

Resubmission of "Presidents on the Fast Track: Fighting Floor Amendments with Restrictive Rules" to the *Journal of Politics* (Ms. No. 182014)

Double blind review

March 15, 2019

We are grateful for the opportunity to revise and resubmit our manuscript. In this document, we paraphrase and respond to very helpful critiques and comments provided by the editorial team and reviewers. We are confident that the manuscript has been greatly improved by the review process, and we are indebted to each one of you for your thoughtful remarks. Thank you very much for your time, kind words, and professional service.

1 Responses to Reviewer #1:

1.1 Are there other tools available for presidents to generate decisions faster? What happens when the president has decree powers? Are the odds that the president will qualify a bill as urgent the same when he has decree power?

This is an important question that we did not adequately consider in the version we submitted for review. Reviewer #1 suggests “to make clear that consideration of this condition will not impact either the explanatory power of the model or the results of the analysis.” In this new version of the manuscript we were careful to differentiate among the ways in which the different tools that enhance the role of presidents in the legislative process in Latin America interact (page 3). We made explicit the position that urgency authority occupies among the different presidential tools for unorthodox lawmaking.

In particular, this version elaborates a more nuanced discussion of executive decree authority. From a theoretical perspective, we assume that there is a choice to enact legislation using decrees or congressional statute, and that under specific conditions presidents simply cannot enact decrees (we dropped the cite to keep anonymity). In those cases presidents are forced to see legislation through the congressional route, and it is under such circumstances that presidents may put this other tool to use.

It was great that Reviewer #1 pushed us to question if for cases that share both institutions (Brazil, Chile, Colombia), decrees might in fact reduce urgency attractiveness. We surveyed the literature and thought deeply about this issue. Figueiredo and Limongi report

that Brazilian presidents rarely declare bills urgent, and we include a quote of them saying that there is a natural preference for more versatile decrees. This “natural preference” is reversed in Chile, where only two decrees have been enacted since 1990, but instead, urgencies are used very frequently. We argue that even where presidents can issue decrees constitutionally, they often do not, and not for lack of haste (urgency). Pereira, Power, and Rennó (2005, 2008) find that Brazilian presidents are not systematically more likely to rely on decrees under economic pressure, for instance. Thus, the main point we highlight is that urgency authority is a tool that is pulled out of the toolbox only after the decree route has been discarded. Once a bill enters the standard congressional path, urgency authority may be used, and the manuscript tries to explain why its use occurs when it does. In Section 2 (Urgency Decree Authority) and Section 5 (Discussion) we include an extended discussion of the insights from scholars analyzing the tools presidents have in Latin America, and how the effect and use of decrees is different from that of urgency authority.

1.2 How is urgency authority used in different policy areas?

Reviewer #1 inquired about the effect of other policy areas on the use of urgency authority, given that some areas are more important than others and therefore, more strategic for the president. This is a significant point: different issues carry different stakes. In our previous version of the manuscript we had controlled for Finance Committee referral because this is a simple but powerful measure of relevance. It is a constitutional requirement that every bill authorizing spending be referred to and reported by the Finance (*Hacienda*) Committee. The committee, in tandem with the Finance Ministry, decides whether or not to appropriate the funds. Our claim was straightforward: while there must be exceptions, bills not authorizing spending are on some dimension less important politically than bills authorizing spending. Doubtless, this leaves other issues unattended, several possibly of great relevance. So we decided to extend the work we had done to tackle this factor associated to the variety of issues that may impact the likelihood of reliance on urgency authority.

Admittedly, controlling for issue/policy area effects is a difficult task, but we carried it out as best as possible given our constraints. We classified bills into broad issue areas. We proceeded with three approaches. In one approach we looked at bill summaries (the *materia* field in bill histories) in order to identify those dealing with agriculture (a key Chilean industry); with international trade (Chile is an export-led economy); and foreign affairs (easily identifiable). Another approach was to look at the a priori categorization that draft laws receive upon introduction (called the *boletín*), which points to a general thematic area. Easily-grasped themes include agriculture, foreign affairs, mining, and taxes (copper remains Chile’s main commodity, a State monopoly financing a substantial portion of public spending). The third approach was to rely on a classification of bills into levels of legislative significance, which the literature on legislative politics has long accepted to be useful. Mayhew’s (1991) outstanding criteria, extended by others (e.g., Cameron 2000; Clinton and Lapinski 2006), is difficult to apply in other contexts because that work relied on the existence of sophisticated media analyses not available in the Latin American setting. We take the variable from work we published elsewhere (cites removed for the sake of anonymity), following the criteria in Molinelli et al. (1999), and maintains three levels of significance. This classification is conceptually similar to Mayhew’s (1991). The three levels identified are:

(1) landmark legislation, (2) important legislation, and (3) minor legislation. The appendix provides further elaboration of what each level includes. While this classification is available for a sample of the years included in our study (years 2006-2008 and 2010-2013) it covers the first three years of two administrations, one from each of the two coalitions dominating Chilean politics.

