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## Why Reform Fails: The ‘Politics of Policies’ in Costa Rican Telecommunications Liberalization

*Bert Hoffmann*

Economic liberalization became the dominant economic paradigm in Latin America in the 1980s and all through the 1990s. In what is known as the ‘Washington Consensus’ (Williamson 1990), a set of policy measures towards deregulation and market-oriented reforms was spelled out and politically backed by the key Washington-based international actors, namely the IMF, the World Bank, and the U.S. government. Though this paradigm swept the continent, largely dismantling the structures of the more state interventionist development model that had preceded it, disillusion has now set in. Economic results have not been all that was hoped for, and in many cases social polarization has increased, rather than decreased. Opinion polls show growing discontent with the political elites committed to economic liberalism, and in Venezuela, Bolivia and Ecuador this has led to the electoral victories of candidates promising a reversal of liberalizing policies. If liberalization has been the ‘latest project of modernity’ embraced by the continent’s elites (Whitehead 2006, 194), the pendulum in its public perception and political viability seems to be swinging back. Some revision has also begun within the Washington-based international financial institutions (IFIs). Among these, the 2006 report of the Inter-American Development Bank (IDB) stands out as it focuses – according to its title – on *The Politics of Policies* (IDB 2005). The report’s key argument is that a policy design of one-size-fits-all is an excessively technocratic approach; instead the authors’ premise is that ‘the processes of discussing, approving, and implementing policies may be at least as important as the specific content of the policies themselves’ (IDB 2005, 3).

This article undertakes a case study of these ‘politics of policies’ in a core element of the reform agenda, the liberalization of state-run telecommunications. Although the IDB report essentially looks at this process from the perspectives of policy-makers, this article will do so from a broader analytical angle. Not only can there be an overly technocratic approach to policy formulation but also to the analysis of the politics of reform, if it understands these as a mere question of political engineering. In contrast, this study will re-link the process dynamics of policy reform to its content.

The particular case under scrutiny merits a word of explanation. For half a century, the political and ideological importance of the ‘Costa Rican model’ has far outweighed the limited economic significance of this small Central American country with a population of only four million. However, in many ways the country can serve as a paradigmatic case. With its stable political democracy and its high human development standards, Costa Rica has been Latin America’s ‘show-case democracy’ and a model for socially inclusive capitalist development in a resource-poor Third World country, often termed ‘social-democratic’ (Wilson 1998) or ‘mixed model’ (Mesa-Lago 2000). This characterization corresponds with

a widespread perception in the country itself. As modern Costa Rica's 'founding father' José 'Pepe' Figueres Ferrer once put it: 'Costa Rica is not a country. [...] It is a project. It is an experiment' (Ernst and Schmidt 1986, 58).

### **The transformation of the telecommunications regime in Latin America**

The analytical concept of telecommunications regimes binds together the specific configurations of economic, social and political actors and regulatory frameworks – including structures of ownership and market, pricing schemes and patterns of diffusion and consumption in any given country or region. In the following we sketch three different ideal types of telecommunications regimes, which provide the conceptual backdrop for the following analysis: the state-centred First World telecommunications regime typical of the industrialized countries up to the 1970s and '80s; the traditional state-centred Third World telecommunications regime; and the liberalized telecommunications regime that became such a forceful paradigm in the 1980s and '90s, challenging both of the above and often replacing them.

This approach links the telecommunications sector<sup>1</sup> to general economic and social development patterns. In the context of the state-centred First World regime, telecommunications were regarded as a 'natural monopoly': an industry that had such extraordinarily high sunk investments, with only long-term amortization, and such a high degree of economies of scale and scope, that it was considered too costly to have competing providers investing in duplicate infrastructure. Public monopolies took charge of telecommunications, usually under the Ministries of Post, Telegraph and Telephone (PTT).<sup>2</sup> Characteristic of this type of telecommunications regime was the state's commitment to achieve universal service; investment focused on the continuous expansion of the network with the goal of providing residential telephone main lines for every household. The pricing scheme generally was based on cross-subsidies from long-distance to local calls, from business to residential users, and from urban to rural areas.

In the course of the 'developmentalist' projects of the post-WWII period, Latin American governments turned foreign-owned telecommunications companies into state-run monopolies. Telecommunications became widely regarded as an integral part of the nation's public infrastructure, and nationalization as part of the realization of national sovereignty. The adopted telecommunications regime copied parts of the First World model – public monopolies, cross-subsidization schemes –, but failed on others, namely to extend the telephone network to the citizenry at large or to bridge the gap between urban and rural areas. National development plans did not assign telecommunications investments first priority. Instead, the state monopoly company proved to be a profitable cash cow, routinely transferring as much as 30 to 40 per cent of its revenues to the treasury (Saunders et al. 1994, 34). As a consequence, the public telecommunications companies suffered a chronic capital drain that greatly reduced their capacity to invest, expand and innovate. Diffusion and quality of telephone networks in the Third World generally remained poor. Year-long waiting lists for main line telephone installation became the landmark illustration of the deficiencies of state-run monopolies under these conditions. Characteristically, the state-centred Third World telecommunications regime maintained a strong bias geographically in favour of the urban areas, and socially in favour of the upper and middle classes (Clippinger 1976, ITU 1984).

