often do unions observe the inspection: Never=-1, Sometimes=0, Almost Always=1	153	0.27	0.69
Provide Car	During an inspection, how often do unions provide a car: Never=-1, Sometimes=0, Almost Always=1	158	-0.08	0.70
Orient Towards Problems	During an inspection, how often do unions orient you towards the most important problems: Never=-1, Sometimes=0, Almost Always=1	156	-0.06	0.70
Gather Information	During an inspection, how often do unions help the inspector gather information: Never=-1, Sometimes=0, Almost Always=1	156	-0.23	0.74
Follow-up	During an inspection, how often do unions help with follow up: Never=-1, Sometimes=0, Almost Always=1	155	-0.06	0.78
Collective Bargaining Agreement	During an inspection, how often do unions help the inspector with information about the collective bargaining agreement: Never=-1, Sometimes=0, Almost Always=1	155	0.01	0.74
Union Score	Average of the variables relating to union participation in inspections	166	-0.003	0.57

*Table A5.2: Selected Appointed Officials in
Provincial Labor Administrations (2003-2009)*
(union affiliated appointees are shaded in grey)

Province	Head of Gov. (Party)	Name	Position	Background / Trajectory
Córdoba	De la Sota (PJ)	Angulo	Secretary of Labor (1999-2005)	Labor lawyer who served as an advisor to major CGT unions, became a Minister of Justice in the province.
Córdoba	De la Sota (PJ)	Benedetto	Secretary of Labor (2005-2007)	Secretary general of the public sector union (UPCN)
Córdoba	De la Sota (PJ)	Farre	Secretary of Labor (2007)	Ex-legislator (only lasted six months)
Córdoba	Schiaretti (PJ)	Sereno	Secretary of Labor (2007-)	Lawyer who advises the auto workers' union (SMATA)
Córdoba	Schiaretti (PJ)	Yacanto	Subsecretary of Labor (2007-)	Lawyer advising various unions CGT unions, including food workers, telephone workers, garbage, bankers, and public employees
Córdoba	Schiaretti (PJ)	Bianchi	Head of Regional Offices (2007-)	Lawyer who advises the teachers' union
Córdoba	Schiaretti (PJ)	Poncio	Head of Inspection (2007-)	Lawyer for the commercial workers' union
Federal Capital	Telerman (Alianza)	Pereyra	Subsecretary of Labor (2005-2006)	Labor lawyer, not connected with the unions. Went on to private practice afterwards.
Federal Capital	Telerman (Alianza)	Lieutier	Subsecretary of Labor (2006-2008)	Engineer who had been working with groups of unemployed, went on to various government positions.
Federal Capital	Macri (PRO)	Ginzo	Subsecretary of Labor (2008-)	Labor lawyer with various positions in government at the national and provincial level
Santa Fe	Reuterman (PJ)	Ercoli	Secretary of Labor (2000-2003)	Party activist.

Province	Head of Gov. (Party)	Name	Position	Background / Trajectory
Santa Fe	Reuteran (PJ)	Traverso	Subsecretary of Labor (1999-2003)	High level PJ party activist, worked in a number of branches in the government.
Santa Fe	Obei (PJ)	Gianneschi	Secretary of Labor (2003-2007)	A judge with ties to the PJ, who came in as an outside appointee. Afterwards he retired.
Santa Fe	Obei (PJ)	Din	Subsecretary of Labor (Rosario) (2003-2007)	Head of the auto workers' union, went back to the union afterwards
Santa Fe	Obei (PJ)	Ortiz	Subsecretary of Labor (Santa Fe Capital) (2003-2007)	Head of the metal workers' union, went back to the union afterwards.
Santa Fe	Binner (Socialist)	Rodríguez	Minister of Labor (2007-)	Served as head of the national occupational health and safety agency, as well as with the ILO. Never worked for unions.
Santa Fe	Binner (Socialist)	Ortega	Subsecretary of Labor (2007-2009)	The only union leaders in the socialist administration, Ortega was the head of the bank workers' union but he also had a history with the PS. He left in the middle of a collective bargaining fight and returned to his union after only two years.
Santa Fe	Binner (Socialist)	Ciciliani	Subsecretary of Labor for promotion of Decent Work (2007-2009)	A political activists within the PS with experience in labor issues. Previous appointments included Director of Employment for the city of Rosario, a consultant to the ILO, and a member of the policy making think tank of the PS. Left the MTSF to become a national deputy.
Santa Fe	Binner (Socialist)	Rubio	Head of Health and Safety Inspection	Previously was a health and safety inspector in the Federal Capital.
Santa Fe	Binner (Socialist)	Muriaga	Head of Labor Inspection (2007-)	Previously was a labor inspector for the national MTESS branch in Rosario.

Province	Head of Gov. (Party)	Name	Position	Background / Trajectory
Tucumán	Miranda (PJ) and Alperovich (PJ)	Blasco	Director (1999-)	Former head of the train workers' union.
Tucumán	Miranda (PJ)	Rivera	Secretary of Labor (2002 – 2003)	Leader of the teachers' union (AMET)
Tucumán	Alperovich (PJ)	Mercado	Secretary of Labor (2003-2004)	Labor lawyer, not affiliated with unions
Tucumán	Alperovich (PJ)	Jiménez	Secretary of Labor (2004-)	Secretary general of the transport workers' union (UTA) and head of the Tucumán branch of the "62" Peronist Organizations

Table A5.3: Ranks of Labor Administration (2008)⁶¹⁶

Rank	% of Provinces
Ministerio	17%
Secretaría de Estado	4%
Secretaría	17%
Subsecretaría	54%
Dirección	8%
Total	100%

⁶¹⁶ Source: Data compiled by author.

Chapter 6: Putting out Fires in Santa Fe and Córdoba

This chapter shifts the from labor politics to environmental politics, returning to the provinces analyzed in the previous chapters with a new focus. Contrasting labor and environmental issues allows us to ask a series of questions about the nature of enforcement under the conditions of politicized bureaucracies that cannot be answered by examining labor regulation alone. First, is the role of societal organizations enforcement primarily an artifact of the legacy of Argentina's corporatist institutions, or the alliance between the PJ and the Peronist unions? Analyzing environmental enforcement is particularly helpful because of the very distinct structure of environmental politics, which has none of the features of corporatism or partisanship (as described in Chapter 2). If the analytical framework advanced in this dissertation applies beyond labor politics, it should be able to explain variation in environmental enforcement as well. Second, due to the distinct organization of social groups and politics, there should be some differences between environmental and labor issues, which can help refine the analysis of the drivers of enforcement. For example, if partisanship is not a key issue in environmental politics, what determines whether or not regulators can form linkages with civil society organizations? Investigating environmental politics can help uncover alternative sources of linkages formation, facilitating a more complete understanding of a key attribute of state-society relations.

Third, revisiting some of the provinces analyzed in Chapters 3 through 5 provides an opportunity to juxtapose the politics of two different sets of policies in the very same provinces. These comparisons help identify the degree to which provincial-level factors, such as the structure of the economy, are the primary drivers of enforcement and whether administrative capacity and linkages are only secondary factors. For example, was the reform of labor inspection in Santa Fe that took place in 2007 and 2008 primarily due to a broad effort by the Socialist administration to invest in good government, or due to the particulars of labor politics? Were the failures to broadly enforce labor regulations in Tucumán due to its level of socio-economic development? Comparison of labor and environmental regulation can help answer these questions, providing a more robust assessment of alternative explanations for enforcement.

The first, and main, section of this chapter analyzes the actions of environmental regulators in Santa Fe, identifying two distinct logics of action. Under most circumstances, the routine process of enforcement is highly limited and at an extremely low level. However, when there is sharp social conflict around a particular industrial site, regulators are able to leverage resources outside the state, and high levels of concentrated enforcement follow. The chapter then develops an explanation for this pattern of *society-dependent* enforcement. While attributes of the regulatory agency or the environmental organizations in the province are important, they alone cannot account for variation in enforcement. Instead, it is necessary to examine which civil society organizations become linked with regulators and how the capabilities of these groups combine with those of the state. In the case of Santa Fe, regulators lack administrative capacity and cannot work with professional environmental organizations that have the potential to support enforcement aimed at an industry or region. Instead, regulators only formed

linkages with small community groups that can generate the conflict necessary to become politically viable partners. However, these groups only enable the state to enforce regulations in a highly concentrated way on specific firms.

Analysis of Santa Fe suggests that linkages are crucial for explaining environmental enforcement. To further test this proposition, the second section of the chapter briefly analyzes a shadow case of Córdoba, which by most measures has even stronger professional environmental organizations than Santa Fe (in terms of funding, expertise, and international connections). Notwithstanding the robust professional environmental organizations in Córdoba, the pattern of enforcement is extremely similar to Santa Fe. This additional case provides stronger evidence that analyzing both linkages and administrative capacity is necessary for explaining the dynamics of environmental enforcement. The chapter concludes by summarizing the implications of these cases for the broader study of enforcement.

Santa Fe

The Santa Fe *Secretaría de Medio Ambiente* (SFSMA) is the primary government agency responsible for implementing environmental regulations in the province.⁶¹⁷ As introduced above, examining the actions of regulators reveals two main logics of enforcement. One logic involves routine inspections to gather pollution samples, analysis of those samples, followed by attempts to sanction firms that are in violation. Officials estimated that they conducted 260 such inspections in 2008, which were composed of a mixture of programmed actions and responses to complaints.⁶¹⁸ They differ by media (e.g. air, water, solid waste), but inspections generally involved surprise visits in which the regulators “*take a sample, talk with the manager, review the plant, the processes, and systems of waste treatment.*” Regulators use a strategy that is at once pedagogical and punitive:

*“We have a double function. On the one hand, we monitor the firms and the way they are being managed. On the other hand, we have to convince firms to manage the environment well and minimize their impacts so the firm can really grow. [This way,] they are going to have fewer difficulties, no problems with their neighbors, or with the courts... In this aspect we guide firms, telling them what technology exists... and which consultants they can hire who do good work”*⁶¹⁹

⁶¹⁷ The agency was created when the provincial water authority (DIPOS) was privatized in the 1990s. It was initially formed as a *secretaría del estado* but was downgraded in rank under the Binner administration (in 2007) to a normal *secretaría*.

⁶¹⁸ There are no precise figures available for the number of inspections, which fluctuates highly year to year. Nor are there any exact figures available for the portion of these inspections that were programmed or in response to complaints; in air pollution officials estimated that half of the inspections were triggered by complaints, while in water pollution the number is closer to 20%. Interviews: S49, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008 and S50, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

⁶¹⁹ Interview: S49, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

In sum, there are routine processes in the SFSMA to collect information about compliance and to fashion responses, which aim to cajole, convince, and enable firms to come into compliance. If the analysis of enforcement focused entirely on style, it would appear that the SFSMA is approximating best practices in regulation.

After looking more closely, however, it becomes clear that these routine actions have resulted in only low levels of enforcement across broad swaths of industry. First, when placed in context of the vast number of polluting firms concentrated in the province, the quantity of inspections was very low. In the economic census of 2004, there were nearly 10,000 industrial facilities operating in the province, in addition to hundreds of other firms in the energy sector, ports, mining, and agriculture that are potential contaminants.⁶²⁰ This number undoubtedly grew substantially in the post-crisis boom, indicating that inspectors visit *less than 3% of facilities*. Therefore, regulators are just scratching the surface in terms of information gathering. Officials from the SFSMA estimated that there were some 5,000 firms that “*are not totally identified*” and operating completely outside of the regulatory system.⁶²¹ This is no small deficiency. A study released by researchers in the National University of Rosario’s medical school in 2011, in collaboration with the United Nations, found that Santa Fe’s industry posed the highest risk of contamination in the country.⁶²² Yet, regulators were not consistently monitoring majority of firms.

Second, after issuing violations, inspectors had difficulty taking steps that could alter firm behavior. For one, the process of using fines was often blocked; out of the inspected firms in 2008, upwards of 50% were issued notices that they were out of compliance, but only 5% were issued penalties.⁶²³ This was not due to a strategic use of flexibility, but instead stemmed from interrelated formal and informal failures in the regulatory system. Formally, Santa Fe’s environmental laws made it difficult, although not impossible, to penalize firms that violate air pollution provisions some industries. Air regulations in Santa Fe limited the amount of ambient pollution in any particular area, but did not specify specific fines for emissions.⁶²⁴ As a consequence, the normal administrative processes of fines could not be used in these cases. There were, however, ways around this problem.⁶²⁵ For example, the SFSMA could void the firm’s license to operate by finding that the firm is not following the management plan described in its environmental impact assessment (EIA), or by working with the municipality to shut the firm down. Also, in specific industries, like grain silos, there were supplemental pieces of legislation that could be used to issue fines.⁶²⁶ Furthermore, a number of national and international statutes could be applied by provincial regulators (the *presupuestos minimos* described in Chapter 2). These processes have barriers built into them, which make it difficult for regulators to utilize penalties in air pollution.

⁶²⁰ Source: Economic Census of 2004, INDEC.

⁶²¹ Interview: S01, Senior Official Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶²² *La Capital* “Rosario es una de las zonas con mayor contaminación del país” 05/08/11

⁶²³ Interview: S01, Senior Official Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶²⁴ Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶²⁵ Interview: S18, Taller Ecologista, Rosario, 5/14/2009

⁶²⁶ Interview: S48, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

Perhaps even more important than the formal limitations in regulatory rules, there was an additional set of weak points in enforcement across media (i.e. air, water, and solid waste). The formal penalties that do exist were easily be evaded by firms that put up resistance.⁶²⁷ Firms could avoid penalties that came with non-compliance either by exploiting organizational failings in the SFSMA or by taking advantage of the limited appetite for punitive measures among senior officials. As a result, even in areas like water pollution in which regulations specified clear penalties, the SFSMA rarely executed sanctions.⁶²⁸ When combined with the low rate of information gathering, the weakness in the SFSMA's ability to overcome resistance and make penalties on violating firms stick, resulted in very low levels of enforcement across all industries.⁶²⁹

The SFSMA was not, however, always a crippled agency and there was an entirely different logic of enforcement that coexisted with the routine practices described above. When there was social pressure over pollution in a specific community or firm, regulators could surmount the formal and informal limitations in their monitoring abilities and sanctioning power. One inspector described the difference in sanctioning when there is conflict:

*"We can demand more because the firms feel very pressured because there can be a protest and blockade of the plant so that no one can go to work. Everything functions like that here. When there is popular pressure, everything gets really interesting. We have had cases in which popular pressure was the only way to get a firm that was out of compliance to change."*⁶³⁰

Not only do firms worry about the direct effects of social protests (e.g. blockades), but firms also need to worry about civil suits filed in court, which strengthen the hand of regulators.⁶³¹ In short, the political pressure generated by social conflict can, under some conditions, create opportunities for inspectors to overcome barriers that prevent them from making regulatory actions stick against reluctant firms in routine enforcement processes.

In circumstances of conflict, inspectors can also leverage connections with the local actors to continually monitor firms. For example, one inspector in northern Santa Fe recalled:

"The most successful case that I have seen was in Rafaela. There were three firms that the population systematically denounced... One dairy plant

⁶²⁷ Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶²⁸ Interviews: S01, Senior Official Santa Fe Environmental Secretariat, Rosario, 4/30/2009; and S04, Taller Ecologista, Rosario, 6/3/2009

⁶²⁹ The inability for the SFSMA to overcome resistance is somewhat surprising considering the fact that, compared with most of other bureaucracies analyzed thus far in this dissertation, the SFSMA has some features that tend towards bureaucratic autonomy. Even though they were not hired through a meritocratic process, all officials in the small team that enforce environmental regulations had civil service protection and university degrees. These organizational features, however, were insufficient in the face of pressure from firms.

⁶³⁰ Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶³¹ Interview: S29, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

*and two meat packing plants. An NGO, the municipality, and city councilors all started moving [against the firms]. They put together a commission with the SFSMA to keep checking on the firms. This was due to social pressure... We went to inspect them... [and] social pressure made the three firms create first rate wastewater treatment plants, which are functioning really well.*⁶³²

In this case, regulators were not only getting political backing from civil society organizations and the municipality, but they were also extending their capacity to collect information (particularly important in this case because the firms were located some distance from the nearest office of the SFSMA). In sum, regulators do not just draw on civil society for political support, but they also draw on civil society to make up for administrative weaknesses in information gathering.

Santa Clara and the Dynamics of Conflict

The case of the Santa Clara Plant, which processes soy and sunflower seeds to produce vegetable oil in the city of Rosario, is illustrative of how social conflict translates into successful enforcement. The Santa Clara plant is owned by Molinos Río de la Plata, an Argentine agro-industrial firm that produces primary products (soy beans, sunflower, rice), vegetable oils, biodiesel, and a variety of processed food products. Molinos Río de la Plata is a large firm that grew extremely rapidly during the commodity boom to reach 1.7 billion dollars in sales, 1.3 billion dollars in exports, and 5,000 employees in 2007.⁶³³ In the 2000s, many of the firm's principal operations were in the province of Santa Fe, which was one of the leaders in the agro-industry sector.⁶³⁴ In total, Molinos controlled significant economic resources in the province, making it no easy target for regulators.

Santa Clara, one of five plants owned by Molinos, had the capacity to process a massive amount of soy and sunflower seeds (4,500 tons per day). This industrial process results in a variety of pollutants that need to be treated (in the air: particulates, hexane, nitrogen oxides, ammonium, residual pesticides; in the water: oils, fats, and sulfates).⁶³⁵ When Santa Clara began its operations, the area around the plant was essentially farmland. As the city of Rosario expanded, housing was built nearby, and the plant became engulfed on three sides by working class residential neighborhoods. By the 2000s, the plant was operating in close proximity to people without complying with a variety environmental laws, which meant that the plant was exposing its neighbors to contaminants.

Inspectors from the SFSMA were well aware of the environmental problems caused by Santa Clara, which were common in the industry. But regulators were largely unable to take steps that would lead to compliance. According to inspectors, Santa Clara's air *"emissions were very bad because they were burning sunflower seed shells to*

⁶³² Interview: S28, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

⁶³³ Source: Annual Report, Molinos Río de la Plata, 2007.

⁶³⁴ In 2004, it proposed an 80 million dollar investment in the province.

⁶³⁵ Torres de Quinteros, Zulema et. al. "Condiciones ambientales y salud en el área influencia de la Aceitera Santa Clara (Distrito Sudoeste de Rosario-Argentina)" *Investigación en Salud* vol. 8, número especial, 2007.

*fire the boiler, which created high levels of particulates and noise. We confirmed all of this ourselves. As always, we required changes, but there were no sanctions. We required the changes again, and there were no sanctions again. It was a closed loop.*⁶³⁶ In short, the firm was intransigent and inspectors could do little to surmount its resistance. In addition to air pollution, regulators later discovered that Santa Clara was also violating water pollution laws by releasing fats, oils, and sediments through an illegal connection to a storm water drain.⁶³⁷ The former Secretary of Environment, who was leading the agency at this time, recounted: “*The state... was not complying with its own rules to apply sanctions and implement legislation.*”⁶³⁸ There were routine inspections of the plant, violations were found, but the SFSMA was unable to force investment in technologies that would lead to compliance. In short, Santa Clara, like many of the cereal processing facilities in Santa Fe, was causing serious environmental damage and violating laws, and responses from regulators did little to mitigate the pollution.⁶³⁹

The trigger for change in this case was a series of fires and explosions, beginning in April 2004, in the Santa Clara plant.⁶⁴⁰ The fires were caused by problems in silos that held sunflower seeds, which were not properly ventilated, leading to gas build-ups that eventually ignited.⁶⁴¹ These incidents frightened nearby residents and brought the problems at the plant to the attention of officials in the municipal government. People living in the surrounding neighborhoods had a longstanding conflict with the plant but, until this point, they had little success finding allies to help them press their demands.⁶⁴² After the fire, there was a neighborhood assembly, local protest, and a city councilor met with residents to demand greater pollution control.⁶⁴³

One of the most vocal neighborhood groups was an informal collection of residents called the *Vecinal Santa Teresita*, which came to represent the community in a number of local forums. The leaders of the *Vecinal* had several of factors on their side that allowed them to mobilize a serious campaign against Santa Clara.⁶⁴⁴ First, when attention was focused on the plant, the provincial government was under the control of the PJ, while the municipal government was controlled by the opposition Socialist Party (PS). This condition was important because various actors in the municipal government aligned with the neighbors to demand action by the provincial government, which had jurisdiction over enforcing environmental regulations through the SFSMA. In short,

⁶³⁶ Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶³⁷ *La Capital* “Una inspección detectó un desagüe clandestino en la aceitera Santa Clara” 06/15/04.

“Intiman a la aceitera Santa Clara por el desagüe pluvial clandestino” 06/16/04

⁶³⁸ Interview: B12, Senior Official, Santa Fe Environmental Secretariat, Buenos Aires, 5/26/2009

⁶³⁹ For example, see an editorial from the environmental group *Taller Ecologista: La Capital* “Más cerealearas, más deuda ecológica” 02/20/04.

⁶⁴⁰ *La Capital* “Explotó un silo y provocó gran incendio en una aceitera” 04/06/04; “Un incendio destruyó un silo en una aceitera” 04/07/04; “Un incendio en la aceitera Santa Clara arrasó un silo” 05/09/04; “Otro incendio en un silo de la aceitera Santa Clara” 05/11/04.

⁶⁴¹ Interview: S36, Manager, Cereal Industry Firm, Rosario, 5/13/2009

⁶⁴² Interview: S25, Vecinal Santa Teresita, Rosario, 5/8/2009

⁶⁴³ *La Capital* “Piden controlar los silos de la planta aceitera Santa Clara” 05/11/04.

⁶⁴⁴ In addition to the ones listed below, the *Vecinal Santa Teresita* connected with students in the National University of Rosario’s communications program to produce a documentary on the problems of pollution and draw attention to the problem.

exploiting the conflict between political parties operating at different levels of government enabled the *Vecinal* to gain powerful allies outside of the main regulatory system.

