Particularly in developing countries, conventional wisdom is that laws go unenforced due to resource constraints or inadequate control of the bureaucracy. I instead introduce the concept of *forbearance*, of the intentional and revocable nonenforcement of law, and argue that politicians withhold sanctions to maximize votes as well as rents. I present an equilibrium framework and several methods to separate situations when politicians are unable versus unwilling to enforce the law. Each identification strategy is demonstrated with original data on the enforcement of laws against squatting and street vending in urban Latin America. These illustrations suggest the rich, and largely neglected, distributive politics behind apparent institutional weakness.
Forbearance

In much of the developing world, legal rules are ignored. Businesses skirt tax and labor regulations, unlicensed street vendors clog city streets, and squatters build houses on private property. This gap between lived reality and parchment law often is taken to reflect a weak state. As Levitsky and Murillo (2009: 121) summarize, “a major cause of weak enforcement is limited state capacity to monitor and sanction.” Indeed, classic definitions of state capacity center on whether authorities can make and implement binding rules for society (Levi 1988; Mann 1984; Migdal 1988; Skocpol 1985).

Different forms of state weakness take the blame for limited enforcement. On the one hand, a state can deter and penalize all offenses with sufficient police, judges, and bureaucrats. Few states, particularly in low-income countries, have this fiscal luxury. In this spirit, classic models in law and economics emphasize how budgets constrain enforcement (Becker and Stigler 1974; Becker 1968). Scholars have blamed budget cuts for widespread regulatory violations (Centeno and Portes 2006; Grindle 1996; O'Donnell 1993). On the other hand, enforcement can lag due to principal-agent problems. Politicians struggle to monitor the behavior of bureaucrats. Agents shirk or predate. As North (1990: 59) puts it, “Enforcement in Third World economies is uncertain not only because of ambiguity of legal doctrine (a measurement cost), but because of uncertainty with respect to the behavior of the agent.” Weak administrative capacity thus results in lousy enforcement. Both capacity-based approaches assume that politicians attempt to enforce the law and fail. This article disagrees.

In an important class of cases, states have the fiscal and administrative capacity to enforce their laws. Politicians choose not to do so. This article introduces the concept of forbearance to describe the intentional and revocable non-enforcement of law. Forms of forbearance differ in their
distributive incidence and mode of delivery, ranging from an intuitive corrupt subtype in which politicians carve out legal exemptions for political cronies to a more unexpected subtype of informal welfare provision in which laws are waved for entire less advantaged groups. Across subtypes, I argue that forbearance has three distinct features that make it a powerful form of distribution: it can be revoked, provided outside of the normal budgetary and legislative process, and used to target resources at individuals willing to bear the costs of illegality.

To be clear, the idea that politicians manipulate law enforcement is not new. A rich, largely qualitative literature describes the politics around the enforcement of specific laws. The primary contribution of this article instead is conceptual: I bring these isolated observations together into a single framework and propose strategies to identify forbearance empirically. Especially in developing countries where forbearance must be separated from institutional weakness, a series of empirical challenges arise: Given that governments face varying offense levels and perfect control is unachievable, how do we compare enforcement across space and time? And how can we separate circumstances when a government chooses not to enforce from those when it cannot enforce? I show how an equilibrium framework drawn from price theory improves comparisons, and distinguishes the often-confused issues of compliance and enforcement. I then focus on three ways to identify forbearance based on patterns of spatial variation, enforcement elasticities, and political bottlenecks. Popper (2002[1935]) famously argued that the meaning of concepts results from their falsifiability. I therefore present these methods not because they constitute an exhaustive set, but rather because they clarify and differentiate the concept’s theoretical content.