All three approaches are somewhat crude and far from complete—a systematic classification of bill issue areas and importance is a difficult task beyond the scope of our current project. Importantly, the re-estimation of the models using these measures and subsets of bills by issue area and importance (which we report in our on-line appendix), confirms that the results in the text are robust. In general, the estimate for friendly committee chairs remains positive across issue areas, even if the small N plays against coefficient significance. And coefficient estimates suffer no substantial change when bills of variable importance are isolated.

We also elaborate in the closing section Reviewer #1's point that urgency applicable to any policy area has more strategic value than the U.S. fast-track, which is restricted to international trade.

1.3 Consider shortening the discussion of the findings and expanding the discussion of the implications

In light of Reviewer #1's suggestion, we have shortened our discussion of results and elaborated further the implications in the final section. As mentioned, we included a discussion of the differences between decree and urgency powers. It was particularly interesting to think about the implications of our analysis for the scholarship on comparative institutions, and the tool executives have to advance their agenda. Thus, we explored the implications of the argument we present in the manuscript in relation to literature we discussed on presidential powers. We thank reviewer #1 for pointing us in the direction of thinking deeply on how these findings contribute to filling the gap in the literature on urgency powers and on what it contributes to the literature on restrictive procedures and the closed rule. The new version of our discussion also incorporates directions for future research, highlighting where our work leaves off and directions in which future work may take the agenda.

2 Responses to Reviewer #2

2.1 Does the article generalize the use of urgency for countries in Latin America?

Reviewer #2 rightfully pointed out that the scope conditions of our theory were not clear throughout the manuscript, although he/she saw merit in the way we “connect the Chilean case to similar rules across Latin America, as well as the contribution to the broader comparative legislatures literature”. In order to tackle this comment, we highlight the following: First, the case of Chile resembles that of the United States, in the sense that in Chile the president assumes the role of the US Rules Committee so that bills (Chile) or treaties (US) cannot be amended on the floor. In this sense, the Chilean case is important because it shows

the implications of Moe and Howell’s proposal for the US. Although urgency authority in other countries in Latin America does not serve the same exact function as in Chile, our broader objective is to show that urgency is not only about the most obvious effect, which is to speed up the approval of bills. If we consider the case of Chile, where urgency does not speed bills along, we find that its effect is procedural. Thus, the more general point we want to make is that in analyzing fast track authority in Latin America, procedural considerations must be taken into account to understand the breadth of what is at stake. We clarified the scope of our theory along these lines, and we thank Reviewer #2 for bringing this to our attention.

2.2 Consider shortening the model section, remove the teacher/student example, and Figure 1

We value this suggestion, as we see how it enhances the contributions of our manuscript and more appropriately draws attention to the key parts of our argument. We have shortened the model section by half, as suggested by Reviewer #2. We have removed the example, together with Figure 1. We originally thought we needed to include this example to provide an intuition of how the procedure works, but we realized, as Reviewer #2 pointed out, that what the example did, rather, was help situate the model within a larger project, but was otherwise confusing. We expect the current version to be much more amenable to all readers while maintaining the main technical points.

2.3 Consider reformulating the Hypotheses taking into account that when a bill goes to a committee far from the president’s preferences, the probabilities of fast track should be lower because an open rule means the bill is moved back to the floor median

Reviewer #2 raised a very important point about our hypotheses which led us to reformulate them. First, Reviewer #2 noted that, if only half of presidential initiatives that became law received the “urgency” denomination, then it could not be true that fast track bills were more prevalent than standard ones. This comment was very helpful in helping us realize that from the model, we could not derive a specific hypothesis about frequency of urgencies, but instead, that our hypotheses were related to the conditions under which we should see bills under the fast track mechanism.