In the First World, the U.S. government laid the cornerstone of a new, liberal-

ized telecommunications regime when it broke up the AT&T monopoly in 1984. In Latin America, telecommunications liberalization came in the wake of the foreign debt crisis and the structural adjustment programmes negotiated with the IMF and the World Bank (ITU 1991, Bull 2005). However, initial steps were more timid than in other sectors. The continent-wide ‘wave’ of telecom liberalization did not fully hit Latin America until the beginning of the 1990s. The driving force for divestiture of the state-owned monopolies was less a policy choice weighing the pros and cons of each model, but rather the fact that ‘a decade of economic crises during the 1980s left many Latin American governments strapped for cash and unable to resist the demands of financial institutions’, as the ITU, which had a key role in the international promotion of the liberalization paradigm, puts it (ITU 1991, 2).<sup>3</sup> As a result, governments rather than national business became the key force pushing for telecommunication privatization.<sup>4</sup> It thus followed the traditional Latin American pattern of reform ‘from above and without’ (Whitehead 2006, 165).

In some cases privatization came through the sale of the state-owned companies; in others it was a process of exposing the state carrier to private sector competition. Looking back, the ITU had to note that privatization and liberalization were not necessarily concomitant as in most Latin American countries ‘privatization came hand in hand with a lack of competition in basic services [...]. What resulted [...] was merely the replacement of a public monopoly by a private one’ (ITU 2000, 2-3) – an outcome described as the ‘typical Latin American model of privatization’ (Raventos 1998, 1).<sup>5</sup>

Being a market-driven model, the liberalized telecommunications regime’s intrinsic focus is on consumer demand endowed with purchasing power rather than on developmental goals. While waiting lists for telephone installation disappeared, prices became the key to access. Here, the elimination of cross-subsidies and the ‘rebalancing’ of tariffs led to a considerable rise in the rates for domestic calls.<sup>6</sup>

In the ‘politics of policies’ of opening up the sector, the proponents of liberalization could point to the poor performance of the public monopoly carrier – a key reason for the only limited opposition to its liberalization. If we now turn to the Costa Rican case, we will see that here a more inclusive development model went hand in hand with a more inclusive telecommunications regime; and that where the public carrier lived up to its social and developmental function, the ‘politics of policies’ of its liberalization also took a strikingly different course.

### **Socially inclusive telecommunications in the Third World: the Costa Rican model**

Costa Rica won an international reputation as a model country as much by its extraordinary political stability as by its far above average performance in nearly all social indicators, compared to other Third World countries (UNDP 2006). Public health and educational services are accessible for the population at large, and the average life expectancy of 78.3 years is not only higher than in the rest of Latin America, but also above that of nations like Denmark or Portugal (UNDP 2006, 283). These achievements are all the more remarkable as Costa Rica is a resource-poor country with only a medium level of GDP/capita and a relatively large share of the population living in rural areas.

The underlying political structures go back to 1948, when a governing board under the leadership of José ‘Pepe’ Figueres, which emerged victorious from a short civil war, laid the political and economic foundations of a socio-economic model often termed ‘social-democratic’ (Wilson 1988). Following the ‘developmentalist’ ideas of the UN’s Economic Commission on Latin America, CEPAL, the state took over a central role in the economy, and an import-substituting industry (ISI) was established, primarily in consumer products, light industry and agro-industrial sectors (Bulmer-Thomas 1987, 185-191). Of no less importance for Costa Rica’s social cohesion, however, were a series of structural reforms to support small and medium farmers, including gradual agrarian reform and the establishment of public institutions for technical support and price regulation. These policies ensured the persistence of a relatively broad rural middle class, which has been a key factor for the stability of Costa Rican society (Seligson 1984).

On the political-institutional side, the most spectacular measure was the abolition of the country’s military, enshrined in the Constitution of 1949. This step was essential for the long-run viability of Figueres’ reform project, since it eliminated precisely that institution to which anti-reformist elements across Latin America resorted when they felt their interests threatened. Moreover, it paved the way for electoral, civilian rule, which for more than half a century has never been seriously disrupted by violence or electoral fraud. A stable two-party-system emerged. Despite a rather regular pattern of alternation in power, the *Partido Liberación Nacional* (PLN), formed in 1951 by Figueres, dominated the political agenda even when its opponents held the presidency. The rival second party existed in different constellations and under different names, but since 1983 as *Partido Unidad Social Cristiana* (PUSC). While being moderately more conservative, it shared the basic consensus on the country’s overall socio-economic model.

A centrepiece amongst the model’s ‘founding institutions’ was the Costa Rican Electricity Institute (*Instituto Costarricense de Electricidad*, ICE), created in 1949. The ICE not only was the state monopoly company for energy generation and electricity supply, but also for the nation’s telecommunications system – a nearly unique combination internationally. It provided the energy resources for the state-led development and industrialization plans that started in the 1950s; and it fulfilled a central social function by investing great sums in a continuous push for a geographically and socially inclusive system of electricity provision. As electricity was a key concern for all sectors of society, the ICE became probably the most emblematic institution of the Costa Rican development model.

Although telecommunications for a long time appeared as the smaller sister of ICE’s electricity activities, here, too, the institution made great strides in the nationwide extension of the network, following the same pattern of geographical and social inclusion as the power grid (ICE 1997b). The ICE subsidized rates for telephone access and domestic calls, and engaged in outreach programmes for rural areas, including the installation of public call offices on a concessionary basis in small towns and villages, forerunners of today’s internet cafés. In contrast to the prevailing approach in most of the Third World, the Costa Rican model saw telecommunications not as a luxury item for the urban elites, but as a core function of national integration and development. As a result, Costa Rica enjoys one of the densest and socially most balanced telephone networks of all developing countries (ITU 2006). The country’s telecommunications regime thus greatly departs from the typical Third World mould. In line with its exceptional overall development

model, the diffusion and access patterns of telecommunications instead resemble those of the inclusive state-centred telecommunications regime of the First World, though implemented under the conditions of a poor country.

