**­The Politics of Consumer Rights in Latin America**

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During the summer I conducted research in Chile and Argentina for my dissertation project on the emergence of consumer rights in Latin America. I interviewed a dozen experts and policymakers in both countries, I identified sources, and I gathered archival evidence on the enactment and enforcement of this policy, its origins, development, and projection.

One key point that I was interested in probing was the role and strength of the consumer movement in the region as an important variable to explain why consumer policy developed the way it did and why it varies across countries. In the case of the United States and Europe, the literature points to the consumerist movement as the driving force behind the recognition of consumer rights in the 1960s and 1970s. In this view, the process by which the consumer policy field emerges is driven by the ability of consumer organizations to organize and build coalitions to obtain basic protections in the marketplace regarding product safety, deceptive advertising, unfair terms, and predatory practices, among others.

In Latin America, however, this process started much later. Although government agencies in charge of regulating market practices were created in the 1970s, it was only during the 1980s that consumer protection began to take shape in its modern form. During the 1990s, after a new neoliberal consensus emerged among policy elites, the privatization of public services made necessary the recognition of rights for consumers to limit the extent to which they could be harmed by “market failures.” The legacy of these regulations was uneven, with great variation in the roles that states, consumer associations, and business take regarding consumer rights.

As part of my in-depth cases,[[1]](#footnote-1) Argentina and Chile offer a fascinating contrast. The differences in how these two countries faced the construction of consumer rights reflects the politics of policy making and the differences in how the Piñera and Kirchner administrations see the role of the state in markets.

For the last 10 years, Argentina has been moving away from the neoliberal policies applied in the 1990s by the Menem administrations. Cristina Fernández de Kirchner’s administration has conducted a very ambitious process of re-industrialization reminiscent of the import substitution policies developed during the 1960s and 1970s, through fiscal, monetary, and labor policy instruments.

Under these conditions, consumer policy is completely subordinated to the dictates of industrial policy. In Argentina, the consumer policy field is dominated by the state, through the Ministry of the Economy. Consumer organizations defer to the guidelines set by the government, and those who do not run the risk of being publicly antagonized by government officials, and, in some cases, have even been prevented from carrying on their normal activities or have had their authorizations revoked by the government.

This means, for instance, that in matters such as information about prices there has been a constant tension between government officials and consumer organizations. An interesting counterpoint to this relation has been the role of the judiciary in developing consumer policy supported by a strong legal culture around consumer law issues.

In Chile, the picture is very different. The Chilean state has been following fiscal and monetary policies that do not depart significantly from the neoliberal model imposed by the Pinochet dictatorship in the 1980s. Although the Concertación’s center-left governments (1990–2010) gradually moved to more expansive social policies with several reforms in health care and pensions geared toward universal rights and away from market-based solutions, the core of the economic model (the restrictions on the role of the state as an economic actor) continue to define the frontier of possible policy prescriptions. During the Piñera administration (2010- ), several movements, the student movement most prominently among them, have questioned the assumptions underlying the economic model and reclaimed a more active role for the state in the provision of public goods.

In this context, consumer policy has taken center stage as one of the most visible policies conducted by the government. The Piñera administration has advanced several new reforms that give new enforcement tools to the consumer protection agency (SERNAC). At the same time SERNAC has had several high-profile cases, with one of those, against a giant retail company, contributing to the collapse of the right’s presidential candidate’s campaign[[2]](#footnote-2) and the other being used against the left’s presidential candidate.[[3]](#footnote-3)

Despite this public prominence, the development of consumer policy in Chile remains uneven. Consumer organizations are organizationally and financially weak and dependent on government programs. The state agency, SERNAC is one of the few consumer agencies in Latin America without significant regulatory powers,[[4]](#footnote-4) sanctions remain low, and the class-action procedure created in 2004 has had few successful cases.

Both in Chile and Argentina consumer issues are present in the public agenda, but they are constructed in very different ways. While in Argentina consumers worry about price information and access to markets (for instance currency exchange markets) and see overarching and sometimes controversial state intervention, in Chile consumers worry about abuses committed by firms running amok in unregulated markets, with state intervention being perceived as weak and insufficient.

In both countries consumer organizations remain weak, although for different reasons. More importantly for my research, there are no signs of a strong consumer movement in Latin America, and that is a puzzle that requires explanation.

1. The other cases are Brazil and Mexico. [↑](#footnote-ref-1)
2. The case, against CENCOSUD, implicated Lawrence Golborne, the right-wing candidate, because it was he that, as the CEO of the conglomerate had the responsibility of overseeing the company’s operations at the time it was sued by the government for violating consumer law. [↑](#footnote-ref-2)
3. This case was against the state’s bank (BancoEstado). The government blamed then-president and now-candidate Michelle Bachelet of not doing enough to protect consumers. [↑](#footnote-ref-3)
4. Unlike Argentina’s Secretaría de Economía, SERNAC cannot sanction businesses or enact regulations. [↑](#footnote-ref-4)