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1 For instance, excellent work has looked at the enforcement of regulations on labor and safety standards (Amengual 2015; Gordon and Hafer 2007; Ronconi 2010), environment (Burgess, Olken, and Sieber 2012; Ferraz 2007; Hochstetler and Keck 2007; Stern 2013), immigration (Ellermann 2009), business (Chubb 1982; Tendler 2002), tax (Bergman 2009), and construction (Dosh 2010; Holston 2008). For excellent summaries of reasons why laws go unenforced, see Levitsky and Murillo (2009, 2014).
The second part of this article applies the empirical strategies developed to enforcement against two common legal violations by the poor, street vending and squatting. To the extent that past scholars accept the premise that politicians shape enforcement, conventional wisdom is that they use their power to feather their own nests or favor their friends. Against this tradition of inquiry, I argue that local politicians manipulate enforcement to boost welfare and support among poor voters. To test this argument, I draw on evidence from an original dataset on police operations and street vending in 34 districts in Santiago, Chile, as well as administrative data on squatting in Bogotá, Colombia and Lima, Peru. Using the empirical strategies outlined, I show that the evidence is more consistent with forbearance than theories based on fiscal or administrative capacity. The picture that emerges is that forbearance toward laws that the poor violate is common in many developing countries not because administrative resources lag, but instead because welfare states fail to provide for basic social needs.

Forbearance toward laws that the poor tend to violate, in particular, merits scholarly attention because of the benefits at stake and their electoral impacts. Just reflect on a few descriptive statistics: Peru does more to redistribute income through forbearance toward taxes on informal businesses than through all other social spending combined (Lustig, Pessino, and Scott 2013). Permitting illegal immigrants to work in the United States redistributes more income globally than all American foreign aid by at least an order of magnitude (Weyl 2015). The tolerance of squatter settlements has been called the primary “subsidy” to win urban votes in Turkey (Keyder 1999), and transfers provide three-times more income to the urban poor relative to state social programs (Başlevent and Dayıoğlu 2005). Hence, the ways that laws are enforced should not be treated as trivial—or apolitical—choices.

The Concept
This article focuses on forbearance, as a distinct phenomenon from weak enforcement. In common parlance, forbearance describes decisions not to enforce a contract, debt, law or regulation. Here, I define forbearance as *intentional and revocable government leniency toward violations of the law*. There are three components to this definition—capacity, intention, and revocability—that I walk through and use to distinguish forbearance from related concepts in Figure 1.

First, institutional capacity distinguishes forbearance from forms of weak enforcement in which actors cannot enforce the law. It is nonsensical to talk about forbearance in parts of Sierra Leone or Haiti where the state apparatus barely penetrates society. Very corrupt bureaucracies likewise preclude enforcement. Without minimum resources or control over predatory bureaucrats, the outcome is uniformly weak enforcement, irrespective of a politician’s efforts. Identifying even a minimum level of institutional capacity is delicate because governments can withdraw state resources as a strategy not to enforce. The key theoretical point is that forbearance only occurs when states rise above a minimum level of institutional capacity, and plausibly can muster the infrastructure to sanction offenses.

Second, and most critically, forbearance requires a political choice not to enforce a law. Under my definition, the fact that laws go unenforced when minimum capacity exists is insufficient for a judgment of forbearance. There must, somewhere, be an intentional decision to change the enforcement outcome, be it an attempt to alter bureaucratic practices, eliminate the budget or stop sanctions. I recognize the high evidentiary bar associated with showing political intent, but it is theoretically necessary to separate forbearance from other ways in which limited enforcement can be observed, such as bureaucratic drift and selective policy implementation.² Mahoney and Thelen (2010), for instance, view enforcement as a locus for gradual institutional change because bureaucratic agents must enforce laws. Institutional “drift” results from bureaucratic

² Intent is central to other conceptual definitions; for instance, see Carpenter (2014) for a discussion of intent and regulatory capture.
noncompliance, as agents reinterpret or ignore formal rules. In contrast, forbearance requires that politicians take decisions over enforcement.

**Figure 1. Defining Forbearance**

Political intent also distinguishes forbearance from selective policy implementation, meaning when bureaucrats or politicians prioritize certain policies and ignore others due to budget constraints (O’Brien and Li 1999). In this case, low levels of enforcement arise as a byproduct of decisions to dedicate resources to more pressing policy areas. Such unintentional (although often foreseeable) noncompliance is different from forbearance. Intent is a fuzzy concept, but as I return to below, I give it concrete empirical meaning as a politician’s responsiveness (elasticity) to changes in resources or competing policy priorities. Consider a borderline case. In 2012, President Barack Obama issued an executive action to stay the deportation of young undocumented immigrants. Many argue that Obama decided to prioritize the deportation of felons, which required reallocating law enforcement resources away from children. This description suggests a case of selective policy implementation