Soon after the fire, health officials from a local clinic revealed to the press that there had been disproportionately high rates of asthma in the Santa Teresita neighborhood.⁶⁴⁵ The city health department then conducted a household survey of the conditions in the neighborhoods surrounding the Santa Clara plant.⁶⁴⁶ The results, published in 2007, found that there were high levels of illnesses commonly associated with air pollution. The study went beyond health issues and surveyed residents about their opinions regarding Santa Clara. Its findings revealed broad support for the claims of those in the neighborhood in favor of more enforcement, indicating that over 90% of residents felt that there were serious environmental problems in the community and 60% felt that the plant should be relocated.⁶⁴⁷ Second, neighborhood leaders connected with a law firm that began to file civil suits on the behalf of the individuals against the owner of the plant. As one neighborhood leader described: after the fire, “*we were all under the smoke and ash, with people evacuated from their houses. The first issue was health, and afterwards, the lawyers... We made it so all of the people in the neighborhood started individual lawsuits. They received a lot of support from... the public health officials who had been studying the neighborhood.*”⁶⁴⁸ The threat of civil legal action was, according to the neighbors, key in getting managers in the plant to pay attention to the community.⁶⁴⁹

As the conflict escalated, the managers began to feel threatened and feared the community would demand that the plant be closed down or relocated.⁶⁵⁰ According to regulators: “*the pressure of the neighbors was so strong that the firm had to solve the problems, or the plant could not keep working.*”⁶⁵¹ Regulatory institutions were completely failing; not only were pollution standards being ignored, but conflicts were in the courts and the streets instead of being structured by regulations. In response, provincial and municipal governments took steps to resolve their conflicts and address the problem by conducting joint inspections.⁶⁵² These inspections uncovered further violations in the plant, including the illegal wastewater discharges. They marked the beginning of an enforcement campaign on the part of the SFSMA, which grew into an intensive monitoring effort and the imposition of a series of requirements on the firm that could not be ignored.

⁶⁴⁵ *La Capital* “Advierten que aumentaron los casos de asma cerca de una planta aceitera” 05/25/04

⁶⁴⁶ Torres de Quinteros, Zulema et. al. “Condiciones ambientales y salud en el área influencia de la Aceitera Santa Clara (Distrito Sudoeste de Rosario-Argentina)” *Investigación en Salud* vol. 8, número especial, 2007.

⁶⁴⁷ The methodology of the study was questionable, but nevertheless it gave a scientific endorsement to the claims of the neighbors who were against the plant.

⁶⁴⁸ Interview: S25, Vecinal Santa Teresita, Rosario, 5/8/2009

⁶⁴⁹ At the time of the research, some cases were still in court and their outcomes were uncertain.

⁶⁵⁰ Interview: S36, Manager, Cereal Industry Firm, Rosario, 5/13/2009

⁶⁵¹ Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶⁵² *La Capital* “Por la aceitera Santa Clara se reúnen provincia y municipio” 05/27/04; Controlarán las emanaciones que produce la aceitera Santa Clara” 06/01/04

One key element of the change in enforcement came when neighborhood activists and city councilors started a “*Monitoring Committee*” to bring together all the actors involved in the conflict.⁶⁵³ The Monitoring Committee, which met at a local office of the SFSMA, included representatives from the neighborhood, the SFSMA, health professionals, and city council members.⁶⁵⁴ Plant managers did not participate at first because they feared neighbors would make unreasonable demands, such as requiring the firm to buy houses so residents could move or forcing the plant to relocate.⁶⁵⁵ The *Vecinal Santa Teresita* “invited the managers from the plant. They did not come, but they sent union leaders, who almost wanted to kill us.”⁶⁵⁶ Through the union leaders, Santa Clara sent a message that enforcement threatened jobs. Despite this initial resistance, when the pressure did not abate, managers eventually came to the table and began an open dialogue with the neighbors and the SFSMA about actions they could take to come into compliance.

This series of events, which only took two months from the initial fire to the formation of the Monitoring Committee, greatly increased the capabilities of environmental inspectors to enforce regulations. The SFSMA became “*a mediator, demanding actions from the plant and... monitoring the plant to make sure the changes were adequate.*”⁶⁵⁷ Now, according to the inspectors, the “*closed loop*” of violations without sanctions repeating endlessly had been broken. In August 2004, managers from Santa Clara presented a plan of action to reduce pollution and come into compliance with regulations over a two year period. The plan included the installation of electrostatic filters in their chimneys to reduce air pollution and a change in grain handling practices to further reduce air pollution. The plant management also promised to install a series of controls in the silos to reduce the risk of additional fires and an alarm system that could notify neighbors of any accidents. Finally, Santa Clara committed to undertaking a number of projects in the community, including planting a barrier of trees between the neighbors and the plant.⁶⁵⁸

These promises were important first steps because they pushed Santa Clara to begin seriously managing environmental issues and, after the plant had a plan, it became clear that the plant could comply and “*was not just going to be shut down.*”⁶⁵⁹ Still, inspectors from the SFSMA had to make sure that Santa Clara actually undertook the investments outlined in the plan. To do so, regulators from the SFSMA worked directly with the *Vecinal Santa Teresita* and conducted a series of inspections. According to neighbors, “*When environmental officials come to inspect the plant, we go to the plant as well.*”⁶⁶⁰ Residents called this a system of “*neighborhood monitors.*”⁶⁶¹ Managers at Santa Clara accepted this practice, which was not legally mandated; a manager explained “*I didn't have anything to hide, so I opened the doors to the neighbors and the*

⁶⁵³ Interview: S25, Vecinal Santa Teresita, Rosario, 5/8/2009

⁶⁵⁴ *La Capital* “Reunión de vecinos, funcionarios, empresarios y concejales” 06/15/04

⁶⁵⁵ Interview: S36, Manager, Cereal Industry Firm, Rosario, 5/13/2009

⁶⁵⁶ Interview: S25, Vecinal Santa Teresita, Rosario 5/8/2009

⁶⁵⁷ Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶⁵⁸ *La Capital* “Santa Clara busca bajar la polución ambiental con un plan forestal” 08/23/04

⁶⁵⁹ Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶⁶⁰ Interview: S47, Vecinal Santa Teresita, Rosario, 5/8/2009

⁶⁶¹ In Spanish: “*vecinos controladores.*” Interview: S25, Vecinal Santa Teresita, Rosario, 5/8/2009

government and let them in."⁶⁶² The SFSMA kept monitoring the plant, pushing it along and evaluating the technical aspects of the investments, all the while the community organization served as local observers and, in combination with the municipal government, kept political pressure on the regulators and the firms.

The process was anything but smooth, but this form of enforcing regulations with tight interactions between the SFSMA, the *Vecinal*, municipal government and Santa Clara persisted for over two years. There were challenges along the way in keeping the firm on track with the investments. For instance, Santa Clara delayed in purchasing the air pollution filter. When the plant fell short on its commitments, new negotiations were triggered. Eventually, Santa Clara spent additional money to expedite the installation the filter without a long delay. By 2006, the firm made over two million dollars in investments and completed the projects that it had proposed.⁶⁶³ From the point of view of the regulators, enforcement was a success: "*After two long years, a lot of tolerance from the neighbors, an effort from the firm, and an effort from us acting in between those two groups, Santa Clara managed to fix the emissions and made many improvements.*"⁶⁶⁴ Representatives from the *Vecinal Santa Teresita* recognized noticeable improvements in the environment and to their health: "*after they put in the chimney... [my friend] did not have any more asthma crises. The children haven't had them either.*"⁶⁶⁵

For managers at Santa Clara, the transformed relationship with the community had long-term benefits. First, they stopped worrying about the plant being shut down because of popular pressure. Second, when they made new changes in the plant, they were able to talk them through with regulators and the community to gain their support. No longer did managers have to operate outside formal rules. For example, in 2009, Santa Clara needed approval from the city government for some alterations to the plant layout. Managers talked it over with the community leaders, who asked for some public works projects in the neighborhood and then agreed to support the plant to help it secure the permits. Plant managers called this the "*cherry on the cake*" of building a good relationship with the community.⁶⁶⁶

In sum, the Santa Clara case was an example of how, in the context of social conflict, regulators from the SFSMA could take steps that approximated high levels of enforcement in specific cases. These actions reinforced environmental regulatory institutions. Leaders from a professional environmental located in Rosario, who were not directly part of the Monitoring Commission but observed the process closely, also saw the efforts as a success: "*It is a positive case because they made many environmental improvements.*"⁶⁶⁷ There was complete consensus that, with a lot of help, environmental regulations had been enforced by the SFSMA.

⁶⁶² Interview: S36, Manager, Cereal Industry Firm, Rosario, 5/13/2009

⁶⁶³ *La Capital* "Avanzan las mejoras ambientales en la zona de la aceitera Molinos Río de la Plata" 08/09/06. Interview: S36, Manager, Cereal Industry Firm, Rosario, 5/13/2009

⁶⁶⁴ Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶⁶⁵ Interview: S25, Vecinal Santa Teresita, Rosario, 5/8/2009

⁶⁶⁶ Interview: S36, Manager, Cereal Industry Firm, Rosario, 5/13/2009

⁶⁶⁷ Interviews: S04 and S18, Taller Ecologista, Rosario 5/14/2009 and 6/03/2009

The Santa Clara was not unique, but rather indicative of the logic of enforcement that occurs when regulators can leverage social conflict. There was a similar case in the northern city of Rafaela, which also involved a commission of municipal government officials and neighborhood groups that monitored firms. Also, there were at least two other similar cases involving industry in the greater Rosario area.⁶⁶⁸ All of these cases involved some sort of community mobilization and conflict, followed by actions of the SFSMA to take steps to enforce environmental regulations.

Not all of the cases, however, ended up with investment and compliance. The blocked installation of a car battery recycling facility in a small town in southern Santa Fe illustrates a somewhat different result of environmental conflict. In 2007, an Argentine firm with investors from Buenos Aires called Ramsafé received permission for the plant from the SFSMA. The recycling facility promised to produce 120 jobs and was supported by the municipal government over the objections of some environmental groups. In response to their concerns, the mayor stated: “*the municipal government and the SFSMA will conduct periodic inspections to ensure that the facility complies with all of the requirements contained in the over 400 pages of documentation that have been approved by the SFSMA.*”⁶⁶⁹

There were claims, however, that the environmental impact assessment (EIA) was highly flawed, and had essentially overlooked a community that was located near the facility.⁶⁷⁰ Just as the construction of the facility began, a group of residents, along with a small community organization, *Centro Ecologista Renacer*, and a few politicians, began to protest the facility. They argued that “*if the project continues, within a few months all of our [agricultural] products will be contaminated.*”⁶⁷¹ The protests continued and, only three months later, the SFSMA reversed its decision, revoked the permission for the facility based on the faulty EIA, and effectively shut Ramsafé down.⁶⁷² In some ways, the outcome was not as positive as that of the Santa Clara case; instead of finding a solution that would allow development and environmental protection, the SFMSA stopped development. Nevertheless, the SFSMA was able to take steps to enforce rules around the EIA process. Again, mobilization by the community made action by the regulators possible.

In sum, enforcement of environmental regulations in Santa Fe by the SFSMA in the period after the economic crisis involved two very distinct logics. On the one hand,

⁶⁶⁸ On Rafaela: Interview: S28, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008. On Capitan Bermudez: S04, Taller Ecologista, Rosario, 6/3/2009 and *La Capital* “La Justicia ordenó la clausura de Petroquímica Bermúdez” 11/11/06; “Celulosa y una medida a favor de los vecinos” 03/13/08; “Hallan cianuro en lo que fue una laguna estabilizadora de Bermúdez” 06/05/08. On Laser House: Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009 and *La Capital* “Clausuran una fábrica que emanaba olores en zona norte” 03/22/07; “Nueva denuncia contra una empresa por peligrosas emanaciones” 06/12/07

⁶⁶⁹ *La Capital* “Instalan una fábrica de baterías para automóviles en Fighiera” 05/11/07

⁶⁷⁰ Source: A presentation at a meeting of *Agenda Socioambiental Santafesino*

⁶⁷¹ *La Capital* “Pavón y Fighiera cortaron la ruta en rechazo a fábrica contaminante” 05/06/07

⁶⁷² *La Capital* “Marcha en Pavón contra un proyecto industrial” 08/05/07; “Desautorizan la instalación de una fábrica en Fighiera” 08/22/07. Interview: S01, Senior Official Santa Fe Environmental Secretariat, Rosario, 4/30/2009

when there was no broad social conflict, there were low levels of enforcement. Routine inspections were few and, while regulators attempted to craft responses that involved sanctions and pedagogy, the SFSMA was unable to withstand resistance from intransigent firms. The result was often a “*closed loop*,” as one inspector described it, in which the regulators continually required firms to change their behavior and firms ignored those demands. On the other hand, when there was social conflict, the dynamics of enforcement shifted radically. In these cases, regulators focused their attention on one (or at most a handful) of plants, intensively monitored pollution levels, supplemented their data with accounts from small civil society organizations, and drew upon the political resources generated through social conflict to force firms to change their behavior.

This pattern of enforcement approximates the society-dependent ideal-type; social conflict appeared to be a necessary condition. Enforcement remained piecemeal and local, as efforts to leverage conflicts and scale up enforcement to an entire industry in Santa Fe were fleeting.⁶⁷³ Under the Binner administration, there were attempts to create industry level enforcement programs in the agro-industrial sector, but at the time of this research, they were still only plans. Instead, enforcement remained “*a reactive plan*” in which regulators do not take action beyond the cases in which there is conflict.⁶⁷⁴ This is not the pattern of enforcement that officials in the SFSMA preferred. As an inspector explained:

*“What we would like do...is to plan inspections with the most frequency for the most risky firms, and with less frequency for the less risky firms in order to understand their main emissions...and to remediate or prevent any problems. [To be]...beyond the complaints that are always going to exist. But today we are still behind on this, and we are acting more as firefighters...with complaints, and with judicial requests that have to be answered immediately.”*⁶⁷⁵

This sentiment, that rationalizing the enforcement process is an important goal, was expressed by nearly all of the officials in the SFSMA. It remained, however, out of reach.

Accounting for Enforcement Patterns in Santa Fe

What explains this pattern of enforcement in Santa Fe? Any account of enforcement would be incomplete without considering the extremely low levels of administrative capacity of the SFSMA, which greatly constrained the action of regulators. First, the SFSMA had limited human resources for enforcement during the period after the economic crisis. In its Rosario office, the SFSMA only had one environmental

⁶⁷³ One such effort occurred before the economic crisis in the metal plating industry, but it did not directly involve the SFSMA and was not maintained in the period after the crisis. The project, which occurred in the late 1990s early 2000s, mainly involved the municipal government of Rosario and the privatized company water company. Interview: S17, Senior Official, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

⁶⁷⁴ Interview: B12, Senior Official, Santa Fe Environmental Secretariat, Buenos Aires, 5/26/2009

⁶⁷⁵ Interview: S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

inspector dedicated to control full time.⁶⁷⁶ Therefore, there was one official responsible for literally thousands of industrial facilities, large and small, in the industrial corridor that surrounds Rosario. In the north, which has fewer polluting industrial sites, there were five inspectors, bringing the total to between six and ten inspectors in the entire province (depending on how they are counted). This is an extremely small number of staff considering the number of sites that they need to control and the sheer size of Santa Fe. From the point of the view of the officials in the SFSMA, resources were a huge constraint leaving them with “*little margin*” for action.⁶⁷⁷ Officials, by their own accounts, argue that the lack of human resources is at the root of their reactive approach: “*with so few people, we react according to necessity.*”⁶⁷⁸

In addition, the inspectors lacked the basic materials they needed to organize and execute the tasks of enforcement. They had access to one or two cars (depending on the office) and “*more than one time we [inspectors] have had to pay for the gasoline ourselves to be able to get to the inspection site.*”⁶⁷⁹ In addition, there was only one laboratory in the province, located in the north, creating delays in evaluating samples taken by the southern office (where most of the population and industry is located). The SFSMA also lacked basic computing technology: “*There is no information system*” to keep track of the firms, and officials “*believe that getting IT technology is fundamental*” in order to systematically enforce regulations.⁶⁸⁰ Even as other regulatory agencies in Santa Fe expanded in the post-crisis period, environment remained underfunded. For example, the Santa Fe Labor Secretariat was given money to purchase over one hundred computers under governor Obeid and was upgraded to a full Ministry under governor Binner with funds to hire new inspectors. There was no such investment in the SFSMA, and Binner actually lowered the rank of the agency.⁶⁸¹ In sum, low levels of administrative capacity help account for why the inspectors cover such little ground in gathering information about compliance in the vast number of firms that they are supposed to control.

Although administrative capacity helps explain some of the limitations of the SFSMA, it is hardly determinant on its own. Societal organizations clearly appear to be important. What about professional environmental groups? Can their interests or distribution explain the pattern of enforcement? In the north of the province, there are two major organizations. One is the Foundation Protect (*Fundación Proteger*, founded in 1991), which is run by a local professor and focuses on water and fish conservation in the Paraná river basin. Another is the Santa Fe Center for the Protection of Nature (*Centro Santafesino de Protección a la Naturaleza*, CEPRONAT founded 1977), which has a campaign against pesticides and publishes a monthly journal “The Environmentalist” (*El Ambientalista*) covering local and global environmental issues. In Rosario, the Ecological Workshop (*Taller Ecologista*, founded in 1984) and Center for Biodiversity

⁶⁷⁶ This lasted from the early 2000s until late 2007 when some temporary officials, four or five, were hired to supplement the permanent inspector. It is unclear whether these temporary officials remained for long.

⁶⁷⁷ Interview: B12, Senior Official, Santa Fe Environmental Secretariat, Buenos Aires, 5/26/2009

⁶⁷⁸ Interview: S01, Senior Official Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶⁷⁹ Interview: S29, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

⁶⁸⁰ Interview: S01, Senior Official Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶⁸¹ Environment was reduced from a *secretaria del estado* to normal secretariat within a larger ministry.

and Environmental Research (*Centro de Investigaciones en Biodiversidad y Ambiente* ECOSur founded in 1993), are professional organizations with members who include journalists, university professors, and lawyers. These organizations regularly conduct studies about environmental issues and are referents for the press in environmental matters. By most measures, they are comparatively well developed—they boast expertise, funding, and some even have international connections.

To combine their forces and influence local politics, thirty-two organizations joined to create the Socio-Environmental Agenda (*Agenda Socioambiental*) in 2007.⁶⁸² The group's initial purpose was to “*acquaint those who aspire to govern the province or a sit in the legislature about the key issues that should be addressed by provincial policies.*”⁶⁸³ The group wrote public letters to the governor regarding policies and held meetings that included members of government, professors, and environmentalists to debate environmental issues. Environmental groups, however, have been unable to leverage any partisan divide—none of the major political parties (Peronists, Socialists and PRO) have partisan alliances with environmentalists. Nor does one of the major parties have a particularly strong environmental agenda.

Notwithstanding this limitation, environmental organizations can, at times, be influential. For example, in 2003 Governor Obeid appointed Oscar Quintero, a manager in a local chemical and industrial firm, to be head of the SFSMA. Quintero was heavily criticized by environmental groups, who argued that his firm had a bad track record and that he would be easily captured by industry.⁶⁸⁴ In front of the “*pressured executed*” by the unified opposition of environmental groups, Quintero's appointment was blocked.⁶⁸⁵ In his place, Governor Obeid appointed Marcelo Terenzio, a lawyer who was not the favorite of any environmental groups but had a more neutral profile and experience working on environmental issues in projects of the Inter-American Development Bank.⁶⁸⁶ This episode suggests that, in some ways, the professional environmental organizations in Santa Fe have wielded power in provincial politics.

The political influence of these groups did not, however, directly translate into actions by the SFSMA. The geographic distribution, or interests, of professional environmental organizations cannot account for the cases of enforcement identified above. For example, one leading organization, *Taller Ecologista*, has campaigned to push for greater enforcement in the Rosario area since the late 1990s.⁶⁸⁷ In 2005, *Taller Ecologista* started a specific area to address industrial pollution. The goal of the initiative was to create a plan: “*for the entire industrial corridor, that the SFSMA has the instruments to measure pollution and shows a plan [of action]. We are also asking for a strategic plan that neighbors can participate in to have a say in where they install firms*

⁶⁸² Interview: S18, Taller Ecologista, Rosario 5/14/2009

⁶⁸³ *Agenda Socioambiental* “Una Agenda Socioambiental para Santa Fe Construyendo propuestas para sociedades sustentables” 2007.

⁶⁸⁴ *La Capital* “Confirmado” 12/19/03; ““La Secretaría de Medio Ambiente se usa para pagar favores politicos”” 12/19/03.

⁶⁸⁵ *La Capital* “Rechazó el cargo el secretario de Medio Ambiente designado por Obeid” 12/20/03

⁶⁸⁶ Interview: B12, Senior Official, Santa Fe Environmental Secretariat, Buenos Aires, 5/26/2009

⁶⁸⁷ Interview: S04, Taller Ecologista, Rosario 6/3/2009

in the future, and which they expand, and which they relocate."⁶⁸⁸ The change that *Taller Ecologista* was advocating was to move away from "fire fighting" and towards systematic application of environmental laws—the exact goal expressed by officials in the SFSMA.

Despite the congruence of their goals, *Taller Ecologista* has not played a large role in helping environmental inspectors with enforcement, which, as described above, remained very much reactive. In addition, many of the episodes of enforcement that have been successful, even ones in Rosario where *Taller Ecologista* is based (such as the Santa Clara plant), did not directly involve professional environmental organizations, but instead were driven primarily by smaller, neighborhood-level, associations, such as the *Vecinal Santa Teresita*. While professional groups might have been influential in policy adaptation, their actions cannot explain enforcement in the province.

To understand why professional environmental organizations, like *Taller Ecologista*, have had only modest and indirect influence enforcement patterns, it is necessary to examine the structure of linkages between the SFSMA and civil society organizations. Formal avenues of consultation, such as a Provincial Environmental Council—that is supposed to have a tripartite structure including the state, the private sector, and environmental NGOs—did not function. Quite simply, "*the NGOs have never participated*" in these formal meetings.⁶⁸⁹ There were also few channels for informal connections to form.

