URGENCY AND BETRAYAL: THREE ATTEMPTS TO FOSTER PRIVATE INVESTMENT IN ARGENTINA’S OIL INDUSTRY¹
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Introduction

In 2007, Argentina’s oil industry celebrates its centenary remembering the oil discovery in Patagonia on December 13, 1907. Throughout these 100 years, the industry’s performance has been insufficient, and oil policies have shown a sharp instability up to this day. Two key points for the sector’s organization, the ownership of oil resources and the responsibility to exploit them, have been affected by means of repeated changes.

In the early XX century, both questions were clearly defined in the Mining Code, governing the incipient oil activity: the resources of the subsoil belonged to the jurisdiction they were in, provinces or federal government, and the private sector was responsible for the mining exploitation, explicitly banning the State from carrying it out.

Along the century, these two questions basic to the sector were questioned, heatedly debated in Congress and in the public opinion, and eventually modified, giving way to the above-mentioned chronic instability. In this sense, the fight for the nationalization and the state monopoly of hydrocarbons has repeated itself over and over again in Argentina’s recent history.

On the other hand, there have also been periods of opening up to private investment, in sporadic episodes becoming increasingly profound and aggressive, but which always end up reversing, with widespread breaches of agreements and contracts. Private capitals are openly requested by the Government to take part in oil industry, complementary to or even replacing state-owned companies. But as time goes by, that which is adequate and useful becomes harmful to national interests, international oil companies withdraw from the country amid crossed claims and the State is once again expected to give solutions to the sector’s needs.

The most recent case in point is the 1990’s reform, by which Argentina’s oil industry went full circle back: hydrocarbons in the hands of the provinces (included in the 1994 constitutional reform) and the exploitation of resources in private hands (as a result of the full privatization of YPF, the first state-owned oil company in the world). This reform, of unprecedented size and speed worldwide, began to reverse after the crisis battering Argentina in 2001-2002, reversal which is still in process.

In this paper we ask ourselves about the origin of this instability focusing on three cases of incorporation of private investment into Argentina’s oil industry: Juan D. Peron’s attempt in 1954, Arturo Frondizi’s oil contracts in 1958-1962, and the industry’s reform in the Carlos Menem administration in the 1990’s. In an effort to explain the failed

¹ I thank Pablo Gerchunoff, Ernesto DalBo, Marcelo Leiras and Marcos Novaro for their useful comments.
attempts to incorporate private capital into the industry and the reasons for the renegotiation and cancellation of contracts between the State and companies, we leave aside the external framework – whose key variable is the international price of oil and its derivatives – in order to focus on internal questions. Thus, we found two common characteristics in reforms which we believe worth highlighting; they are implemented in the context of a macroeconomic emergency as well as a crisis in the industry; and in every case they are “betrayal” episodes, since the increasing share of private capital in the oil industry meant that rulers involved were moving clearly away from their election promises and previous stances on oil policies. The “urgent and treacherous” nature of the reforms is not minor when it comes to evaluating the results and their sustainability in the course of time.

The identification of the rulers’ “betrayal” in the three cases analyzed leads us to ask ourselves about the reasons for such behaviour. The answer is simple: in Argentina elections are not won by promising the privatization of the oil sector. The social consensus on Argentina’s oil problem, built along the sector’s 100-year history, is quite close to nationalist, statist oil ideas, reluctant to the participation of foreign private companies in resources exploitation.

In the first part of this paper, after a brief summary of the historical development of Argentina’s oil industry, we identify the three before-mentioned episodes. Then, we describe their distinct common characteristics, and we analyze the treatment that such features have received in literature, as well as their impact on the institutional design of the initiatives mentioned. In Section 3, we ask ourselves about the reason for “betrayal”, and we go deep into the genesis of the ideas and beliefs of Argentina’s oil nationalism. Finally, we finish our work with some concluding and policy recommendation thoughts.

1. Perón, Frondizi, Menem: three projects of private capital incorporation into Argentina’s oil industry.

Argentina has never had an absolute monopoly on its oil industry, but the presence of the public sector has been historically very important. Private companies, on the other hand, have commonly played secondary roles, eventually boosted by greater opening programs.

In this section, after a brief summary of the initial historical development of Argentina’s oil industry, we focus on three attempts to incorporate private capital into the sector: the 1954/55 Peronist program, the oil policy of Arturo Frondizi’s administration (1958-1962) and the opening, deregulation and privatization process carried out under Carlos Menem’s administration (1989-1999). The three cases had widely political repercussions, took place under democratic governments – which is no minor detail in the unstable Argentina of the XX century – and were put in motion by presidents of great significance in Argentina’s modern history.2

2 The leading role of democratic governments elected by citizens in the attempts to privatize the oil industry shows that oil nationalism has been more influential among the military than among civilians. In the last military dictatorship (1976-1983) there was a slight attempt to incorporate private capitals in the exploration of new oil areas after the passing of Law 21.778, in April, 1978. The outcome, however, was not very significant.
1.1 The initial development of Argentina’s oil industry

While the initial attempts to find oil in Argentina date back to the late XIX century, the industry’s official history begins in December 1907 when a team of employees from the national government found oil in Patagonia’s shores.

At the time, legislation in force made no difference between oil and other minerals. The State (federal or provincial, on the basis of the location of the oilfields) had the control over the subsoil, and the private sector was responsible for the exploitation through perpetual mining concessions without any kind of royalties’ payment to the government. The growing importance of oil as a natural resource key to the defense and economic development of the nations made Argentine authorities override the Mining Code regulations, giving rise to the world’s first state-run oil exploitation.

Thus, private companies – both local and international ones – lived with an increasingly strong state-owned organization known as Yacimientos Petrolíferos Fiscales (YPF) as from 1922. The downstream activity was in the hands of major international oil companies (primarily Standard Oil of New Jersey and Shell), but the building of a large refinery in La Plata allowed YPF to successfully compete in that segment of the sector. The presence of private companies with national capital in the upstream activity began decreasing with the advent of major international oil companies. In most cases, Argentine oil businessmen preferred quitting their roles as such, leaving their areas for foreign companies in exchange for a fixed entry payment and a production royalty. These transactions were not well-received by the government, who had no participation in the growing oil rent. In this context, the authorities supported YPF in its attempt to prevent private companies from appropriating oil areas with the most potential. YPF’s reserves in federal and provincial oil territories improved its position.

In the second half of the 1930’s, the passing of specific legislation for the oil sector and for YPF finished consolidating the quasi state monopoly in oil and gas exploration and exploitation. Private companies, which had concessions under the old mining legislation, were not expropriated. But the impossibility of working in new areas condemned them to slow decadence. The share of private companies in Argentina’s oil production dropped from a maximum of 63% in 1934 to just 11% in 1953. In that very year, 68% of the processed crude belonged to YPF, percentage that increased to 35% in 1937.

