

## The three types of power distribution, that structure decentralization in South America

Esteban Valenzuela <sup>1</sup>

Oswaldo Henriquez <sup>2</sup>

Ignacio Cienfuegos <sup>3</sup>

<sup>1</sup> Universidad de Concepción / Departamento de Administración Pública y Ciencia Política, Concepción, Chile

<sup>2</sup> Universidad de Talca / Escuela de Ciencia Política y Administración Pública, Santiago de Chile, Chile

<sup>3</sup> Universidad Alberto Hurtado / Escuela de Política y Gobierno, Santiago de Chile, Chile

In research about state and public administration, it is common to perform an analysis of its structure, function, form and type. However, on some occasions, these general categories do not reveal the distribution of attributions or real power in their different territorial levels. This report, through a historical-institutional review of the last 50 years in South American countries, proposes the existence of characteristic power structures that remain in time with gradual changes that maintains the essence of its historical origin and, others that are formed as a result of disruptive changes that modify the dominant paradigms. The existence of these structures shows three characteristic types that are called compound, integrated and simple.

**Keywords:** decentralization; territorial policy; attributions; state administration.

### Los tres tipos de distribución competencial que estructuran la descentralización en América del Sur

Es común en las investigaciones sobre el Estado y la administración pública realizar un análisis de su estructura, función, forma y tipo. Sin embargo, en algunas oportunidades estas categorías generales no revelan la distribución de potestades o poder real ejercido en los distintos niveles territoriales. En este trabajo se propone, a través de una revisión histórico-institucional de los últimos 50 años en países de América del Sur, verificar la existencia de estructuras de poder características que permanecen en el tiempo con cambios graduales que mantienen la esencia de su origen histórico y otras que se forman producto de cambios disruptivos que modifican los paradigmas dominantes. La existencia de estas estructuras arroja tres tipos característicos que, denominamos compuesto, integrado y simple.

**Palabras Clave:** descentralización; política territorial; competencias; administración del estado.

### Os três tipos de distribuição de competências que estruturam a descentralização na América do Sul

É comum nas investigações sobre o Estado e a administração pública realizar uma análise de sua estrutura, função, forma e tipo. No entanto, em algumas oportunidades, essas categorias gerais não revelam a distribuição de poderes ou o poder real exercido em seus diferentes níveis territoriais. Neste trabalho propõe-se, através de uma revisão histórico-institucional dos últimos 50 anos em países da América do Sul, verificar a existência de estruturas de poder características que permanecem no tempo com mudanças graduais que mantêm a essência de sua origem histórica. E outros que são formados como resultado de mudanças disruptivas que modificam os paradigmas dominantes. A existência dessas estruturas lança três tipos característicos que chamamos de compostos, integrados e simples.

**Palavras-chave:** descentralização; política territorial; competências; administração estatal.

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## 1. INTRODUCTION

The following study focuses on the comparative analysis of the different models of distribution and transfer of competences between the national and subnational levels in the countries of South America. It has been simplified in the regional concept to refer to the meso-level of administration. The importance of the study lies in that when observing the evolution of the different countries whose origins are similar and belonging to the same geographical area, at present they are structured in different systems.

Therefore, is important to understand why these countries currently present these divergences through a comparative analysis that will be carried out by providing historical context, elements that explain the federally inspired compound types with greater subnational municipal autonomy (Nikson, 2011) and regional (Valenzuela, 2015). The simple model refers to countries of tradition and structure unitary centralist.

We classify as integrated the cases of unitary countries that after critical junctions of territorial conflict have advanced towards forms of greater territorial democracy and coparticipation of the regions of income by natural resources.

However, the previous cases do not occur in a pure way and evolve in a diverse way in the complex path towards political, economic and administrative decentralization in Latin America, with advances in this dimension functioning diachronically in many cases (Faletti, 2005, p. 327). That is, there are structural, geo-political, territorial size, and population elements of the countries with greater territorial autonomy that were also the epicenter of the confederation processes inherited from the colonial past of Lusitanian and Spanish with their viceroyalties: Brazil, Argentina and Colombia.

Also some countries lived through civil wars or acute conflicts that are resolved in a centralist logic — the federal defeat in Chile in 1830, the recentralization of Chavismo by controlling the central government in a hegemonic way since 2010 in Venezuela, taking power away from the governorates —. Other examples of countries that take the struggle to the limit, where they achieve agreements of greater political and fiscal decentralization by the role of counterweight cities such as Guayaquil in Ecuador towards 2000 and Santa Cruz de la Sierra in Bolivia in 2008-2010. The same happens in the Brazilian and Argentine case, that in systems of personalized power — the Monarchy of Don Pedro I and II, General Rosas from 1825 to 1852, commitments of a sort of authoritarian federalism are reached with the great landowners of the regions or provincial caudillos to maintain unity and diversity.