As a consequence, unlike other Third World countries, where the chronic deficiencies of the telephone system provided a strong argument for dismantling the state monopoly, in Costa Rica even outspoken advocates of liberalization like Tacsan (2001) cannot but pay respect to the historic achievements of the ICE:

No doubt, it accomplished an extraordinary job of networking the whole country with telephone lines [...]. In Costa Rica, one out of five persons has a telephone line which means that virtually every house owns one. The difference is certainly radical if compared to the neighbouring Central American countries where one out of 20 persons has access to a phone line. The data is significant in the sense that it shows the excellent performance of ICE in the provision of basic line communication in Costa Rica.

Similarly, Ricardo Monge, the coordinator of the telecommunications liberalization bill in 2000 that was designed to open up the sector (see below), underscores the extraordinary standing the state-owned energy and telecommunications company enjoys: 'The ICE is the institution *par excellence* for Costa Rican national pride'.<sup>7</sup>

### **Liberalizing telecommunications: the politics of reform failure**

The drive for economic liberalization policies in Costa Rica began, as elsewhere, in the wake of the foreign debt crisis.<sup>8</sup> It was a PLN government that signed the first stabilization agreement with the IMF in 1982, which marked the beginning of a long process of structural adjustment programmes. In line with the 'standard recipes' of the Washington-based IFIs, these encompassed the reduction of state expenditures to lower the budget deficit, the reduction of subsidies, the adoption of a strategy of export-led growth, and the privatization of state-owned enterprises.

Nevertheless, these policies retained a more gradual and heterodox approach than in other countries. If this was partly due to the political-institutional structures inclined to consensus and negotiated compromise, externally Costa Rica benefited from its role as Washington's prime ideological counter-model against Central America's left-wing revolutionaries. Direct U.S. aid flows increased greatly, covering more than 50 per cent of Costa Rica's account deficit between 1982 and 1985 (Fürst 1990, 190). U.S. policy was keen to avoid social destabilization in Costa Rica due to excessive reform pressure, resulting in the anomaly of an adjustment programme accompanied by an actual increase in real social expenditures (Mesa-Lago 2000, 496).

In her comparative study of telecommunication reform in Central America, Bull (2005) points out that in Costa Rica USAID was the principal external actor pushing for the sector's liberalization, whereas the direct 'impact of the IFIs on the telecommunication process was marginal' (Bull 2005, 125) compared to its neighbouring countries. This, however, may be an overstatement. While the Washington-based IFIs indeed were not explicitly demanding all-out telecommunications privatization, this should not mislead one into overlooking the enormous weight they had in the general turnaround of the development paradigm in Costa Rica. Of this, telecommunications liberalization was seen as an integral part, and Haglund (2006) presents a convincing analysis of the IMF and IDB policies to-

wards Costa Rica and their importance for the drive to open up the telecom sector to the private sector.<sup>9</sup>

On the domestic side, for Costa Rica's political system it was crucially important that the PLN administrations of Luis Alberto Monge (1982-1986) and Óscar Arias (1986-1990) should steer this shift away from Costa Rica's traditional development model and set the course for a gradual, socially cushioned, yet continuous adoption of liberalization policies (Wilson 1994). As the study of Seligson (2002) shows, this went hand in hand with a gradual decline in public support for the established party system, which, however did not translate into open challenges to the political establishment in the 1980s and '90s. Nevertheless, the PLN did suffer internal tensions. Most notably, Óscar Arias' planning minister, Otton Solís, quit his office in open conflict with Arias over the government's embrace of liberalization (18 years later they would face each other again in hard-fought presidential elections).

The pressures on state finances and the overall turn to liberalization did not bypass the country's telecommunications sector. If in the following we track the 'politics of policies' of liberalizing Costa Rican telecommunications,<sup>10</sup> it is fair to start out with the Monge administration (1982-86). Although it did not include the ICE in any privatization scheme, it accelerated the drain of financial resources from the company to cover the growing public deficit. As Haglund (2006, 27-28) points out, the ICE, just as most of Costa Rica's public autonomous institutions, ran a continuous surplus, which, however, was diverted into state coffers. As a consequence of this diversion, rather than its entrepreneurial inefficiencies, the company began to lose the capacity for the large-scale investments needed for the digitization and modernization of its infrastructure.

The following government of Óscar Arias (1986-1990) launched the first plan to privatize services offered by the ICE. In line with the gradualism of Costa Rican politics, the plan proposed the partial sale of company shares and the participation of private companies through strategic alliances. Protests from the ICE's unions and other groups of the PLN's social base quickly halted this initiative. In a different line, the Arias government attempted to open up the state monopoly for mobile telephony, issuing a license for the U.S. company Millicom. However, Costa Rica's audit office, the *Contraloría General de la República*, stepped in to block the arrangement after the ICE's unions began a formal law suit against the license. Eventually Costa Rica's constitutional chamber of the Supreme Court, the *Sala Cuarta*, declared the deal unconstitutional.<sup>11</sup>

In 1994, again a PLN government under President José María Figueres Olsen - the son of 'founding father' José 'Pepe' Figueres - set up a commission headed by former Central Bank President Eduardo Lizano, the country's most vocal advocate of liberalization, to address the state's domestic debt. The commission recommended the sale of state assets, including the state electricity and telecommunications monopoly (Lizano 1997, 59). This, however, triggered immediate protests from so many sides, that Figueres shelved the commission's recommendations. Instead, he sought bipartisan agreement on the overall course of liberalization which crystallized in the Figueres-Calderón pact, signed in 1995 by the incumbent president and his immediate predecessor. This pact became all the more symbolic as its signatories were the sons and political heirs of - precisely - José 'Pepe' Figueres Ferrer and Rafael Ángel Calderón Guardia, the two leaders who had stood against each other in the Civil War of 1948 which - after a decade of social and economic

change – gave birth to what came to be known as the ‘Costa Rican model’.