Argentina’s leaders had decided to boost the State’s role in the oil industry. Private companies, mostly foreign, continued to operate in Argentina, but in more secondary positions, subordinated to the state-owned company. One of the key objectives of oil policies – self-sufficiency – moved further and further away: by the late 1930’s, 25% of total oil consumption was imported.

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3 This section is based on Gadano (2006)
4 The Mining Code passed in 1886 was applied.
5 State-run mining exploitation was banned by the Mining Code.
6 In 1953 Argentina produced 4.5 million cubic meters, while consumption in refineries totalled 8.4 million cubic meters.
In 1939, the outbreak of the war in Europe and its negative consequences on trade and financial flows worldwide highlighted YPF’s difficulties in meeting Argentina’s energy needs just by itself. The consumption of fuels had to be rationed, great quantities of cereals and oilseeds were consumed as fuel, and YPF was forced to such an effort that drained its capital once the war was over. Post-war restrictions to raw materials and equipment acquisition limited the state-owned recovery even further. Oil production reached a plateau and consumption growth had to be met with increasing imports. The oil sector was in the midst of one of the main macroeconomic problems that Argentina faced in those years: the stop & go cycles. It was responsible for a large share of total foreign currency needs, and a very high income – elasticity tended to worsen the situation in economic recoveries.

1.2 Perón and the agreement with Standard Oil of California.

Launched to politics by the nationalist military coup of June 1943, Juan Domingo Perón reached the presidency of Argentina in 1946. During the first years of its administration, he supported oil nationalization policies and the state monopoly of hydrocarbon resources, which was an approach consistent with the general orientation of Peronism’s economic policies. “Oil policies should be based on the very same principles as those on which economic policies rest: the absolute control over subsoil richness by Argentina and their rational and scientific exploitation by the State”, the official documents stated. The nationalist and statist approach even creeped into the National Constitution by means of a reform implemented by the Peronism in 1949, which declared oil and gas fields “imprescriptible and inalienable property of the Nation”, thus blocking any participation of the private sector.

In his second term, however, Peron’s economic policy took a turn towards more pragmatic and less ideologically-biased positions, even in oil policies. Ruled out any kind of internal spending control as a means to adjust the economy to the external restriction, foreign investment encouragement became a key point in the economic policy. “The government found out that its initial nationalism could clash with the defense of popular life standards and that having to make a choice it would go for the latter”.

In the oil sector, the Peronist government chose to negotiate new investments with major international companies, including those that were already operating in Argentina (basically Exxon and Shell). In mid-1954, a Special Commission made up by members of the Executive Power, the state-owned YPF oil company and the legislative chambers was set up, whose purpose was to agree on models of hiring with private companies. The strategy chosen was to incorporate private companies in areas with potential oil, but barely explored, which would allow focusing YPF’s resources in areas where reserves had already been discovered, which demanded large investments in infrastructure and

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7 Oil imports increased from 910,000 cubic meters in 1946 to 3.9 million cubic meters (46% of total consumption) in 1953.
8 See Díaz Alejandro (1970)
9 On Peronism’s economic policy, see Gerchunoff (1989), and Gerchunoff y Antunez (2002).
11 Text of article 40 of the 1949 Constitution.
12 Gerchunoff and Antunez (2002)
development of fields. The constitutional restriction did not allow granting private companies exploration and/or exploitation concessions, due to which it was decided to encourage service contracts with YPF.

As late as in May 1955, president Perón signed the first contract between YPF and California Argentina, a subsidiary of Standard Oil of California (SOCAL, today Chevron), and sent it to Congress for its legislative ratification. The contract granted the company exclusive rights over an unexplored area in the province of Santa Cruz, which was initially 49,800 square kilometers, for a 40-year term, with the possibility of being extended for another 5 years. The company acquired firm exploration commitments for the initial 4-year period, and on the basis of the outcome, it could decide to continue its operation or not, without receiving any kind of compensation for the expenses incurred. If the phase of commercial exploitation got underway, California should give the crude oil to YPF at a price linked to international oil prices (East Texas). The company had also the option of using its oil in a new refinery, which had the right to build if oil production was above one million cubic meters per year. Crude oil exports were only considered in a fully supplied domestic market scenario. The contract could be seen as an early antecedent of a Production Sharing Agreement (PSA). After the recovery of production costs, and through a combination of general and specific taxes, profits on the operation were shared on a 50/50 basis between the State and the company.

The agreement between YPF and California – the first in a series of arrangements with private companies – was signed with a highly politically-deteriorated Peronism, which ended up with Peron’s overthrow in September 1955. The contract, criticized by the whole political spectrum opposing Perón – from the communist left to the nationalist right - finished shortly afterwards due to the lack of legislative ratification and it never came to be implemented. Conversations with other private companies to discuss similar agreements to those signed with California were also called off.

1.3 Frondizi’s oil contracts and Illia’s cancellation of contracts

Arturo Frondizi, a young and dynamic Radical-party leader who had led the opposition to Perón, calling the contract with the company California “the physical embodiment of vassalage”, won the presidential elections in February 1958. His oil program, implemented at an overwhelming pace from the very beginning of his term, revolutionized the Argentine oil sector.

While on a legal perspective Frondizi came through with his campaign promises and supported a hydrocarbon nationalization law to fill the void resulting from the abolishment of the constitutional reform by the Peronism, in practice he implemented a massive incorporation of local and foreign private companies into the local oil industry through service contracts with YPF.

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13 The contract provided for the automatic and gradual releasing of the area involved until a minimum area of 5,000 square kilometers by the end of the 20th year.
14 See Rumbo (1956) for a detailed description of the contract.
15 See Petrecolla (1989) for an analysis of Frondizi’s economic strategy.
16 Law 14.773, passed in November 1958, stated that the fields were “exclusive, imprescritible and inalienable assets belonging to the National State”, and banned concessions in oil areas.
In line with the Peronist strategy some years before, some of the contracts assigned areas in which there were no antecedents of hydrocarbons, due to which companies had to focus on geological studies, seismic records and exploration wells drilling.\textsuperscript{17} The agreements included additional elements favoring the state-owned oil, such as the building of an oil pipeline to be operated by YPF, and the granting of foreign currency-denominated loans.\textsuperscript{18}

Another group of contracts focused on areas in which the state-owned company had already determined the existence of oil and gas reserves. In such cases, the agreements aimed at deepening production immediately and developing fields incorporating new reserves. These contracts, signed by international and local companies, would be the most significant in terms of impact on production.\textsuperscript{19} In 1963, five years after the contracts being signed, they represented more than a third of Argentina’s total oil production.