The long tradition of political and social conflicts in the 19th century, including the failure of democratic and federalist liberal experiences, as well as what was suggested by Veliz (1984), where civil wars tended to impose authoritarian models of different degrees with centralist and presidentialist governments that remained in the 20th century. However, this did not prevent most countries from maintaining their original matrix of territorial power distribution or political decentralization.

## 2. METHODOLOGY

The methodology to be used corresponds to the application of an analytical metric that adopts a comparative approach of the countries of South America, under the perspective of a macro — historical and inductive process (Broschek, Petersoh, & Toubeau, 2017, p. 5) . It will also be considered that, in some contexts, the distribution of power can be given by the forms of the State, characterized as unitary

and federal. Unitary states can be classified as centralized; decentralized (Orlansky, 1998) and regional (Badia, 1977; Cea, 1997), federal states, can be classified as cooperative and competitive (Watts, 2006).

The territorial distribution of power can be defined as political decentralization and is expressed as a set of constitutional reforms (Falleti, 2010), as it corresponds to the constitutions, the structuring and discipline of the decision-making processes of the States, constituting in them the procedures whose intention is to ensure a controlled exercise of power (Sartori, 2010). This will allow us to review political decentralization as a process, through the analytical distinction of reform and evolution as two modes of constitutional change (Behnke & Benz, 2009) and institutional change (Fioretos, Falleti, & Seheingate, 2016). The proposed hypothesis is that there are characteristic competency structures that are defined over time in terms of gradual modifications that maintain their historical origin and others that are the product of disruptive changes that change the dominant paradigms. North (2006) notes the continuous and discontinuous incremental changes, such as the historical institutionalists that point to interrupted equilibria or the distribution of power within with incremental changes (Mahoney & Thelen, 2009).

Competition is defined as the legal capacity of the organs of the administration to act on the will of the State (Brewer, 2005, p. 101) and through its faculties and attributions (Cassagne, 2002, p. 97).

The common origin, the trajectory of political systems and institutional arrangements from the perspective of the territorial distribution of power or system of distribution of competences, between the national and regional levels, gave rise to our understanding of three different types: a) the model compound, whose origin is historical federal; b) the integrated model whose origin is the product of social and political crises with a paradigm shift; and c) the simple model whose origin is historical unitary. The types mentioned arise from historical processes with incremental changes and / or discontinuous changes resulting from crisis or political-social conflicts (North, 2006, p. 111). Models arising from historical processes with incremental changes and/or discontinuous changes resulting from crisis or political-social conflicts (North, 2006, p. 111)

Within the framework of our analytical construction, the compound type is defined as the one that, in addition to its constitutional political association character, has a regional government level characterized by having the power to create taxes for the generation of income and co-participation in the the nation's income, police power and legislative capacity. Its structure and competence distribution is based on the regional constitutions and the National Constitution, whose residual competence is preferably based in each of the States.

On the other hand, the integrated type is positioned at an intermediate level between the compound and the simple model, since on the one hand the State restricts the regulatory power of the regional government and maintains for itself, the monopoly of the police<sup>1</sup> function, but for another, grants by law competencies for the generation of income and the co-participation on national taxes. Its structure and distribution of powers is established at the constitutional and statutory level, in which case the residual competences will be filed in the State and the intermediate level, as appropriate.

Finally, the simple competency distribution model characterizes the countries in which the income of regional governments is conformed through transfer from the central level whose use can be

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<sup>1</sup> The police function must be understood as the power that the State has to use force to maintain the conditions of protection necessary for the development of society (Guerrero & De Santiago, 2013, p. 35)

conditioned or not and their autonomous income is not relevant. It does not have the police function, its ability to generate standards is limited to national legal frameworks. Its structure and distribution of powers is rooted in a national general law within the framework of constitutional definitions, the residual competencies therefore remain in the State.

In this context, the exposed methodology allows to provide evidence of the existence of a typology of the distribution of competencies that organize decentralization in the South American countries, it is intended to complement previous proposals such as those raised by Wright (1997, p. 105) that addresses decentralization from the decision-making process, such as that of Agustín Gordillo, which proposes differences between autarkic and autonomous systems or that proposed by Valenzuela, Pressacco, and Cienfuegos (2015) on the types of inter-level cooptation. This is how it is intended to contribute to future studies and thus establish similar groups of structures that allow the generation of economies of means of analysis and facilitates the generation and testing of hypotheses (Sping-Andersen, 2000, p. 101).