Regarding telecommunications, the Figueres government turned to a project that, rather than pursuing privatization via the sale of the ICE, sought to leave the company in place but break up its monopoly by inviting private competition (Monge 2000, 289f). The project encompassed three bills that were jointly introduced in the National Assembly in September 1996: first, a new ‘organic law’ for the ICE that included the separation of the telecommunications and electricity sectors, which would then operate as independent companies under the ICE, recast as a rather loose umbrella; second, a new law for the energy sector; and third, a new law for telecommunications. The telecommunications market was to be opened to private competition, with a gradualist schedule stretching over five years. However, these bills were introduced in the second half of Figueres’ term, when the upcoming elections dominated the calculations of parliamentarians of both parties. As it was widely felt that the ICE liberalization would be unpopular, both parties opted to avoid conflict and to postpone the initiative for the time being (Monge 2000, 291).

After the 1998 elections, the newly elected President Miguel Angel Rodríguez (PUSC) inherited the pending liberalization bills. He presented the electricity bill directly to the National Assembly, but – learning from past failures – prior to submitting the other two bills he called for a consultation process, the *Concertación Nacional*. This forum included the government, business sectors, and the trade unions as well as a range of civil society representatives. Although the PLN (arguing for more gradual liberalization) and the small party *Fuerza Democrática* denied their support, acceptance of the bill by the unions was seen as a breakthrough towards the political viability of the project. On the basis of these accords, the government then introduced both bills into Parliament.

The telecom bill sped up the gradualist approach to liberalization, envisaging full competition in the sector as early as 2002. At the same time, it promised to continue the government’s social commitment through the establishment of a universal access fund, FOSUTEL, and a new regulatory body, ARETEL. The fund would be financed from obligatory contributions from all companies operating on the telecom market, amounting to 15 per cent of their earnings in the first four years and 40 per cent for the following years.

As a result of the ‘politics of policies’ described above, telecom liberalization was postponed for so long that the ‘contagion effect’ eventually turned negative. Costa Ricans could judge the liberalization experiences in other Latin American countries with the advantage of hindsight, noting that these often led to substantial rate increases in the tariffs for subscription and domestic calls – which compared unfavourably with ICE’s low tariffs on these services. Facing this problem the pro-liberalization campaign sought refuge by focusing criticism of the state monopoly on its shortcomings regarding mobile phones and the new digital information technologies.

In the political arena, the refusal of the PLN and *Fuerza Democrática* to sign the national consultation accord led to a new round of negotiations, as the governing PUSC did not have a parliamentary majority. The PUSC as much as the PLN pushed for rapid progress, since both wanted to finish with the issue before the next long pre-electoral period would hamper implementation. In consequence, they agreed to modify the Legislative Assembly’s procedures to allow for a fast-track approach to the bill (Asamblea Legislativa 2000), as well as to modify the bill on

essentially two points: the time frame for the phased opening of the telecommunications market to competition was extended; and the agreement reached in the consultation forum regarding the composition of the new regulatory body's board was thrown out. Instead of the seven members agreed upon – two from government, two from business organizations, two from trade unions and one from the national commission for the protection of consumer rights – the new version proposed a board of five members, all of which would be appointed by the government. As a result, the trade unions protested their exclusion and withdrew their support for the bill.

Another decision by the leaders of the two dominant parties bent on accelerating the process proved to be as relevant for the bill's eventual failure: the decision to bundle the three separate bills – the law restructuring the ICE, the law on energy and the law on telecommunications – into a single project (which the media quickly labelled the *Combo del ICE* in allusion to the package deals offered by fast-food restaurants).<sup>12</sup> The political rationale was that without such a package deal, the three projects could not pass before the end of parliamentary sessions in April 2000, threatening to have the issue stretching into pre-election times.

In terms of parliamentary process, the leadership agreements, fast-track proceedings and bill combination achieved their aim. On 20 March 2000, the Legislative Assembly passed the comprehensive reform law with ample majority: all PUSC and all but three PLN representatives voted in favour. Only the three PLN dissidents and the seven representatives of the small parties voted against it.<sup>13</sup> Liberalization became law – but not for long.

The passage of the *Combo del ICE* law by the Legislative Assembly proved to be a pyrrhic victory. The gradual erosion of public support for the established parties, a tendency Seligson (2002) had diagnosed as going on since the 1980s, now broke out openly. The party leaderships had limited their 'politics of policies' calculations to the political, media and business elites, while the popular perception of this project only entered calculations in so far as the decision was to be kept at a sufficient distance from election day. By brushing aside the consultation accords in the National Assembly negotiations, the bipartisan agreement not only ruined what had been the government's greatest success – union support for the liberalization bill – but to a broader audience it confirmed the widespread negative views of the arrogance and detachedness of 'the political class'. And while the combination of the three laws into one package deal had been instrumental in accelerating the parliamentary process, it now proved instrumental in rallying very diverse social forces into a heterogeneous alliance of opposition to the bill.<sup>14</sup>

The least surprising opposition came from the unions of the ICE, who feared the loss of employment and benefits. Other unions of public employees quickly closed ranks, fearing similar initiatives in their own sector if the country's liberalization course were pushed forward. From teachers to oil workers, unions staged solidarity strikes and called for members to participate in the anti-*Combo*-demonstrations.