Second, Reviewer #2 provided a most valuable suggestion about the reformulation of our hypotheses. He/she indicated that we should consider that bills that come from “opposition committees are allowed to be voted under open-rule so that the majority can restore the original intent of the president and her party”. This is an excellent point that we overlooked by focusing exclusively on the ability of the president to enforce bargaining with “friendly” committee chairs. The new hypotheses reflect these helpful suggestions and incorporate Reviewer #2’s suggestion that presidents will allow for an open rule when “the chairs are “imperfect” gatekeepers of the preferences of the president”, and that they will refrain from fast track procedures when they need “to bring back unruly chairs and to discipline them”. Thus, the revised manuscript offers hypotheses about the effect preference overlap between

the president and the committee chair on the probability of fast tracking a bill, and of preference divergence between the president and the committee chair on the probability that bills are considered using an open rule. We test these hypotheses in the empirical section, and found support for them.

We thank Reviewer #2 for these helpful comments that allowed us to tighten the manuscript by better connecting theory, implications, and empirical analysis.

2.4 Consider the possibility that the president uses multiple referrals to rein in unruly chairs rather than due to the need to protect the original bill

Point well taken. Again, Reviewer #2 makes us look at the possibility of unruly chairs and the mechanisms the president uses to rein them in. We agree with Reviewer #2 that multiple referrals happen because the president wants to rule over undisciplined chairs. We have incorporated these thoughtful considerations in the hypotheses and more generally, in the manuscript.

2.5 Test whether bills "not modified" in committee have much higher rates of urgency.

Reviewer #2 pointed out that we should expect higher rates of urgency when bills are not modified in committee (since the bill would supposedly reflect the president's preferences perfectly) than when the chair of the committee belongs to the president's party. This is a good insight that merits further investigation. Presently, we do not have data on committee amendments, and to put such data together is an enormous task that is beyond the scope of what we set out to do in this paper. We inquired about the possibility of collecting this data, but, from our interviews with committee staff, it is not clear that the data could be easily collected. To carry out the analysis of each bill reaching a committee and the amendments it undergoes, is a labor intensive task that requires qualitative assessment and coding of a large number of bills. We leave this investigation for future work, as it is a research project of its own. We thank Reviewer #2 for calling attention to this kind of data because this data will not only help our arguments regarding urgency authority but will also be useful to understand the relations and bargaining between parties, coalitions, and opposition.

2.6 Is there a temporal dimension in the use of fast track authority?

Reviewer #2 asks whether there is an electoral cycle effect in the use of fast track authority. Might electoral pressure trigger urgencies more often? This is an important point we had not considered. In fact, in 2007 legislators proposed to limit the use of urgency authority during the period prior to an election. They suggested that bills marked urgent during the 90 days immediately preceding an election needed to be approved by 2/3 of the members of the chamber to be effective, or that the use of urgency authority be forbidden during the 30 days prior to an election. While these proposals have not prospered, the use of urgency power during electoral campaigns remains to be considered inappropriate (Soto Velazco 2016). We

tried to address the point with a dual approach. One portrays the temporal dimension of urgencies explicitly, plotting their frequency throughout consecutive years (figures are reported in our on-line appendix). No clear pattern in urgency usage along the four-year cycle emerges. The other is to re-estimate the models with an electoral cycle control. The resulting coefficient (also reported in our appendix) indicates a slight linear drop, other things constant, in the probability of a fast track as the next election nears. Most important is that all other coefficients experience no substantial change compared to the model controlling for the election year only.

3 Reviewer #3:

3.1 Consider making the first half of the paper more “reader friendly”

Reviewer #3 correctly critiques that we assume the reader has a deep understanding of the intricacies of the legislative process and executive-legislative relations in the US and Latin America. We appreciate her/his suggestion to remove all the non-essential discussions of procedures. We revised not only the first half, but all the paper with the objective to tighten it up, and make it more readable. Reviewer #3 also pointed out that even the example delves into technical issues very quickly. We dropped the example from the revised manuscript (as Reviewer #2 also suggests) and we also tried to keep technical jargon at bay. Following Reviewer #3 suggestion to remove part B of Table 2, as well as the related text discussion, we moved that section to the appendix. The manuscript reads much better after this change. We also decided to add information of urgent bills by presidency. Thanks to Reviewer #3’s recommendation we think the current text engages the reader better and makes the contribution of our paper more straightforward.

3.2 Is the model generalizable to cases that restrict the number or scope of bills a president is able to fast-track?

This is an important point, and one that Reviewer #1 also emphasized. We address this issue in 1.1.