The duration of the contracts ranged from 20 to 40 years, and all of them provided for the gradual reduction of the territory allocated. In every case, YPF continued to be the owner of the fields and the oil produced. The state company’s commitment was to acquire the oil at a certain price linked to the international reference price. In general, the companies assumed minimum investment risks and the exploratory risk in the case of unexplored areas. The transfer of all the equipment and installations to YPF once the contract expired was also provided for.

Additionally, YPF signed drilling contracts with three foreign private companies in order to speed up the production pace in its own fields.\textsuperscript{20} The contracts, concentrated on the South side of the Comodoro Rivadavia oil field, included the drilling of 2,100 wells in just four years. YPF committed itself to paying a fixed amount by meter drilled, and another fee for the time spent in oil well services. The payments could be adjusted by “costs variations”, and were paid partly in pesos and partly in foreign currency.

In 1960, with all contracts fully in force, there were 102 active drilling rigs in Argentina, number only surpassed by Canada and the United States. The outcome was impressive in production, but poor in terms of new discoveries. The exploration contracts involved significant investments in the first three years in force, but no significant hydrocarbons discoveries were reached, due to which none of the areas assigned was declared commercially important. In terms of production, the program soon reached the outcome that was being sought: oil self-sufficiency. Oil extraction increased from 5.6 million cubic meters in 1958, to 15.6 cubic meters in 1962.

In March 1962, however, Frondizi was overthrown by a military coup. After several months of political instability, new elections took place in 1963, with restrictions affecting mostly Peronism.

\textsuperscript{17} Contracts signed with Shell, Esso, Union, Continental and Marathon.
\textsuperscript{18} The company Esso carried out long-term financing of a new pipeline between Neuquen (oil producing area) and Bahia Blanca, and granted loans to YPF for 27 million dollars. Shell granted loans to YPF for 25 million dollars.
\textsuperscript{19} The international companies were PanAmerican, Loeb Rhoades (later Cities Services) and Tennessee. The local ones were Astra and Cadipsa.
\textsuperscript{20} Two US companies (Southeastern Drilling Company and Kerr McGee Oil Industries), and a subsidiary of the Italian ENI (SAIPEM).
The new president, the Radical-party Arturo Illia, made use of the abolishment of the oil contracts signed by Frondizi as a key issue of his election campaign strategy. After a few weeks of taking office, Illia declared the contracts “null and void of absolute nullity” under the argument of State reasons, flaws in contract procedures, omission of public bidding, economic damage for the Treasury, simulation of the real legal nature of the agreements (concessions) and also the new president’s election commitment to his voters. The presidential decrees assigned to YPF the responsibility of the contractors as well as their employees. A special Investigating Commission was set up in the Lower Chamber, whose conclusions supported President Illia’s position.

President Illia’s decision led to lawsuits involving private companies, YPF and the National State. Despite the weight of the arguments posed by the decrees of cancellation, as time went by the Government decided to negotiate out-of-court agreements with the companies, acknowledging, in every case, the investments made by the companies. Only two of the most important contracts of development went beyond the Illia administration, who was overthrown in June 1966 by a new military coup. The new authorities renegotiated the contracts, allowing these two companies to continue working on the development and exploitation of the areas assigned at Frondizi’s time.

The cancellation of contracts resented the activity in the oil industry and impacted production. The total number of drilled wells, which had reached a record of 1615 in 1961, dropped to 503 and 557 in 1964 and 1965, respectively. Oil production got stagnant in around 15 million cubic meters per annum throughout Illía’s presidency, and the net imports of oil and derivatives, which had dropped to just 31 million, tripled in two years. The fact that several American oil companies were affected by the cancellation and renegotiation of contracts led also to a sudden deterioration in the bilateral relationship between Argentina and the US.

1.4 Menem’s reform

Carlos Saul Menem was elected president of Argentina in May 1989. The Argentine economy was in dire straits, and a few weeks later resulted in a hyperinflation crisis with deep economic, political and social consequences. Forced by the circumstances to take office before schedule, Menem put in motion a controversial transformation process of the Argentine economy which would extend throughout the 1990’s.

The oil sector was not isolated from this transformation process. Three decrees signed by Menem in 1989 unleashed the process of privatization and deregulation of the

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21 In addition to what Illia promised, the cancellation of oil contracts was in the platform of most political parties running the election, and was also supported by different groups of Peronism. See Tcach and Rodriguez (2006).
22 Decrees 744/63 and 745/63. The former dealt with exploration and development contracts, and the latter with drilling contracts.
23 The contracts which survived were Cities Services and Pan American. The latter continued to exploit the area of 4,000 square kilometers known as “Cerro Dragon” (Dragon Hill) on the boundary between the provinces of Santa Cruz and Chubut. The renegotiation provided for the total handover of the area to YPF in 1978. At present, Cerro Dragon continues to be operated by Pan American Energy (a partnership between the local firm Bridas and BP Amoco, the continuation of the original Pan American). The company has just been granted an early controversial extension of its contract by the provincial authorities.
24 See Tulchin (2007)
industry, which was to be completed some time later with the sale of the state-owned company, YPF. The 1989 decrees went deeper into private participation in oil production by means of the renegotiation of YPF’s service contracts existing so far, which became exploitation concessions in favor of private companies. These concessions were based on the 1967 Hydrocarbons Law, and lasted for 25 years (with an eventual extension of 10 years). The government take was given by 12% royalties for provinces where oil areas were in. The federal government share in oil rent was only its participation in income tax revenues. The state-owned company was forced to put secondary areas (low-production ones) up for bidding and to get into partnership with consortia of local and foreign private companies in its main oil fields. All theses areas were also converted into oil concessions.

The transfer of productive areas to private capitals was accompanied of significant modifications of the regulatory framework which increased the value of such assets, ensuring the compliance with market rules in the sector. Domestic prices of crude oil and fuels were deregulated, and tended to export/import parities. Foreign trade was opened and the free availability of crude and foreign exchange for producers/ exporters was guaranteed. Restrictions for the installation and operating of refineries and gas stations were also abolished, and new open access rules for the transportation of crude and byproducts were also set forth.

For the non-exploited fields, a bimonthly bidding scheme for all areas with oil and/or gas potential, open to all local and international companies, was set. The scheme, named “Plan Argentina”, prioritized the granting of exploration authorizations to those companies that offered the largest investment in the areas in question.

The process was completed with the privatization of the large state-owned companies in the sector: YPF and Gas del Estado. The privatization of YPF had various stages. Turned into a private corporation, it went through a transformation plan that included the sale of non-essential assets and the firing and/or outsourcing of some 40,000 employees out of 50,000 existing before Menem’s taking office. All YPF’s oil & gas areas were converted into concessions. The Congress authorized then the privatization of up to 80% of the company’s capital stock. Most of YPF’s shares were sold atomized on the local stock exchange and on international markets. The State held initially 20% of the stock, but by the end of the decade, pressurred by fiscal deterioration and adverse shocks in the international economic environment, it sold its share to the Spanish company Repsol. After being forced by the by-laws to make an offer for the whole company, Repsol became the owner of just about 100% of YPF.