These mobilizations were soon joined by the university students. This needs explanation as these students came mainly from upper or middle sectors of society, and for them the 'heroic' days of the ICE's role in national development seemed to be from distant history. In addition, since the students had a disproportionately high interest in Internet use, they seemed a prime target group for the argument that the state monopoly blocked the dynamic development of the new information technologies. However, the majority of the students did not perceive the *Combo*

law as a means to improving these services but instead as part and parcel of a broader agenda of liberalization which they opposed. This combined with a widespread disenchantment with the political establishment, so that the *Combo del ICE* law became the case to articulate dissatisfaction that went far beyond the telecommunications issues in the narrow sense that it implied. Following the students' demonstrations and teacher strikes, secondary students also joined the street protests. Practically all the ecological associations in the country joined against the *Combo del ICE*, in particular galvanized by article 119 of the law that facilitated the building of new hydroelectric plants in nature reserves by private companies.

Another unexpected, but highly important, sector participating in the protests against the liberalization law was the country's peasantry. Pressured by the fall of world market prices for a number of major agricultural products, peasant organizations across the country had been mobilizing their bases to demand increased government support. These rural protests rapidly fused with the anti-*Combo* demonstrations in the cities. Particularly in the countryside, appreciation of the ICE's role as a cherished institution of development and social integration was still very much present; and it was in the rural areas that the privatization of services raised particularly strong fears of losing the ICE's developmental commitment. The peasants' principal form of protest was to block overland roads, a measure that greatly disrupted transportation and economic activities and exerted a strong pressure on the government to act.

In the political arena, the 'defence of the ICE' also drew support from dissidents among both the dominant parties. In the case of the PLN, Ottón Solís, the former planning minister of Óscar Arias', led the dissidents. After resigning his office in the Arias administration in the 1980s, he had remained a loyal party member and parliamentarian; but now he formally broke with the PLN to form his own *Partido Acción Ciudadana* (PAC).<sup>15</sup> Another important actor in the institutional political arena was the country's ombudswoman (*Defensora de los Habitantes*), Sandra Píszk, who spoke out energetically against the *Combo* law in the name of the politically unorganized 'silent majority'.

In fact, while it was important for the protest coalition that it could unite heterogeneous social forces under a common goal, it was even more vital for its success that it could count on broad, though less visible, support from the population at large. Opinion polls left little doubt that the country's 'silent majority' viewed the demonstrations favourably. A survey conducted in May 2000 showed a solid two-thirds majority of those interviewed supporting the protests (Unimer-La Nación 2000). More telling still is that no less than 86.9 per cent agreed to the statement that 'protests organized by some groups received spontaneous support by the population' (Unimer-La Nación 2000). The poll also confirmed the weight of the widespread disenchantment with the 'political class', as no less than 93.7 per cent of those interviewed agreed that 'the protests were a message to the PLN and PUSC that the Costa Ricans are tired of what they have done to the country' (Unimer-La Nación 2000).

The scope and aggressiveness of the anti-*Combo* protests reached a level of conflict unknown in the country's recent history. When after two weeks the social unrest showed no signs of subsiding, on 3 April 2000, the government decided to withdraw the law.<sup>16</sup> The government had staked a lot, nationally and internationally, on the reform. In fact, in the face of street protests President Miguel Ángel Rodríguez had at first remained committed to pushing the law through 'no matter

what?; it was additional pressure from three different directions that finally forced him to give in.<sup>17</sup>

One rather unexpected source of increasing pressure was from business interests. The road blockades not only affected agricultural products, which rotted due to lack of transport, but also companies such as Intel, whose Costa Rican-based microprocessor plant suffered disruption of its electricity supply and blocked access to the airport. While the private sector largely supported the liberalization law in principle, their more immediate concern was a return to normal business conditions. And if the government could not restore order by force, business spokesmen urged the government to back down.<sup>18</sup>

Pressure also came from the president's party itself. When the protests did not, as expected, subside after the passing of the law, fears grew that the conflict might jeopardize the party's long-term political perspectives. Delegates and party members calculated that the longer the government kept to its unpopular project, the deeper the rift between the party and the electorate would be.

The third element pressuring the government into retreat came from the judiciary system. About ten days after the law had been passed, word began to spread that the country's highest constitutional court, the *Sala Cuarta*, would suspend the law on the grounds of procedural mistakes. At this point, even for the government's hardliners, it no longer made sense to stand by the bill. The question could no longer be answered as to why the government should keep on fighting at a highly political price when two weeks later the *Sala Cuarta* would overrule the law anyway. Indeed the constitutional court revoked the law package on 18 April, less than a month after it had been passed (Sala Constitucional de la Corte Suprema de Justicia 2000).

'Defending the ICE!', as the main slogan of the anti-*Combo* coalition went, was about more than just a specific institution; it virtually became a plebiscite in defence of the old social welfare state model.<sup>19</sup> Telecom liberalization was embedded in an overarching paradigmatic shift towards a different development model, and the protests and reactions it triggered took it for nothing less.

### **Lessons learned? The political feedback effects of the liberalization bill**

The IDB report on the 'Politics of Policies' puts a special emphasis on the argument that 'policy reforms often have feedback effects on the policymaking game' and that these should be given special consideration when opting for policy choices (IDB 2005, 8). There could hardly be a clearer case for this than the telecom liberalization initiatives in Costa Rica, in which the struggle over the *Combo* bill became a catalyst for the collapse of the traditional two-party system.