## **2.1 The types of distribution of powers that structure decentralization**

In the cases observed, as well as what has been established by various studies and in line with the world trend, the regions have a great competence in economic development with all the dimensions involved in industrial policy, the provision of public services and the provision of infrastructure between others.

### ***2.1.1 Changes in periods of institutional weakness agreed in a federal historical model***

The competence distribution of the compound type is identified with the cases of Argentina and Brazil. In the Argentine case we find the agreement of “Unity and Diversity” of the thought of Rosas from Buenos Aires with the provinces of the interior in a sort of authoritarian federalism of oligarchic leaders who then achieved a democratic status in the Constitution of Argentina of 1853, which, had an intermittent application as a consequence of the multiple dictatorial interruptions that affected it between 1930 and 1983. The constituent convention of 1994 and the Menem-Alfonsín agreements allowed the strengthening of provincial autonomy and a strong and autonomous municipality in the city of Buenos Aires (Bazán, 1998).

Brazil after the long reign of half a century of Pedro II of the Portuguese house, Fonseca heads his destitution allied with chieftain and regional movements to impose in 1889 a federalism inspired by the North American model with a strong oligarchic bias. This scheme was replaced in 1930 by the developmentalism of Getúlio Vargas for a more proactive government at the industrial poles in the interior States, which is aborted by military dictatorships until the agreed time of the 1988 democratic constitutional convention (Abrucio, 1998; Stepan, 1999). It is a process that advanced from top-down, however, it was conditioned by the economic problems that gained presence in the political society (Farfán, 2014, p. 36). The foregoing implied that full democracy and the autonomy of the states in diverse matters was reestablished, as well as the co-participation in taxes with predominance of agrarian right-wing oligarchies in the Northeast and center-left and populist movements in the south-central states.

In Argentina decentralization in its origin, advanced after a civil war between unitarians and federalists to position itself as a federal government that has political power over the nation and

where the provinces have political autonomy based on an original pact and the distribution of powers is established in the constitutional norms it is structured in Brazil in a similar way. The main characteristic of this type of distribution of historical competences (See Box 1), is that it is defined as a constitutional political association, has a level of regional government characterized by having full tax powers for the generation of income, as well as co-participation in the nation's income. it is typical of this model, the police power and its legislative capacity, on the other hand, the residual powers are rooted in each of the states. Its structure and distribution of powers is always composed of two or more elements, since it is based on the regional constitutions and the national constitution, thus granting its characteristic compound type. This model is structured in countries of federal origin and its changes in the distribution of competences generally occurs during periods of institutional weakness.

**BOX 1**      **TYPOLOGY OF COUNTRIES: CHANGES IN PERIODS OF INSTITUTIONAL WEAKNESS AGREED IN A FEDERAL HISTORICAL MODEL**

Typology	Country	Year	Origin of Institutional Change	Form of Transformation	Structure of the Distribution of Competencies	Competences at regional level
Compound	Argentina	1994	Crisis of governability of the government of R. Alfonsín and the Olivos pact	Reform of the Constitution via constituent assembly	Federal Constitution Provincial Constitution	Legislative Tax and Coparticipation Justice Police Development
	Brazil	1989	Tutelary Transition and New Democracy	Reform of the Constitution via constituent assembly	Federal Constitution Constitution of the State	Legislative Tax and Coparticipation Justice Police Development

Source: Elaborated by the authors.

**2.1.2 Discontinuous changes caused by political and social crises with paradigm changes**

The serious political, socio-economic and violence crises pushed constituent processes in South America, in countries that gave relevant power to regions such as Bolivia, Colombia, and Venezuela, although the latter the process of regression and recentralization by restricting resources to opposition States (Cravacuore, 2014). In Colombia, after the acute violence of drug traffickers, guerrillas and paramilitaries, a constituent assembly was held for the creation of a new Constitution. It is this, which opens the space for political autonomy and breaks the centralist scheme of the

Constitution of 1886. The above, through the democratic election of governors in the departments, the establishment of royalties for income formation along with taxes of local character and competences in territorial areas.

In Bolivia, for its part, in 2003, the social movements — first Cochabamba with the so-called water war — then in 2005, basically in the city of El Alto, mobilized expressing demands and, among others, demanded the convocation of a Constituent Assembly, the political crisis is followed in parallel in 2006 by demands for autonomy of the departments Santa Cruz, Beni, Pando and Tarija (Serna, 2009, p. 33), product of denying income sharing with the regions and a greater territorial empowerment generated a series of protests and high conflict, triggering the political crisis of 2008, which was overcome with the sharing of mining and oil revenues. The country is constituted as a unitary social state of community plurinational law and establishes a new model of territorial autonomy based on the structuring of autonomous statutes and organic burdens, constitutionally the most advanced in the region within the framework of unitary States.