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3 Obama expanded the Deferred Action for Childhood Arrivals in 2014 to allow the parents of U.S. citizens and lawful permanent residents to request deferred action.
because Obama responded to an external factor, the need to deport criminals. The implication is that Obama would deport children as well, if given additional resources. Others stress that Obama spoke out against the deportations on the grounds that they were “unjust.” He did not react to competing priorities, but made a choice about the desirability of enforcement. In other words, even if there were minimal felons on which to concentrate deportations or Congress increased the enforcement budget, Obama still would oppose the deportations of children. Which interpretation finds greater support is an empirical matter beyond the scope of this article. What forbearance—or an intentional decision to withhold enforcement—means is that a politician is unwilling to change enforcement, even as competing policy demands or resource constraints ease.

A third core definitional element is that forbearance is revocable. The state reserves the right to enforce the law and offenders believe that the rules can carry a credible sanction. This insecurity differentiates forbearance from cases of amnesty or legalization. There, the state formally surrenders its enforcement rights. Revocable decisions, on the other hand, are open to revision. A revocable decision can be formal. While amnesties of past presidents provided a path to citizenship, for example, Obama’s executive action only deferred enforcement. Subsequent presidents can reverse the order. More commonly, revocable decisions are made informally, as with verbal directives not to deploy the police against Muslim protesters (Wilkinson 2006).

The ease with which forbearance can be revoked varies. It is easiest to recognize forbearance when politicians maintain the resources and infrastructure to enforce at whim. As I show below, mayors in Bogotá refuse to sign eviction orders, even after legal cases progress through a long and cumbersome bureaucratic process. Enforcement can change with the stroke of a pen. But politicians also can stop funding enforcement institutions as a means of forbearance, as we will see in the case of squatting in Lima. In cases where forbearance only can be revoked through long-run investments, some may prefer to describe the situation as one of benign neglect or “standoffish”
state behavior (Slater and Kim 2015). But prolonged neglect can erode institutional capacity so thoroughly that a politician has no control, reverting to a situation of weak enforcement. I only consider intentional neglect to constitute forbearance if politicians have some ability to change enforcement, perhaps because they maintain information about legal violations for other purposes or can retrofit enforcement institutions from other domains. As such, Figure 1 connects benign neglect to forbearance with a dotted line to signify that it can, but does not always, constitute a case of forbearance. These cases are the hardest to distinguish from weak enforcement empirically.

A Typology of Forbearance

Enforcement (and its absence) has distributive consequences. More specifically, forbearance can be divided into subtypes based on its distributive effects and mode of distribution. I define the distributive incidence as in the economic analysis of taxes and transfers. Progressive forbearance occurs when lower tranches of the income distribution receive greater absolute or relative benefits through the tolerance of law breaking than upper trances. Regressive forbearance implies that upper tranches capture greater benefits.

Progressive and regressive forbearance are ideal types. Forms of forbearance may not fall neatly into these categories for a couple of reasons. The first is that the physical incidence (who receives the transfer) may differ from the economic incidence (who benefits once market prices have adjusted). A migrant worker, for instance, may earn higher wages than possible in her home country if able to work illegally. But migrant labor also can compete down wages, producing substantial savings to employers. This indirect incidence reduces the overall progressivity of forbearance toward immigration; it also creates additional interest groups with a stake in enforcement politics. Second, the physical incidence might not correlate with income, particularly for social regulations that raise issues of identity and moral values. Forbearance toward abortion restrictions, for instance, may result in the greatest gains for poor women who otherwise lack the
ability to travel or pay a private clinic to receive a safe abortion. Yet public opinion polls show that
the poor are less supportive of abortions, which would lead them to suffer greater non-pecuniary
losses if their views are ignored in the de facto liberalization of abortion access. Just as with social
programs more broadly, then, incidence calculations require analyzing more than the direct
beneficiaries. Laws fall on a spectrum in which some have clearer distributive profiles than others.

