

Uruguay

Self-rule

INSTITUTIONAL DEPTH AND POLICY SCOPE

Uruguay has one intermediate level of governance made up of nineteen *departamentos* (departments). Nine *departamentos* were created in 1830 and the rest were carved out over the course of the nineteenth and early twentieth centuries. Historically, the *departamentos* have exercised municipal and departmental functions, but because *juntas locales* (local councils) existed throughout the 1950–2010 period, we consider *departamentos* an intermediate tier. There are three constitutions in this period: 1942, 1952, and 1967, as well as a major reform in 1997. The World Bank estimates the population of Uruguay at 3.457 million inhabitants in 2017. The capital city of Montevideo is a standard municipality, and is neither a special capital region nor a metro area.

Departamentos have been decentralized governments subject to central veto since the nineteenth century, though the extent of decentralized authority has waxed and waned. Decentralization has often been used by partisan elites to resolve national conflicts (Eaton 2004a: 84, 99). Elected executives (*intendentes*) and legislatures (*juntas*) were introduced in 1918 as part of a broader pact between the Colorado Party and the Blanco Party. The 1918 constitution also devolved significant taxation, borrowing, and policy competences to the departments. A new pact between the two parties, formalized in the 1934 constitution, rolled back decentralization: *juntas* remained elected but *intendentes* became government-appointed, new taxation became subject to central approval, borrowing was prohibited, and, in enabling legislation, some economic competences related to the milk and meat industries were recentralized (Eaton 2004a: 103–4, 106).

The 1942 constitution, the first one of relevance to our coding, re-introduced elections for the *intendente* (mayor) (Art. 236). Governance of the *departamentos* consisted of the *intendente* and the *junta departamental* (departmental council), as well as the *juntas locales*, which were under the control of the department (Art. 233). Departmental *juntas* were endowed with unspecified legislative powers, but departmental laws could be overturned by the national courts.

The 1952 constitution replaced the *intendente* with a *concejo departamental* (departmental council). Its composition followed a Swiss-inspired *Proporz* system with six seats allocated to the majority party and three to the minority party.¹ The 1967 constitution reinstated the *intendente* and eliminated the *concejos*. Under both the 1952 and 1967 constitutions, citizen initiatives could subject departmental laws and elected officials to national review (Arts. 303 and 305).

In 1973, Juan María Bordaberry carried out a pacted coup with the help of the military, which dissolved the legislature but allowed him to stay on as president, and from 1976 this morphed into direct military rule. National elections were suspended from 1973–84. In 1980 the military government proposed a constitutional reform, which was rejected in a plebiscite. So began the transition to democracy, culminating in general elections at the end of 1984. Departmental governments continued to exist during this period, but with diminished authority, which is reflected

¹ This mirrored the system introduced at the central level.

in a reduced score on institutional depth from 1973–84.

The constitutional reform of 1996 (enacted in 1997) broke the link between national and departmental elections, which were now held at different times.² It also shifted some power from the national legislative branch to the executive, reducing the opportunity for a legislative veto, but many other aspects of the reform on fiscal or policy competences have only been slowly implemented (Eaton 2004a: 188; CEDES 2010: 49). One of these—local *junta* and *alcalde* elections—was introduced only in 2010, and then only for the larger municipalities.³ There have now been two rounds of municipal elections, in 2010 and 2015, with the election of local officials extended to all 112 municipalities in 2015. The central government retains a potential veto over *departamentos*.

The 1942 and 1952 constitutions did not enumerate departmental competences, except to say that they had general legislative competence in their territory (Art. 273.1) and could grant concessions to run public services (Art. 273.8). *Departamentos* were responsible for many basic services, with some taxation rights, as well as shared competences in health care and education, albeit secondary to the central government (Filgueira et al. 2002; Sureda 2007; Fermín, et al 2018). Few responsibilities were exclusively reserved to either departmental or central government. *Intendentes* named local leaders with approval of the *junta*, hired and fired departmental and local public employees, and represented the *departamento* to the central government (C 1942, Art. 238). The powers of the *junta* were mostly confined to approving decisions of the *intendente*, but they could request that the national legislature expand their powers (C 1942, Art. 239.7). Until 2010, local government was under departmental control. The 1935 *Ley Orgánica Municipal* (Organic Municipal Law 9515), still in effect, allows *departamentos* to create *juntas locales*, even though they made use of this right sporadically and haphazardly (Alvarado Quetgles 2011: 6). Departmental law enforcement is explicitly exempt from departmental control— police chiefs are appointed by the national government.

In the 1960s some policy functions spilled back. The 1967 constitution introduced sectoral regional planning which undercut departmental activities in economic development. Departmental executives were denied participation in the new central planning office, and essentially the reform “reduced departments to bodies implementing centrally devised plans.”^α (Eaton 2004a: 101). This centralization was reinforced under military rule.