In the case of the Bolivarian Republic of Venezuela, the historical processes have not been exempt from conflicts, in this aspect we can point out that the Constitution of 1961 considered a federal republic and tried to leave behind the dictatorship of Marcos Pérez Jiménez who exercised power between the years 1952-1958. However, in the following years the political pact known as the “fixed point agreement” was carried out, which implied in general terms the alternation in the government between two political parties the Committee of Independent Electoral Political Organization (COPEI) and the Democratic Action (AD). In 1993, Venezuelans show a change in their preferences, moving away from the parties they firmly supported for decades, creating a volatile voter, who has opted for radical and antisystemic options, increasing the number of voters who declare themselves independent and apolitical, political parties lost their credibility as intermediary institutions between the state and civil society (González, 2006, p. 174). In the words of Brewer (2001) on the constituent process of 1999, he points out that it has happened, due to the terminal crisis of the political-constitutional system of the centralized state of parties that was consolidated under the Constitution of 1961. It is necessary to remember that until 1989 the governors of the States were appointed by the national executive power, from that date the status quo is broken by promoting the election of governors and the legislative assembly, a situation that was ratified by the Constituent Assembly (Grimaldo, 2002, p. 122).

The type of characteristic competency structuring (see Box 2), occurs in countries that have experienced processes of institutional political crisis and product of that, substantially modify the existing distribution of competencies, what we have called, discontinuous changes product of social political crisis with change of paradigm, in this group of diverse origin there coexist declared federal, autonomous and unitary countries. The distribution of powers or their structuring is done through a system of general delegation that has its origin in the National Constitution, where its main competence is referred to the local legislative capacity, to this we can add the capacity of autonomous income generation with tax competencies incomplete and highly dependent on transfers from the national level. This model of competency distribution, we define as the integrated type, where the parties are part of the whole without modifying it and the residual competences are located at the national level.



**BOX 2** **TYPOLOGY OF COUNTRIES: DISCONTINUOUS CHANGES PRODUCT OF SOCIAL POLITICAL CRISIS WITH PARADIGM CHANGES**

Typology	Country	Year	Origin of Institutional Change	Form of Transformation	Structure of the Distribution of Competencies	Competences at regional level
Integrated	Colombia	1991	Serious political violence product of the guerrillas (FARC, ELN, paramilitaries, others) and the narco violence of the drug cartels.	New Constitution via constituent assembly	Political Constitution  Private laws of transfer of competence.	Normative Tax (limited) and co-participation (royalties) Development
	Bolivia	2008	Refoundational process of the ruling party (MAS), territorial political crisis.	New Constitution via constituent assembly	Political Constitution  Framework Law on Autonomy and Decentralization Departmental Statute	Normative Tax (limited) and co-participation (income from hydrocarbons) Development
	Venezuela	1999	Political and economic crisis, loss of prestige of political parties	New Constitution via constituent assembly	National Constitution  State Constitution	Normative Tax and Co-participation (limited) Development

Source: Elaborated by the authors.

**2.1.3 Discontinuous changes caused by political and social crises with paradigm changes**

Within this classification we can locate countries, such as Chile, Ecuador, Paraguay, Peru and Uruguay. As far as Chile is concerned, the country emerges as an independent state in 1818, recognizing three moments of strengthening of subnational decentralization: the first is the autonomous commune law after the 1891 civil war that, according to Valenzuela (1977), it allows a counterweight to presidentialism along with the parliamentary system that becomes the intermediaries of power. The second moment is the transitional government of former President Patricio Aylwin, who in 1992 democratizes the regional level — created by the dictatorship in 1974, a model incorporated in the 1980 Constitution — establishing a regional council elected by municipal councilors whose main power is to allocation of investment resources called National Fund for Regional Development. The third moment focuses on the period 2006-2017 in which the democratic election of regional councilors and regional governor is promoted as a result of the reform of the Constitution of 2009 and 2017 respectively, caused by a cycle of protests of a territorial nature, for the mining rent, the mapuches in the framework of demands of territory. Although, the regional level in Chile already has competencies, such as the allocation

of resources as a result of transfers from the central level and the approval of territorial planning instruments, a system was approved that allows time to transfer competencies through executive resolutions. of the President of the Republic.