The privatization of Gas del Estado took place by dividing the state monopoly into ten companies: two transportation companies and eight distribution ones, all sold to the private sector. Assuming free competition in the gas production sector, the transportation and distribution segments were regulated, setting up the new control agency (ENARGAS). The price of gas for consumers was defined as the sum of the wellhead price plus the transportation and distribution fees, adjusted periodically and

26 See Gadano and Sturzenegger (1998) for an ex post evaluation of the renegotiation of contracts and the bidding of YPF’s areas in the 1990’s.
27 The State still holds 1,000 shares that enable veto rights over the company’s critical decisions.
reviewed every five years in order to incorporate productivity improvements and new investments required by the system.\textsuperscript{28}

Just as at Frondizi’s time, the industry’s transformation led to a sudden expansion of production and reserves. Oil production grew from 26 million cubic meters in 1989, to 49 million in 1998, and that of gas increased from 66 to 105 million daily cubic meters in the same period. Oil reserves increased from 249 million cubic meters in 1990, to 448 million in 1999. Those of gas natural rose from a minimum of 516 thousand million of cubic meters in 1993, to 748 thousand million in 1999.

Argentina became an important exporter of hydrocarbons. Exports exceeded 18 million cubic meters per annum in the case of oil (36% of total production), and almost 20 million cubic meters daily in natural gas.\textsuperscript{29} The process included significant investments in oil and gas pipelines linking Argentina with neighboring countries, mainly Chile.

At the end of 2001, the Argentine economy went through a deep crisis that resulted in a sharp devaluation of the currency, the default on public debt and the restructuring of deposits and loans in the financial system. The crisis also reached the energy sector, which was affected by measures initially linked to the emergency, but which as time went by became permanent initiatives, constituting a process of reversal of the reform of the 1990’s still in force and whose future direction is difficult to forecast.\textsuperscript{30}

The free availability of foreign exchange for exports was limited by the foreign exchange controls. The oil rent distribution was affected by taxes on exports at variable rates, which amount to 45% in the case of crude oil. Export taxes revenues are collected by the federal government. Natural gas prices were reached by the “pesification” of contracts set forth by the law of economic emergency, and have remained virtually frozen in the case of residential consumers.\textsuperscript{31} Consumer prices of gasoline and diesel, while formally set freely by companies, have been in fact frozen. Even when no nationalizations and/or expropriations have been carried out, the deterioration of the environment has led to an incipient withdrawal of foreign investors, whose reach is still hard to determine.\textsuperscript{32}

2- The common features: urgency and betrayal

The three experiences of incorporation of private capital into the Argentine oil industry summed up above have their own characteristics. In the case of Peronism, it was just an attempt that never materialized. Frondizi’s program had a quick development with significant effects on the sector’s development, but it was reversed in relatively short terms (around 5 years). With President Menem, changes were deeper and lasted longer;

\textsuperscript{28} Gadano (2000).
\textsuperscript{29} Other products, such as gasolines, diesel and lubricants, showed also increased exports.
\textsuperscript{30} See Navajas (2006).
\textsuperscript{31} Emergency law 25.561.
\textsuperscript{32} Examples of this process are the exit of National Grid from Transener, that of Sempra Energy from natural gas distribution companies, and the sale to a domestic investor of the stock Electricite de France held in Buenos Aires City’s electricity distributor, EDENOR. In the oil sector, REPSOL YPF announced its intention to sell a minority stock of YPF S.A. to a local partner, and ESSO has begun a process of sale of its assets in Argentina.
although we still do not know the final reach of the “counter-reform” we are going through these days.

But in all three cases we can find common features that we consider relevant when it comes to explaining the last of the three episodes commented on: the reversal – partial or total – on the policies of liberalization and opening to the entry of private capital into the industry.

2.1 Crisis and reform

The first common element is the urgency. In every case, rulers decided on the incorporation of private capital as a reaction to an industry and/or macroeconomic crisis that required drastic and immediate actions.

In the case of Peronism, the crisis in the external sector that affected the Argentine economy as from the 1940’ s faced Peron with a difficult dilemma: either the availability of stock exchange was adjusted, diminishing consumption and investment, or expansion was financed with the dollars from foreign investment. Naturally, Perón ruled out any kind of recessive adjustment and opted to openly boost the entry of external capital into the Argentine economy. The oil sector, stagnant by YPF’s technical and financial impotence to make use of the reserves discovered in the north of the country, was one of the first to experience the change in the economic policy. The election was no a coincidence: imports of liquid fuels, constantly growing, represented just about a fourth of total imports, and the expansion of the sector required sophisticated equipment not produced in the country.33

A similar scenario, and even worse, was the context of Frondizi’s initiatives for the oil sector. Oil production was growing at a lower rate than that of consumption. Despite the attempts to recapitalize it, YPF did not seem to be in a position to lead the urgent expansion of the industry.34 In 1958, when Frondizi took office, imports of crude had increased by 63% relative to those in 1955 – the last year of the Peronist government – and represented 57% of domestic consumption. On a macroeconomic level, the crisis in the external sector continued to be the key element of the “structural crisis” that the ECLAC had diagnosed in the work commanded by the military that overthrew Perón. With exports practically stagnant, the increase in imports pressured the current account, leading to larger imbalances in an unsustainable fashion. Purchases of fuels from abroad represented 21% of total imports.35 President Frondizi himself, in a state-of-the-union highlighted “the emergency situation” the country was facing and the need to find “immediate solutions”, to justify his shift in terms of oil policies.36

The urgency is even more remarkable in the reform of the 1990’s. The energy sector, particularly the oil industry, found itself in a severe crisis. A World Bank report, written shortly before Menem’s taking office, underlined: “Although self-sufficiency in energy has been a long-term important Government objective, this goal has not been achieved. Crude oil production has fallen steadily since 1981. Crude oil production rates in recent

34 After Perón’s fall and the cancellation of the contract with the company California, the new authorities implemented a “Reactivation Plan” of YPF, with hardly any success.  
years have exceeded additions to the resource base, with consequent depletion of this most essential resource to a critical level from which it will be difficult to recover.”

Over and above the energy problem, the economic situation with which Menem took office was so critical that the date of change of presidents was moved forward, in a context of hyperinflation and serious social upheavals. With this starting point, the process of structural reforms was conditioned by the need of leaving behind macroeconomic instability, especially in the first years of the Menem administration. The political background of the new president, linked to the most populist groups of Peronism, added a reputational problem that limited his possibilities of reversing the crisis, forcing him to overact in his initiatives of structural reforms. In the case of the oil industry, the design and timing of the first steps of the reform – the transfers of areas to private investors and the regulation and opening of the sector – did not respond to oil industry considerations, but the objective of obtaining financing for a public sector that had to do away with the inflationary tax, and simultaneously gain credibility in the face of distrustful local and international business community.