Furthermore, civil servants at the SFSMA had norms against going out on their own to build relationships when they need support to do their jobs. As one inspector recalled: It would be easy to "*talk with the radio, television, or someone [from an NGO] ... but it is going to create a mess... No, we do not do it... We aren't an environmental advocacy organization, we are the state. We regulate. The NGOs have the role of advocacy. We cannot go out and play politics from our position in the SFSMA. We are civil servants who work for the state.*"⁶⁹⁰ Among politically appointed officials, there was little, if any, dialogue with professional environmental organizations. Under the Obeid administration, the secretary of environment summed up his view of professional environmental NGOs, stating: "*Some NGOs are only interested in being NGOs. Once they form, they chose an issue and focus on their own interests with an objective of just fundraising.*"⁶⁹¹ Among professional environmental organizations the feeling was mutual; one leader explains:

*"They were almost all bad relationships. Very cold. As an NGO we criticized them a lot...they seemed less like Secretaries of Environment to preserve the environment and the quality of life of the people, and more like the defenders of the firms."*⁶⁹²

⁶⁸⁸ Interview: S18, Taller Ecologista, Rosario 5/14/2009

⁶⁸⁹ Interview: S46, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

⁶⁹⁰ Interview: S29, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

⁶⁹¹ Interview: B12, Senior Official, Santa Fe Environmental Secretariat, Buenos Aires, 5/26/2009

⁶⁹² Interview: S04, Taller Ecologista, Rosario, 6/3/2009

With these frosty relationships, professional environmental groups lacked linkages with the SFSMA.⁶⁹³ This failure of linkage formation helps account for why, even when they have congruent goals, regulators have not drawn upon the resources of these groups for enforcement.

By contrast, relationships between regulators and small, neighborhood level, organizations took on a different dynamic. Neighborhood groups were able to become viable partners for regulators, making enforcement possible in many of the positive cases. For instance, in the Santa Clara case, the neighbors served as “*monitors*,” joined regulators during inspections, and had direct interactions with staff at the SFMSA. In other cases, relationships with small neighborhood organizations even helped the SFMSA overcome their transportation shortages by getting a municipal government to send a car to pick up the inspectors.⁶⁹⁴ The result is that the seemingly weaker neighborhood organizations—which lack expertise, budgets, and paid staff—are actually more likely to become sources of support for regulators in the SFSMA than professional environmental organizations.

Why were these small groups able to create the conditions for enforcement? The key difference lies in the dynamics of linkage formation. Small neighborhood groups took a number of steps to generate social conflict in a way that professional environmental organizations did not. The professional environmental organizations, for the most part, did not bring cases to court and could not mobilize mass protests. The small neighborhood groups took both of these courses of action. In addition, as in the Santa Clara case, some neighborhood groups formed alliances with municipal governments. For appointed officials, working with neighborhood groups has advantages: “*When there was an high conflict issue, it was necessary to give a response because of two interests. First, to defend the government so it isn’t criticized. Second, so they don’t fire me.*”⁶⁹⁵ Once these conflicts got going, neighborhood groups became viable partners for regulators. The politics of linkage formation helps explain why civil servants were able to develop ties with neighborhood groups but not professional environmental groups, which, in turn, accounts for the localized nature of enforcement.

In sum, environmental regulation in Santa Fe is distinctively society-dependent; social conflict that results from community mobilization is a necessary condition for enforcement. And to explain enforcement, the structure of linkages, which privilege small community groups over professional environmental organizations, and the low levels of administrative capacity in the SFSMA need to be taken into account.

Córdoba as a Shadow Case

Is this pattern of enforcement unique to Santa Fe? Is it really the case that the politics of linkage formation are key? Perhaps the professional environmental groups in Santa Fe, which appear to have many strengths, are in fact weak? Juxtaposition with

⁶⁹³ There were some nascent changes in the Binner administration, but they were too preliminary to assess whether they would be effective.

⁶⁹⁴ Interview: S28, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

⁶⁹⁵ Interview: B12, Senior Official, Santa Fe Environmental Secretariat, Buenos Aires, 5/26/2009

Córdoba, as a shadow case, is useful to put the Santa Fe into comparative context. Córdoba is a helpful comparison because it is very similar in terms of the structure of the economy, level of socio-economic development, and industrial composition.⁶⁹⁶ However, there is one important difference: Córdoba has even stronger professional environmental organizations. For this reason, Córdoba provides a more difficult test of whether linkages are key intermediaries between regulators, society, and enforcement. If there is a direct relationship between enforcement and civil society organizations unmediated by linkages, it should be apparent in a province like Córdoba.

There are two professional environmental organizations in Córdoba that have propelled their founders into the international stage. One organization, the Environmental Defense Foundation (FUNAM, *Fundación para la defensa del ambiente*) was established by Raúl Montenegro in 1982. Montenegro, a biology professor, was the Subsecretary of Environment in Córdoba in the 1980s. During his tenure, he orchestrated the adoption of a set of environmental laws that made the province an early leader in Argentina.⁶⁹⁷ He went on to undertake a series of national and international environmental campaigns against uranium mines, receiving recognition from the United Nations. In addition, he has been involved in campaigns in Córdoba against pesticides, mines, and municipal sewage. FUNAM often gives technical assistance to neighborhood organizations concerned about contamination in their communities. And when the conflict over Botnia began (discussed in Chapter 2), FUNAM conducted studies to support the claims of the residents of Gualaguaychú. Montenegro has developed strong global connections, attends international environmental conferences, and has collaborated with Greenpeace and other international organizations.

The other professional environmental organization, the Center for Human Rights and Environment (CEDAH, *Centro de Derechos Humanos y Ambiente*), was co-founded by Romina Picolotti and Jorge Daniel Taillant in 1999.⁶⁹⁸ Prior to 1999, Picolotti and Taillant were working in Washington D.C. with international organizations and NGOs, including the International Human Rights Law Group and the World Bank. With financing from the Hewlett Foundation and other international funders, Picolotti and Taillant returned to Córdoba and formed CEDAH with the explicit goal of linking human rights issues to environmental issues. They starting working internationally and locally, trying to identify high profile legal cases that could set precedents, and they opened a legal clinic that supports individuals and groups who want to take legal action in environmental cases.⁶⁹⁹ CEDAH was thrust into the national spotlight in 2006 when Picolotti represented the Gualaguaychú Environmental Assembly in international courts, leading to her appointment as national Secretary of the Environment under Presidents Néstor Kirchner and Cristina Fernandez de Kirchner (see Chapter 2). When Picolotti was forced to resign, she returned to the helm of CEDAH. With substantial funding, international connections, and a high profile leader, CEDAH was a formidable professional environmental organization.

⁶⁹⁶ Mazorra and Beccaria 2007

⁶⁹⁷ Interview: C24, Environmental Defense Foundation, Córdoba, 3/5/2009

⁶⁹⁸ Interview: C27, Center for Human Rights and the Environmental (CEDAH), Córdoba, 3/16/2009

⁶⁹⁹ Interview: C21, Center for Human Rights and the Environmental (CEDAH), Córdoba, 3/20/2009

In addition to FUNAM and CEDAH, the Córdoba Environmental Forum (*Foro Ambiental Córdoba*), is a third professional environmental organization comprised mainly of university professors.⁷⁰⁰ The *Foro* became directly involved in local politics when, in 2007, it invited candidates for local office to sign a commitment to sustainability, sent a number of requests for information from the local government, and participated in local debates.⁷⁰¹ Combined, these three professional environmental organizations command significant resources and, unlike environmental organizations in Santa Fe and Tucumán (Chapter 7), they have the ability to serve as brokers between domestic and international spheres. These are precisely the types of organizations have been behind successful environmental campaigns in other countries in Latin America.⁷⁰²

Notwithstanding the presence of these groups, enforcement in Córdoba followed the same pattern as in Santa Fe. When there was no crisis, the Córdoba Environmental Secretariat (CSMA) conducted few inspections.⁷⁰³ In fact, delays in inspections were actually a problem for the firms that needed certificates of environment compliance, and some firms actually paid for the transportation of the regulators to conduct inspections.⁷⁰⁴ When the CSMA found violations, it was very vulnerable to the evasive tactics of firms, and it could be years before violations turn into penalties and fines.⁷⁰⁵ Professional organizations were not able to trigger much in the way of enforcement either. But, like in Santa Fe, when local community groups mobilize, everything changes.

For example, in 2004, residents of the small town of Freyre (population 5,900)⁷⁰⁶ mobilized against a leather tannery located in the town just fifty meters from the central square. The storyline is very similar to the cases in Santa Fe. Before the protests, regulators had done little to address violations from a known polluter. The community rallied against the firm, gained allies in the municipal government, and demanded that something be done about the tannery.⁷⁰⁷ The municipality, on behalf of the mobilized community members, requested an inspection from the CSMA. Regulators found that the firm had a waste treatment plant, but it was not functioning adequately.⁷⁰⁸ In a similar

⁷⁰⁰ The *Foro* grew out of an older conservation organization (*Comité Córdoba de Conservación de la Naturaleza*) involving a group of biologists who, in 1985, undertook a campaign to plant 800 trees in the province and, after one year, found that they all had been cut down. In 1986, members of the group decided what was most needed was general education in the province about environmental issues. They began visiting schools and giving short lessons on the environment, and then in 1987 they began educating teachers about environmental issues. These programs scaled up, reaching over 100 schools. The *Foro* eventually grew into a small scale organization made up of primarily of academics who undertook low profile actions to influence local environmental policies in the province. Interview: C20, Córdoba Environmental Forum, Córdoba, 3/2/2009

⁷⁰¹ *Foro Ambiental* “Memoria de Las Actividades Del Foro 2006-2009”, 2009. See also: *La Voz del Interior* “Compromiso por una Córdoba sustentable” 12/20/07

⁷⁰² Steinberg 2001

⁷⁰³ Multiple interviews, including: C29, Enforcement Department, Córdoba Environmental Secretariat, Córdoba, 3/19/2009; C21, Center for Human Rights and the Environmental (CEDAH), Córdoba, 3/20/2009

⁷⁰⁴ Interview: C26, Inspectors, Córdoba Environmental Secretariat, Córdoba, 3/17/2009

⁷⁰⁵ Interview: C29, Enforcement Department, Córdoba Environmental Secretariat, Córdoba, 3/19/2009

⁷⁰⁶ Source: 2001 Census

⁷⁰⁷ *La Voz del Interior* “Fuerte debate en Freyre por una curtiembre en el centro de la ciudad” 11/15/04; “Qué dice la empresa” 11/15/04; “Actuará la Provincia” 05/18/05

⁷⁰⁸ Interview: C29, Enforcement Department, Córdoba Environmental Secretariat, Córdoba, 3/19/2009

manner as in the Santa Clara case, a department of health (this time provincial) became involved and conducted a series of epidemiological studies, which found that residents had elevated levels of chromium in their blood.⁷⁰⁹ Two hundred and fifty people marched in Freyre and the CSMA finally conducted inspections that uncovered serious violations.⁷¹⁰ The monitoring and protests continued for six months, until the CSMA shut down the tannery and gave it a 35,000 dollar loan to relocate to another city.⁷¹¹ The Freyre case was not unique, other episodes of community protest triggered reactions from the CSMA and enforcement.⁷¹²

The reactive regulation of the CSMA can be traced back to the same structures of linkages and the relatively low levels of capacity that were apparent in Santa Fe. Notwithstanding the strong professional environmental organizations that were successful in advocating for regulation in many arenas, the administrative capacity of the CSMA actually declined during the economic growth period starting in 2003, limiting regulators' ability to take actions on their own. Regulators in the CSMA had no routine interactions with professional environmental organizations from which they could have drawn significant resources—one official went as far as saying he “*believes*” that regulators “*should stay disconnected*” from environmental groups.⁷¹³ Instead, the CSMA was largely dependent on the mobilization of community organizations protesting specific instances of contamination. At times, community organizations were supported by the professional organizations, but only community groups could generate local political resources on which the regulators could draw.

In short, the case of Córdoba suggests that even professional environmental organizations that appear to be very well endowed with resources cannot always help regulators. Crucially, linkages need to be formed through protests, which the professional environmental groups could not readily organize. Consequently, regulators rely mainly on community organizations and *society-dependent* enforcement mirrors local mobilizations, not a bureaucratic plan or the demands of professional environmental groups.

Conclusion

The cases of Santa Fe and Córdoba have two main implications for the broader analysis of enforcement in the context of bureaucratic weaknesses. First, the pattern of enforcement in the cases analyzed above is comparable to the cases of labor regulation in Chapter 3. In Córdoba's wage and hour division and in Tucumán, enforcement only occurred when labor inspectors could draw upon linked-unions for resources. While there are some differences—the level of access that unions have to regulators is well beyond that of environmental groups—the cases of environmental regulation are in many

⁷⁰⁹ *La Voz del Interior* “Freyre: vecinos de una curtiembre muestran análisis de tóxicos en sangre” 05/18/05; “Muestran análisis de tóxicos en sangre” 05/18/05; “Curtiembre cuestionada por vecinos estudia trasladarse a San Francisco” 05/20/05

⁷¹⁰ *La Voz del Interior* “Curtiembre: 250 personas marcharon en Freyre” 05/23/05

⁷¹¹ *La Voz del Interior* “Mañana cierra la curtiembre de Freyre” 11/28/05

⁷¹² For example: *La Voz del Interior* “Finalmente, Ambiente clausuró Tecnocuer en Villa del Rosario” 03/22/07

⁷¹³ Interview: C29, Enforcement Department, Córdoba Environmental Secretariat, Córdoba, 3/19/2009

ways highly similar. Mobilization by a specific category of civil society organizations is practically a *necessary condition* for state action. This similarity suggests that society-dependent enforcement is not only a product of corporatist labor institutions or the particular history of Peronist unions. Moreover, contrasting environmental and labor cases demonstrates that society-dependent enforcement is not merely a relabeling of capture. Even using an extremely broad definition, it would be impossible to interpret cases, like that of Santa Clara, as capture.⁷¹⁴

Second, in the cases analyzed in this chapter, not all civil society organizations were viable sources of support for regulators. Just as in labor regulation, linkages were important. Unlike labor regulation, however, the less formal civil society organizations were privileged over professional environmental groups, which were largely left on the outside of the day to day enforcement actions of regulators. The process of linkage formation in these cases was similar to the case of the labor regulation in the garment industry in the Federal Capital (Chapter 4), and not at all like that of partisan exchange described in the previous chapter. When small neighborhood groups generated conflict and gained allies outside of the regulatory system, their power within the system grew. This pathway to linkage formation was not immediately available to professional environmental organizations in these two provinces, none of which directly collaborated with state regulators.

These conclusions raise a series of additional questions. Is society-dependent enforcement the only option for environmental enforcement in Argentina? If not, how can regulators develop administrative capacity so that civil society organizations complement, rather than substitute, the state? How can patterns of environmental enforcement change? The following chapter explores these questions by examining environment regulation in the province of Tucumán.

⁷¹⁴ If anything, these cases are examples of so-called “not in my backyard” (NIMBY) behavior.

Chapter 7: Controlling Pollution in the “Garden of the Republic”

In many ways, Tucumán appears an even less likely place for successful enforcement of environmental regulations than the provinces analyzed in the previous chapter. Not only is Tucumán one of the poorest provinces in Argentina, but its economy is dependent on a few industries that are highly polluting, making enforcement costly economically and politically. Moreover, as we saw in the analysis of Tucumán’s labor administration in Chapter 3, the provincial government suffers from corruption and an extreme shortage of resources. Notwithstanding these factors, state regulators from the provincial bureaucracy have taken a series of significant steps to enforce regulations. And even as Tucumán’s Environment Department made great strides in enforcement, it exhibited more of the organizational shortcomings that are generally associated with capture and corruption.

Through an analysis of environmental regulation in the citrus and sugar industries of Tucumán, this chapter traces transition from state-driven enforcement, that was at a low level, to co-produced enforcement at a high level. The chapter is organized as follows. First, I provide an account of the main societal actors involved in environmental politics in the province. Second, I recount changes in environmental regulation in Tucumán from the 1990s to 2006. During this time, regulators gained information about violations, but were unable to take punitive actions against firms. Third, I analyze a series of changes—including the appointment of a new federal prosecutor, a series of court cases, and a number of episodes of protest—that led to the creation of a political environment in which regulators could establish linkages with environmental organizations. Fourth, I examine the enforcement from 2006 to 2009 and the creation of the Plan for Industrial Reconversion. This new regulatory structure increased administrative capacity and enabled bureaucrats to channel public protest into a broad regulatory effort that resulted in concrete changes in firm behavior. Finally, the chapter ends by highlighting some of the conclusions that can be drawn from the Tucumán case.

Polluting Industries and Social Organization in Tucumán

Environmental conflict in Tucumán involves a wide variety of contamination problems, including the mismanagement of urban solid wastes, toxic metals from mining, and particulate air pollution as well as water pollution from industry. This last problem—air and water pollution caused by industry—are key challenges for state regulators and are the focus of this analysis. Although there are certainly many additional environmental problems in Tucumán—including burning of sugar cane fields—in order to even begin to give environmental laws force and reduce contamination, pollution from industry has to be controlled.⁷¹⁵ This chapter focuses on the sugar and citrus (lemon) industries, the two biggest polluters.

⁷¹⁵ Environmental regulation historically proceeds from controlling “point sources” of pollution that are stable and easy to identify, to controlling “non-point sources” that are spread out and technically more difficult to control.

The most problematic industry in Tucumán from an environmental standpoint is the sugar industry, which also has many attributes that make it extremely difficult to regulate. The sugar industry is one of the largest sectors in the province, accounting for 10% of the province's GDP and employing approximately 50,000 workers during the harvest (in a province of 1.5 million people).⁷¹⁶ Sugar cane is grown and milled to produce commodity sugar and, increasingly, ethanol for fuel. The sugar industry operates with antiquated technology that has been in use for over one hundred years. Investment in the sector has been scarce and piecemeal. Economic power is concentrated in the approximately fifteen mills, owned by twelve firms, that operate at powerful places in the supply chain (between the dispersed growers and the market) and are highly polluting. The sugar industry association CART (*Centro Azucarero Regional de Tucumán*) has a monopoly on representation for the industry in collective bargaining agreements. It is a potentially encompassing association—all of the mills have the right to participate and vote in decisions—but in practice approximately half of the firms are active.⁷¹⁷ Many sugar mills also participate in the FET (*Federación Económica de Tucumán*), which is the most powerful business lobby in the province.⁷¹⁸ As further evidence for the industry's political weight, the head of CART was also the head of the FET.

These two associations reinforce the industry's political power. They have not, however, offered much in terms of service to help firms upgrade or comply with environmental regulations. Instead, for technical know-how mills lean heavily on the Agro-Industrial Research Station Obispo Colombres (*Estación Experimental Agroindustrial Obispo Colombres*), which is run by the provincial government in collaboration with the private sector. This research agency provides most of the technical knowledge necessary to improve agricultural and industrial production and, only in the last few years, support for firms to reduce pollution.

There are three main pollutants from sugar mills.⁷¹⁹ First, the most difficult pollutant to control is a viscous substance called vinasse, which is a byproduct of the process of making ethanol. Vinasse contains extremely high quantities of organic pollutants that, when discharged into canals, damage the health of the water systems and often lead to fish kills in downstream lakes. There are various ways of treating or disposing of vinasse, including incineration or treatment in lagoons. In places where mills are located in rural areas, large lagoons can be used to treat the vinasse, which then can be applied to the sugar fields as fertilizer. Where space is at a premium, as in

⁷¹⁶ "Indicadores de Evolución de la Provincia del Tucumán Informe 2 – Agosto 2009", Fundación del Tucumán, 2009.

⁷¹⁷ Interview: T60, Tucumán Regional Sugar Industry Association (CART), Tucumán, 11/14/2008

⁷¹⁸ There are 41 firm associations that are members of the FET, which include the commercial associations and sugar mills, carry heavy economic weight in the province and have the ear of politicians. FET is one of the few associations that has competition for the leadership in closely watched and heavily contested elections. The FET has been a vocal critic of Governor Alperovich, but its leaders still have access to high ranking state officials.

⁷¹⁹ There are also a variety of environmental problems associated with growing the cane, especially burning it in the field, but I am focusing this analysis on the mills. Goldemberg, Coelho, and Guardabassi 2008

Tucumán, the costs of treatment are much higher and vinasse is often discharged directly into rivers without mitigation.⁷²⁰

The second type of water pollution consists of wet organic solids called *cachaza* that result from the cleaning and processing of the raw cane. *Cachaza* can be removed from wastewater flows through filters and placed back on the fields as a fertilizer. However, the costs of transporting the *cachaza* are greater than that of applying commercially available fertilizers. Therefore, many mills prefer to dump the *cachaza* into canals rather than incurring the expense of using it as a fertilizer. When released in large volumes into canals and rivers, *cachaza* has a similar effect as vinasse because, as it decays, it increases the levels of dissolved oxygen in the river system and harms water quality.

The third set of pollutants is a combination of particulate matter (soot) and a variety of other chemicals that are released into the air from mill smokestacks. During sugar processing and ethanol distilling, mills burn dried excess cane, called bagasse, for energy. Burning bagasse reduces the use of fossil fuels to power the mill (and reduces greenhouse gas emissions), but it increases local air pollution. Since the mills are located in densely populated communities, burning bagasse blankets residential areas with soot (it is literally called “black rain” by residents) and causes extremely high levels of particulate matter throughout the province.⁷²¹ Reducing this illegal, and damaging, pollution requires investment and a combination of technological and managerial controls on the part of the mills.

Growing and processing citrus fruits is another mainstay of Tucumán’s economy, and is also a major source of water pollution. Argentina is the largest producer of processed lemons in the world, accounting for half of all lemons produced for processing worldwide. Nearly all of Argentina’s lemon production is in Tucumán.⁷²² The most important products in the sector include fresh fruit and concentrated lemon juice, essential oils from lemons, and dried lemon peels, which are produced by large industrial plants that process millions of lemons. Economic power in the industry is also highly concentrated. Approximately 70% of the total lemon production in Tucumán is processed by only seven firms (the rest is packed and sold as fresh fruit to international markets).⁷²³

Processing lemons creates large amounts of organic wastes, which overloads the river systems where the wastes are released. As the industry increased production—it grew nearly fourfold between the 1992 and 2007—pollution also increased.⁷²⁴ Reducing these wastes means installing expensive secondary wastewater treatment systems on a massive scale. Without these systems, potent organic pollutants are dumped straight into

⁷²⁰ Ibid.

⁷²¹ To make matters worse, the mills run at concentrated times during the harvest when many farmers burn the sugar cane in the fields, adding to the extremely high levels of air pollution.

⁷²² In 2008/9, Argentina produced 1,035 metric tons of lemons for processing. The next largest producers were the United States with 340 metric tons and Mexico with 307. Source: United States Department of Agriculture “Citrus: World Markets and Trade, July 2009 Citrus Update to the February Forecast”, 2009.