Regarding Ecuador, it can be observed that it is a country that has followed a path similar to that of Chile, with a process of regionalization initiated in the 60s and 70s and later in the 80s and 90s a decentralization process based on the neoliberal postulates through the privatization of the civil service (Barrera, 2015, p. 6). However, political decentralization develops from 1978 through the election of the Prefects. In the period from 1978 to 1997, it is characterized by the fact that the sectional autonomies have few competences and financial resources. Based on the Special Law on State Decentralization and Social Participation, a procedure for the transfer of competences from the national executive to the autonomous sectional governments is established. This process is ratified by the 1998 Constitution. It should be mentioned that, after a string of inconclusive governments, it is stabilized with former President Rafael Correa, who promotes the 2008 Constitution that establishes plurinationality and territorial autonomy, providing the provinces with political autonomy with elected prefects, a process of centralization of education and health, but transfers to the provinces the promotion of production, secondary routes, tourism and irrigation systems.

A similar process is experienced in the case of the Republic of Paraguay, after a prolonged dictatorship by Alfredo Stroessner (1954-1989) that according to Arditi (1992) was characterized by what was called the *stronismo*, a political model developed in the of a traditional society in the context of the Cold War, model of vertical, personalistic leadership, little inclined to renovation, which in its last period faced international isolation and the economic crisis of the 80s. After the overthrow of Stroessner, in the framework of the National Constituent Convention of what arises the Constitution of the Republic of 1992 is that, the third level of government is created, electing governors and the Departmental Juntas, this happens in the general elections of the year 1993.

The crisis generated by the decomposition of the ruling party, associated with economic difficulties (Arditi, 1992, p. 7), a limited transitional government (Andrés Rodríguez, 1989-1993) and a democratically elected conventional constituent, give rise to a new model of political organization in Paraguay, but this is limited in its development by not promoting the framework law of decentralization, according Turner (1998) la adopción de un sistema políticamente descentralizado en la Convención, ello fue sorprendente, dado que, la descentralización no había sido un concepto conocido previamente en el discurso político y contó con la oposición de las autoridades locales, sin embargo fue apoyado por miembros del partido colorado que, veían un peligro en la democratización del país, pero un beneficio en la descentralización.

The main competences of the departments are to manage their budget, the coordination of public services in their jurisdiction and inter-municipal coordination.

In the case of Peru, we could situate three moments in the modern stage of its decentralization process, the first one occurring in the period from 1988 to 1998. In this period, a process of regionalization takes place when the first law on the bases of decentralization, this occurs in a context of economic, political and social crisis, with hyperinflation, fiscal crisis and terrorist violence, the proposed model was called regional parliamentarism, where the Regional President had to be elected by the Regional Assembly which had legislative powers and oversight, in this process all the functions and officials of decentralized public services are transferred to the new regional governments. In the



year 90 a conflict takes place between the central level and the regions, this joined to the little legitimacy of the regions before the citizenship that worked even in the logic of departments (Contraloría General de la República, 2014, p. 27).

The second moment is the one that we could associate from 1992 when Alberto Fujimori intervenes regional governments and installs the Transitory Councils of Regional Administration, in the middle of a self-coup of State and calling a Constituent Congress for the elaboration of a new Constitution that the dessert would replace the old 1979 Constitution. The constitutional norm considers the process of decentralization, which is suspended its implementation after the serious crisis in the last years of the ex-president Alberto Fujimori. The third moment is achieved with the former president Alejandro Toledo who finds the consensus to define the 2002 reform that allows to advance in the current decentralization model and elect its regional presidents, assign competences in economic development and infrastructure, together with the coparticipation in mining and gas rent. The above in the framework of the law on the bases of decentralization, Law 27.783<sup>2</sup> (Perú, 2002), where the principles of gradualism, indicates that decentralization is carried out in stages in a progressive and orderly manner, according to criteria that allow an adequate and clear assignment of competences, including also the power to request from the regional governments bills to the national legislative body.

Finally, the case of the Eastern Republic of Uruguay that has particular characteristics, given that, unlike the rest of the countries of South America, Uruguay incorporates a level that we could define as sub-local (municipal) when creating a territorial structure under the existing departmental administration until the Constitution of 2010. In the political and social context over the last 50 years as presented by Schelotto (2015) in the country at the beginning of the 70s is affected by a process of urban revolts organized by the National Liberation Movement — Tupamaros (MLN-T). This leads to the declaration of the State of War by the government calling the armed forces to protect the internal order, this triggered in 1973 the coup that would last until 1985. At the end of the de facto governments, Uruguay faces the economic crisis of the early 1980s. However, between 1985 and 1998 the country achieves one of the highest growth rates in the region and a reduction in poverty, but between 1993 and 2002 the country suffers again a quite acute recession (De Armas, 2006, p. 42) what could have led to the elections of 2005 have been won for the first time by the Frente Amplio. Institutional changes began in 1997, incorporating concepts of decentralization in national legislation. After 13 years, the municipal matter was created by empowering the constitution to create local governments, leaving the departmental level as equivalent to the regional level of other countries. The decentralizing powers the rule conferred to the departmental executive with wide margins of political decision regarding the formation and functionality of the decentralized bodies (Magri, 2010, p. 86).