The positive link between crisis and economic reforms has been underlined on several occasions in political economy literature, and it is not exclusive to the oil sector. The basic idea is that a crisis can unlock reform processes when payoffs of different economic agents involved are modified and resistance is reduced.

In the case of a sector reform we are dealing with now, however, the association between emergency and reform may include some negative shades. To the intuitive idea stated by Sturzenegger and Tommasi (1998), “things have to get bad before they get better”, we can oppose another folk saying: “the urgent displaces the important”. A process designed and executed in the urgency of a crisis could hardly be the best when analyzed from a long-term perspective.

It is worth pointing out that we are talking about crises that not only reach the oil sector, but also extend to a macroeconomic level. Thus, the macroeconomic urgencies can determine the design and speed of the implementation of reforms, leaving industry-related considerations in a secondary role. By way of example, the privatization of the state-owned company may be decided on as a source of financing to face a short-term fiscal problem, leaving aside a more deep analysis of efficiency, income distribution and industrial organization.

But over and above the negative effect of this trade off in efficiency (analyzed by Gerchunoff and Cánovas in the Argentine case), we are interested in pointing out the link between the emergency conditions and the social legitimacy of the reform, as well as the utilization of inappropriate legal vehicles.

The incorporation of private capital into the oil industry, be it through contracts or the privatization of areas and/or the state-owned company, has always been a controversial reform, with great public repercussions. The fact that it is implemented under

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40 This seems to have been the case in 1999, when the Argentine State sold 20% of YPF to the Spanish company Repsol and maximize the sale price by allowing the buyers to take control of the company.
emergency conditions and in a very short period of time, fuels the idea that such changes are “taken by force” out of society without they being reckoned on, discussed and evaluated appropriately in terms of time and procedures.

In this sense, resorting to the emergency and/or urgency situation as a way to make the reform feasible is a double-edged sword. It may ensure the approval of the reform in the short term, but the implicit message sent to society is that such reform would have never been carried out under normal circumstances, or at least it would have been implemented differently. And when the “emergency state” disappears, the social legitimacy of the reforms can fade away fast.

In the 1990’s, the structural reforms in the hydrocarbon industry throughout Latin America showed different scopes and depth. Just as there were countries that made great progress in the opening, deregulation and privatization of their markets (Argentina and Bolivia are the clearer cases in point), others such as Brazil were much more cautious and respectful of institutional mechanisms.\footnote{With the 1995 constitutional amendment, and the law of oil 9478/97, Brazil broke the monopoly of Petrobras and laid the groundwork for a moderate deregulation and incorporation of private capital into the Brazilian industry of hydrocarbons. See Campos Filho (2005).} While in the former group we find initial crisis conditions, the latter develop their reforms under much less pressing circumstances.\footnote{In his work on Latin America, Palacios (2003) shows how reforms made less progress in countries where the oil sector and state-owned companies were strong suppliers of foreign exchange and financing, while processes were deeper in the case of undercapitalized sectors and state-owned companies in dire financial situations.} Not by chance, the former are those showing clear signs of reversals in policies put in place in the 1990’s, while the latter show a much higher degree of stability.

2.2 Betrayal

The second feature shared by the three programs commented on is the “betrayal” by their players. By boosting the entry of private capital into the oil industry, Perón, Frondizi and Menem went against their previous stances on oil policy, presented to voters during the election campaign. In all three cases, rulers with a reputation clearly associated to nationalism and statism took a large shift in favoring the opening to foreign private companies.

Peronism always had a nationalist and statist discourse in economic and energy matters, to such an extent that in 1949, it incorporated the “inalienable and imprescriptible ownership” of hydrocarbons into the National Constitution. While by the end of his term Perón tried to give a new and more pragmatic meaning to the concept of oil nationalism, the signing of the contract with the company California was turned down by the Peronism base, and even by some members of the Peronist Party.\footnote{Peronist representative Eduardo Rumbo (1956) was one of the few leaders who tried to conceptually justify the “new”oil nationalism.} To many Peronists, the contract “betrayed the Justicialist principle of economic independence”\footnote{Gerchunoff and Llach (1998).}

The “betrayal” of Arturo Frondizi is maybe the most dramatic one. One of the staunchest opponents to the private contracts policy proposed by Perón, Frondizi
published in 1954 a famous book “Petróleo y Política” (Oil and Politics)”, in which he went over the history of Argentina’s oil industry in a nationalist fashion, and defended the exclusion of private companies. “Countries putting up with the measures taken by imperialist monopolies in certain natural resources should nationalize such resources, turning them into the property of the people. The exploitation of nationalized natural resources, that is to say, property of the people, should be carried out by self-sufficient national, provincial, communal agencies or cooperatives.”

That is why, perhaps, in his speech on July 24, 1958, announcing a “battle of oil” based on the signing of contracts with private companies went down badly with both friends and enemies. “When we could read the contracts, we became aware that what was initially presented as the battle of oil was in fact an unconditional surrender to imperialism”, stated one of the authors of oil nationalism. As Szusterman (1998) points out, “what to Frondizi and his closest aids was the symbol of an absolute revolution, to many of their followers it became the symbol of betrayed hopes”.

A parliamentary committee set up some years later to investigate the contracts reached the following conclusion: “The oil policy followed by former president Doctor Arturo Frondizi meant a betrayal to the Argentine people’s opinion who turned him into president on the basis of statements, principles and commitments made by him while he was running for president. His attitude is aggravated by the fact that, while in speeches and writings he continued to preach the continuity of his thoughts, this committee proves in the following pages that there was double-speech and disloyalty when preaching and carrying out, at the very same time, negotiations incompatible with the policies promised to the people who voted for him.”

Carlos Menem, on the other hand, had developed his political career with a populist and nationalist discourse, consistent with the Peronist traditional creed. He managed to become the presidential candidate for Peronism defeating from populist positions the social democratic wing of the party, and later it faced the electoral campaign with demagogic promises such as salary mega increases and the “productive revolution”, and opposing to the privatization of state-owned companies.

The shift in his oil policy – part of a more profound change in economic matters and international policies, caused critics by opposition and his fellow Peronists. With the process of reforms and privatizations, Menem betrayed the electorate mandate and broke the representation bond linking him the Peronist bases. “The Argentine people believed. The betrayal was unbelievable”, stated one of the most recent authors of Argentine oil nationalism. As time went by, a large part of society came to see Menem as a big lie, a fabulous fraud.