There are two ways that a government impacts progressivity through its enforcement
decisions. First, choices about which laws and regulations to enforce have distributive consequences.
In this case, progressivity depends on how the marginal utility of an offense changes with income.
Forbearance must be directed toward laws that the poor tend to violate (or benefit from indirectly)
to progressively distribute resources. The criminalization of homelessness clarifies the point.
Although facially neutral, vagrancy laws have a discriminatory impact on the poor, given that few
wealthy individuals choose to sleep under bridges when they have a home at their disposal.
Enforcement of laws that the wealthy tend to violate (“white collar” crime), like those against pure
cocaine use, foreign tax shelters or insider trading, has the opposite distributive consequences.

Other laws can benefit all income groups if ignored. In these cases, progressivity depends
on which groups are targeted for enforcement. Consider the case of enforcement against squatting. If
a government does nothing to prevent squatting, then the wealthy can take valuable pieces of land to
build large houses and absorb the greatest absolute benefit. However, the poor may receive the
maximum relative benefit given that they spend a greater share of their income on housing and they
are potentially judgment proof in the case of prosecution. Weak enforcement thus has mixed
distributive effects: it is likely regressive in absolute terms, and progressive in relative terms.
However, if the government prosecutes upper-class squatters and ignores houses in poor
neighborhoods, as we will see in Bogotá below, the result is solidly progressive. The incidence
depends not on the type of law, but rather on how governments use their discretion in enforcement.
Thus, forbearance can involve the withdrawal of enforcement from certain laws (selective enforcement) or from certain groups (uneven enforcement).  

The second dimension distinguishes between modes of distribution. Forbearance can be provided in a contingent manner to individuals or groups as a reward for other political behaviors, such as campaign contributions, bribes, votes or turnout. But, forbearance also can be extended in a transparent and unbiased way. I distinguish this mode as non-contingent in that it applies to the class group identified by the first dimension of the typology regardless of whether a particular individual supported or opposed the politician in charge of enforcement.  

These dimensions combine to generate four subtypes of forbearance shown in Figure 2. The left side corresponds to regressive subtypes that dominate much of the literature. When legal exemptions are provided to specific wealthy individuals, forbearance constitutes a standard form of corruption or cronyism. It is the flipside of targeted enforcement against political enemies. The quote ascribed to Brazilian President Gétulio Vargas best captures the sentiment: “For my friends, everything; for my enemies, the law.” The lower left corner corresponds to circumstances where forbearance extends to the rich as a class. The distinction from corruption is that the rich or powerful gain a general impunity that need not be negotiated in specific cases. If limited to a specific law, a type of capture emerges. If extended to all laws that the rich violate, then forbearance might undergird a type of plutocracy, or pluto-immunity.

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4 The inclusion of uneven enforcement is another way in which forbearance is distinct from selective policy implementation, which focuses on the prioritization of entire laws and policy areas.

5 These distinctions parallel those made between particularistic and programmatic policy. I focus on contingency because the criteria for forbearance often are not formalized and thus fall short on standard definitions of programmatic disbursements (Kitschelt 2000: 850; Stokes et al. 2013: 7).
FIGURE 2. A Typology of Forbearance

The typology also yields two progressive types of forbearance that allow us to make sense of other, less recognized distributive uses of enforcement. The upper right, which corresponds to a particularistic distribution of forbearance to favor the poor, is a clientelistic subtype. While poor voters can exchange bribes for forbearance, just as the rich, their main assets are votes, not money. Thus, they tend to offer their political support in exchange for favorable legal treatment, and run the risk of enforcement if it flags. Classic accounts of urban machine politics (e.g. Chubb 1982; Rakove 1976; Scott 1969) recognized that the failure of police to denounce violations in return for electoral favors was central to their political power, but this perspective largely has fallen out of recent work on clientelism. Lastly, forbearance can be extended to the poor in a generalized manner. Politicians may use income or other notions of material deservingness in their enforcement choices, but they do not demand political behaviors in exchange. I call this a welfarist subtype. Given that these progressive subtypes are the least recognized and the most relevant for mass electoral behavior, I focus on their empirical identification in the case studies of street vending and squatting.

The Distributive Origins of Forbearance

Forbearance occurs when politicians choose not to enforce the law, but what motivates these decisions? My definition of forbearance does not depend on a specific model of politics or mechanism. I emphasize three general features that make forbearance a powerful distributive tool in

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a range of settings: transfers are 1) revocable, 2) adjusted outside the normal budgetary and legislative process, and 3) targeted to those who risk violating the law. I then hone in on the logic of progressive forms of forbearance. I argue that forbearance toward laws that the poor violate is more prevalent in developing countries not because the police and bureaucrats are incapable of enforcement, but because social policy remains inadequate and hard to alter locally. In the absence of formal welfare alternatives, forbearance is a powerful tool to mobilize poor voters, while enforcement carries high political costs.