⁷²³ Of the remaining 30%, 25% of the lemons are exported fresh, and 5% are for the internal market.

⁷²⁴ Gobierno de Tucumán 2006

streams, making them literally run yellow and causing serious damage to the water system. Initially, the industry did not adopt any but the most rudimentary wastewater processing technology, which consisted primarily of removing solids from the wastewater.

The citrus association, ATC (*Asociación Tucumana del Citrus*), did little to help firms comply. The ATC includes all of the citrus processing plants, growers, and fresh fruit packaging plants and has been a strong advocate in working with the government to open up external markets for the industry.⁷²⁵ Just like CART, ATC did not take large steps to support the industry in compliance with environmental regulations; instead the firms have individually searched for technology or worked with the Agro-industrial Research Station Obispo Colombes.

In addition to these two key sectors, Tucumán is also home to a number of sources that contribute to contamination problems, particularly organic water contamination. These include a major paper mill, meat packing firms, bottling plants, and sewage treatment plants. Together, tackling pollution from these sources poses a serious technical challenge to regulators. Combined with the political difficulties of taking on the central economic actors in the province, environmental regulation in Tucumán provides a particularly tough test for enforcement without a strong bureaucracy.

Environmental Organizations

While the industry associations in Tucumán are well organized and control key parts of the local economy, professional environmental organizations are relatively small and politically weak. There are fewer professional environmental organizations than in both Córdoba and Santa Fe. One of the most influential professional environmental organizations is the Federation of Environmental Non-governmental Organizations (FA, *Federación de Organizaciones Ambientales No Gubernamentales de Tucumán*). The FA formed in 1987 as a confederation of various environmental organizations and professional societies.⁷²⁶ The FA integrates local societal groups, including the associations of various professions (e.g. lawyers, architects, agricultural engineers, biologists, surveyors) and environmental organizations (Pro-Eco, Tucumán Foundation for Protecting Nature). Compared with the professional environmental organizations in Córdoba and Santa Fe—such as CEDAH, FUNAM and Taller Ecologista—the FA has a smaller staff, no international connections, and a much smaller budget. Despite these

⁷²⁵ Interview: T09, Tucumán Citrus Association, Tucumán, 10/28/2008. The ATC was part of the FET, but separated from it after the industry became large enough to focus more on its own interests without needing the support of the FET. Instead, the ATC is associated with the substantially weaker UIT (*Union Industria de Tucumán*), the regional organization of the powerful national industry confederation UIA.

⁷²⁶ Interview: T20, Federation of Environmental Non-governmental Organizations, Yerba Buena, Tucumán, 11/3/2008. During the 1990s when the government of Tucumán was taken over (intervened) by the federal government, the new government formed a Provincial Council of Environment and Economy. The Council, which included a wide range of societal organizations, including unions, firm associations, and NGOs, had wide ranging power to review new construction projects in the province for their environmental impact. In 2001, the council was re-structured and all of the environmental groups were accorded a single vote (versus seven from the government) that effectively removed the environmental organizations' influence in the council. This reorganization led a revival of the FA in late 2001 when it was reformed with sixteen distinct organizations.

apparent weaknesses, the FA, however, has been able to take civil action against polluters.

Another group, Pro-Eco, straddles the divide between an informal community group and a professional environmental organization. Pro-Eco was formed in 1992 by a group of human rights activists to advocate for the environment in response to water infrastructure projects in the cloud forests that hang over the city Tafi Viejo.⁷²⁷ Although very small, with only thirty dues paying members and no paid staff, Pro-Eco has a formal organizational structure, a budget, and over ten years of inscription as a legal entity.⁷²⁸ The organization has members who have the technical knowledge necessary to engage with environmental issues and can draw on a variety of networks of environmental organizations (such as the FA in Tucumán). Another similar organization is Pacto Verde, which gained legal status in 2000, and also combines elements of professional environmental associations and elements of a neighborhood associations.⁷²⁹

The most vocal neighborhood group in Tucumán is UniVec (*Union de Vecinos del Sur*), located in the town of La Trinidad. The group formed in the beginning of 2003 when pollution levels from a sugar mill increased, blanketing the neighborhood with soot. Two neighbors, both school teachers, started lodging complaints about the increase in pollution with a wide range of government agencies, including the provincial Department of Environment, the ombudsman (*Defensor del Pueblo*), and politicians in the provincial and national senate.⁷³⁰ Eventually, they took their complaints to the street:

“We gathered all of the ash from the house of my neighbor...it weighed forty kilograms... We put it all in a container, put it in a wheelbarrow, and made a poster that said “There Is No Right To Pollute”. We went, my neighbor and our wives and kids...this wasn’t a big mobilization. We went through the central streets of the town, calling to everyone that we were taking the ash and returning it to the mill. From that moment, it was public, and that allowed neighbors in other places where mills are located to connect with us.”⁷³¹

The incident generated news stories in the local press and made the two neighbors focal points in the conflict against the pollution from the local mill. The two formed UniVec and began a campaign in the community of environmental awareness and political action. UniVec has almost no formal budget and very few members, but does have mobilization capacity in the town.

In sum, the landscape of environmental organizations in Tucumán has four important features. First, the number of members in these organizations is very small—certainly not enough to swing any election, especially given the fact that electoral politics have grown very uncompetitive in Tucumán in the past ten years due to the dominance of

⁷²⁷ Interview: T29, Pro Eco, Tafi Viejo, Tucumán, 11/1/2008

⁷²⁸ Having status as *personaria juridica* gives an organization the ability to act as a legal entity.

⁷²⁹ Interview: T36, Green Pact, Tucumán, 11/4/2008

⁷³⁰ *La Gaceta de Tucumán* “La Trinidad padece por la contaminación” 08/02/04. Interview: T21, Environmental Activist, Concepcion, Tucumán, 11/15/08 & 04/16/09

⁷³¹ Interview: T21, Environmental Activist, Concepcion, Tucumán, 11/15/08 & 04/16/09

Peronists in gubernatorial and legislative elections.⁷³² Second, Tucumán does not have significantly more, or larger, environmental groups than most other provinces in Argentina. Therefore, it is unlikely the any enforcement in Tucumán is due to some sort of exceptional civil society capacity. Third, the landscape of environmental organizations in Tucumán did not changed dramatically from the late 1990s to the late 2000s when enforcement improved. Some new groups were formed, but they hardly created a profound shift in the capacity of the entire environmental movement to mobilize. Finally, compared with the economic power of the polluting industries, in which divestment could result in the loss of thousands of jobs, the environmental groups are clearly outmatched. Moreover, any action environmental groups might take that could threaten jobs would also engender a strong backlash from thousands of workers and their politically powerful unions.⁷³³ In short, from the simple perspective of interest-group politics, the balance of power in Tucumán was, and remains, on the side of industry.

Bureaucrats without Backing (1990s – 2001)

From the 1990s until 2001, the government agency responsible for controlling pollution from industry was located in the Ministry of Health's Provincial Health System (*Sistema Provincial de Salud*, SIPROSA). SIPROSA, as a regulatory agency, had many of the elements of an internally coherent, Weberian, bureaucracy. SIPROSA's staff had technical training, civil service protection, and long, sustained careers in government. The head of the enforcement department, for example, started her career in SIPROSA as a chemist in 1984; by 1995 she became head of the laboratory that tests samples; and in 2005 she became head of the department.⁷³⁴ Although material resources were scarce, and fluctuated over time with different administrations, many basic needs were met. The approximately thirteen inspectors had access to cars (which they sometimes borrowed from other agencies) and a laboratory. In contrast with Santa Fe, Tucumán had more administrative resources to regulate a smaller, less industrial, province. The environmental inspectors regularly took samples from the pollution emitted by the largest firms and identified levels of contaminants (i.e. they did not have the same coverage problem as in Santa Fe). Although SIPROSA might have been ill-equipped to enforce regulations on a large number of small firms, it had sufficient staff to monitor the largest polluters. If SIPROSA regulated only the hundred most polluting firms, there would have been approximately ten firms for each inspector, which is a reasonable level of capacity.

The regulatory system was, however, completely ineffective in the sugar mills and the citrus processing plants. Invariably, the inspectors found that pollutants exceeded legal limits, yet the inspectors were unable to penalize the responsible firms or enable firms to comply through instruction. An official with many years of experience in

⁷³² Gervasoni 2010a

⁷³³ For example, the head of the sugar workers' union (FOTIA) was also a cabinet official in the provincial government. Interview: T50, Federation of Sugar Industry Workers in Tucumán, Tucumán, 10/28/2008

⁷³⁴ Interview: T18, Environmental Inspector, Tucumán Ministry of Health (SIPROSA), Tucumán, 11/4/2008

SIPROSA explained the difficulties in following through with enforcement after finding violations:

*What happens is that the system of fines hasn't been applied as it should. ...SIPROSA had the faculty to apply the fine, but not determine the exact amount of the fine ... [The process of enacting a] single fine would not be complete from one year to the next... there would be a delay of at least five years before the fine was complete.*⁷³⁵

Even if the front-level bureaucrats could do their jobs perfectly in investigating violations, little would come of their inspections once the responsibility for enforcement moved out of their hands into the broader provincial bureaucracy. The regulatory system was full of weak points that could be exploited by firms with good lawyers and political connections to avoid penalties.⁷³⁶ There was simply not enough political support to sustain sanctions. For example, a SIPROSA official explains that, it was politically impossible to take steps to close down firms in the sugar industry that were violating regulations:

*Once the mill is going, it is very hard to close it. Because it is the economic base of Tucumán, therefore, you have to be very careful, because if you aren't, the society is going to come on top of you. For environmental issues, it isn't just complying with laws, it is achieving an equilibrium between the laws and what firms are able to do.*⁷³⁷

That “*equilibrium*” meant, for many years, allowing sugar mills to violate laws with impunity. The citrus industry largely followed the same pattern. The firms would be inspected, SIPROSA would find violations, and then nothing would happen.⁷³⁸ SIPROSA’s attempts at sanctions had little effect on industry because fines were either not paid, or not significant enough to change behavior.

Environmental inspectors could potentially have used other strategies, beyond fines, to coax firms into reducing their pollution.⁷³⁹ However, they maintained an inspection regimen that kept firms at arms’ length and did not use training as a tool for increasing compliance.⁷⁴⁰ In some ways, SIPROSA stayed insulated from firms, at least at the level of the street-level agent. In the organization of work in the bureaucracy, environmental inspectors maintained very little direct contact with firms. They would take their samples, leave, and send a report. Moreover, without the possibility of sanctions, inspectors could do little to initiate conversations about finding solutions. Efforts to bring incremental reductions in pollution were also frustrated by some of the

⁷³⁵ Interview: T18, Environmental Inspector, Tucumán Ministry of Health (SIPROSA), Tucumán, 11/4/2008

⁷³⁶ Officials openly stated in 2003 to the press that the regulatory institutions were full of weaknesses: *La Gaceta de Tucumán* “El PE reconoce que no cuida el medio ambiente” 08/02/03

⁷³⁷ Interview: T18, Environmental Inspector, Tucumán Ministry of Health (SIPROSA), Tucumán, 11/4/2008

⁷³⁸ Interview: T02, Environmental Specialist, Citrus Firm, Cevil Pozo, Tucumán, 4/17/2009

⁷³⁹ Fiorino 2006

⁷⁴⁰ Interview T18, Environmental Inspector, Tucumán Ministry of Health (SIPROSA), Tucumán, 11/4/2008. this is also supported from evidence from interviews: T07, T03, and others.

environmental laws. For example, some sugar mills were discharging wastewater with vinasse that had biological oxygen demand (BOD) levels of 60,000.⁷⁴¹ With treatment, they could reduce this level down to 600, but they would still be in violation of the law, that sets a limit of 50. Therefore, SIPROSA could not offer any incentive for incremental improvements; with strict standards and no penalties, environmental laws were considered almost irrelevant.⁷⁴²

Even after nearly fifteen years of regulation and the passage of various national and provincial laws, violations continued, and there were very low levels of enforcement. It was clear from scores of interviews with business leaders, regulators, and environmental groups that not a single firm complied with regulations during this period. Some firms took steps to reduce contamination, such as the citrus firms that became certified with ISO 9001, but these changes were largely driven by external market demands, not by the actions of the local regulators.⁷⁴³

In sum, while SIPROSA clearly was not a perfect Weberian bureaucracy, the staff had many of the features that analysts would argue are key, including civil service protection, expertise, and long tenures. Compared with other regulatory agencies in Argentina, Tucumán's regulators should have been better able to withstand political pressure and enforce regulations. Yet, SIPROSA was still politicized. Marginal advantages in bureaucratic organization were clearly insufficient and there were many points in which enforcement could be blocked, either by politicians whose priority was economic growth and not environmental protection, or by the firms themselves. Also, a key element was missing; the staff in SIPROSA were completely insulated from environmental groups. Environmental inspectors did not have regular contact with the FA, Pro-Eco, or neighborhood groups. SIPROSA received complaints, but these were sporadic and there was little in the way of repeated or prolonged interaction.⁷⁴⁴ Environmental groups had few allies among courts, prosecutors, or ombudsmen, who could amplify their concerns and facilitate linkages with SIPROSA. These potential allies had not yet taken up environmental issues and failed to provide hard constraints on the bureaucracy.

The Plan for Cleaner Production

Towards the end of the 1990s, the first external shock to state regulators came in the form of court action from the neighboring province, Santiago del Estero, over

⁷⁴¹ BOD is a measure of the amount of oxygen consumed in the biological processes that break down organic matter in water. The greater the BOD, the greater the degree of pollution. The limit for industrial effluent according to national law is 50 BOD.

⁷⁴² Interview: T14, Environmental Inspector, Tucumán Ministry of Health (SIPROSA), Tucumán, 11/6/2008

⁷⁴³ *La Gaceta de Tucumán* "Inspección ambiental a la citricola Citrusvil" 04/30/02; "Citrusvil no detiene su avance hacia la calidad total" 08/23/02. This is consistent with research in other Latin American countries and regions on the influence of market standards on certification and environmental upgrading, which can work in concert with local government Navas-Alemán and Bazan, Luiza 2003; Tewari and Pillai 2005.

⁷⁴⁴ This was (and still is) typical of many Argentine environmental bureaucracies, that spread the functions across multiple ministries that overlap with specific environmental problems.

pollution in the Rio Salí that runs from Tucumán into Santiago del Estero. Officials in Santiago del Estero began to take the province of Tucumán to federal court to force Tucumán to enforce its environmental laws.⁷⁴⁵ As tensions mounted in the middle of 2000, a meeting of officials from the two provinces and national environmental agencies was held in Buenos Aires. Afterwards, steps were taken to include Tucumán in a program for managing industrial pollution.⁷⁴⁶ At this time, the national government was just beginning to build a National Program for Clean Production and Consumption (introduced in Chapter 2). Tucumán became one of the first provinces to have the opportunity to undertake a large scale public-private partnership to reduce pollution.⁷⁴⁷ With money from the national government and support from the United Nations Environment Program and the World Bank, the Provincial Plan for Clean Production (*Plan Provincial de Producción Limpia*, or PPL) was created at the end of 2001 and beginning of 2002 (though it really began only in 2003).⁷⁴⁸

The PPL created a new regulatory mechanism by which the state negotiated “voluntary” agreements with firms to reduce pollution. The state had two benefits to offer the firms. First, the state promised the firms that through participation in the PPL they would receive assistance in making investments that reduced environmental impacts and had financial returns. By going as far as claiming that PPL could increase profits and reduce pollution, a “win-win”, the PPL was an attempt to reframe environmental management in order to engage firms that otherwise had little aptitude or interest in investing in pollution prevention.⁷⁴⁹ Second, the PPL offered firms a degree of legal certainty by shielding them from prosecution while they tried to incrementally improve their performance. A senior official who was involved in the PPL described the informal exchange:

*There was a verbal commitment that while a firm is in the PPL, it would not be penalized. This was a commitment absolutely outside of the law, because the agreements could not modify the law. However, efforts were made to minimize the infractions and only sanction those that did not comply with the Plan for Cleaner Production, not those who did not comply with the law.*⁷⁵⁰

Even though there had never really been serious penalties for firms that did not comply, there was fear among the firms that penalties were coming and an air of uncertainty due to the new political pressures from Santiago del Estero and the national government. And the PPL allowed firms to gain protection in the short-term from the possibility of sanctions. In return, the firms promised reductions in pollution and investment that would move them closer towards compliance. For example, the Marapa Sugar Mill committed to installing new filters to reduce *cachaza* in its wastewater. Other firms

⁷⁴⁵ *La Gaceta de Tucumán* “Los planteos judiciales llevan más de una década” 09/29/06

⁷⁴⁶ González 2003

⁷⁴⁷ Interview: B28, Federal Secretariat of Environment and Sustainable Development, Buenos Aires, 9/22/2008

⁷⁴⁸ *La Gaceta de Tucumán* “Tratarán en un foro la contaminación del Salí” 10/6/02

⁷⁴⁹ *La Gaceta de Tucumán* : “La Producción Limpia aumenta las ganancias” 07/17/02

⁷⁵⁰ Interview: T10, Cleaner Production Center, Tucumán, 11/11/2008

promised to reduce water usage, energy usage, or better manage their wastes. These commitments were signed in contracts that included timelines for actions, investments, and remediation.

In order to undertake the new tasks of assisting the firms with their plans and auditing their progress, the PPL created a new specialized group of technical staff called the Center of PPL. The Center was jointly run through a collaboration between the federal government, provincial government, and the National University of Tucumán (with the federal government providing the money). They hired a team of twelve young engineers to oversee implementation of voluntary agreements that the state signed with the individual firms. Apart from educational requirements—all new staff were professional engineers—these new staff met none of the criteria of a Weberian bureaucracy. They all had temporary contracts without civil service protection and they were not integrated into the career structure of the state apparatus. (After the PPL ended, only one went on to work for the state; the rest went to the private sector).

The PPL staff audited environmental management in the firms in order to identify changes that would reduce waste generation, water consumption, and energy use. They gave free consulting advice to the firms, many of which did not have in-house expertise in environmental management. The PPL staff began to help the firms diagnose their environmental problems and look for solutions. And they began to open up the possibility of firms collaborating with one another and with the state in the search for better technical solutions to the root causes of pollution in the province. In addition, a series of meetings were held in which experts outside of the province were brought in to talk about environmental management. In other words, with a new bureaucratic structure, agents of the state started forming thick ties with firms that they were regulating.

But, the program lacked any “teeth” of its own, and there were no consequences—such as expulsion from the program—for firms that failed to live up their agreements. Therefore, audits of firm progress were not very meaningful, and the PPL staff acted primarily as consultants. The PPL staff were divorced from SIPROSA’s enforcement staff, who did not receive information that was gathered by PPL staff.⁷⁵¹ An official involved with PPL describes his strategy: “*I always tried to make it so the firms did not see us as a bridge to a group of disguised inspectors. To try to separate as much as possible.*”⁷⁵² Also, because of the involvement of the national government (that was in part paying for the program with funds from international finance organizations), the PPL staff reported results directly to the national Environmental Secretariat. This way, firms could be open with PPL about their difficulties in complying and not risk prosecution. In effect, the new PPL bureaucracy was layered on top of the old SIPROSA command and control bureaucracy, creating a two systems working in parallel. SIPROSA continued to be responsible for penalizing firms (and they continued to be ineffective), while PPL became responsible for assisting firms and overseeing compliance with the agreements.

⁷⁵¹ Interview T18, Environmental Inspector, Tucumán Ministry of Health (SIPROSA), Tucumán, 11/4/2008

⁷⁵² Interview: T10, Cleaner Production Center, Tucumán, 11/11/2008

The PPL was an incremental change in the way environmental regulations were enforced in Tucumán. It shifted the focus from compliance with the standards set in laws to progressive improvement in overall environmental management with goals set through negotiations with individual firms. This change was significant, even if it was not backed up by sanctions, and it resulted in a number of concrete changes. Most importantly, the PPL shifted the relationship between firms and the state, creating channels for linkages with groups of firms that went beyond the monitor and (attempt to) sanction approach used by SIPROSA.

There were also real investments made by firms. In total, 28 firms agreed to participate in the program, including eight sugar mills and three citrus plants.⁷⁵³ For the firms that participated, the PPL gave them a way to work with the state and begin to tackle pollution problems. The PPL stimulated investment by firms in reducing environmental pollution for the first time. Some firms used the program as a vehicle to begin investing in technologies that would eventually help them comply with statutory requirements. Other firms found ways to improve efficiency in ways that had little to do with pollution laws. For example, a beverage bottling firm began a program to recycle glass and cardboard and sell it rather than dumping it, thereby reducing their waste flows and creating a \$10,000 a year income stream.

Firms took advantage of the fact that they now had a legitimate way to move progressively towards complying with regulations. A manager at one of the participating citrus firms recounted:

“They knew no one could comply with the legislation. It was for that reason that they established the PPL, and that is why we were part of the project. We had something with which we could respond each time [SIPROSA] came with a notice of a fine. We could say ‘well, we are working, we are in the PPL, we are doing things, but we still haven’t gotten to the pollution levels, but we are looking for a better technology’ With this, the PPL helped us, it was a commitment to really find a solution.”⁷⁵⁴

This particular firm negotiated with regulators and began to construct water treatment lagoons, which would give the organic materials in the wastewater time to breakdown before being discharged into the river. This firm also took steps to reduce the use of chemicals in the lemon washing process. At the same time, one of this firm’s main clients, Coca-Cola, began to ask for better environmental performance from its suppliers.⁷⁵⁵ The market pressure provided an additional justification for firm owners to invest in environmental management, helping reinforce the relationship between the state regulators and the firm.

Ultimately, the PPL was a shift from allowing firms to violate environmental laws with impunity, to reacting to violations with support for improved performance. This

⁷⁵³ Ibid.