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45 Frondizi (1954).
46 Casal (1972).
47 Ruling of the Majority of the Investigation Special Committee of Oil Matters of the Representative House, Orden of the day N° 394, 1964.
Just as the connection between crisis and reform, “betrayal” is not a new issue or exclusive to the oil sector. In a Schumpeterian concept of democracy, those who have reached power in a free competition by means of the popular vote have the right to carry out the policies that they deem fit. An unexpected, but fruitful reform may be accepted and betrayal can be forgiven.

In the political economy literature dealing with the reforms in Latin America, authors such as Tommasi and Cukierman (1998) have tried to explain the link of “large policy shifts” with the reversal of a party’s traditional policy position. There being an asymmetry of information between the Government and voters, a certain policymaker – in this case we could say a center-left one – has more credibility to influence the average voter in order to carry out reforms belonging on the opposite side.

“Betrayal”, taken as the abandonment of electoral promises, can be legitimized ex post on the basis of the outcome of the policies implemented. In the views on democracy that minimize the issue of representation, the link between promises and administration is not really important and the focus is on results. The crises, while they broaden the leeway of leaders to move away from electoral promises, make this process of retrospective social validation of policies shifts easier.

These Argentine traditions we are dealing with seem to be what Guillermo O’Donnell (1997) has defined as the delegative democracy, new democracies that show features differentiating them from traditional representative democracies. In the delegative democracy, the elected leader can choose the policies at whim, without the restrictions inherent in institutionalized democracies. “Government measures do not have to bear any resemblance with the campaign promises: “wasn’t it that the president authorized to rule as he deemed fit?”

Stokes (1999) disagrees with O’Donnell, and justifies the “welfare-to-efficiency” policy switches in Latin American in the 1990’s, considering that country leaders “violated mandate representation because they thought voters’ beliefs were wrong and that it was on voters’ best interests to pursue policies that were ex ante unpopular.” In Stokes’ model, politicians know which the best policy is but do not say it because, given the society’s beliefs, they would lose the elections. But as they also know that those social beliefs can change on the basis of the outcome of the policies carried out, they implement reforms not included in the electoral mandate so that they can later obtain an ex post validation in the following election, in a sort of “retrospective accountability” that ensures the democratic representation whose absence points out O’Donnell. In Stokes’ view, “Remaining faithful to campaign promises, at least for some Latin American policy switchers, would have meant governing in a way they considered bad for citizens; it would have meant failing to represent.”

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51 In their book “Eloge de la trahison”, Denise Jeambar and Yves Roucaute go as far as to identify betrayal as an essential need for modern democratic states.
53 This might be Menem’s initial case, whom was reelected in 1995.
54 President Frondizi might surely have agreed with Stoke’s hypothesis. “It was said that the President’s oil policy was absolutely the opposite of what citizen Frondizi had claimed in his book Petroleo y Politica (Oil and Politics). I am happy to highlight this. The real option for the citizen filling the position of President was very simple: either he held on to his bygon theoretical ideas and oil continued diminishing underground or oil was extracted with the aid of foreign capital in order to improve our balance of
Going back to the case of Argentine oil, the ex post legitimacy of the “betrayal” seems to be a very risky bet. The freedom to decide what to do that the ruler in O’Donnell’s “delegative democracy” enjoys also conveys assuming all the weight of the responsibility of the outcome of the policies adopted. In case things do not go well, the agents and social sectors that were betrayed and/or excluded in the reform process will deny any kind of responsibility, leaving up to the leader the difficult task of defending facts. The leap from high popularity to the diabolization of leaders may be as fast as dramatic, as the presidents analyzed here show.

It is worth mentioning that Argentina’s experience in the oil industry shows that the success of the reform, critical to its ex post legitimacy, is not only related to the improvements in the industry’s efficiency and energy supply. To society, both the overall economic performance and the political evolution of its players are determining factors. The cancellation of contracts in the Frondizi administration, for example, does not respond to the evolution of indicators of the oil sector, but to the overwhelming failure of his political project. The criticism of Menem’s reforms in the oil sector came up after the economic and political crisis in late 2001 and are part of a global questioning of the Menem administration.

In addition to domestic economic and political issues, changes in the sector’s international circumstances (basically significant increases in prices) may also alter ex post social perception of the outcome of the reform. Oil revenues distribution policies between the State and private companies that might have been accepted should prices had remained stable, may be opposed fiercely in a higher price scenario. If the reform is exclusively attributed to a ruler, and its social legitimacy depends entirely on its results, it is highly likely that the process will gain high volatility and will not withstand the reversal threats.

### 2.3 Institutional fragility

Limited by the urgency and due to their own reputation in oil policy matters, the three leaders analyzed did not have complete flexibility to utilize the optimum design of the institutional framework of the reforms implemented.

Peron’s and Frondizi’s agreements very much resembled the traditional concessions of exploration and exploitation. But the constitutional and legal restrictions, previously supported by they themselves, forced them to sign the agreements as if they were service contracts with the state-owned company.

In Frondizi and Menem, we find that the Executive Power concentrates the power of decision and advances into other areas of the State, a consistent behavior with what
Carey and Shugart (1998) posed, who identify urgency as one of the factors that might impel legislators to prefer executive decree to standard legislative procedure.

At Frondizi’s time, the contracts were signed by the “presidential delegate” appointed at YPF, a sort of trustee who did not consult the board or the right technical organisms. Also, the agreements were done directly, without any kind of public bidding. These features created a fragile institutional framework for the reform.57

The first stage of the oil industry assets privatization at Menem’s time was carried out under the shelter of the Administrative Emergency, a law that widely delegates powers to the Executive treated under pressure at Congress in July 1989, month in which consumer prices grew by 196% .58 The deep deregulation and opening of the oil sector was based on three presidential decrees, and the attempts at a reform of the hydrocarbon law failed throughout the ten years Menem was in power. Some points of the current oil legislation (passed in 1967) were weakened, such as the maximum limit of five exploration permits or exploitation concessions for one company.59 As from 1991, the success of the macroeconomic stabilization allowed diminishing the negative influence of the emergency state and improving the institutional support of the reforms. In October of that year, Menem’s Minister of Economy Domingo Cavallo, stated: “To pass bills is rather more difficult than to issue NUDs <Need and Urgency Decrees>. But ruling through laws produces greater legal stability because it creates a sense of more sound and permanent solutions that brings about the necessary conditions to foster investment and consequently economic growth.”60 In the case of the privatization of gas transport and distribution in 1992, while the reform was based on a law, the quorum for its treatment was reached by the peronist party incorporating at least one fake lawmaker.61

The way policies are implemented is not irrelevant in terms of the outcomes. As Dal Bo, Foster and Putterman (2007) empirically confirm with their experimental work, institutions could have an intrinsic effect in addition to their instrumental effect. A certain policy will have different outcomes depending on whether it is democratically selected or exogenously imposed on agents.