The 1996 reform did not explicitly expand the responsibilities of the departments, and implicitly restricted them by paving the way for self-governing local government (C 1996, Art. 262). However, the central role of the departments in territorial governance was reconfirmed,

² This reform took place in the context of a broader electoral reform that ended the electoral *lema* system (double simultaneous vote) used for aggregating votes from sublists for coalitions. Unique departmental *sublemas* and separate, but simultaneous, ballots existed for departmental and national elections under the 1942 constitution.

³ Law 18567 of 2009 created general purpose, directly elected municipal governments in localities with more than 2000 inhabitants, but in 2010 this was modified to encompass only localities with more than 5000 inhabitants, to be extended to the smaller localities in 2015 (Law 18644). Four *concejales* (councilors) and an *alcalde* (mayor) are elected in each municipality for five-year terms.

departments were authorized to cooperate amongst themselves or organize local government to facilitate service delivery, and they were given a form of shared rule through a *Congreso de Intendentes* (see Executive control) (C 1996, Art. 262).

Constitutional reform in Uruguay has been open-ended with respect to subnational responsibilities, avoiding explicit allocation of competences and embedding the authority of *intendentes* and *juntas* in extra-legislative norms. While the *de jure* distribution of territorial authority has not changed dramatically over time, *departamentos* and localities have found themselves co-responsible for health care, housing, urban development, and the environment (Eaton 2004a: 192; Lanzaro 1994: 175), in addition to their long-time role as providers of local services and supervisors of local government (Prud'homme 2006a: 19).

We reflect the ups and downs in policy decentralization by scoring 2 between 1950 and 1966, 1 between 1967 and 1996, and increasing policy scope to 2 since 1997.^β The introduction of local elections from 2010 reduces, but does not eliminate, the authority of *departamentos* over local governments (Fermín, et al 2018).

The capital city of Montevideo is a standard municipality in its institutional structure. There are no metro areas in Uruguay.

FISCAL AUTONOMY

A large proportion of departmental revenues come from taxes, but departmental authority to set the base and rate is restricted (Eaton 2004a: 237; Filgueira et al. 2002; Prud'homme 2006a: 19). While transfers make up a tiny portion of revenue in Montevideo, they comprise much more in the interior (Sureda 2007).

The 1942 constitution did not specify a right of subnational government to set the base and rate of taxes. However, under the 1952 constitution, *departamentos* could set the rate of property and other minor taxes subject to central government veto (Art. 279). The central government could appeal a new departmental tax before the legislature within fifteen days, which would automatically suspend it. If the tax was not approved by both houses within sixty days, it would be nullified (Art. 300).

The 1967 constitution did not change this situation, except to add a resource from the central government—the *departamento's* share of the national budget for public works (Art. 297.13). During the authoritarian period, fiscal responsibilities were not re-centralized. Rather, the regime placed its people in executive positions at the subnational level to ensure that its mandates were enacted (Eaton 2004a: 118).

Although the 1996 constitutional reform included automatic revenue sharing with *departamentos* (Art. 214.c), the language was sufficiently vague that congressional action is required every year to determine the percentage (Eaton 2004a: 189).^β Currently a little over 3 percent of state revenue is shared directly through this process. The 1996 constitution gives *departamentos* discretion over how they spend transferred revenue for the first time (Art. 297) and creates a process for centrally legislating changes in the base and rate of own-sources of revenue (Art. 298; Muinelo-Gallo and Miranda 2014). While this change does not qualify the

departamentos for a score of 2, it is a notable increase in fiscal autonomy. The most important own-sources of revenue for departamentos are vehicle licensing and the real estate property tax. The *departamentos* score 1 throughout the 1950–2018 period.

BORROWING AUTONOMY

Under the 1942 and 1952 constitutions, and confirmed by the 1996 constitution, *departamentos* could issue public debt only with prior permission of the *tribunal de cuentas* (audit court) and the departmental legislature (C 1942, Arts. 256-7; C 1952, Art. 301). External debt must be approved by the national legislature (Burki et al. 2000: 380), while domestic debt only requires approval by the departmental legislature (World Bank Qualitative Indicators). Subnational governments in Uruguay have traditionally financed deficit spending by taking on debt with other government agencies or through the fungibility of discretionary transfers from the central government (Filgueira et al. 2002). Within various constraints, departmental borrowing has been permitted throughout the period (Eguino and Aguilar 2009).

REPRESENTATION

Under the 1942 constitution *juntas* formed the subnational assembly and *intendentes* the executive (C 1942, Section XVI, Ch. I). The *juntas* had fifteen members except in Montevideo, which had thirty-one (Art. 234). This constitution introduced the direct election of the *intendente* and the *junta* for four-year terms.