First, embedded in the definition of forbearance is the idea that politicians can extend and retract it at will. Revocability is important because it permits a form of dependent exchange in which those who violate the law require a politician’s continued benevolence. Because forbearance can be withdrawn if voters renege on their promises at any point—even after elections pass—it can mobilize voters both for electoral and non-electoral purposes. Forbearance thus circumvents the credible commitment problem inherent in many clientelistic exchanges. It cements political dependency and allows politicians to target unpopular or disloyal groups. For these reasons, politicians may prefer to grant insecure rights rather than change the law (on this point, see Boone 2009; Collier 1976; Onoma 2010). However, revocability also has a more benign interpretation. It allows for adjustments in the effects of laws to make them more appropriate to heterogeneous preferences across electoral districts or over time. As we will see below in the case of street vending, public opinion about enforcement varies dramatically by class group. Politicians bend laws not to exploit those who violate them, but rather to make law more responsive to locally defined preferences. Forbearance is a way to signal an understanding of local conditions, rather than an extractive tactic.

Second, forbearance occurs outside of the normal budgetary and legislative process, making it both an ideal source of corruption and informal welfare provision. Distributive benefits come
through negative action—withstanding state enforcement—rather than through positive provision that generates media, interest group, and legislative attention. For this reason, politicians can pursue unacceptable goals that would not survive the legislative process, such as absolving tax payments (Skouras and Christodoulakis 2011) or ignoring environmental infractions (Ferraz 2007) in exchange for campaign contributions. But the hidden nature of transfers also makes possible distributions to the poor that powerful interest groups otherwise might oppose in formal legislative debate. The groups powerful at the legislative and enforcement stages may differ, particularly in young democracies. As Scott (1969: 1142) notes, “A large portion of individual demands, and even group demands, in developing nations reach the political system, not before laws are passed, but rather at the enforcement stage.” For instance, the redistribution of private, or even state, land tends to be blocked by elites when proposed as formal legislation, but squatting has achieved similar informal effects, as we will see in the case studies. Forbearance, however, does not only result from “bad” laws that do not reflect popular sentiment. Preferences themselves can change when moving from abstract legislation to concrete enforcement, especially when vulnerable groups are at stake. I find, for instance, that 44 percent of respondents in a survey in Bogotá hold disjointed preferences over squatting: they both support prohibitions on squatting in the abstract, but oppose evictions when they involve concrete individuals in need. 6 Forbearance thus can be used to subvert majority preferences in its corrupt expression, but it also can bring law closer to popular views on law and its enforcement.

Lastly, while forbearance tends to be associated with discretionary favors for the rich, one of its primary distributive advantages is the ability to target the poor as a class. Illegality can be thought of as a type of “ordeal” to differentiate those in need. Nichols and Zeckhauser (1982) propose that many welfare programs impose deadweight costs to guarantee that only those who

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6 For another example of this disjuncture in the case of immigration, see Ellermann (2009). See Appendix for details.
need a transfer will receive it. A classic case is a long line at a social assistance office. While recipients waste their time in line, reducing the program’s productive efficiency, only those who depend on the benefit bother, improving the program’s target efficiency. Analogously, violating the law can be thought of as a type of ordeal that improves targeting at a cost to the recipients and society. For example, the poor are willing to live in squatter settlements without running water in the hopes of eventual property title. The middle class will not stand for the lousy living conditions, and also has more to lose in the case of a conviction. In contrast to the bottom-targeting achieved through forbearance, social programs in many developing countries historically have focused on formal sector workers, who do not represent the poorest segment of the income distribution. Even when not a deliberate targeting tactic, enforcement can carry high electoral costs when only the poor are attracted to violate a specific law. Forbearance thus can prioritize individuals willing to bear legal risks, making it a way to siphon resources to low-income groups and sometimes a more effective one than state social policy.