If we have on the one hand leaders under emergency circumstances who betray his voters by means of not fully appropriate democratically procedures, and on the other hand foreign oil companies whose bad reputation dates back to the writings of Ida Tarbell about John D. Rockefeller and Standard Oil, it is no wonder that such

57 In this sense, Frondizi’s contracts are a good example of how decisions are taken in delegative democracies according to O’Donnell: “a frantic decision making process, real “decretism”. O’Donnell (1997).
59 Article 34 of the Hydrocarbons Law 17.319 sets forth that no company can hold more than five exploitation concessions. YPF privatization law (24.145) allowed that this ruling would not be applied to the company’s concessions.
60 “La Nación” newspaper, October 2, 1991, quoted in Ferreira Rubio and Goretti (1998). The authors, however, consider that the concentration of power in the Executive and the use of NUDs did not decrease in subsequent years.
61 It is law 24.076. The case was known as “the scandal of the phony representative”. It is necessary to say that Menem had managed to control the Supreme Justice Court, by increasing the number of members and appointing 5 of its 9 members.
procedures were clouded by accusations and rumors of corruption. The ghost of corruption, never truly proven, has always been present in Frondizi’s, Peron’s and Menem’s contracts. Kaplan, a left-wing nationalist author, suggested the “participation of high-ranking politicians of different sides and of the Peronist State” in the stock composition of SOCAL’s Argentine subsidiary. The Frondizi administration was accused of laying the groundwork for the contracts “within the framework of profound immorality and corruption” by the Special Investigating Committee set up at the Representative House during Illia’s government. Frondizi himself was accused by the lawmakers of asking oil companies for support during his presidential campaign in exchange for the promise of giving them contracts. The public perception of systematic and widespread corruption in the Menem administration dates back to Menem’s early years, and became deeper after he left office.

In sum, in the three episodes reviewed, we identify that the reform is performed in an emergency context, by leaders who “betray” their voters and their own history, through the use of formal and contractual instruments not fully appropriate. This combination of elements imposed a fragility that the survival of reforms in the course of time cannot escape from. This may not be enough to cause a reversal; but it will surely reduce the social legitimacy of changes that for most of the public opinion do not represent the popular beliefs and have been performed by leaders who received a different mandate.

3- Why betray? The ideas of Argentina’s oil nationalism

Assuming that market-oriented reforms and private investment in the oil industry are positive, and that politicians know it, the obvious question is why instead of betraying their voters, they do not promise and explain in the presidential campaign the reforms they plan to implement. The answer is very simple: because they would lose the elections. In a fit of brutal sincerity, former president Menem admitted it in public with an anthological phrase: “Had I said what I was going to do, no one would have voted for me”. But then we should ask ourselves, as Stokes does: “why did citizens hold erroneous technical beliefs in the first place?” Obviously, it is not easy to identify the process of formation of ideas and beliefs in a society. In the case of Argentina’s oil policies, what took place throughout the XX century gives us clues to how the oil nationalism, favorable to state monopoly and reluctant to the participation of foreign private companies, did not achieve concrete results in practice, but gained ground in the realm of ideas.

62 Engineer Julio Canessa, appointed by Perón to head YPF in the 1940’s, denounced that “extremely powerful forces” worked against the national interests regarding oil during at Peronism time.
63 See Novaro (2004) “Menem refused on purpose to tie himself to any kind of moral commitment. Since he took “the ethics of results” to new heights, his only effective commitment could be to choose courses of action and workable politics, and only because they worked and not because they responded to any kind of previous preference.”
64 Using information on various Latin American countries, Stokes (1999) proves that the fear of losing the election has led candidates to hide their true intentions.
65 The proposals for privatization not only would face candidates to the probable rejection of most voters, but would also provoke the immediate reluctance of players linked to the oil nationalism that usually have a high firing power: the bureaucracy of state-owned companies, unions, journalists, military men, associations of engineers, etc.
One of the first documents expressing the core ideas of Argentina’s oil nationalism—and probably Latin America’s—is the well-known 1913 writing by engineer Luis Huergo, who was then at the head of Argentina’s state oil exploitation, which was later to become YPF. In an explosive memorandum to his superiors in the Government that justified a budgetary request for an amount fifteen times as high as the one allocated the previous year, Huergo launched a frontal attack against American oil companies—in particular against Standard Oil—, warned against the risk of appropriation of Argentina’s oil resources on the part of foreign interests, and denounced the complicity of some sectors of the local political and economic power.

In the Memorandum Huergo, we can find four central ideas of the oil nationalism, which in the course of time would consolidate through other authors and political leaders, and which went on to mold the ideas of the Argentine society in terms of oil policies. These ideas are:

a) The country has very significant oil resources, higher than those usually mentioned, and sufficient to ensure energy supply.

b) The major international oil companies conspire along with their governments to appropriate those resources, and are willing to use every means available to do so.

c) These companies have local accomplices in every social class (companies, government, press, etc.), which they corrupt with generous benefits.

d) The best defense and protection of oil resources, equivalent to the defense of the national sovereignty, is the nationalization and the state monopoly. Other schemes will only help companies appropriate such resources unfairly.

With these ideas in mind, oil nationalism would gain great political space in the 1927 presidential campaign, which took the Radical strongman Hipólito Yrigoyen to office. It is important to underscore that by then, just about every private company of local capital that had been given exploration permits and production concessions in oil areas, had transferred its rights and assets to international corporations in exchange for the payment of royalties on the production. This “defection” of Argentine oilmen, who used to be entrepreneurs and became mere rent-seekers, had an important impact on the public discussion on oil policy. The alternative of public exploitation versus private exploration became a dilemma between national exploitation—through the state-owned company—versus foreign exploitation.

To a growing part of society, the defense of the state oil monopoly became synonymous of the defense of the national interest. Taking advantage of the parliamentary debates on new oil legislation, “pro-Yrigoyen” Radicalism was the first political group who made

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66 Among the authors that have quoted Huergo’s memorandum stand out Scalabrini Ortiz (1940), socialist Julio V.González (1947), Frondizi (1954), Rumbo (1956), Alascio Cortazar (1969), Casal (1972), Kaplan (1972 and 1974), Mayo (1976) and Bernal (2005). The Memorandum was also quoted by advocates of oil nationalism in other Latin American countries, for example, Brazilian General Julio Horta Barbosa, President of the Conselho Nacional do Petróleo. In a speech given at the Military Club of Rio de Janeiro in July 1947 (quoted in the YPF’s Bulletin of Oil Information in January 1948), Horta Barbosa reproduced various paragraphs of the Memorandum, highlighting the “mistique around the direct management of the oil industry by the State” existing in Argentina.