The countries whose typology we have defined as simple, are characterized by being unitary of centralized tradition, which in the last 50 years have suffered political crises, but have not changed the dominant paradigm. This implies that the structure of the distribution of competences is due to a continuous process of aggregation characterized by having competencies where the income of regional governments is transferred from the central level whose use can be conditioned or not and their autonomous income is not relevant. It does not have the police function and its ability to generate

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<sup>2</sup> See among others Articles 4, 14 and 15.

standards is limited to national legal frameworks. Its structure and distribution of powers is rooted in a national general law within the framework of constitutional definitions, decentralization is considered as a process and the constitutional rule promotes a regulated system of transfers of powers that goes from regulatory powers in this line we can find to Ecuador, Peru, Uruguay and recently Chile has adhered to this model through the Law N° 21.074 (Chile, 2018) called regional strengthening. The country that transfers powers through law is Paraguay.

**BOX 3**      **TYPOLOGY OF COUNTRIES: CHANGES IN CRISIS SITUATIONS IN COUNTRIES OF UNITARY TRADITION WITHOUT PARADIGM CHANGE**

Typology	Country	Year	Origin of Institutional Change	Form of Transformation	Structure of the Distribution of Competencies	Competences at regional level
Simple	Ecuador	2008	Political crisis for a decade, with successive changes of government	New Constitution via constituent assembly	National Constitution  Competency Transfer System	Planning and Territorial Planning. Budget Administration of Central Financial Transfers. Execution of Public Infrastructure Development
	Perú	1993	Political and economic crisis	New Constitution via Constituent Congress	National Constitution  Competency Transfer System	Planning and Territorial Planning. Budget Administration of Central Financial Transfers. Execution of Public Infrastructure Development
		2002	Terminal crisis of Fujimorato, Pact of the new democracy.	Reform of the Constitution via national executive message	Competency Transfer System	Provision of public services
	Chile	1991	Decadence of the military regime and agreed democratic transition	Reform of the Constitution via message from the national executive.	National Constitution  Competency Transfer System	Planning and Territorial Planning. Budget Administration of Central Financial Transfers. Execution of Public Infrastructure Development
2009 – 2016		Programmatic proposal of political parties	Reform to the Constitution via message from the executive			

*Continue*

Tipology	Country	Year	Origin of Institutional Change	Form of Transformation	Structure of the Distribution of Competencies	Competences at regional level
	Paraguay	1992	Decadence of the military regime and democratic transition supervised	New Constitution via national convention	National Constitution  Transfer of competences via law	Planning and Territorial Planning. Budgetary Administration of Central Financial Transfers. Execution of Public Infrastructure Development Provision of public services
	Uruguay	2004	Political and economic crisis attrition of the ruling party	Reform of the Constitution via plebiscite	National Constitution  Transfer of competences via law	Planning and Territorial Planning. Budgetary Administration of Central Financial Transfers. Execution of Public Infrastructure Development Provision of public services

Source: Elaborated by the authors.

## 2.2 Structure and dynamics of the competence distribution between levels

The distribution or assignment of competences is essential in the structuring of territorial power and distribution mechanisms are important to study their dynamics. Thus, in countries of the compound type, based on national and regional constitutional structures are characterized by relatively low impact changes where the processes of transfer of skills are low dynamics, quasi-static or changes in long-term historical processes. Changes of large magnitudes in this type of countries should coincide in situations of non-crisis, a product that changes would occur in contexts of national and regional constituent processes.

In the countries that adhere to the integrated model, the dynamics of the process of transfer of competences is high, in particular, within the framework of what is known as fiscal decentralization or the distribution of fiscal or tax competences, since these are not complete and the regions depend on transfers from the central level to maintain the provision of goods and services. The same dynamic is presented from the central level that would tend to control the exercise of financial competences. On the other hand, administrative competences are areas of action of regional governments are assigned in the Constitution or a regional regulatory framework and the dynamics in this situation is low product that its transfer is a matter of reforms of the constitution product of political processes-technical or territorial demands.

A high dynamics system is the simple model, based on the skills transfer system, this dynamic will occur in all areas of competence, both fiscal and administrative and never government. This is because, in general, the system has been prepared so that, in a determined spectrum of matters previously defined in the constitutional norm or a framework law of delegation, the structure and distribution of competences be dealt with in an executive manner, that is, through resolutions, regulations and / or simple quorum laws. At this point, we find two relevant cases of high dynamic transfer systems: the

management model for the transfer of competencies from Ecuador through the “Sistema Nacional de Competencias (National System of Competencies)” and the case of Chile based on the “Potestad Presidencial (Presidential Power)”.