⁷⁵⁴ Interview: T02, Environmental Specialist, Citrus Firm, Cevil Pozo, Tucumán, 4/17/2009

⁷⁵⁵ Interview: T02, Environmental Specialist, Citrus Firm, Cevil Pozo, Tucumán, 4/17/2009

was a significant change, but there were many limitations to the PPL due to the voluntary nature of the PPL, lax negotiations with firms over the agreements, and continued lack of penalties for firms that did not comply. Because the program was voluntary, some firms “hid, stayed quiet and no one was going to bother them. And no one visited them or controlled them.”⁷⁵⁶ And among those that participated, many firms undertook projects that increased environmental efficiency without actually tackling the problems that led to their non-compliance with existing regulations.⁷⁵⁷ For example, none of the sugar mills installed large water treatment systems that would have been necessary to comply with regulations. There were no consequences for firms that failed to live up to their agreements—or at least none built into the PPL program. These were serious setbacks that raised skepticism about the ultimate goals of the PPL among critics.

During this time there were few openings for environmental groups to participate in the design of the PPL or the contents of the voluntary agreements.⁷⁵⁸ Most environmental groups remained highly skeptical that the PPL would do anything more than legitimize firms that polluted. For example, a leader in one group said:

*“The [Cleaner Production Program] permitted firms and businessmen, who were committing environmental crimes, to be protected. It also protected the officials that should have regulated the firms and make them comply with the law, which they were not doing. The PPL was not good for any other thing, it was only useful for those who had broken the law.”*⁷⁵⁹

The disbelief of the environmental groups in the effectiveness of the PPL, and the fact that these groups remained outside the PPL and were not co-opted by it, kept pressure on the provincial government and the firms.

Changes in Political Pressure on Firms and Regulators

Just when PPL was forming and coming online, conflict over pollution both outside and within the province increased dramatically. The pressure from Santiago del Estero did not diminish with the creation of the PPL. Legal action against Tucumán continued when the *Defensor del Pueblo* of Santiago del Estero filed a suit against Tucumán in the Supreme Court.⁷⁶⁰ The consequences of the contamination on the border between the two provinces increased in visibility, and the hotel association of the tourist-dependent border town, Termas de Río Hondo, estimated that it lost 17 million dollars of tourism business.⁷⁶¹ To make matters worse, there were yearly fish kills in the lake at the

⁷⁵⁶ Interview T10, Cleaner Production Center, Tucumán, 11/11/2008

⁷⁵⁷ Interview T15, Industrial Engineer, Tucumán Environmental Secretariat, Tucumán, 10/28/2008 & 11/10/2008

⁷⁵⁸ Multiple interviews with environmental groups, officials from the PPL, and firms that participated in the program.

⁷⁵⁹ Interview: T20, Federation of Environmental Non-governmental Organizations, Yerba Buena, Tucumán, 11/3/2008

⁷⁶⁰ *La Gaceta de Tucumán* “Grave demanda contra Tucumán” 09/28/02

⁷⁶¹ *La Gaceta de Tucumán* “Por la contaminación, Las Termas pierde \$ 50 millones” 10/18/03

border between the provinces due to the high levels of contamination.⁷⁶² Loosely organized protests on the border increased, and by October of 2006, for a number of days, protesters in Santiago del Estero blocked the roads that link Tucumán to the ports in Buenos Aires and Rosario.⁷⁶³ There were also protests in the main square of Tucumán by Santiagueños, and, in December 2006, 3,000 letters were written to the governor of Tucumán about the contamination, reaching the front pages of the local newspaper.⁷⁶⁴ The protests and road blocks were seen by businessmen as a serious threat that could disrupt exports of citrus goods and shipments of sugar.⁷⁶⁵ One leader of the groups in Santiago said: “*Our intention is to call the attention of the entire country. We want the problem to be nationalized. Until we have victory, we do not know how long the blockages will go on.*”⁷⁶⁶

These new road blocks occurred at the exact same time that the protests broke out nearly 600 miles away from Tucumán over the Botnia plant in Uruguay across from Gualaguaychú, Entre Ríos (discussed in Chapter 2). In response to the conflict over this issue, president Kirchner appointed Romina Picolotti to be Secretary of Environment. After she came into office, Picolotti increased attention to polluting industries and publically criticized the PPL in Tucumán, putting pressure on provincial government to strengthen enforcement.⁷⁶⁷ In addition, the conflict over Botnia scared industry leaders, who cautiously observed an environmental protest at a scale never seen before in Argentina.

In addition to social unrest from outside the province, there were also incidents of social unrest within Tucumán. The tiny group, UniVec, mobilized against air pollution from the mill La Trinidad in 2004. This group of neighbors marched through the streets, denouncing the air pollution caused by the mill, and took their case to the *Defensor del Pueblo*, the courts, Environment Department, and anyone else who would listen.⁷⁶⁸ The protests generated conflict between the firm and its neighbors, which was given attention in the media and added to the chorus of actors demanding that environmental regulations be enforced.⁷⁶⁹ Another mobilization that occurred in this period of time was actually against an attempt by a citrus plant to reduce contamination. The firm Citromax, located in the city Tafi Viejo, installed a series of anaerobic treatment lagoons to reduce wastewater pollution being discharged into canals. This system was crucial for Citromax

⁷⁶² *La Gaceta de Tucumán* “Hallan una mancha de aceite y peces muertos en El Frontal” 08/10/05; “El embalse de Río Hondo se llenó de algas y peces muertos” 08/17/06

⁷⁶³ *La Gaceta de Tucumán* “Pobladores de Las Termas protestaron cortando la ruta 9” 10/10/06. “Caos en la ruta 9 por un reclamo en Las Termas” 11/04/06 and “Termenses afianzan su plan de lucha” 11/04/06

⁷⁶⁴ *La Gaceta de Tucumán* “Tres mil cartas le enviaron los santiagueños a Alperovich” 12/2/06

⁷⁶⁵ Interviews: T17, Senior Official, Tucumán Environmental Secretariat, Tucumán, 11/3/2008; T49, Tucumán Regional Sugar Industry Association (CART), Tucumán, 11/14/2008

⁷⁶⁶ *La Gaceta de Tucumán* “Anuncian cortes de ruta en Las Termas” 02/20/07. “Ambientalistas cortan la ruta 9 durante 24 horas” 2/15/07

⁷⁶⁷ *La Gaceta de Tucumán* “Evidentemente, el Plan de Producción Limpia no es suficiente”, opinó Picolotti” 10/28/06 “La contaminación del Salí inquieta al Gobierno nacional” 10/28/06

⁷⁶⁸ Interview: T21, Environmental Activist, Concepcion, Tucumán, 11/15/08 & 04/16/09

⁷⁶⁹ *La Gaceta de Tucumán* “La Trinidad padece por la contaminación” 08/02/04; Piden que se ponga en vigencia una ley contra la polución 07/21/05.

to comply with pollution regulations, as an environmental engineer from the firm described:

*We choose this system because, with the amount of land we have, this technology had possibilities... And the effect of treating the water was really positive because the pollutants were removed and there was a reduction in [dissolved oxygen]... From a pollution reduction point of view, it went well, but the collateral effect was the production of odors.*⁷⁷⁰

The “collateral” impact of odors in the densely populated city of Tafi Viejo turned out to be more than the community could stand. Part of the problem was that there was no public consultation before the installation of the treatment lagoons; the PPL did not include community representatives, nor did the Provincial Council of Environment and Economy. In July of 2006, two hundred people protested against Citromax because of the odors that were given off by the water treatment plants. A protestor described the problems to the local newspaper, stating: “*The odors that are produced are unbearable. During the night, there is a fog that covers all of the neighborhoods.*”⁷⁷¹

The situation became tense, and Pro-Eco, a community environmental NGO, mobilized as an opponent of the project, and an intermediary between the firm, state, and the angry neighbors. The conflict escalated to the point where the firm sent workers into the neighborhood to break up assemblies, people started carrying machetes, and Peronist party activists (*punteros*) tried to leverage social unrest.⁷⁷² Citromax was forced to stop using the treatment lagoons, and open air lagoons were effectively banned. This meant that they had to roll back all of the investment in pollution reduction and continue violating environmental regulations.

This incident demonstrated the vagaries of local mobilization on environmental conflicts—neighbors pushed against enforcement of regulations in this case. Pro-Eco kept the conflict from escalating and prevented economic damage from road blockages. But it also created an opportunity for linkages to form between the Environment Department and Pro-Eco. By involving themselves in this conflict, leaders of Pro-Eco established contact with an official who later became Secretary of Environment, Alfredo Montalván.

At the same time, the judiciary became much more active in prosecuting firms and government officials for environmental contamination.⁷⁷³ A new federal district attorney, Antonio Gustavo Gómez, was transferred from the province of Chubut. Gómez was personally invested in environmental issues and had developed legal theories that took extremely tough stances on pollution.⁷⁷⁴ By bringing cases against corrupt politicians involved in environmental scandals, he gained attention from environmental groups that began to seek his collaboration. Gómez quickly scaled up his cases to take

⁷⁷⁰ Interview: T05, Environmental Specialist, Citrus Firm, Tafi Viejo, Tucumán, 4/17/2009

⁷⁷¹ *La Gaceta de Tucumán* “Protesta vecinal contra una citricola en Tafi Viejo” 07/27/06

⁷⁷² Interview: T29, Pro Eco, Tafi Viejo, Tucumán, 11/1/2008

⁷⁷³ *La Gaceta de Tucumán* “La Justicia mejoró sus puntos de vista con respecto a los temas ambientales” 05/25/03

⁷⁷⁴ Interview: T08, Federal Court of Tucumán, Tucumán, 4/14/2009

more powerful groups to court, which led him to the sugar mills, citrus processing plants, and meat packing industries. By 2006 he had investigated sixty cases of pollution.⁷⁷⁵

Channeling the interests of societal groups through the prosecutor and the courts contributed greatly to changing environmental regulation in Tucumán. Whereas SIPROSA and PPL lacked teeth, Gómez was all teeth. He allied himself with the small neighborhood associations, amplifying their demands. And he charged the directors of firms personally with environmental crimes, which scared and embarrassed people of power. A senior official in the Environment Department described the change:

“For many years, the environmental problems, the fines and the rest, they were managed politically. There would not be effective fines, or the fines would be suspended, or they would only collect minimum fines, these kinds of things. Then the Federal Justice came into the picture, and now everything is in the hands of the Federal Justice, the things began to get complicated because they left the borders of Tucumán, they went outside of Tucumán.”⁷⁷⁶

Gómez also put direct pressure on the bureaucrats in the Environment Department, who now faced the possibility of prosecution themselves if they did not follow proper procedures. Senior officials began keeping copious records of all of their actions in anticipation of having to defend them in court one day. As a federal prosecutor, there was little locally powerful political actors, such as firms owners, could do to fight back against Gómez.

Independently, the Federation of Environmental Non-Governmental Organizations (FA) filed a lawsuit against all of the sugar mills. A law was passed in 2004 that mandated all mills to install filters (scrubbers) in their chimneys to reduce particulate matter pollution. But the law was not enforced, and the Environment Department delayed action indefinitely. The FA decided to bypass the Environment Department, which they believed would only protect firms, and take on the firms directly through a civil action.⁷⁷⁷ The fact that the court agreed to hear the case and forced the mills to defend themselves was a victory in itself. Three of the mills settled with the FA and agreed to install filters by 2009. For the rest of the mills, there was an extended legal battle that the FA eventually won in 2008 and the court forced the firms to install filters. This was a serious victory for the FA, *“we undertook a conquest for the common good. It was David versus Goliath because an organization without a budget or resources confronted the sugar industry.”⁷⁷⁸* In combination with the lawsuits of Gómez, the FA’s civil action created resources that regulators could exploit for enforcement.

When all of the legal battles began heating up in 2006, the main business association, the Economic Federation of Tucumán (FET) met with politicians looking for

⁷⁷⁵ *La Gaceta de Tucumán* “Investigan 60 causas por daño ambiental” 10/23/06

⁷⁷⁶ Interview T17, Senior Official, Tucumán Environmental Secretariat, Tucumán, 11/3/2008

⁷⁷⁷ Interview: T20, Federation of Environmental Non-governmental Organizations, Yerba Buena, Tucumán, 11/3/2008

⁷⁷⁸ *La Gaceta de Tucumán* “El fallo en contra de los ingenios: “fue una lucha entre David y Goliath” 09/15/08

help. They enlisted the national Deputy Beatriz Rojkés de Alperovich (who is also the governor's wife), to attempt to declare an "environmental emergency" in Tucumán and suspend the court cases against the firms.⁷⁷⁹ The proposal supported by the industry was for the government to give firms ninety days to come up with a plan to clean up their production and five years to comply with legislation. This move failed to gain support in the legislature, and the legal cases continued. Still, firms hung on while new regulatory regimes were being constructed. As one firm owner noted, "*We have delays in our justice system that has an advantage....and paradoxically that creates rationality.*"⁷⁸⁰ Many of the cases were still pending at the time of this writing, but even without coming to a final decision, they have had a profound effect on the development of the next phase of enforcement in the province, the Plan for Industrial Reconversion.

The Plan for Industrial Reconversion

When the Plan for Clean Production (PPL) ended in 2006, there was a strong desire among government officials and firms to develop a program that continued the PPL. In the years since the beginning phase of designing the PPL, the political climate had changed considerably, as did the relationship between the firms and the regulators. Business leaders were highly interested in maintaining any legal protection that a continued PPL could provide against the wave of prosecution. Firms also could use a state program to signal to mobilized environmental groups that they were taking action to reduce pollution and a vehicle to meet the technical challenges of complying. A senior official in the Environment Department described the transition to the new program:

*"The PPL was very good, but it never met the expectations of society, the courts, and many other actors, because they never came to the understanding that it was a [progressive] tool and the firms used the program as a refuge for protection. In 2006, the PPL was liquidated... and the firms were desperate to continue to have a refuge. We had a workshop internally with the state and the firms, in which we came to a series of conclusions... The firms had understood that apart from being progressive, the PPL also gave them the ability to introduce environmental issues in their factories... [But] we knew that the main problems were the lack of systematic control in the management of the firms' commitments. Another mistake was the judicial protection not to sanction the firms for their lack of compliance with their commitments in the plan."*⁷⁸¹

In October 2006, the government of Tucumán signed another accord to create the Plan of Industrial Reconversion (PRI) with the support of the national government.⁷⁸² The PRI created a new round of voluntary agreements with firms that specified two-year work

⁷⁷⁹ *La Gaceta de Tucumán* "Proponen que se declare en emergencia la cuenca del río Salí" 10/24/06, "Hay voluntad política para sanear la Cuenca" 12/19/06

⁷⁸⁰ Interview T49, Tucumán Regional Sugar Industry Association (CART), Tucumán, 11/14/2008

⁷⁸¹ Interview: T07, Senior Official, Tucumán Environmental Secretariat, Tucumán, 11/4/08 & 11/14/08 & 04/20/09

⁷⁸² *La Gaceta de Tucumán* "La tensión no frenaría la firma del acuerdo" and "Tucumán acordó con la Nación sanear la cuenca Salí-Dulce" 10/27/06

plans for reducing pollution. These agreements had a number of fundamental differences from the previous program (the PPL). First, the agreements established work plans that addressed the main issues of non-compliance with environmental policies (as opposed to programs like recycling). Firms committed to investing large sums of money in pollution control measures, including air filters and waste water treatment. By committing to taking steps towards compliance, firms were able to better satisfy judges who were hearing cases brought by the Federal Prosecutor Gómez that they were indeed moving towards a solution. Second, the PRI agreements had specific language about monitoring and consequences for noncompliance, while protecting firms from prosecution as long as they complied with the provisions in their agreements. Third, the PRI would be managed by the provincial government's Environment Department, giving regulators more direct control over the way that the program was implemented (unlike with the PPL). This put the provincial government in the key locus between the courts and the firms, allowing the province to shape the extent to which firms would be prosecuted for pollution based upon their adherence to the PRI agreements.

PRI brought with it another change in the composition of the state bureaucracy. A new group of sixteen technical staff were hired within the Environment Department to implement the program. Again, this change was not a move towards a more Weberian bureaucracy. The PRI team had short-term contracts, no clear career path within public administration, and there was no exam to ensure that the hiring was meritocratic. There was, however, a degree of expertise—all were professionals (engineers and a lawyer) and they were supported by interns who were in engineering school. In addition, the staff had thick existing ties to the industries that they had to regulate. For example, the coordinator of the program had been a plant manager at some of the largest mills before becoming an environmental specialist. Others had a few years of experience working in industry and then left to work for the state. One senior official described his previous experience with the firms:

“With the people who manage the firms, there is a relationship of trust, and with some of friendship. Everyone knows me because I was classmates of a number of them at the university.... This relationship that I have with the people who manage the firms has been very valuable because it has opened doors for me.”⁷⁸³

These relationships were key for building on the existing collaboration between the state and the private sector that began in the PPL. In order to jointly be involved in problem solving with the firms, the PRI staff needed access to firms and to have open conversations about the problems that the firms faced in reducing pollution. Of course, open relationships would not form with every firm, but there was a clear shift from both the SIPROSA and PPL approaches to regulation. In sum, the enforcement bureaucracy expanded its administrative capacity, was decidedly not Weberian, and had developed strong linkages with the industry that allowed regulators to respond to violations with a broader range of tools.

⁷⁸³ Interview T17, Senior Official, Tucumán Environmental Secretariat, Tucumán, 11/3/2008

With the creation of the PRI there were also new linkages built between the state and environmental groups. No formal advisory committees were set up, but there were informal channels that allowed groups, especially neighborhood groups, direct access to the Secretary of Environment. By the assessment of regulators involved in the PRI, societal groups made valuable contributions to the process of implementing the agreements.

“The NGOs are people ...who suffer because of the problems. Therefore, there is a constant interaction with the Secretary of Environment, because in a certain way, they help us.”⁷⁸⁴

For example, environmental organizations helped regulators gather information about firms that failed to follow their plans. As one official stated:

“We are in constant contact with the people [from the NGOs]. Therefore, [they say] ‘this firm is better, this one is worse,’ or ‘look, this firm is dumping this filth into the river, go [inspect them].”⁷⁸⁵

This expanded role of societal groups goes well beyond what occurred in previous regulatory programs. Officials favored highly local neighborhood association, such as UniVec and Pro-Eco, instead of the larger more professional associations, such as the FA. They gave these groups copies of the agreements so that the groups could support to monitor progress in the firms.⁷⁸⁶ According to a senior official:

“As a policy principle this Environment Department goes to where the neighbors are, to understand the problem from the neighbor, not from the interpretation of an NGO... Our experience tells us that it is important to communicate with the NGO, and for that we have working agreements with various NGOs.”⁷⁸⁷

In addition, the societal groups put the Environment Department in a stronger position: *“All of the actions of the NGOs I see as opportunities to grow institutionally...to gain more resources.”⁷⁸⁸* They not only had more information from the groups, but could exploit the presence of environmental groups to make demands on firms and other parts of the state.⁷⁸⁹ Importantly, regulation in the PRI did not just occur in the places where environmental groups were most active. Regulators drew on these groups, but also went beyond their immediate demands.

⁷⁸⁴ Interview T43, Engineer, Tucumán Environmental Secretariat, Tucumán, 10/28/08 & 04/20/08

⁷⁸⁵ Interview T13, Lawyer, Tucumán Environmental Secretariat, Tucumán, 10/28/2008

⁷⁸⁶ Multiple interviews, including: T21, Environmental Activist, Concepcion, Tucumán, 11/15/08 & 04/16/09; T20, Federation of Environmental Non-governmental Organizations, Yerba Buena, Tucumán, 11/3/2008

⁷⁸⁷ Interview: T07, Senior Official, Tucumán Environmental Secretariat, Tucumán, 11/4/08 & 11/14/08 & 04/20/09

⁷⁸⁸ Ibid.

⁷⁸⁹ The mechanism by which ties between bureaucracies and civil society groups helps bureaucrats advance their agendas was identified in Carpenter’s work on the U.S. Department of Interior and Postal Service. The mechanism that occurred in Tucumán is very similar, with the exception that the state never built up any form of autonomy. See: Carpenter 2001

This is not to say that the interactions between the state and environmental groups have been completely harmonious. Neither side has been keen on giving up control to the other. Environmental groups have been wary about legitimizing regulatory programs that they do not agree with. For example, the Environment Department invited the group UniVec to participate during the signing of cooperative agreements (PRI) with industry, but they refused. A leader from UniVec describes what happened:

They promised, in a public event, that we could also participate, but participate from outside of the event. We did not want to go in because we had been invited to officially participate in the signing of the agreement for the PRI. We didn't want to, we stopped... Because we understood that the firms were going to think that we were endorsing this... But the PRI is a means for industrialists, with the satisfaction of the government, to avoid judicial processes.⁷⁹⁰

Other groups shared UniVec's appraisal of the PRI, and would not publically support the PRI. Senior officials tried to establish a balance in the involvement of the environmental groups, explaining:

"The majority of NGOs have received, from us, all of the information about the commitments of the firms. Many times, the NGOs that have had the firms' commitments have been able to, in some way, follow them from close by. We have asked that the firms have a better relation with their neighbors, with the NGOs, with the understanding that the firms will demonstrate their efforts to improve the environment. The problem is that, because of their lack of trust, many of the NGOs want to transform themselves into the authority, and this is not possible."⁷⁹¹

Towards the end of the PRI in 2009, there was an open meeting between the Environment Department and many NGOs. The environmental groups complained about the lack of systematic participation, and the production focus of the PRI, but recognized that the Environment Department made significant progress.⁷⁹² Ultimately, the increase in protests and the threats from the courts helped regulators establish new linkages that had never existed with environmental organizations. Not all sides were happy with the arrangements, but they did increase the ability of bureaucrats to generate the resources they needed to enforce regulations. The following sections turn to specific industries, examining the operation of the PRI in more detail.

PRI in Sugar Mills

Regulation in the sugar industry changed substantially with the establishment of the PRI in 2007. The new PRI staff conducted a baseline analysis of all of the firms in the program, noting their effluent levels and technology for pollution control. Firms had to send reports on their progress in making the investments outlined in agreements every

⁷⁹⁰ Interview: T21, Environmental Activist, Concepcion, Tucumán, 11/15/08 & 04/16/09

⁷⁹¹ Ibid.

⁷⁹² *La Gaceta de Tucumán* "Ambientalistas aprueban lo realizado, pero piden que les den participación" 10/15/09

two months. The Environment Department conducted constant inspections of the firms in the program:

“We do a variety of types of inspections. We conduct patrol inspections constantly...After each report, we conduct a formal visit and we tell them beforehand, so that they are waiting for us, and we can see how they have progressed.”⁷⁹³

In total, these actions gave regulators increased information about violations and the technical barriers to compliance in the industry.