An opinion poll taken a few months after the ICE conflict showed a strong continuity of the trends diagnosed by Seligson (2002): a clear majority of Costa Ricans supported democracy as their preferred political system, but at the same time an equally clear majority showed discontent with 'the politicians'. They sharply criticized the major parties and felt ill-represented by them.<sup>20</sup>

While the continent-wide opinion polls by *Latinobarómetro*<sup>21</sup> showed similar levels of disenchantment, the political consequences were varied. In Costa Rica, it was the opposition to the liberalization bill that became a catalyst for the articulation of this discontent, which until then had found only insufficient voice in the political arena. This crystallized in the 2002 presidential elections when PLN and

PUSC together fell to 63 per cent of the vote, after having obtained 92 per cent in the previous five elections (Lehoucq 2005, 142). PLN dissident Otton Solís, who had broken with the party over the ICE bill, ran as candidate of his own improvised party, the *Partido Acción Ciudadana*, PAC (Citizen Action Party). Campaigning on a platform that could be summarized as ‘Old PLN,’ opposing the liberalization course taken since 1982 (Solís 2001), he virtually split the PLN vote, gaining no less than 26.2 per cent.

The PUSC managed to escape the electorate’s punishing vote essentially because its party leadership had already suffered defeat well before Election Day. The candidate favoured by the PUSC leadership lost the party’s primaries to Abel Pacheco, a PUSC deputy in the Legislative Assembly and popular TV commentator, in a vote that was widely seen as a victory for the rank-and-file members over the party’s entrenched hierarchy. Pacheco’s perceived challenge to the party hierarchy became crucial for his ability to capitalize on the discontent with the government while maintaining most of the PUSC’s traditional vote, thus enabling him to win the presidency. In these elections, the end of bipartidism became particularly evident in Congress, as parties not aligned with the PLN or the PUSC were holding 37 per cent of the seats.

As to telecommunications, after the political disaster of the *Combo* law, the majority parties quickly distanced themselves from the project. The government party’s parliamentary leader, Eliseo Vargas, declared the break-up of the monopoly to no longer be an option, since ‘there are political and social realities we have to respect’ (*La Nación*, 27 October 2000). He summed up the ‘lessons learned’ as follows:

The Costa Rican populace has been very clear, and it has said ‘No’ to the opening up of telecommunications and electricity. [...] We are no masochists, we will not insist on something to which ‘No’ has been said. Any such rumours are malicious. Let me be very clear about this: the *Combo* has died, and it has died forever (*El Semanario* 2001, 7).

In the following weeks, the government signalled a change of course. First to disappear was the alarmist discourse that had linked the nation’s fate to the passing of the ICE law. Instead, the government started what it regarded as a ‘second best option’: the modernization of the telecom sector under the state-monopoly of the ICE. The appointment of Guy de Téramond, the country’s leading informatics professor and highly respected ‘father of the Internet in Costa Rica’, as the new Minister for Science and Technology, symbolically marked the government’s commitment to invest in the new digital technologies. This was flanked by the launch of the ‘Digital Agenda’ programme which included numerous state-led initiatives for infrastructure investments, diffusion of access, and the integration of the new technologies in public institutions, the education and health sectors, and in small and medium businesses (Presidencia de la República 2001).<sup>22</sup> However, this pro-active attitude was not to last long. Guy de Téramond was replaced after only two years in office, and as early as in August 2002, the government returned to the policy of draining the ICE’s resources, obliging it to contribute US\$ 13.5 million to the state budget (*La Nación* 26 September 2002).

While most domestic political actors still traumatized by the *Combo* experience kept a low profile on the issue, in 2002, telecom liberalization forcefully returned to the Costa Rican agenda as part of the Central American Free Trade Agreement

(CAFTA). CAFTA promised improved access for Central American products into the U.S. market in exchange for further opening the Central American economies to U.S. companies. While the initial draft included provisions to fully open the telecommunications sector to private competition, the Costa Rican government renegotiated this part. It conceded to opening Internet services, mobile telephony, and data-network services, but not the ICE's monopoly on main line telephony and electricity. On 25 January 2004, the Costa Rican government finalized negotiations with the USA and joined CAFTA – pending ratification by the U.S. Congress and Costa Rica's Legislative Assembly.

The Pacheco government was eager to point out that the agreement was not a 'Combo reloaded'. Minister of Foreign Commerce, Alberto Trejos, argued that 'the ICE will not be adversely affected – it will be strengthened by a modern legislation and it maintains its monopoly in what it does best: the generation of electricity and the provision of main line telephony' (*La Nación* 28 January 2004). However, the anti-Combo alliance felt that the government 'insisted on something to which "No" has been said'. In particular, critics pointed to the fact that the activities singled out for liberalization were those that generated much of the state company's revenues to maintain its socially and geographically inclusive pattern of mainline provision and low user tariffs (Fumero Paniagua 2004).

Moreover, once again telecom liberalization came with CAFTA as a package deal. While the government unbundled the *Combo* bill, separating main line telephony and electricity from mobile telephony and Internet services, it explicitly embedded telecom liberalization in the even broader scheme of the free trade agreement. Again, this packaging helped heterogeneous social groups to join forces in opposition, CAFTA now took the *Combo*'s place of galvanizing protest in defence of the 'Costa Rican model'. President Pacheco became a staunch defendant of CAFTA by depicting the horror of sacrificing hundred thousands of jobs if CAFTA were not ratified (*La Nación* 29 January 2004). However, while CAFTA was ratified in the USA, the Dominican Republic (for which it was re-baptized as 'DR-CAFTA') and all other Central American states in 2004 and 2005, the Costa Rican president, fearing renewed social unrest, decided to leave the task of taking it to the Legislative Assembly to his successor.