### 2.3 The Ecuadorian model

The Constitution of the Republic (Ecuador, 2008) makes substantial changes in relation to the organization of the territory and the procedure for the distribution of competences: it is thus, through the creation of the National Competency System, they are assigned in a mandatory at each level of government. Although some of them already belonged to local governments, others are transferred through the mechanisms established in the Organic Code of Territorial Organization, Autonomies and Decentralization (COOTAD) and are operated by the National Competency Council (CNC), an entity created by the Constitution (Barrera, 2015).

This new model of dynamic decentralization implies the strengthening of regional governments and the definition of mechanisms and processes so that they assume new competences progressively. As well as tools through which to increase their territorial capacities for the effective exercise of competencies.

One element that should be highlighted in this new regulatory framework is the introduction of competency categories, among which exclusive and concurrent competences can be distinguished, foreseeing the need to establish an institutional architecture of greater complexity that solves the coordination of actors involved in the provision of services in the territories. Competencies are also classified according to the sectors in which they are developed. Thus, we have the private sectors, reserved for the central government, and not susceptible to decentralization.

The CNC is the technical body that determines the rules of the decentralization process, also has powers to resolve conflicts of competence, the identification of additional competences susceptible to transfer and the determination of subsidiary interventions in cases of deficiencies in the execution of competences. The Council is composed of elected representatives of each level of government, as established in Article 118 of COOTAD, which allows decision-making at a strategic political level. Through decentralized structuring of the executive function, schemes for the provision of goods and services in the territory are promoted. This is how the decentralization proposal is based on the provisions of Article 238 of the Constitution (Ecuador, 2008), which states: “[...] decentralized autonomous governments shall enjoy political, administrative and financial autonomy, and shall be governed by the principles of solidarity, subsidiarity, interterritorial equity, integration and citizen participation [...]”.

The COOTAD, additionally establishes that the SNC that the CNC will have the function of regulating the procedure and maximum term of transfer of exclusive competences, which must be assumed by decentralized autonomous governments in a mandatory and progressive manner. Complementarily, in its Article 125, it defines that the decentralized autonomous governments are the holders of new exclusive constitutional competences, which will be assumed and implemented progressively as determined by the National Council of Competencies.

The process of transfer of competences in the period 2012-2015 was based on a competency plan to be transferred, where the programmatic structure of the decentralization process was specified. In it, national policies were proposed regarding the decentralization process, objectives and goals were

defined, executive strategies were designed and the action programs to be developed were established to optimize the synergy and the combination of efforts of institutional and social actors. In turn, it establishes blocks or packages of competences to be transferred gradually, but in a mandatory way to the Decentralized Autonomous Governments (GADs).

## 2.4 The Chilean model

In the case of Chile, the system was defined in law 21.074 (Chile, 2018) and has been qualified as a model of Presidential Power by its procedure and dual flexi-intergovernmental regional governance incremental by its result (Valenzuela, 2015). In this way it is possible to project its tradition of deconcentration in the territories with efficient statehood in universal basic services, with the growing demand for greater polycentricity from the regions, for the execution of complex policies of competitiveness, transport, agricultural and social development, among others, which have been demanded by regional governments and systematized in 2014 in the final report of the Presidential Commission for Decentralization and Regional Development.

The model is a balance of views from its unitary centralist tradition towards a decentralized unitarism with greater autonomy in regional management, which maintains a strong presence of national ministries through its services, but at the same time, with the objective of strengthening Regional governments improve the capacity to manage new competencies with the incorporation of ad-hoc administrative structures, fostering proactive dialogue with municipalities that demand resources from the National Fund for Regional Development (FNDR) and in turn with national agencies.

The process of regionalization originates in 1974, whose recognizable milestones are the creation of the FNDR in 1975 and then, in democracy, the creation of regional governments that implied a directive role of the regional councils elected by provincial-based electoral colleges. integrated by councilors of the municipalities since 1993; the regional role of approval of territorial planning instruments and participation in the environmental evaluation processes of investment projects starting in 2005, together with a series of policy instruments and articulation of regional investment and the exploration of policies in other areas beyond the social infrastructure, as have been the agreements with universities to promote the development of science and technology.