The inspections and the threat of sanctions were combined with efforts to enable firms to comply. Through the provincial government’s agricultural research agency, the Agro-Industrial Research Station Obispo Colombres that is funded and overseen by the private sector, joint efforts were made in identifying new technologies to reduce pollution. The Experimental Station hired an environmental specialist who established a research program. Representatives from the private sector, with staff from the PRI, took a joint trip to the University of Valparaiso in Chile to examine new technologies for treatment of water effluents.⁷⁹⁴ In meetings between the state and the firms, each firm explained what it was doing to solve specific pollution problems, diffusing practices across the industry in a way the sugar firm association largely had not.⁷⁹⁵

The interactions between the front-line bureaucrats and the mills were supported by a changed perception in the consequences for failure of firms to comply. For the first time, in May 2007, a sugar mill was temporarily closed down for not meeting its commitments in its PRI agreement and for not making investments. Governor José Alperovich stated in the press:

“The investment is the least the sugar mill should do, a mill that throws the cachaza in the river and contaminates. The mill hasn’t done anything to overcome the problem. Last night, I had dinner with the sugar mill owners, and I told them that we are going to work hard on environmental issues, because the pollution that is happening affects health”⁷⁹⁶

Although the closure was not during the harvest, and it was lifted after a few days, it was politically very important.⁷⁹⁷ Mill owners saw the closure as a political move to satisfy the national Secretary of Environment Picolotti, who was meeting with provincial officials at the time,⁷⁹⁸ or as revenge against the mill owners who had supported an

⁷⁹³ Interview: T15, Industrial Engineer, Tucumán Environmental Secretariat, Tucumán, 10/28/2008 & 11/10/2008

⁷⁹⁴ Interview: T04, Agro-Industrial Research Station Obispo Colombres, Las Talitas, Tucumán, 4/20/2009

⁷⁹⁵ I directly observed two of these meetings in which firms discussed problems and talked about ways of diffusing practices.

⁷⁹⁶ *La Gaceta de Tucumán* “Clausuran el ingenio San Juan por incumplir leyes ambientales” 05/17/07

⁷⁹⁷ *La Gaceta de Tucumán* “La clausura del San Juan podría levantarse el lunes” 05/19/07

⁷⁹⁸ Interview Anonymous firm owner, and *La Gaceta de Tucumán* “Una clausura que genera suspicacia” 05/21/07

opponent of the governor in internal competitions within the Peronist party.⁷⁹⁹ The mill was closed two more times in the following six months.⁸⁰⁰

In January 2008, the Environment Department closed another sugar mill, La Corona, for failure to install air filters in its smokestacks.⁸⁰¹ This closure was supported by protests from UniVec that mobilized against the mill and supported the Environment Department's action. A senior official in the Environment Department described the intent of these closures as a signal that the state is serious: "*The state will close you... it was a clear message to the businessmen, 'Don't fuck with me.'*"⁸⁰² Another official described the move as a way of inducing cooperation with the rest of the firms, that would have strong incentives to work with regulators.⁸⁰³ The closures, although temporary, were a significant change in environmental regulation in Tucumán. Firm owners believed that there was actually a possibility that they could be shut down for not complying.

In addition, social pressure allowed the regulators to have a stronger position with the mills in their everyday interactions, making them better able to resist efforts by firms to block enforcement. Now, they could use their linkages with environmental organizations as a way to get the firms to follow through on their commitments. One official in the Environment Department recounted:

*"For example, [the agreement says] that on September 21, they have to have a silencer installed on their boilers. What happens if it isn't there? We say to them, 'fine, there is a delay, in one week you will have it.' The community is going to go and protest."*⁸⁰⁴

And neighborhood groups did follow up, sending emails to the Secretary of Environment and other officials when noise levels from mills were extremely high. Through his contact with leaders in UniVec, the Secretary of Environment Alfredo Montalván met with neighbors of a mill who lived near a polluted stream.⁸⁰⁵ The information and support Montalván gained from his linkages with UniVec enhanced his ability to monitor pollution. In addition, the threat of social unrest allowed Montalván to take a tough stance with firms that did not meet the requirements of their agreements. As communication increased between firms and regulators, officials learned what changes were possible for leading firms, taking away excuses from firms that dragged their feet. For example, leading mills found that they could reduce some contaminants, specifically dumping *cachaza* into canals, without high costs, thereby demonstrating that compliance with this regulation was achievable.

⁷⁹⁹ *La Gaceta de Tucumán* "El capítulo local del "affaire Picolotti"" 07/14/07

⁸⁰⁰ *La Gaceta de Tucumán* "Por tercera vez en menos de ocho meses clausuran el ingenio San Juan" 01/09/08.

⁸⁰¹ *La Gaceta de Tucumán* "Clausuran el ingenio La Corona por contaminación" 01/06/08

⁸⁰² Interview: Anonymous official, Tucumán, 04//09

⁸⁰³ Interview: T49, Tucumán Regional Sugar Industry Association (CART), Tucumán, 11/14/2008

⁸⁰⁴ Interview: T43, Engineer, Tucumán Environmental Secretariat, Tucumán, 10/28/08 & 04/20/08

⁸⁰⁵ The author was copied on emails after interviewing one of the representative of a neighborhood association.

From 2008 to 2009, under the PRI, bureaucrats in the Environment Department regularly visited all sugar mills to monitor their compliance with their plans. Constant monitoring was important because even if firms invested in technological fixes to contamination problems, they would have to maintain these changes. Some of the contamination problems, such as managing *cachaza* meant putting into place systems to ensure that wastes are carried into the fields by trucks and not dumped in rivers and canals. Large capital investments had to be maintained and used, as a regulator from PRI explained:

"I'll give you an example, there is a mill that has a boiler with a scrubber, a filter. The scrubber filters the gases and removes them by spraying water. This mill has a beautiful boiler, new, the latest generation technology, and managers don't open the water circuit [that enables the scrubber] ... because it costs money to run the water. Thus, the mill emits black smoke even though they have everything ... This is a problem of the way they are thinking."⁸⁰⁶

As this quote demonstrates, the firms need constant monitoring by regulators—it is not simply a matter of getting a court order to install equipment. Importantly, neighborhood groups with which regulators had linkages were helping in this monitoring by reporting instances of heavy pollution. Some firms, such as the mill La Florida, experimented with new forms of treatment for water pollution (incinerating the vinasse and using it as a fuel).⁸⁰⁷ While they could be highly beneficial, the results of these treatments were largely unknown and needed thick interaction with the PRI bureaucrats to monitor implementation.

The combination of strong linkages among the regulators, firms, and environmental groups together with increased administrative capacity led to significant increases in enforcement, and there are a number of indicators of concrete changes in levels of compliance and contamination. Before 2006, only a third of the mills had a system to manage *cachaza* and by 2008 nearly all mills had developed *cachaza* management systems. Similarly, in 2005 very few mills had installed filters to reduce air pollution from burning bagasse. The percentage of air emissions that were filtered increased from 19% in 2006, to 62% in 2007. By August 2009, 96% of emissions were filtered.⁸⁰⁸ Less progress was made in reducing water pollution by treating vinasse, which has been much more difficult technically and more costly. Still, firms invested in experimenting with solutions and some used short term methods to reduce vinasse in rivers. Overall, sugar mills reported that they invested nearly 50 million dollars in decreasing pollution in 2008 and 2009. There is certainly a long way to go before the sugar mills will be able to comply with most environmental regulations, but with increased state action, conditions measurably improved.

⁸⁰⁶ Interview: T15, Industrial Engineer, Tucumán Environmental Secretariat, Tucumán, 10/28/2008 & 11/10/2008

⁸⁰⁷ Interview: T24, Environmental Specialist, Sugar Mill, Tucumán, 11/12/2008

⁸⁰⁸ Data provided by the Environment Secretariat.

PRI in the Citrus Sector

Enforcement of regulations in the citrus sector also increased substantially with the PRI. All seven citrus plants signed agreements with the PRI, and the agreements went much further towards reducing pollution than previous agreements under the PPL. Regulators continued to have constant interaction with citrus processing plants, working with them to identify solutions and monitoring compliance with their agreements. Over time, some of the citrus firms found that they could capture the gases produced in wastewater treatment as energy for the plants. By using this energy, they were effectively offsetting greenhouse gas emissions, qualifying them to sell carbon offsets to the international market, compensating for some of the costs of the treatment.⁸⁰⁹ Some of the firms began to work with international technology providers, and received support from the World Bank to undertake projects in capturing biogas from wastewater treatment. The regulators from PRI learned alongside the firms about the new technologies, and helped diffuse practices. An environmental manager from one of the more advanced firms described her relationship with the PRI staff:

The regulators come and do their audits, but more than anything, the regulators visit us to find out what is going on, to soak it in, because our processes are applicable to other citrus plants. Our relationship with the people from the PRI is pretty open. The inspectors don't have the knowledge and neither do we. We are buying technology from abroad, and we are learning, and the PRI staff come to learn as well.⁸¹⁰

Not only had regulation in the sector progressed to the point where regulators were periodically visiting firms and using a variety of tools to induce compliance, but, using their linkages, the regulators and the firms were building their capacity together.

Improvements in environmental regulation coincided with concrete results in the citrus sector. In the two year period of the PRI, citrus firms reported that they invested over ten million dollars in environmental management.⁸¹¹ A number of firms had installed more advanced pollution treatment systems, and at least two firms had gained ISO 14,000 certifications. One firm, Citrusvil, successfully installed a biogas system to power the plant, reduce greenhouse gas emissions, earn carbon offset credits, and treat wastewater.⁸¹² Although the actions of regulators were one of many factors pushing citrus firms to comply (such as the courts and international market pressure), environmental regulation was clearly successful in this case in helping induce pollution reduction and bring firms closer to compliance with the laws.

Conclusion

Tucumán has a long way to go before it gains control over industrial pollution, and the changes that occurred have been fragile. However, there was a notable shift from

⁸⁰⁹ *La Gaceta de Tucumán* "Buscan aprovechar energía sin dañar el medio ambiente" 04/22/05

⁸¹⁰ Interview T02, Environmental Specialist, Citrus Firm, Cevil Pozo, Tucumán, 4/17/2009

⁸¹¹ Data provided by the Environmental Secretariat

⁸¹² *La Gaceta de Tucumán* "Una industria citrícola tucumana es pionera en el proyecto de convertir efluentes en biogas" 12/05/08

firms polluting with near impunity and engendering little reaction from the state, to a pattern of enforcement contrasted strongly with that of Santa Fe and Córdoba. In Tucumán, regulators took a variety of actions that coax firms into complying by giving them the tools to comply, punishing the worst actors, and resisting efforts by firms to block enforcement (in some cases). These actions were not limited to places where linked civil society organizations were active, but also included firms located in places where local organizations were not particularly active and industries (such as the meat packing industry) that were not highlighted by the main conflicts. In sum, environmental enforcement in Tucumán changed radically over a fairly short period of time, from low levels of enforcement to comparatively *high levels* of enforcement that were spread across multiple firms and industries.

If one were to analyze environmental regulation in Tucumán purely from the perspective of bureaucratic organization, it would be extremely difficult to explain the changes that took place. First, as new regulatory programs were adopted, the state bureaucracy grew *less* insulated from industry and environmental groups. Before the reforms took place, the only regulator, SIPROSA, had a hands-off approach to enforcement that involved limited contact with firms and almost no contact with environmental organizations.⁸¹³ Through the changes of PPL and PRI, the regulators and firms became much more interconnected, to the point where they took joint research trips together and held regular meetings. This decrease in insulation, under the standard models, should have increased the likelihood of capture. Instead, it fostered the creation of linkages that were crucial for increasing the levels of enforcement. Second, the bureaucracy grew less Weberian as it expanded because new hires did not have civil service protection or guaranteed long-term career prospects in the state; in fact, most of the PPL staff went on to work for the private sector. Again, this should have increased the chances of capture by industry and decreased the likelihood of enforcement. Instead, enforcement increased.

In addition, if analyzed purely from the perspective of political will or top-down pressure on the bureaucracy, it is unclear how such a porous bureaucracy could enforce regulations. The political pressure from the governor, the courts, and from the Federal government clearly had an effect, and certainly induced some firms to comply, but this pressure cannot directly explain the actions of regulators without an intermediary mechanism that can translate those pressures through a bureaucracy that lacks hierarchy and cohesion. Without an internally coherent bureaucracy, the ability for top-down political control of the bureaucracy by the governor or courts decisions should have been very problematic.⁸¹⁴ No matter what the public outcry over pollution, acting on its own, the “throughput” of the bureaucracy should have been questionable at best.⁸¹⁵

In contrast, in the case of Tucumán environmental groups became viable allies of regulators. In episodes of intense conflict, like that in Tafi Viejo, officials got to know the leaders of environmental organizations and established routinized processes of

⁸¹³ This approach is similar that account that Kelman 1981 provides of OSHA, one that limits close interaction between regulators and firms.

⁸¹⁴ Eaton 2003; Huber and McCarty 2004

⁸¹⁵ Abers and Keck 2009

consultation. And when there was a threat of environmental groups working through the courts, regulators justified contact with those groups in order to keep a “progressive” approach to enforcement. With these contacts, regulators used the support of civil society organizations in ways that were not possible beforehand. Linkages with environmental groups provided information about which firms were particularly bad actors, thereby extending state capacity for gathering information. And linkages provided individual bureaucrats cover to resist efforts by firms to block enforcement. Whereas the Weberian model suggests that only the internal cohesion of the bureaucracy protects bureaucrats from potentially debilitating outside influence, in this case linkages with civil society groups helped make enforcement happen. Importantly, the bureaucracy did not diminish in administrative capacity as it became more linked with environmental groups. This fact contrasts sharply with some of the cases of society-dependent labor regulation (Córdoba wage and hour and Tucumán) in the previous chapters, in which linkages were developed *instead of* administrative capacity. In contrast to those cases, in Tucumán enforcement was co-produced and regulators took steps that were much broader than a simple reaction to the particular demands of mobilized groups. In this way, Tucumán’s environmental enforcement more closely resembled the case of labor regulatory enforcement in the Federal Capital’s garment industry and health and safety enforcement in Córdoba’s construction industry, which were also cases of co-produced enforcement.

Pollution continues to be a major problem in Tucumán and the province has a long, and difficult, path ahead to build a regulatory system that is truly functional. Measured against the promise of environmental policies, Tucumán’s enforcement apparatus clearly comes up short. But in comparison with other Argentine provinces, which are often pointed to as examples of better government, Tucumán has surprisingly pulled ahead of the pack. While the results are still not cause for celebration, the mechanisms for change towards enforcement are worthy of close analysis. The next, and final chapter, will put together the diverse strands analyzed in this dissertation and extract broader lessons that can be learned from Argentine regulation.

Chapter 8: Conclusion

Intense battles are fought over changes in regulatory laws, but they are hardly the end of politics. Rather, they are just the beginning. This dissertation analyzed the politics of enforcing labor and environmental regulations in Argentina, which continually take place in a separate sphere from policy making. The point of departure for this study is the problem of institutional weakness, which is a key barrier to using regulatory policies to balance economic development with social and environmental objectives. Institutional weaknesses arise from many sources; the central objective of this dissertation is to explain how states, which lack strong and autonomous bureaucracies, respond to those weaknesses.

The empirical analysis began with an overview of policy formation at the national level in Argentina, highlighting problems of compliance and the federal structures that have made the provinces the locus of the politics of enforcement. The remainder of the dissertation explored subnational variation in state responses to violations in labor and environmental law. By analyzing regulation across a variety of industries in four provinces, this dissertation developed an explanation for enforcement built around the interaction between linkages and administrative capacity.

This final chapter is organized in three sections that bring the findings of the dissertation together and place them within a broader context. The first section revisits cases from labor and environmental regulation, examining where common alternative approaches fall short in accounting for variation, and how the framework advanced in this dissertation can explain enforcement. The second section places these cases in comparative context, showing that the patterns of enforcement identified in this dissertation are not unique to Argentina. The third section goes beyond regulatory politics, contrasting dominant theories of state-society relations with the findings of this study. Finally, the concluding section highlights some of the implications of this study for regulation in a world with imperfect states.

Putting the Cases Together

Why is regulation enforced in some cases and not others? Using the theory advanced in this dissertation, we can identify the factors that were behind enforcement in Argentina. In cases of low levels of regulation, a number of drivers were working against enforcement. In some cases, the enforcement agency had extremely low levels of administrative capacity and civil society organizations were either weak, or lacked linkages with the bureaucracy. This is what occurred in the cases of Córdoba brick-makers, Tucumán health and safety regulation in construction, Santa Fe's enforcement in construction before 2007, and in environmental regulation in the industrial corridor of Rosario. In other cases, regulators had higher levels of administrative capacity, but they lacked linkages with civil society organizations. As a result, enforcement was either blocked due to the inability of regulators to withstand resistance from firms or, alternatively, because the industry was never made a priority in internal planning processes of the state. The former was the case in Tucumán's environmental regulation

before 2003, and the latter is the case in garment industry enforcement in the Federal Capital by the national Ministry of Labor before 2006. In short, there were, not surprisingly, multiple pathways to low levels of enforcement, all of which involved failures in capabilities (both to act and to plan) or politicization of the regulatory bureaucracy.

Many of the cases of medium levels of enforcement could be traced back to a combination of agencies that had low levels of administrative capacity, but that were also linked with civil society organizations that could make up for the state's deficiencies. This was the case for labor regulation in Córdoba's metal, shoe making, and commercial laundry industries; labor regulation in Tucumán's citrus industry; environmental regulation in the leather industry of Córdoba; and environmental regulation in the cereal industry of Santa Fe. In these two environmental cases, enforcement was concentrated only on single firms, moving the overall enforcement level for the industry up from low to medium, but the narrow scope of state action kept enforcement from reaching high levels.

The other cases of medium enforcement were due to high levels of administrative capacity, but no linkages with capable civil society organizations. This was the case in Santa Fe's construction industry after 2007 when the center-left leaning Binner came into office, and in the garment industry of the Federal Capital after the center-right leaning Macri came into office. In Santa Fe, despite the radical reforms, enforcement levels were lower than in Córdoba's construction industry, in part due to the inadequacies of the union. In contrast, in the Federal Capital, the enforcement dropped down to a medium level when there was political change and inspectors could no longer work with the civil society organization La Alameda due to the lack of linkages. In short, there are also multiple, but not infinite, combinations of political and bureaucratic arrangements that can lead to medium levels of enforcement.

All of the cases of high levels of enforcement had two things in common—they involved regulatory agencies with high levels of administrative capacity, as well as linkages with at least some civil society organizations that could supplement the state and provide political support. This was the case in the garment industry in the Federal Capital from 2006-2008, which reached very high levels of enforcement for a sustained period of time. In the three additional cases of high levels of enforcement—health and safety in Córdoba's construction industry, as well as environmental regulation in Tucumán's citrus and sugar industries—regulators not only had relatively high levels of administrative capacity and linkages to pro-enforcement groups, but they also had ties to industry, which enabled them to use enforcement strategies that employed both penalties and pedagogy.

How does the theory advanced in this dissertation compare with other approaches that are often invoked to explain enforcement? Could these cases just as easily been explained using more conventional theories? This dissertation has been framed in response to theories of state capacity to implement any policy, including enforcing regulations, that depend on a depoliticized bureaucracy.⁸¹⁶ According to these theories,

⁸¹⁶ For example: Geddes 1990; Evans 1995; Grzymala-Busse 2003; McAllister 2008

the most important factor that separates places that can enforce regulations from those that cannot is the approximation of the regulatory bureaucracy to an ideal-typical autonomous bureaucracy. Implicit in many arguments is a set of assumptions about the ways in which bureaucracies mobilize political and operational resources. Namely, that the autonomous features of bureaucracies give them corporate coherence and enable them to withstand outside pressure to implement policies.

How well would such an argument explain variation in Argentina? Only one of the many cases analyzed in this dissertation—the increase in labor enforcement in Santa Fe after 2007—could be accounted for using the lens of bureaucratic autonomy. In every other case, levels of enforcement (and changes in enforcement) could not be explained with reference to bureaucratic autonomy. No bureaucracy met even the minimum criteria for autonomy, and most cases of enforcement involved mobilizing resources, especially political ones, from outside of the state apparatus (or formal lines of authority to the executive). In some cases, the organizational features associated with autonomy were decreased while enforcement increased, as occurred in environmental regulation in Tucumán. In other cases, the state developed comparatively high levels of administrative capacity without moving towards autonomy, as in the case of the garment industry of the Federal Capital. Important differences among regulatory agencies existed, but these were best analyzed in terms of administrative capacity, rather than approximations to autonomy. In short, there was enforcement without autonomy.

Another essential question for those interested in whether or not states can, or do, enforce regulation involves the role of civil society organizations. Unions, environmental organizations, and industry associations are the protagonists in studies of policy development, and their actions to hold government agencies accountable are often pointed out as the drivers of enforcement. How well could differences in civil society organization alone explain the cases of enforcement in Argentina? In some places, such as labor regulation in Tucumán, an analysis based primarily on the capabilities of civil society organizations would do fairly well—the difference between industries with some enforcement and those with no enforcement came down to the strength of the unions. However, as we go further through the cases, an analysis that focuses primarily on civil society organizations would begin to come up short for at least three reasons.

First, such an approach would find it difficult to account for why some civil society organizations are able to influence enforcement, while others are not. One of the striking features of the role of civil society is that political mobilization often fails to elicit action from a politicized state. For instance, there were many episodes in which pro-enforcement activists denounced the lack of state action to the press. Despite resulting in literally hundreds of media reports about the failures of the state, such actions did not reliably translate into enforcement. Instead, they were blocked politically or, even if there was political support, the demands placed on the state were beyond its capability. Similarly, some professional environmental organizations took very elaborate steps to conduct scientific and legal studies of contamination, but again, on their own, these efforts did not generate a response. In addition, at times there were no substantial changes in civil society organizations themselves, but large changes in their efficacy. For example, internal attributes of La Alameda did not change radically, but enforcement

cycled from low to high, and then down to medium in the garment industry. Consequently, any explanation that focuses on civil society needs to account for why there is such a variable effect of civil society organizations. The crucial, but often missing, theoretical architecture that is needed is an account of the structures that determine which civil society organizations can work with regulators, what I call linkages.