In the meantime, political fallout reached new dimensions. Corruption scandals shook the country, most of which were associated precisely with the telecommunications sector.<sup>23</sup> In the autumn of 2004, the Costa Rican public witnessed the spectacle of two former presidents being arrested on corruption charges, while a third one came under investigation. In addition, President Pacheco himself came under fire for dubious campaign financing. By 2005 all hopes put on him by the electorate had been dashed, and opinion polls showed him getting the poorest ratings of any Costa Rican president in decades (CID Gallup 2005).

Against this background the 2006 presidential elections came to mark a watershed, sealing the end of Costa Rica's traditional bipartidism.<sup>24</sup> The governing party, PUSC, fell to a mere 3.5 per cent of the presidential vote (7.8 per cent in the Legislative Assembly). The pro-establishment vote rallied around the PLN's candidate, former president and Nobel Peace Prize laureate Óscar Arias. But the candidate staunchly critical of liberalization, Otton Solís, continued his rise, obtaining 39.8 per cent of the vote and losing to Arias by a mere 1.1 percentage points, or 18,000 votes (Wilson 2007, 715).

Since assuming office in May 2006, President Arias made it a key issue of his

government to push ahead with the CAFTA agreement. In the context of this free trade agreement, telecommunications liberalization once again has become part and parcel of the broader dispute over the country's overall economic model. The conflict over this issue brought a new institutional mechanism into play: in 2002, a constitutional reform had introduced the possibility of a binding popular referendum, and CAFTA became its first test case. As the opposition had threatened to collect the signatures needed for a referendum, the Arias government pre-empted this move by calling for a referendum itself. After a massive campaign in which the dominant media almost *unisono* echoed the government's pro-CAFTA position, the referendum, finally held on 7 October 2007, resulted in a narrow 51.6 over 48.4 per cent victory in favour of the agreement. The closeness of the referendum result ratified the profound division running through Costa Rican society rather than representing a forceful mandate for liberalization. As a consequence, as of this writing it remains very unclear whether the Legislative Assembly will actually pick up the task and pass the enabling laws necessary for the ratification of the CAFTA agreement.

## Conclusions

The IDB's 2006 report on 'the politics of policies' rightly points out that discussing the pros and cons of specific policy designs will not suffice to explain the policy outcomes and their real-world effects if it does not consider adequately the dynamics of the policy-making process. If the report argues that 'the political process and the policymaking are inseparable' (IDB 2005, 4) and that 'to ignore the link between them when pursuing policy change may lead to failed reforms and dashed expectations' (IDB 2005, 4), the Costa Rican case is second to none in illustrating the validity of this argument.

At the same time, however, our analysis also shows the shortcomings of an overly technocratic understanding of the 'politics of policies'. The failure of reform was not only due to policy-makers' tactical errors in steering the project through 'the messy world of politics' (IDB 2005, 4). While a number of specific decisions that negatively affected the viability of the liberalization initiative have been identified here, only a more holistic view can put these into proportion. This must take into account the specific historical trajectory of the country, as the support for policy change is likely to be all the greater as the citizenry becomes more dissatisfied with the preceding state of things; it must also take into account the inevitable link between 'politics' and 'policies', as it is the content of policy choices that shapes the actors' responses to it.

In these regards the conceptual framework of the telecommunications regime proved fruitful as they situated the specific reform project under scrutiny in the overarching economic and social transformation under way. Costa Rica's pre-liberalization telecommunications regime was one of the most socially inclusive anywhere in the Third World. As a consequence, to large sectors of the population the expected downside of opening up the state monopoly outweighed its promises. Hence, it was indeed the content of policy that was at the root of the protests against it. Moreover, widening the focus on the social and economic model in which the reform was embedded provided the key to understanding why the telecom bill of 2000 provoked a conflict that went far beyond an issue of sectorial policy choice, and amounted to a virtual plebiscite on the country's development model.

The case study also highlights the feedback effects of policy reform on the political actors themselves. The bipartisan agreement on the liberalization bill had secured a majority of more than 80 per cent in parliament. It would have been a success case for a ‘politics of policies’-minded reform process if it had indeed been backed by similar public support. While initially there was some outreach to civil society groups, in the end the citizenry entered into consideration essentially as a factor to be kept away from the decision-making process, as both parties joined forces to accelerate the legislative passing of the bill in order to keep sufficient distance between this and the next national elections.

The successful negotiation of the party elites turned out to be all the more counterproductive as it increased the popular sense of an alienated ‘political class’ that, instead of representing society’s plural positions, closed ranks on a policy measure about whose unpopularity it was well aware. Against the background of this crisis of representation it was precisely this bipartisan agreement that became the catalyst for the disintegration of Costa Rica’s half a century old two-party-system.

Whereas the IDB’s report on the ‘politics of policies’ warns of the ‘trade-off between representativeness (or inclusiveness) and policy effectiveness’ (IDB 2005, 157), the analysis of the Costa Rican case makes a point quite to the contrary: instead of a trade-off, there is a direct causal link between both, as precisely the lack of representativeness can crucially undermine policy effectiveness.