3.3 Do presidents get more of their preferred outcomes when using urgency authority?

Reviewer #3 asks fundamental questions here. One, in the summary paragraph, is general: what are the political effects of the procedure that we analyze? Another, is particular: why does the manuscript not address hypotheses on the likelihood of passing urgent bills unamended and test them? In response to the first question, we have added reference to, and discuss the approach by McCubbins Noll and Weingast/Thies/Cox-McCubbins, among others, that suggests that institutional procedures are instruments of political manipulation, i.e., their mere existence affects behavior through anticipation. It is worth noting that this version of the manuscript (per suggestion of Reviewer #2) does not look at how often urgency power. Instead, we focus on the conditions that trigger its use. Our hypotheses now state

more clearly this concern: when presidents are close to the committee chair and can expect their policy preferences to be upheld, they will fast track the bill, and they will choose not to do so when they are not close to the committee chair and expect the committee outcome to counter their preferences (and therefore fast tracking what comes out of that committee would only disable any opportunity to alter the content of the bill as reported by the committee). This is not to say that analyzing the content of bills and the amendments they undergo would not be useful. But, as we explain in 2.5 in response to a comment by Reviewer #2, to carry out the analysis of each bill reaching a committee and the amendments it undergoes, is a labor intensive task that requires qualitative assessment and coding of a large number of bills – a task that is beyond the scope of what we set out to do in this paper. We leave the investigation of the "form" of policy effects for future work, as it is a research project of its own. This paper focuses on providing evidence that urgency authority is, in fact, a procedural maneuver akin to the closed rule. We added a paragraph at the start of section 1 to make this explicit (there is no contention that this is an exploration of the policy effects of using the procedure). We also expanded section 6 (Discussion) in order to spell out an untested assumption in our argument: that the closed rule in fact shields reports from further amendment, and what testing the missing pieces would involve.

3.4 What is the effect of public opinion on the president's decision to use fast track authority?

Reviewer #3's question is about how public opinion can affect presidential calculations when deciding to declare bills urgent. She/he suggests that whereas in other countries in Latin America voters are unlikely to understand procedural intricacies, "in a case like Chile, where legislators are fairly highly professionalized, one might assume that opposition legislators would call foul to try and damage presidential popularity, particularly on specific issues or in the run-up to new elections." Reviewer #3 requests a theoretical discussion to complement the analysis we present of approval ratings. In the revised manuscript, where we go over how presidential approval might reduce reliance on urgency authority (presidents more easily get what they want in the assembly) or increase it (because popular presidents might get better reports from the average committee chair), we included the variable Presidential Approval (p.18) precisely to test whether support from public opinion has an effect on the decision to fast track bills.

3.5 What is the effect that the electoral cycle has on the president's decision to fast track bills?

We thank Reviewer #3 for bringing up this issue and providing many excellent suggestions. We added a section in the appendix discussing temporal effects in urgency usage along the election cycle. Note that Reviewer #2 also brings up the effect of time and of the electoral cycle (as we discuss in 2.6). Here we reiterate part of that discussion and point out that in 2007 legislators proposed to limit the use of urgency authority during the period prior to an election, making clear that it is an issue of concern. Ultimately, however, that reform did not prosper (Soto Velazco 2016). We tried to address the point by re-estimating the

models including a control for the electoral cycle. The resulting coefficient (reported in our appendix) indicates a slight linear drop, other things constant, in the probability of a fast track as the next election nears. Most important is that all other coefficients experience no substantial change compared to the model controlling for the election year only.

3.6 What is the effect of presidents and legislators' previous experience on the use of fast track authority?

This is an interesting point that had not occurred to us before Reviewer #3 brought it up. As we know, Frei and Lagos had been legislators prior to assuming presidential office, and Bachelet and Piñera had not. After the end of each of their presidential terms, only Frei assumed legislative office during the years under analysis. We tried to capture prior presidential experience among these four presidents by using fixed (Model 3) and mixed (Model 4) effects. We have also included a temporal breakdown of urgencies by presidency as part of Table 1 and discuss this propensity in the text. Additionally, Reviewer #3's question also made us consider what is the effect of legislators' previous experience. Do legislators' different trajectories prior to their legislative terms affect presidential use of the urgency prerogative? We do not have the data to analyze this question right now, although we are looking forward to extending this analysis in the future. It is especially wonderful to receive these comments and engage in them in extensions and future papers, as we believe this question deserves an answer, one that can lead us to better understand the effect of learning on the actual use of institutions. This is anWhile it would be interesting to know, and our guess would be that it does not, we do not have the data to test such claims at this point, and their collection seems to exceed the goal of this paper.