Second, even among cases in which the resources of civil society organizations were accessible to the state, the results of their interaction with the state varied tremendously, ranging from confined bursts of enforcement to broad, systematic enforcement. In other words, the key interaction between civil society and state administrative capacity, which makes the difference between society-dependent and co-produced enforcement, needs to be taken into account. The problem with much of the literature that focuses on civil society was highlighted in Abers and Keck's recent study of water management in Brazil; they argue that researchers have not been attentive to the capability of the state in following through on demands made by civil society organizations. Thus, studies need to identify how civil society organizations go beyond demand making to become involved in aiding "throughput" of implementation.⁸¹⁷

Third, and related, an analysis that focused mainly on the political power of pro-enforcement organizations would not be able to account for the varied influence that they have on the development of administrative capacity. Under some conditions, the state reacted to mobilization by putting out fires and keeping down conflict. The result was enforcement, but not investment in administrative capacity that could lead to broader state action in the future. This was not, however, always the case. Without an account of the ways linkages can sometimes substitute for capacity, any analysis would fall short of providing a full explanation of the politics of enforcement.

This leads to a third approach that is often invoked in analyses of enforcement: top-down political will. How well would an analysis that focused on the governors being pro-labor vs. pro-business, or pro-environment vs. pro-business, explain variation in these cases? In many cases, variation in political party simply could not account for the differences in enforcement across industries or over time. For example, Tucumán, Santa Fe, and Córdoba all had governors from the PJ until 2007, yet environmental enforcement in Tucumán took a completely different form than in Santa Fe and Córdoba. In addition, there was widespread variation in enforcement within provinces, which was clearly not linked to any particular political agenda of elected officials.

In some cases, of course, the political party in power made a difference. For example, in the Federal Capital, the replacement of Telerman by Macri resulted in shifts in enforcement in the garment industry. And when Binner was elected in Santa Fe, the change in governor led to increased health and safety enforcement (it would be difficult, however, to say that the PS was any more pro-labor than the PJ). A top-down approach to explaining enforcement would, however, obscure the key mechanisms of *how* enforcement changed in these cases. What mattered in many cases was not the *direct* hierarchical control by the governors through some sort of principal-agent relationship

⁸¹⁷ Abers and Keck 2009

with the bureaucracy, but rather the indirect effect that elected officials had on linkages. In addition, some of the decisions that governors do make, such as whether to invest in administrative capacity or who to appoint to top positions, could not be fully understood without an account of the trade-offs between control and capacity. In short, the political commitments of elected officials clearly matter, but they are neither determinant nor do they provide a complete explanation for variation in enforcement.

Argentina in Comparative Context

How do the Argentine cases fit into a broader comparative context of cross-national cases of regulation? Are the cases analyzed in this dissertation artifacts of an exceptional Argentine case? Or are there similar patterns enforcement in other countries? Comparative cases illustrate the similarities in the triggers of enforcement that scholars have found in other countries. First, there are many examples of societal groups making up for the weaknesses of the state. For example, O'Rourke's (2004) study of environmental regulation in Vietnam reveals the existence of society-dependent enforcement in a very different context than Argentina.⁸¹⁸ The combination of a legacy of heavily polluting industries, an influx of footloose foreign investment, the lack of professional environmental organizations, and extremely weak state agencies made Vietnam in the late 1990s challenging terrain to implement environmental regulations. O'Rourke finds that there was still enforcement in a number of instances. For example, in one heavily industrial city, community mobilization helped make enforcement of regulations on a chemical factory possible and the factory invested in pollution prevention strategies for the first time.

Enforcement, however, was completely contingent on societal action; O'Rourke finds that "the vast majority of regulatory actions in Vietnam today occur *only after community pressures have been applied*."⁸¹⁹ Moreover, although O'Rourke does not use this language, his study highlights that community pressure is only successful when groups mobilize outside of the domestic regulatory arena and develop linkages with the state and extra-local actors that provide political support. The case of Vietnam, which is very similar to that of environmental regulation in Santa Fe and Córdoba, lends support to the findings that enforcement can, and does, occur even under constrained conditions in radically different contexts than Argentina.

Society-dependent enforcement is not, however, the only possibility for environmental regulation in developing and middle-income countries. Co-produced enforcement has also been identified in the case of the Cubatão in Brazil.⁸²⁰ In the early 1980s, regulators began enforcing environmental laws in this city, which was highly polluted due to a concentration of heavy industry including an oil refinery and chemical plants. The effort to clean up the Cubatão was considerable—regulators identified

⁸¹⁸ O'Rourke labels the pattern he identifies in Vietnam "community-driven regulation." I chose a society-dependent because relevant civil society organizations are not always based in a community, but sometimes are industry-wide (e.g. unions) or national (e.g. professional environmental organizations). The primary question is not the type of organization (community or not), but what resources the organization has and whether it can establish linkages.

⁸¹⁹ O'Rourke 2004

⁸²⁰ This section draws on Lemos 1998b; Lemos 1998a; Lemos and Looye 2003.

hundreds of pollution sources, made each source create a plan to reduce pollution, monitored compliance with the plans, and applied pressure to ensure that reluctant industries complied. According to Lemos (2003), this success was helped by alliances between regulators and popular movements that supported enforcement (i.e. linkages). But in contrast with Vietnam, enforcement was not dependent on direct mobilization against a particular source. The Brazilian regulatory bureaucracy had significant levels of administrative capacity and could leverage the support of the community to systematically enforce regulations. In many ways, enforcement in the Cubatão mirrored, at a much larger scale, the case of environmental enforcement in Tucumán.

Similarly, accounts of labor regulation have pointed to the important role of the interaction between regulators and pro-enforcement elements in society, in a variety of combinations. In places in which civil society organizations are robust, researchers identified their role in supporting the actions of labor inspectors.⁸²¹ For example, in Los Angeles, one program “deputized” representatives of a union to conduct checks of labor law compliance.⁸²² These “deputies” collaborated with labor inspectors, augmenting the state’s ability to collect information about violations. Similarly, the New York State Department of Labor collaborated with worker centers and other civil society organizations to improve information gathering about violations in the low wage workforce. These programs in the United States, which have been identified as models, but still are not widely diffused, involve mechanisms that are similar to common practices in Argentina.

Instances of labor law enforcement through leveraging society are not, however, limited to places with strong civil society organizations. For instance, a recent study of labor regulation in China found that after the strengthening of laws on the books in 2007, a form of “bottom-up enforcement” emerged “in which legal action by workers reinforces central government’s attempts to improve local implementation of central laws.”⁸²³ Consistent with the findings in this dissertation, the authors of the study argue that there can be enforcement of labor laws through this bottom-up mechanism even in China, which has a series of deficiencies in its enforcement apparatus.⁸²⁴ Moreover, the study finds that enforcement is unequally distributed. In this case, the unevenness of state action is not due to powerful unions monopolizing access to the state (as in some Argentine provinces), but instead due to the lack of effective worker organizations. Still, the mechanisms triggering enforcement in China’s labor regulation are somewhat similar to those identified in this dissertation.

These examples from outside Argentina provide ample evidence that state bureaucracies do leverage resources from society to enforce regulations in a number of countries. Moreover, they suggest that the mechanisms identified in this dissertation travel to a broad range of contexts. The frameworks used by the authors cited above all include some dimension of state-society interactions, which they hold as the central

⁸²¹ On Latin America, see: Wiarda 1978; Tandler 2006; Anner 2008. On Sweden, see: Kelman 1981. On Australia, see: Hardy and Howe 2009. On the United States, see: Weil 1991.

⁸²² Fine and Gordon 2010

⁸²³ Gallagher, Jing, and Trieu 2010

⁸²⁴ On the limitations of enforcement, see: Cooney 2007

factor for explaining enforcement. What is missing in many analyses, however, are two key theoretical shortcomings that stem from the limitations of dominant ideas about state-society relations. One is that, while authors recognize the value of linkages, they have yet to develop systematic accounts of why they should occur in some places and not others. Another is that focusing on instances in which state-society interaction leads to enforcement isolates these moments from the long-term development of the state. To address these points, it is helpful to go beyond regulation and turn to theories of state capacity and state-society relations.

Beyond Regulation

The theoretical point of departure for this dissertation was the dominant approach of studies of the state that give primacy to bureaucratic autonomy. One of the leading theories of state-society relations comes from Evans (1995), who makes a strong argument for the necessity of bureaucratic autonomy. Based on a study of the development of computer industries in Korea, Brazil, and India, Evans argues that “internal bureaucratic coherence should be seen as an *essential precondition* for the state’s effective participation in external networks.”⁸²⁵ In short, states needed to be both “embedded” and “autonomous” to be effective. If states are not embedded, they will lack the ability to act in a way that is sensitive to the challenges of development, and if they are not autonomous, they will fall prey to rent seeking and particularistic demands. Evans’ work has been joined by numerous other studies of the state that have assumed the need for autonomy and searched for the possible drivers of reduced politicization.⁸²⁶ Behind this research agenda is the view that *the* path to good government is moving towards the creation of bureaucratic autonomy.

Evans’ argument, despite its influence, falls short in two key ways. First, the theory treats autonomy as a necessary condition, which creates a substantial theoretical limitation because it excludes a host of mechanisms that might enable states to act in ways that are consistent with policy goals. In fact, the bureaucracies that Evans studied were far from autonomous. Some were, by his own admission, “intermediate” states. But even the Korean bureaucracy that Evans identifies as the most autonomous in his sample had widespread politicization: appointments in the bureaucracy prioritized political loyalty, officials relied heavily on informal ties, and politicians used the provision of particularistic benefits to regional interests in order to maintain political support for the regime.⁸²⁷

These bureaucratic imperfections are problematic because, in arguments built around autonomy, the internal coherence of the bureaucracy does nearly *all* of the work leading to positive outcomes (it is a necessary condition). The flip side is that once there is politics, all behavior devolves into rent-seeking and there are *no other* mechanisms by

⁸²⁵ Evans 1995 emphasis added, p. 50

⁸²⁶ See, for example: Geddes 1990; Geddes 1994; Grzymala-Busse 2003; Chavez 2004; O’Dwyer 2004

⁸²⁷ Ha and Kang 2011. The lack of autonomy was admitted in Evans’ own account. For example, he argues that the Korean state under Park became autonomous, but the portion of bureaucrats hired through civil service exams (a key indicator for Evans) only reached 25% and many officials who held key positions came to them through the military coup (1995, pp. 52-53).

which the state can act in a way that is consistent with policy mandates. In short, theories that depend on autonomy tell us nothing about how politics might lead to the *varying* outcomes that we actually observe in most countries (that are far from the autonomous ideal). While moving towards more coherent bureaucracies makes for a good policy prescription and was an effective argument against dismantling the state in an era of neoliberal dominance (that characterized all states as havens of rent seeking inefficiencies), theories that lean on autonomy obscure, rather than illuminate, the key factors that determine how most states act.

Second, and related, without including politics in the state, it is very difficult to account for linkage formation. Researchers studying state capacity have identified the importance of state-society interactions in a variety of policy areas, ranging from water irrigation in Taiwan, to policing in Pakistan, to the development of sewage systems in Brazil.⁸²⁸ Scholars have found that, across these diverse contexts, the ability of the state to successfully deliver on the promises of policies is determined, to a large degree, by ties between state and society. One limitation of these studies has been that they give no account for why such linkages are strong in some places and not others. In Evans' theory, for example, linkages (or embeddedness, as he calls it) are an accident of history that are left unexplained and, to some degree, immutable.⁸²⁹ The problem of explaining linkage formation derives from the centrality of autonomy; without admitting politics, it becomes extremely difficult to account for linkage formation. As shown in this and other studies, politics plays a tremendous role in determining which groups gain access to the state. Yet, it would be incoherent to build a theory around autonomy and then admit that politics influences state-society relations. Again, leaning on the concept of autonomy conceals more than it reveals.

This dissertation has attempted to construct an account of state action that does not rely on autonomy. In doing so, it joins company with other studies of state-society relations that have not followed the dominant trend. For example, in Tsai's study of public goods provision in Chinese villages, there is no presumption of autonomy. Instead, variation in public goods provision is explained by differences among societal groups—more encompassing and coherent civil society organizations lead to a greater provision of public goods.⁸³⁰ Tsai, however, is careful to note that local politics *do not* determine which groups embed state officials. Instead, embeddedness is due to a particular match between civil society organizations (which themselves are the product of particular village histories) and the constraints on officials imposed by the central government.

Analyzing a completely different type of problem, Brinks' study of judicial responses to police killings in Argentine and Brazilian cities also develops an argument about state action that does not depend on autonomy.⁸³¹ Brinks explains the widespread variation in prosecution of police officers who have been accused of extrajudicial killings. Two main problems occur in judicial systems that prevent judges from

⁸²⁸ Lam 1996; Ostrom 1996; Joshi and Moore 2004

⁸²⁹ Schneider 1998; Wang 1999

⁸³⁰ Tsai 2007

⁸³¹ Brinks 2008

prosecuting police: judges use the wrong criteria (i.e. they do not apply the law, but instead employ an informal norm that allows police to kill certain members of society without due process); or judges lack information on which to make their decision and they incorrectly find police not guilty even if they use the right decision rules (i.e. the police obstruct the investigation process). The argument finds that sometimes states perform better in upholding the right not to be killed by the police, and it does not rely on autonomy. In fact, the judiciary is *explicitly* treated as highly politicized to reveal the key factors at play. Brinks' finding is that prosecution does occur when two conditions are met: the judge has to be using the right rules and the judge has to get the right information. The former depends on norms inside the state, and the latter depends to a large degree on the ability of victim advocates to gain access to the court, often through protesting, so that alternative evidence can be considered. In other words, a positive result depends on linkage formation, but it is not determined by linkages on their own—rather, a combination of linkages and a specific attribute of the state is necessary.

Congruent with these studies, the argument advanced in this dissertation suggests that a line of inquiry that unpacks state-society interactions *and* includes political contestation may be a route to developing better theories of state capacity. Analyses of the state need to take into account both administrative and political challenges, which are entangled with one another. As we get past autonomy, further theoretical development can illuminate the inner workings of states, especially those for which formal rules are weak, resources are in short supply, and state capacity is a product of resources within the bureaucracy and society.

Conclusion

How can we use the experiences of Argentine regulation to advance policies that balance the goal of economic development with the goals of social and environmental protection? The first lesson, and perhaps most basic, is that the range of contexts within which the state can enforce regulations is much broader than is commonly assumed. There is a widespread pessimism about the possibilities for most states in the academic literature and policy debates. This view is, in part, due to the theory of state capacity that emphasizes features of the state that are absent in most places. Where the prospects for radical bureaucratic reform appear dim, policy makers, as well as advocates for workers and the environment, often conclude that little can be done to improve enforcement. Consequently, regulatory institutions appear condemned to remain weak. In light of the apparent limitations of the state, the dominant policy debate about ways to improve labor and environmental standards shifted in the late 1990s away from focusing on states and towards non-state, private, regulatory approaches.⁸³² After over ten years of experience with private regulations, researchers have concluded that states must play a large role in the regulatory landscape, but without more nuanced theories of state action, how state regulation can be revitalized is still largely unknown.

⁸³² Bartley 2007; Vogel 2008

This dissertation has suggested that the prevailing theory of what constitutes state capacity to enforce regulations is at best incomplete.⁸³³ The cases in Argentina, as well as others found by researchers in quite different contexts, show that even when there are flaws in the state apparatus *there are opportunities for enforcement*. Limited resources and organizational flaws inside state bureaucracies are problematic, but they do not completely prevent the state from enforcing regulations, rather they constrain only the range of possible enforcement. The Argentine provinces studied in this dissertation had poorly trained staffs with few resources and low salaries—exactly the characteristics that the conventional wisdom predicts should lead to failure. Yet even these constrained regulators can, and did, take far-reaching steps to enforce regulations when they had linkages with civil society organizations. Therefore, statements regarding the impossibility of protecting workers or prevent environmental damage through regulation due to limited budgets are false excuses. With this view, we can begin to see implementing regulations as a political problem that involves choices among different pathways to enforcement. When the state is weak, a political choice can be made to build linkages and essentially delegate some state authority to civil society organizations. Distribution of enforcement may be imperfect, but enforcement will occur in a way that would otherwise be impossible.

With opportunities, however, come many challenges. Enforcement that relies heavily on organizations outside of the state can have serious limitations. First, when the state is very dependent on society for enforcement, inequalities in social organization become exacerbated. Responses to social demands can crowd out strategic state action, leaving some of the most vulnerable workers and communities unprotected. Second, when linkages are used as a substitute for investments in the bureaucracy, the political support for reforms that can broaden enforcement becomes undermined. In short, society-dependent enforcement, while better than total state absence, has many risks.

These limitations are not, however, intractable. Linkages are not always viable political substitutes for resources inside the state, and moving from society-dependent enforcement to co-produced enforcement is possible. The cases explored in this dissertation suggest that some sequences of action, in which administrative capacity is developed and then linkages are formed, may be more likely to lead to co-production than others. Fostering transition between patterns of state action is perhaps the most pressing challenge for policy makers. As future research develops more complete analyses of the politics of state-society relations, state capacity, and enforcement, we will be better able to craft strategies that enable states to strengthen regulatory institutions that harmonize economic development with social and environmental protection.

⁸³³ This argument aligns with a theoretical tradition of studying the state that still remains submerged in much the dominant discourse. See: Mann 1993; Soifer 2008

Appendix

Table A.1: Detailed Comparison of Labor Inspectorates (2009)

Measure	Córdoba	Federal Capital	Santa Fe	Tucumán
<i>Number of inspectors</i>	Medium: 63 (52,000 people /inspector)	High: 85 (31,000 people/inspector)	Low: 36 (90,000 province/inspector)	Low: 18 (81,000 province /inspector)
<i>Specialization</i>	Two groups: wages and hours, health and safety.	Four groups: Wages & hours, health and safety, construction, home-based industries (garment).	Two groups: Wage & hour and health and safety. Health & safety has approximately 12 of the total. The two divisions are managed out of separate buildings	Two groups, very loosely separated. 15 wage and hour inspectors and 3 health and safety inspectors
<i>Transportation (using state resources)</i>	Wage & hour: Very Limited Health and safety: Limited	Limited	Wage & hour: Limited Health & safety: Medium (three trucks for 12 inspectors)	Very Limited
<i>Information Technology</i>	Wages & hour: Very low records are kept manually on typewriters Health & safety: High computer database	High: Advanced database that allows management to centrally monitor inspector activity and view the history of inspections in particular firms	Wage & hour: Medium Health & safety: Very High. Inspectors have lap tops that they bring to issue reports and collect data	Very Low: inspectors have limited access to typewriters
<i>Planning Capabilities</i>	Wage & hour: Low, no ability to make plans beyond short-term campaigns Health & safety: High, routinized planning to conduct preventative inspections	High: Advanced system of planning inspections by industry, firm, or geographic area	Wage & hour: Medium Health & Safety: High. combination of high technology, organizational routines that revisit problematic areas and adjust active inspection targets	Low: No planning capabilities at all

Measure	Córdoba	Federal Capital	Santa Fe	Tucumán
<i>Levels of education</i>	<p>Wages & hour: Medium (elementary 4%, high school 32%, technical 14%, incomplete university 39%, university 10%).</p> <p>Health & safety: High (33% technical, 33% incomplete university, 11% university, 22% postgraduate)</p>	<p>High (64% have university degrees, and 36% have postgraduate training)</p>	<p>Wage & hour: Low (50% high school, 30% technical degrees, 30% elementary school)</p> <p>Health & safety: Very high (64% have postgraduate degrees, 18% technical degrees, 9% university degrees, and 9% incomplete university)</p>	<p>Very Low: Elementary (28%), High School (33%), Incomplete University (17%), Technical (17%), Postgraduate (6%)</p>
<i>Training</i>	<p>Medium: inspectors received little training for a number of years, but 90% report receiving some training in 2008.</p>	<p>Medium: Inspectors received training upon being hired, and 35% received some training during 2008.</p>	<p>Wage & hour: Medium, most received some training in the past year</p> <p>Health & safety: Very high, one year course upon hiring</p>	<p>Very little: Inspectors went untrained for many years, and only 34% of inspectors report receiving training in 2008</p>
<i>Professions</i>	<p>Wages & hour: Majority are not professionals. Some are lawyers (8%).</p> <p>Health & safety: All professionals. Health and safety technician (56%) & architects (22%).</p>	<p>All professionals: Lawyer (47%), Accountant (21%), Architect (14%) Engineer (7%)</p>	<p>Wage & hour: No professionals</p> <p>Health & safety: All professionals. Health & safety technician (36%), engineer (36%), doctor (18%), architect (9%)</p>	<p>Vast majority not professionals. The health and safety inspectors have one architect and two health and safety technicians</p>
<i>Salary</i>	<p>Low compared with the private sector (Wages and hours inspectors \$600 dollars a month)</p>	<p>Low compared with private sector (\$720 to \$780 dollars a month)</p>	<p>Wage & hour: Low compared with private sector (\$400 a month)</p> <p>Health & safety: High (approximately \$1,450 dollars per month)</p>	<p>Low compared with the private sector: \$528 dollars per month</p>
<i>Civil Service Protection</i>	<p>High: civil servant (84%), staff (temporary without protection, 3%), fixed term contract (11%), Intern (3%).</p>	<p>Low levels of civil service protection: civil servant (1%), Staff (temporary without protection, 57%), Fixed term contract (25%), Other (17%).</p>	<p>Wage & hour: High. All have civil service protection</p> <p>Health & safety: High. All have one year probationary contracts that convert into permanent contracts with civil service protection</p>	<p>High: 100% of inspectors have civil service protection</p>

Measure	Córdoba	Federal Capital	Santa Fe	Tucumán
<i>Exclusivity</i>	Not exclusive. Inspectors regularly hold other jobs	Not exclusive. Tolerated work outside the bureaucracy.	Wage & hour: No exclusive Health & safety: Exclusive, other jobs are not tolerated	Not exclusive. Inspectors regularly hold other jobs
<i>Hiring system</i>	Hiring is patronage based, not meritocratic	Mixture of meritocratic and patronage, with minimum criteria in training.	Wage & hour: Patronage hires Health & safety: Meritocratic, competitive and transparent examination	Hiring is patronage based, not meritocratic
<i>Tenure (median)</i>	11 years	3 years	Wage & hour: 22 years Health & safety: 1 year	12 years

List of Interviews

Identification Code, Position (if available), Organization, Location of Interview, Date