In 1952, the *concejos departamentales* replaced the *intendente*. *Juntas* were expanded to thirty-one members except in Montevideo, the national capital, which had sixty-five (Art. 263). The *concejos* had seven members in Montevideo and five in the other *departamentos* (Art. 266). In Montevideo the ruling party received four seats and the minority party received three, while in the remaining *departamentos* the split was three to two (Art. 271).

The 1967 constitution restored the *intendente*. The *juntas* were reformed too, but the principle that the largest party receives a majority of the seats was retained. Under military rule, subnational governments were dismissed and replaced with military officials (Eaton 2004a: 117; Falletti 2010).

The 1996 reform formally distinguished between *municipalidades* and *departamentos*, but the reform was not implemented until 2010 (Eaton 2004b: 15). The first municipal elections took place in 2010 for 89 localities, and extended to the full 112 in 2015.

Shared rule

LAW MAKING

Departamentos are not represented at the national level. Uruguay has a bicameral legislature—the lower house with ninety-nine members and a thirty-member senate, together forming the *asamblea general* (general assembly).⁴ Neither chamber is elected on the basis of equal territorial

⁴ The 1952 constitution added one member to the senate—the individual at the top of the list of the largest party, who became the president of the senate and the assembly (C 1952, Art. 94). This position was

representation, though each *departamento* receives a minimum of two deputies in the lower chamber (C 1942, Arts. 78 and 85). The *asamblea* (joint chambers) can create new *departamentos* or change their boundaries with a two-thirds majority (Art. 75.9).

In 1973, the *asamblea* was disbanded with military rule (Hudson and Meditz 1990), and from 1976 a series of *actos institucionales* (institutional acts) overrode the 1967 constitution (Piroto 2000). The 1967 constitution was re-enacted in 1985.

EXECUTIVE CONTROL

The 1996 constitutional reform institutionalizes coordination among the *intendentes* by formally recognizing the *congreso nacional de intendentes* (national congress of governors) (C 1997, Art. 262). The congress, which may also conclude agreements referring to the preceding paragraph, can “communicate directly with the branches of government” (Art. 262). This body had existed since the 1940s as an informal forum (Filgueira et al. 2002). Its decisions are non-binding.

In addition, a *comisión sectorial* (sectoral commission), composed of members of the *congreso nacional de intendentes* and national ministries, was also established in 1997 (Art. 230.B). The *comisión* can, and does, draft proposals for decentralization, but the president and the national legislature have the last word.

FISCAL CONTROL

The *comisión* referred to above was also charged with advising the national government on the percentage of revenue to be shared with departmental governments (Art. 230). The *comisión* is composed of representatives of national and regional governments and makes non-binding recommendations (Eaton 2004a: 189).

In 2001, the *fondo de desarrollo del interior* (fund for the development of the interior) was created. The *fondo* gives departmental governments a say in the distribution of 33 percent of the funds from the revenue sharing scheme, though within the bounds of nationally determined criteria (IICA 2010). *Departamentos* score 1 on fiscal control from 1997.

BORROWING CONTROL

Departmental governments are not routinely consulted on borrowing policy.

CONSTITUTIONAL REFORM

Departamentos cannot influence constitutional reform. There are four major paths to reform: by popular initiative (10 percent of registered voters); upon the proposal of two-fifths of the *asamblea*; upon proposal of one of the chambers or the executive to be passed in the next session by an absolute majority of the *asamblea*; or by two-thirds majorities in both houses in the same legislative session. Constitutional reforms require ratification by an absolute majority in a national referendum or election (C 1996, Art. 331). These rules have carried over since 1942.

abolished under the 1966 constitution.

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Self-rule in Uruguay

		Institutional depth	Policy scope	Fiscal autonomy	Borrowing autonomy	Representation		Self-rule
						Assembly	Executive	
Departamentos	1950–1966	2	2	1	1	2	2	10
	1967–1972	2	1	1	1	2	2	9
	1973–1984	1	1	1	1	0	0	4
	1985–1996	2	1	1	1	2	2	9
	1997–2018	2	2	1	1	2	2	10

Shared rule in Uruguay

		Law making						Executive control		Fiscal control		Borrowing control		Constitutional reform		Shared rule
		L1	L2	L3	L4	L5	L6	M	B	M	B	M	B	M	B	
Departamentos	1950–1996	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	1997–2018	0	0	0	0	0	0	1	0	1	0	0	0	0	0	2

National legislature has: L1=regional representation; L2=regional government representation; L3=majority regional representation; L4=extensive authority; L5=bilateral regional consultation; L6=veto for individual region. Total for shared rule is either multilateral (M) or bilateral (B).

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