67 Huergo said: “The acts of Standard Oil are judged everywhere as acts of pirate users, ruthless, led by an ex sacristan who began leading millions of families of his own countrymen to devastation and grief, and who, like an octopus has extended his tentacles everywhere, accumulating incredible fortunes of thousand of millions of pesos, amassed with tears and human blood, which has the government and the institutions of his country on the rack, and which introduces corruption, civil war and national disaster in other countries.” Gadano (2006) and Buchanan (1973).
of nationalization and state oil monopoly a driving force of the mobilization of society.68 Election results, while cannot be associated only with the oil issue, tend to confirm the effectiveness of the strategy: Yrigoyen won the election by 60% of the votes.69

As from that moment, oil nationalism was omnipresent in Argentina’s main parties and political leaders’ campaign promises both left- and right-wing. In 1946, Perón reached power by means of nationalist promises, although his opponents from Unión Democrática boosted the nationalization of energy sources. Some years later, historic socialist leader Alfredo Palacios won his position as senator for Capital Federal with the motto: “not even a drop of oil for foreign capital”70

Simultaneously, major international oil companies started to be perceived as enemies of the national interest and democracy.71 From 1930 onwards, foreign oil companies were accused of taking part in almost any military coup impacting Argentina throughout the XX century.72 Curiously enough, in the military movement that overthrew Perón in 1955, oil was identified as the driving force for the coup both by the president removed from office and by their enemies.73

Corruption suspicions, present in the link between private oil companies and the leaders involved, can reinforce the ideas and beliefs contrary to private investment in oil. If we consider a scenario such as that tested by Di Tella and Mac Culloch (2004), in which corruption reduces the attractiveness of pro-capitalist policies and moves the electorate to the “left”, we would see that the ideas of oil nationalism opposing private companies have to deepen and become widespread, making the magnitude of the eventual “betrayal” even worse”.74

Summing up, despite the fact that the oil self-sufficiency promised by the nationalists was not fully reached until the end of the century – and with the contribution of private capital -, in Argentina’s oil industry the nationalist and statist ideas won the battle

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68 See Buchanan (1973).
69 The “cause of oil” was effective election-wise not only for Yrigoyen, but also for a split of the Socialist Party that supported Yrigoyen’s project at Congress, and which obtained an overwhelming electoral debut. See Gadano (2006).
70 Rein (2006).
71 The seemingly tension between oil resources and democracy is not an Argentine issue. In a 2001 paper using cross – national data from 113 states between 1971 and 1997, Michael Ross finds that “oil does hurt democracy”, particularly in poor countries.
72 See Gadano (2006). The accusation of coup-mongering over international oil companies spreads throughout other Latin American countries. In Brazil, for example, it was President Getulio Vargas himself who in his “Testament Letter” written before committing suicide denounced conspiring groups and interests that might have attacked him as a result of the creation of the state-owned oil company Petrobrás.
73 In statements to “Tempo” magazine, of Milan, February 9 1956, quoted in Kaplan (1957), Perón denounced that he had been overthrown by an pro-British “oil coup”, similar to that which a few years before had finished with the Iranian government that had nationalized oil. According to Perón, “the purpose was to prevent Argentine oil resources from being exploited so as to contribute to the country’s industry strengthening”. In turn, the president of the Revolución Libertadora, General Aramburu, stated a few weeks after the coup: “The main purpose of the revolutionary movement was the threat looming over the oil industry” See Message to the People of the Provisional Presidente General Pedro E. Aramburu on the commemoration of the Day of Oil, December 13, 1955.
74 Di Tella (2004). What Di Tella calls left-wing stances might be better defined for Argentina’s case as Latin American populism which includes elements of nationalism, statism, and anti-imperialism.
against advocates of the sector’s deregulation and privatization. In this context, carrying out a political campaign promising the privatization of the sector would have meant at least a political suicide. With no betrayal, there was little room for market-oriented reforms in Argentina’s oil industry.

4- Conclusions

The analysis of the three attempts to foster private investment in Argentine oil industry suggests that the supremacy of nationalist and statist ideas conditioned any possibility of market-oriented reform, leaving space just for “policy switches” developed in the emergency.

Recent work on the political economy of reforms shows that crises may be a necessary condition for changes to be implemented, and that “betrayers” are necessary evils that then get validated on the basis of the reform’s results. The leader most identified with the policy that wants to be changed, the least expected according to his track record and ideology, should be regarded as the most suitable to do it.

But should we accept that an “urgent and treacherous” reform in the oil sector lacks the necessary social legitimacy to withstand local and/or circumstances favorable to the reversal of policies, an immediate recommendation would be to stop perceiving crises as the right opportunity for reforms, and “traitors” as the right people to carry them out.

The institutional fragility of delegative democracies and the enormous power delegated to the head of the Executive Power may generate the illusion of being the proper scenario to take shortcuts, implementing fast and deep reforms. In representative democracies, the decision-making process is usually slower and more incremental, not much prone to these radical changes. The reforms emerging from this process, however, will not depend on political luck of just one person or political group, and will enjoy the support of a strong institutionalization which will stabilize them in the course of time when errors and/or changes in the environment take place.

Mexico’s oil industry, eternal candidate to a reform enabling the participation of private capital, is a Latin American case to take into account. Some still think that “things should get worse in order to get better”, and imagine an ambitious reform as a consequence of a crisis in Mexico’s energy sector. Taking into consideration the Argentine experience, and what oil means to today’s Mexico’s national identity, the most adequate thing seems to encourage very moderate changes, widely discussed by every political group, and supported by great public consensus. The Brazilian case is a good example of moderate reforms, relatively stable at times goes by and which allow reaching oil self-sufficiency.

No wonder that in the cases analyzed we find reforms made possible through fragile legal instruments, which then prove to be easy to attack when reversal emerges. In an emergency situation, and when voters are betrayed, is difficult to put in motion the State institutional system (Congress chambers, consulting technical agencies, etc) to obtain a regular approval of the reform. But the impact of the reform will be probably different

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75 See, for example Palacios (2003): “In Mexico, incentives to reform are more likely to come from demand pressures or from a demand generated energy crisis within the country”
when decisions are not democratically approved, and are imposed on society by a group perceived as not representing the public interest.

The shaping of economic ideas and beliefs of a society is a complex process, with surely gradual and slow changes. Instead of taking the shortcuts that a crisis eventually offers, just as attractive as risky, we should accept the need to walk along the tedious and long path of the bureaucratic operation of the institutional system.

The possibility of implementing fast and deep reforms may be tempting. But, in sum, as pointed out by O’Donnell, “no matter which the advantages of these measures for a country at a given moment are, their sudden adoption does not favor in the least public trust in democracy and its institutions. It is difficult to believe that preaching something and doing the opposite is not destructive for the public trust in institutions and the democratic system”.
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