- B01, Argentine Construction Association (CAC), Buenos Aires, 10/7/2008
- B02, Environment and Natural Resources Foundation, Buenos Aires, 4/7/2009
- B03, Technical Evaluation, Federal Capital Environmental Protection Agency, Buenos Aires, 9/18/2008
- B04, Operations, Federal Capital Environmental Protection Agency, Buenos Aires, 9/25/2008
- B05, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 10/7/2008
- B06, Senior Official, Department of Labor Inspection, Ministry of Labor, Employment and Social Security, Buenos Aires, 3/13/08 & 2/26/09
- B07, Federal Capital Labor Subsecretariat, Buenos Aires, 10/1/2008
- B08, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 9/23/2008
- B09, Enforcement Department, Federal Capital Environmental Protection Agency, Buenos Aires, 10/17/2008
- B10, Enforcement Department, Federal Capital Environmental Protection Agency, Buenos Aires, 10/6/2008
- B11, Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 02/12/09 & 02/17/09
- B12, Senior Official, Santa Fe Ministry of Labor and Social Security, Buenos Aires, 5/26/2009
- B13, Defensor del Pueblo, Buenos Aires, 2/26/2009
- B14, Argentine Sausage Industry Association, Buenos Aires, 9/30/2008
- B15, Inspector, Federal Capital Labor Subsecretariat, Buenos Aires, 10/14/2008
- B16, Inspector, Federal Capital Labor Subsecretariat, Buenos Aires, 10/14/2008
- B17, Metal Plating Association of Argentina (ASADAM), Buenos Aires, 10/8/2008
- B18, Federal Secretariat of Environment and Sustainable Development, Buenos Aires, 10/1/2008
- B19, Metal Workers' Union (UOM), Buenos Aires, 2/12/2009
- B20, Lawyer, Argentine Human Rights League, Buenos Aires, 3/25/2009

- B21, Legal Department, Federal Capital Environmental Protection Agency, Buenos Aires, 9/22/2008
- B22, Federal Capital Labor Subsecretariat, Buenos Aires, 9/15/2008
- B23, Inspector, Federal Capital Labor Subsecretariat, Buenos Aires, 10/14/2008
- B24, La Boca Neighborhood Association, Buenos Aires, 10/4/2008
- B25, Federal Capital Environmental Protection Agency, Buenos Aires, 10/20/2008
- B26, Federal Secretariat of Environment and Sustainable Development, Buenos Aires, 9/18/2008
- B27, Argentine Sustainable Business Council, Buenos Aires, 10/15/2008
- B28, Federal Secretariat of Environment and Sustainable Development, Buenos Aires, 9/22/2008
- B29, Federal Capital Labor Subsecretariat, Buenos Aires, 6/30/2008
- B30, Legal Department, Federal Capital Environmental Protection Agency, Buenos Aires, 9/23/2008
- B31, Federal Capital Labor Subsecretariat, Buenos Aires, 10/1/2008
- B32, Environmental Specialist, Metal Industry Association of Argentina (ADMIRA), Buenos Aires, 2/18/2009
- B33, City Foundation, Buenos Aires, 10/16/2008
- B34, Metal Plating Association of Argentina (ASADAM), Buenos Aires, 10/8/2008
- B35, Argentine Meat Industrial Union (UNICA), Buenos Aires, 10/17/2008
- B36, Inspector, Federal Capital Labor Subsecretariat, Buenos Aires, 10/21/2008
- B37, Inspector, Federal Capital Environmental Protection Agency, Buenos Aires, 9/29/2008
- B38, Metal Plating Association of Argentina (ASADAM), Buenos Aires, 10/8/2008
- B39, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/6/2009
- B40, Enforcement Department, Federal Capital Environmental Protection Agency, Buenos Aires, 10/1/2008
- B41, Lawyer, Metal Industry Association of Argentina (ADMIRA), Buenos Aires, 2/18/2009
- B42, Environmental Commission, Federal Capital Legislature, Buenos Aires, 9/24/2008

- B43, Public Relations, Federal Capital Environmental Protection Agency, Buenos Aires, 2/18/2009
- B44, Green Party, Buenos Aires, 10/9/2008
- B45, Department of Planning, Ministry of Labor, Employment and Social Security, Buenos Aires, 9/17/2008
- B46, La Alameda Foundation, Buenos Aires, 2/23/2009
- B47, Inspector, Federal Capital Environmental Protection Agency, Buenos Aires, 9/19/2008
- B47, Tannery Workers' Union, Avellaneda, Province of Buenos Aires, 2/18/2009
- B48, Superintendent of Workplace Risks, Buenos Aires, 3/13/2008
- B49, Laundry Workers' Union (UOETSYLRA), Buenos Aires, 6/30/08 & 10/20/08
- B50, Inspector, Federal Capital Labor Subsecretariat, Buenos Aires, 10/14/2008
- B51, Senior Official Department of Labor Inspection, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/8/2008
- B52, Inspector, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/23/2008
- B53, Senior Official, Ministry of Labor, Employment and Social Security, Buenos Aires, 9/4/2008
- B54, Institute of Economic and Social Development, Buenos Aires, 3/19/2008
- B55, Inspector, Ministry of Labor, Employment and Social Security, Buenos Aires, 5/5/2009
- B56, Environment and Natural Resources Foundation, Buenos Aires, 3/6/2008
- B57, Complaints Department, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/29/2008
- B58, Political and Social Department, Argentine Industrial Union, Buenos Aires, 4/9/2008
- B59, Labor Lawyer, Buenos Aires, 4/4/2008
- B60, Director of a Regional Office, Ministry of Labor, Employment and Social Security, Buenos Aires, 6/17/2008
- B61, Superintendent of Workplace Risks, Buenos Aires, 4/23/2008
- B62, Former Secretary of Labor, Federal Ministry of Labor, Buenos Aires, 2/28/2008

- B63, Department of Human Resources, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/22/2009
- B64, Department of Labor Inspection, Province of Buenos Aires Ministry of Labor, Buenos Aires, 3/4/2008
- B65, Federal Capital Labor Subsecretariat, Buenos Aires, 7/4/2008
- B66, Former Senior Official, Federal Capital Labor Subsecretariat, Buenos Aires, 2/24/2009
- B67, Inspector, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/23/2008
- B68, Superintendent of Workplace Risks, Buenos Aires, 3/18/2008
- B69, Inspector, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/23/2008
- B70, Department of Planning, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/23/2008
- B71, Research Department, Ministry of Labor, Employment and Social Security, Buenos Aires, 3/18/2008
- B72, Inspector, Ministry of Labor, Employment and Social Security, Buenos Aires, 5/5/2008
- B73, Research Department, Ministry of Labor, Employment and Social Security, Buenos Aires, 2/27/2008
- B74, Construction Workers' Union of Argentina (UOCRA), Buenos Aires, 10/16/2008
- B75, Federation of Energy Workers and CTA, Buenos Aires, 7/2/2008
- B76, Minister of Labor, Santa Fe Ministry of Labor and Social Security, Buenos Aires, 3/15/2008
- B77, Inspector, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/8/08 & 4/25/08
- B78, Department of Planning, Ministry of Labor, Employment and Social Security, Buenos Aires, 4/11/2008
- B79, Superintendent of Workplace Risks, Buenos Aires, 4/3/2008
- B80, Auto Workers' Union (SMATA), Buenos Aires, 2/16/2009
- B81, Public Workers Union Delegate, Ministry of Labor, Employment and Social Security, Buenos Aires, 7/29/2008

- B82, Senior Official Department of Labor Inspection, Ministry of Labor, Employment and Social Security, Buenos Aires, 7/4/2008
- B83, Labor Lawyer, Buenos Aires, 6/30/2008
- B84, Federation of Pastry, Pizza, Ice-cream, and Alfajor Unions, Buenos Aires, 9/24/2008
- B85, Commercial Workers' Union, Buenos Aires, 9/16/2008
- B86, Department of Special Activities, Federal Capital Environmental Protection Agency, Buenos Aires, 10/1/2008
- C01, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 06/18/08 & 03/10/09
- C02, Industrial Union of Córdoba, Córdoba, 3/17/2009
- C03, Union of Pastry, Pizza, and Alfajor Workers, Córdoba, 7/16/2008
- C03, Union of Pastry, Pizza, and Alfajor Workers, Córdoba, 7/16/2008
- C04, Former Senior Official, Córdoba Labor Secretariat, Córdoba, 3/11/2009
- C05, Tourism, Hotel, and Restaurant Workers' Union (UTHGRA), Córdoba, 7/15/2008
- C06, Inspector, Ministry of Labor, Employment and Social Security, Córdoba, 3/12/2009
- C07, Metal Workers' Union (UOM), Córdoba, 3/18/2009
- C08, Inspector, Ministry of Labor, Employment and Social Security, Córdoba, 6/18/2008
- C09, Provincial Legislator (PJ), Córdoba, Córdoba, 3/4/2009
- C10, Inspector, Ministry of Labor, Employment and Social Security, Córdoba, 7/17/2008
- C11, Senior Official, Regional Office of Córdoba, Ministry of Labor, Employment and Social Security, Córdoba, 6/18/2008
- C12, Córdoba Leather Industry Association, Córdoba, 3/5/2009
- C13, Industrial Union of Córdoba, Córdoba, 6/19/2008
- C14, Shoe Workers' Union, Córdoba, 7/16/2008
- C15, Argentine Construction Association (CAC), Córdoba, 3/3/2009
- C16, Enforcement Department, Córdoba Environmental Secretariat, Córdoba, 3/18/2009
- C17, Construction Workers' Union of Argentina (UOCRA), Córdoba, 7/15/2008
- C18, Meat Packing Association, Córdoba, 3/6/2009

- C19, Hazardous Waste Department, Córdoba Environmental Secretariat, Córdoba, 3/12/2009
- C20, Córdoba Environmental Forum, Córdoba, 3/2/2009
- C21, Center for Human Rights and the Environmental (CEDAH), Córdoba, 3/20/2009
- C21, Senior Official, City of Córdoba Environmental Department, Córdoba, 3/12/2009
- C22, Senior Official, Córdoba Labor Secretariat, Córdoba, 06/23/08 & 03/05/09 & 03/07/09
- C23, Former Official, Córdoba Environmental Protection Agency, Córdoba, 6/3/2009
- C24, Environmental Defense Foundation, Córdoba, 3/5/2009
- C25, Senior Official, City of Córdoba Environmental Department, Córdoba, 3/12/2009
- C26, Inspectors, Córdoba Environmental Secretariat, Córdoba, 3/17/2009
- C27, Center for Human Rights and the Environmental (CEDAH), Córdoba, 3/16/2009
- C28, Enforcement Department, Córdoba Environmental Secretariat, Córdoba, 3/19/2009
- C29, Enforcement Department, Córdoba Environmental Secretariat, Córdoba, 3/19/2009
- C30, Auto Workers' Union (SMATA), Córdoba, 7/16/2008
- C31, Senior Official, Córdoba Labor Secretariat, Córdoba, 7/17/2008
- C32, Health and Safety Specialist, Construction Workers' Union of Argentina (UOCRA), Córdoba, 06/20/08 & 03/09/09
- C33, Garment Workers' Union (SOIVA), Córdoba, 6/25/2008
- C34, Shoe Workers' Union, Córdoba, 7/16/2008
- C35, Health and Safety Inspector, Córdoba Labor Secretariat, Córdoba, 6/24/2008
- C36, Córdoba Labor Secretariat, Córdoba, 7/14/2008
- C37, Córdoba Metal Components Industry Association, Córdoba, 7/15/2008
- C38, Inspector, Córdoba Labor Secretariat, Córdoba, 7/18/2008
- C39, Provincial Legislator (Opposition), Córdoba, Córdoba, 7/14/2008
- C40, Health and Safety Inspector, Córdoba Labor Secretariat, Córdoba, 6/24/2008
- C41, Union of Agricultural and Rural Workers (UATRE), Córdoba, 6/26/2008
- C42, Senior Official, Córdoba Labor Secretariat, Córdoba, 3/9/2009

C43, Inspector, Córdoba Labor Secretariat, Córdoba, 6/25/2008

C44, Senior Official, Córdoba Labor Secretariat, Córdoba, 6/26/2008

C45, Senior Official, Córdoba Labor Secretariat, Córdoba, 6/19/2008

C46, Metal Workers' Union (UOM), Córdoba, 3/18/2009

C47, Construction Workers' Union of Argentina (UOCRA), Córdoba, 6/26/2008

CH01, Inspector, Chaco Labor Subsecretariat, Resistencia, Chaco, 9/10/2008

CH02, Inspector, Chaco Labor Subsecretariat, Resistencia, Chaco, 9/10/2008

CH03, Chaco Labor Subsecretariat, Resistencia, Chaco, 9/10/2008

CH04, Chaco Labor Subsecretariat, Chaco, 9/10/2008

CH05, Chaco Labor Subsecretariat, Resistencia, Chaco, 9/10/2008

CR01, Corrientes Labor Subsecretariat, Corrientes, 9/8/2008

CR02, Senior Official, Corrientes labor Subsecretariat, Corrientes, 9/11/2008

CR10, Inspector, Corrientes Labor Subsecretariat, Corrientes, 9/9/2008

CR10, Corrientes Labor Subsecretariat, Corrientes, 9/12/2008

CR2, Tourism, Hotel, and Restaurant Workers' Union (UTHGRA), Corrientes, 9/12/2008

CR3, Inspector, Corrientes Labor Subsecretariat, Corrientes, 9/9/2008

CR4, Construction Workers' Union of Argentina (UOCRA), Corrientes, 9/8/2008

CR5, Inspector, Corrientes Labor Subsecretariat, Corrientes, 9/8/2008

CR6, Corrientes Labor Subsecretariat, Corrientes, 9/11/2008

CR7, Inspector, Corrientes Labor Subsecretariat, Corrientes, 9/8/2008

CR8, Corrientes Water and Environmental Agency, Corrientes, 9/12/2008

CR9, Senior Official, Corrientes labor Subsecretariat, Corrientes, 9/11/2008

S01, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

S02, Senior Official, Santa Fe Ministry of Labor and Social Security, Rosario, 5/5/2009

S03, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security,
Rosario, 5/12/2009

S04, Taller Ecologista, Rosario, 6/3/2009

S05, Inspector, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/11/2008

- S06, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/10/2008
- S07, Metal Plating Association of Rosario, Firm Owner, Rosario, 5/14/2009
- S08, Argentine Construction Association (CAC), Rosario, 4/29/2009
- S09, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/12/2009
- S10, Senior Official, Santa Fe Environmental Secretariat, Santa Fe, 12/15/2008
- S11, Former Senior Official, Santa Fe Labor Secretariat, Reconquista, Santa Fe, 12/16/2008
- S12, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/12/2008
- S13, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009
- S14, Senior Official, Santa Fe Environmental Secretariat, Santa Fe, 12/9/2008
- S15, Inspector, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/11/2008
- S16, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/15/2008
- S17, Senior Official, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008
- S18, Taller Ecologista, Rosario, 5/14/2009
- S19, Senior Official, Inspection Department, Santa Fe Ministry of Labor and Social Security, Rosario, 5/7/2009
- S20, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/12/2009
- S21, Metal Industry Association of Rosario, Firm Owner, Rosario, 5/7/2009
- S22, Technological Center José Censabella, Alvear, Santa Fe, 4/30/2009
- S23, Manos a la Obra, Rosario, 5/7/2009
- S24, Industrial Federation of Santa Fe, Rosario, 5/13/2009
- S25, Vecinal Santa Teresita, Rosario, 5/8/2009
- S26, Health and Safety Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/13/2009
- S27, Labor Lawyer and advisor to CGT, Rosario, 5/13/2009
- S28, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

S29, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

S30, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

S31, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe, 12/9/2008

S32, Former Senior Official, Santa Fe Labor Secretariat, Santa Fe, 12/15/2008

S33, Senior Official, Santa Fe Ministry of Labor and Social Security, Santa Fe,
12/11/2008

S34, Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/5/2009

S35, CGT Rosario, Rosario, 5/4/2009

S36, Manager, Cereal Industry Firm, Rosario, 5/13/2009

S37, Metal Workers' Union (UOM), Rosario, 6/1/2009

S38, Labor Lawyer and advisor to CGT, Rosario, 5/5/2009

S39, Deputy, Santa Fe Chamber of Deputies, Rosario, 5/6/2009

S40, Metal Workers' Union (UOM), Rosario, 6/1/2009

S41, Construction Workers' Union of Argentina (UOCRA), Rosario, 5/13/2009

S42, Inspector, Santa Fe Ministry of Labor and Social Security, Rosario, 5/5/2009

S43, Construction Workers' Union of Argentina (UOCRA), Rosario, 5/13/2009

S44, Laundry Workers' Union (UOETSYLRA), Rosario, 5/8/2009

S45, Senior Official, Santa Fe Environmental Secretariat, Santa Fe, 12/9/2008

S46, Inspector, Santa Fe Environmental Secretariat, Rosario, 4/30/2009

S47, Vecinal Santa Teresita, Rosario, 5/8/2009

S48, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

S49, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

S50, Inspector, Santa Fe Environmental Secretariat, Santa Fe, 12/10/2008

T01, Meat Packing Association of Tucumán and Firm Owner, Alderetes, Tucumán,
4/20/2009

T02, Environmental Specialist, Citrus Firm, Cevil Pozo, Tucumán, 4/17/2009

T03, Environmental Specialist, Sugar Mill, La Banda del Rio Salí, Tucumán, 4/21/2009

T04, Agro-Industrial Research Station Obispo Colombres, Las Talitas, Tucumán, 4/20/2009

T05, Environmental Specialist, Citrus Firm, Tafi Viejo, Tucumán, 4/17/2009

T06, Construction Workers' Union of Argentina (UOCRA), Tucumán, 4/14/2009

T07, Senior Official, Tucumán Environmental Secretariat, Tucumán, 11/4/08 & 11/14/08 & 04/20/09

T08, Federal Court of Tucumán, Tucumán, 4/14/2009

T09, Tucumán Citrus Association, Tucumán, 10/28/2008

T10, Cleaner Production Center, Tucumán, 11/11/2008

T11, Province of Tucumán Tax Department, Tucumán, 4/17/2009

T12, Senior Official, Tucumán Labor Secretariat, Tucumán, 10/27/2008 & 11/12/2008

T13, Lawyer, Tucumán Environmental Secretariat, Tucumán, 10/28/2008

T14, Environmental Inspector, Tucumán Ministry of Health (SIPROSA), Tucumán, 11/6/2008

T15, Industrial Engineer, Tucumán Environmental Secretariat, Tucumán, 10/28/2008 & 11/10/2008

T16, Industrial Union of Tucumán, Tucumán, 4/15/2009

T17, Senior Official, Tucumán Environmental Secretariat, Tucumán, 11/3/2008

T18, Environmental Inspector, Tucumán Ministry of Health (SIPROSA), Tucumán, 11/4/2008

T20, Federation of Environmental Non-governmental Organizations, Yerba Buena, Tucumán, 11/3/2008

T21, Environmental Activist, Concepcion, Tucumán, 11/15/08 & 04/16/09

T23, Environmental Specialist, Sugar Mill, Tucumán, 11/12/2008

T24, Environmental Specialist, Sugar Mill, Tucumán, 11/12/2008

T25, Pro Eco, Tafi Viejo, Tucumán, 11/1/2008

T29, Pro Eco, Tafi Viejo, Tucumán, 11/1/2008

T30, Pro Eco, Tafi Viejo, Tucumán, 11/1/2008

T31, Pro Eco, Tafi Viejo, Tucumán, 11/1/2008

T32, Inspector, Tucumán Labor Secretariat, Tucumán, 4/16/2009

- T33, Inspector, Ministry of Labor, Employment and Social Security, Tucumán, 11/12/2008
- T34, Inspector, Ministry of Labor, Employment and Social Security, Tucumán, 11/12/2008
- T35, Deputy, Province of Tucumán, Tucumán, 10/29/2008
- T36, Green Pact, Tucumán, 11/4/2008
- T37, Former Senior Official, Tucumán Labor Secretariat, Tucumán, 4/14/2009
- T38, Senior Official, Regional Office of Tucumán, Ministry of Labor, Employment and Social Security, Tucumán, 11/5/2008
- T39, Senior Official, Tucumán Labor Secretariat, Tucumán, 4/17/2009
- T40, Inspector, Ministry of Labor, Employment and Social Security, Tucumán, 11/12/2008
- T41, Industrial Union of Tucumán, Tucumán, 4/15/2009
- T42, Senior Official, Regional Office of Tucumán, Ministry of Labor, Employment and Social Security, Tucumán, 11/5/2008
- T43, Engineer, Tucumán Environmental Secretariat, Tucumán, 10/28/08 & 04/20/08
- T44, Senior Official, Tucumán Environmental Secretariat, Tucumán, 11/6/2008
- T45, Inspector, Tucumán Labor Secretariat, Tucumán, 10/31/2008
- T46, Senior Official, Tucumán Environmental Secretariat, Tucumán, 11/6/2008
- T47, Tucumán Regional Sugar Industry Association (CART), Tucumán, 11/14/2008
- T48, Argentine Construction Association (CAC), Tucumán, 10/29/2008
- T49, Tucumán Regional Sugar Industry Association (CART), Tucumán, 11/14/2008
- T50, Federation of Sugar Industry Workers in Tucumán, Tucumán, 10/28/2008
- T51, Union of Agricultural and Rural Workers (UATRE), Tucumán, 4/15/2009
- T52, Construction Workers' Union of Argentina (UOCRA), Tucumán, 10/31/2008
- T53, Tucumán Construction Association, Tucumán, 11/4/2008
- T54, Inspector, Tucumán Labor Secretariat, Tucumán, 11/11/2008
- T55, Inspector, Tucumán Labor Secretariat, Tucumán, 11/11/2008
- T56, Inspector, Tucumán Labor Secretariat, Tucumán, 11/6/2008

T57, Metal Workers' Union (UOM), Tucumán, 4/21/2009

T58, Inspector, Tucumán Labor Secretariat, Tucumán, 11/11/2008

T59, Tucumán Labor Secretariat, Tucumán, 11/6/2008

T60, Tucumán Regional Sugar Industry Association (CART), Tucumán, 11/14/2008

T61, Federation of Sugar Industry Workers in Tucumán, Tucumán, 10/28/2008

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