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## Notes

1. The term ‘telecommunications’ encompasses the telephone system as well as other forms of data transmission such as, historically, telegraph, telex or fax, and more recently, of course, the wide array of digital network-based information technologies.
2. The United States was one of the few countries where telecom services were not provided by a public monopoly, but by a private firm, the American Telephone and Telegraph Company (AT&T). It operated essentially on a monopoly basis, but since the passing of the Communications Act of 1934, it did so within a sophisticated regulatory framework overseen by the governmental Federal Communications Commission (FCC), the world’s first stand-alone telecommunications regulator.
3. A significant share of the revenues raised through privatization, however, went into servicing the foreign debt. Argentina, which in 1989 became the second country on the continent to privatize its telecom company, presents an illustrative case: the company was sold solely for debt certificates (Schvarzer 2000, 13).
4. On the role of the network-based digital information and communication technologies in the drive for telecom liberalizations see Hoffmann (2004).
5. This is confirmed by the country studies in Noam (1998).
6. Again, the conclusion drawn by the ITU (2000, 3) is sobering: ‘The glitter of privatization has faded. [...] Latin America still faces the hard fact that not much more than one-third of the region’s

households have a fixed telephone. Even though a large proportion of the population is still without a phone, according to conventional statistics, there is hardly any unmet demand for telecommunications services in the region. The main reason for this is that local access prices (monthly subscription) have generally risen, excluding a great part of the population from the market.'

7. Author's interview in San José, 27 April 2001.
8. On the crisis and economic policies of the 1980s, see Fürst (1990), Rovira Mas (1989), Reuben Soto (1988), and Sojo (2004, 13-16).
9. Regarding the structural adjustment programme, Sojo (2004, 45) speaks of the 'external tutelage and conditionality of the international organisms that introduces incentives for the reform but at the same time adds elements of additional tensions'. While the author adds that this 'phase of tutelage' ends in 1994 – that is, well before the liberalization project of the 'Combo' – it certainly describes in strong words the international framework in which its precedents were developed which prepared the ground for the later initiatives.
10. The following section draws, aside from the explicitly given references, on numerous interviews by the author during a field stay in Costa Rica in April 2001, a systematic analysis of the country's leading newspaper, *La Nación*, and the press bulletins of the Legislative Assembly as well as documents of actors involved, in part found in the archives of the *Fundación Acceso* (San José). For well-documented analyses of the politics of the privatization of Costa Rican telecommunications see also Haglund (2006), Sojo (2004), and Bull (2005, particularly chapter 4).
11. The creation of the *Sala Cuarta* in 1989 had been part of a judicial reform largely supported by the Inter-American Development Bank and meant to foster free market development (Wilson et al. 2004). However, as Wilson et al. point out, its effect on policy-making has not been quite that, and they take the *Sala Cuarta's* role in the liberalization of telecommunications as a case in point (Wilson et al. 2004, 525-527).
12. The bill's official name is: 'Ley para el mejoramiento de servicios públicos de electricidad y telecomunicaciones y de la participación del Estado'.
13. Besides the three delegates of the left-wing *Fuerza Democrática*, this was one representative each from the *Partido Acción Laborista Alajuelense*, the *Partido Renovación Costarricense*, the *Partido Integración Nacional*, and the *Movimiento Libertario*.
14. This was admitted even by President Rodríguez, who in hindsight lamented that 'the unified legislation generated a multi-coloured and diverse, but also unified opposition front' (cited in Sojo 2004:28, translation BH).
15. Within the governing PUSC, it was ex-President Rodrigo Carazo (1978-1982) who led a 'National Citizens' Front' (*Frente Cívico Nacional*) against the liberalization law and was supported by, amongst others, the social-Christian trade union *Confederación de Trabajadores Rerum Novarum*.
16. To save face, the government did not cancel the law altogether, but called for a 60-day freeze to open up a national dialogue. A 'Mixed Commission' (*Comisión Mixta*) was set up and a broad spectrum of political and social actors invited to discuss and reformulate the bill. However, this was more a conciliatory measure than an actual attempt to produce and implement a new law.
17. The following draws on one of the President's closest advisors who on the condition of anonymity recounted the political dynamics of the law's withdrawal from the executive's perspective (interview with the author 28 April 2001 in San José).
18. It is worth underscoring that the Costa Rican government lacked the option for 'restoring order' by repressive force. The use of the country's police for a large-scale repressive action against non-violent protest with broad public support would have shaken the foundations of the country's political and social system so profoundly that it was excluded. Moreover, the government was well aware of its limited practical ability to implement any such a repressive strategy. In the words of the anonymous Presidential advisor cited above: 'In any other country the government would declare a state of emergency, and if strikes would endanger the national electricity generation, the army would take over the power plants and guarantee at least a minimum of electricity supply. In Costa Rica, however, if the ICE staff refuses to produce electricity, there simply does not exist any other

- institution which technically would be able to operate it.’
19. In Bull’s (2005) comparative study on telecom reform in Central America, this is reflected in the title of the very chapter on Costa Rica which reads: ‘Costa Rica: In Defense of the Welfare State’ (Bull 2005, 82-128). See also Haglund (2006, 34ff).
  20. *La Nación*, 11 September 2000: ‘Desilusión y esperanza en ticos’; 12 September 2000: ‘Fuerte apoyo a la democracia ... pero crítica a los partidos y poderes del Estado’; and, 14 September 2000: ‘Dura crítica a partidos’.
  21. See the time series database provided by the *Corporación Latinobarómetro* at <http://www.latinobarometro.org>.
  22. For a more detailed analysis of these initiatives in expanding the digital technologies see Hoffmann (2004, 119-137) and Térmond (2000).
  23. On the corruption scandals and their political implications see Lehoucq (2005), Salom (2005), and Peeler (2006).
  24. Some argue that a new bipartidism is emerging, with the new PLN as a more liberal than social democratic force and Otton Solís PAC as taking the role of a left to centre ‘old PLN’. However, such an arrangement would still mark a departure from the type of accommodating bipartidism that had been characteristic of Costa Rica, as these two parties are much more divided over the political and economic paradigm to follow than had been the PLN and PUSC of Costa Rica’s traditional bipartidism. .

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