The process has been eminently gradualist, the institutional changes have been incremental ratifying the absence of discontinuous or disruptive changes in this matter in the last 50 years. The reorganization and restructuring process, like the Ecuadorian model, has been separated from the legislative power and has been based on an administrative process, which indicates a greater dynamic in the administrative decentralization process through the use of Competency Transfer Decrees. It falls on the will of the Executive. As defined in Law 21.074 (Chile, 2018), the key actors and processes of the process of transfer of competences in Chile are:

- a) The President of the Republic: is delegated by the parliament the power to transfer or not a competition to one or more regional governments of one or more ministries or public services, whether by presidential decision or at the request of the regional government.
- b) Sub-secretariat of Regional and Administrative Development (SUBDERE): it corresponds to coordinate the Central government through the SUBDERE (Ministry of the Interior) is the coordinating entity or technical secretary of the process of transfer of powers.

- c) Interministerial Committee of Decentralization: the Competition Commission coordinated by SUBDERE is chaired by the Ministries of the Interior and integrated by the Ministry of Finance, the Ministry General Secretariat of the Presidency, along with the sectoral ministries to which regional governments ask the transfer of competences. This body also evaluates the eventual recentralization of a competition if a regional government executes it inefficiently.
- d) The Study Groups: They are composed of representatives of the members of the Committee, the regional government and the respective national services, according to the subjects or competences to be transferred. This commission will act in the procedures initiated at the request of a regional government and will consider in its integration an equivalent number of representatives of the central administration and the regional government.

The defined model also considers the option that regional governments can make a request for transfer of powers to the President of the Republic, which through the Interministerial Committee of Decentralization will evaluate the admissibility and may recommend its transfer.

In this way, a model is formed that has as its foundations: the valuation by the unitary centralist tradition with regional deconcentration towards levels of greater autonomy and regional initiative in articulation with national plans and agencies; the deepening of instruments that require dialogue and the articulation of central agencies with regions and municipalities; the sense of effectiveness / efficiency to co-finance and participate in major projects, including both the metropolitan scale and rural development; the evolution towards the regional preponderance of management of complex competences such as competitive economic development, social development, transport and mobility, integral territorial planning.

### 3. FINAL COMMENTS

The review of the macro-historical process of the countries of South America, their respective constitutions and regulatory frameworks, has made it possible to identify the territorial power structures in each one of them. The results obtained show that the organization and structure of the competences is not homogeneous nor can they be associated to classic models of countries of the unitary or federal type. Also, it is possible to verify that the current structure is the product of gradual historical changes of unitary or federal origin, however, the processes of power transfer and the distribution of competencies can be affected by political crises and fractures to get out of polarizations or to deepen the democracy and the quality of institutions. Product of that, there is a group of countries, among which are Colombia, Bolivia and Venezuela that in the last 50 years suffer disruptive changes.

It is also relevant the work developed in the establishment of groups of similar structures, which allows the generation of economies and means of analysis, for this, it has been organized according to the distribution of government, tax and development competencies, giving light of a typology that we have denominated compound where we located Argentina and Brazil, the integrated type that characterizes Colombia, Bolivia and Venezuela and finally the simple model that includes the countries of Peru, Ecuador, Chile, Paraguay and Uruguay. The purpose of the article was to verify the existence of gradual changes that maintain the essence of its historical origin and others that are the product of



disruptive changes that modify the dominant paradigms, forming a categorization of the competence distribution structures of the countries of South America and their dynamics have been identified, as a result of which, it is possible to promote future studies that advance in the investigation of the efficiency that could be presented by one or another form of distribution, in particular the dynamics of the system of transfer of competences of the simple type or integrated.

The review in particular of the competency transfer processes in Ecuador and Chile shows how the countries deal with different institutional arrangements and within the same territorial power structures of permanent changes in the structure of territorial competencies or decentralization model, generating a system of high dynamics that allow different states of intergovernmentality. Among the perceptible characteristics of the models of Ecuador and Chile, is that the organization of territorial power is separated from the legislative power and the decision is transferred to the executive power, in the case of Ecuador to the national council of competencies in Chile to the committee of ministers for decentralization.

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### **Esteban Valenzuela Van Treek**



<https://orcid.org/0000-0003-1755-3309>

Doctor in Contemporary History; Academic and researcher at the Universidad de Concepción and the Chair of Public Administration decentralization at the Alberto Hurtado University. E-mail: evalenzu@uahurtado.cl

### **Oswaldo Henriquez Opazo**



<https://orcid.org/0000-0002-3974-1047>

Doctor in Contemporary Problems in the Information Society; Professor at the School of Political Science and Public Administration of the University of Talca. E-mail: osvaldo.henriquez.opazo@gmail.com

### **Ignacio Cienfuegos Spikin**



<https://orcid.org/0000-0003-0784-6132>

Doctor in Management and Government; Director of the Department of Politics and Government of the Alberto Hurtado University. E-mail: icienfuego@uahurtado.cl