For this trio of reasons, forbearance can be a powerful distributive tool in a range of settings. Thinking more specifically about progressive forms of forbearance, my argument is that politicians face strong demands from the poor to secure basic social goods through forbearance when social policy is limited in scale or coverage. Meanwhile, enforcement carries heavy electoral costs because politicians remove needed benefits from their constituents, and more broadly appear insensitive to social needs. Faced with constraints on the level of tax-based redistribution, politicians use forbearance to boost transfers informally and mobilize electoral support. Incentives for forbearance therefore are strongest when politicians run for office in electoral districts composed primarily of poor voters, and for types of legal violations where effective welfare alternatives lag.

To review, a distributive logic reveals why politicians favor forbearance. One is that enforcement is revocable. Enforcement can be varied to accommodate voter preferences that differ
across space and time. Politicians, particularly in politically decentralized countries, sometimes use forbearance to make law more responsive to their constituency’s interests or special conditions. A second is that forbearance can boost the level of redistribution informally. This feature indeed permits politicians to pursue unacceptable goals that would not survive the legislative process. Yet, it also can allow politicians to advance socially acceptable goals when they face limits in other policy areas. In the case studies, I will emphasize the constraints that come from paltry welfare policies. Third, because the distributive benefits at stake require individuals to violate the law, forbearance can select for those in need and thus increase claims of deservingness among those who violate the law. Hence, although budgets, bureaucrats, and veto players constrain enforcement in many developing countries, politicians also have distributive incentives not to enforce the law.

Identification and Measurement

Tests for political explanations of enforcement have been relatively few. The very nature of forbearance—an intentional withholding of enforcement that is not readily distinguished from state weakness—complicates attempts to document it carefully and explain variation in its use. Here, I propose three strategies to identify forbearance that also serve to underscore its theoretical meaning. Each method offers indicative, but partial, evidence of forbearance. When combined, these strategies can compensate for their individual weaknesses and offer persuasive evidence of forbearance.

Equilibrium Correlations

All studies of enforcement struggle with an issue of reverse causality between offenses and sanctions. This endogeneous relationship has led scholars to interchange the concepts of compliance and enforcement, as well as their measures. For instance, Levitsky and Murillo (2009: 117) define enforcement as “the degree to which parchment rules are complied with in practice,” and advocate operationalizing enforcement through measures of offenses, sanctions or inputs.
However, this approach to measurement makes it difficult to distinguish whether variation stems from differences in underlying offense levels or government sanctions. It also ignores the possibility that politicians choose not to enforce the law when resources are available.

I propose a different approach, drawing on work in law and economics, which thinks of enforcement as an equilibrium outcome determined by the interaction between offenses and sanctions. On the one hand, the most basic assumption of crime control is that fewer individuals will violate the law as governments invest more in punishing offenses. We therefore can think of a demand curve \((Compliance)\), which represents the level of offenses in a society as a function of government sanctions. This curve slopes downward because offenses decline with sanctions. On the other hand, sanctions also respond to the level of offenses. Even governments that are not keen to enforce will allocate more resources to enforcement as the negative externalities imposed by the activity increase. Thus, the equilibrium also is determined by a government supply curve \((Enforcement)\), which traces out the level of sanctions as a positive function of the level of offenses.

A naïve approach to forbearance is to compare enforcement, such as the number of fines and sanctions, across political units or time. However, an equilibrium approach reinforces that there are two ways in which limited sanctions can be observed, through differences in the level of offenses or in government behavior. Think about two political units, \(a\) and \(b\), which are alike in most ways. Citizens in \(a\) may have strong social norms against a given legal violation so the entire compliance curve is shifted inwards relative to district \(b\), as in the left panel of Figure 3. So, for any level of sanctions that government \(a\) does, it faces fewer offenses. Another possibility is that \(a\) has a similar culture of compliance as \(b\), but the government in \(a\) opposes enforcement. The entire supply curve is shifted outwards, as in the right panel of Figure 3. For any level of legal violations, \(a\) chooses to do fewer sanctions than district \(b\). A comparison of sanctions alone gives us no leverage to distinguish these two scenarios.
Beginning to distinguish the causes of variation in enforcement requires data (or at very least assumptions) about the distribution of both offenses and sanctions across political units. Drawing on the classic theory of identification of supply and demand curves (Working 1927), the key insight is that the correlation between offenses and sanctions suggests different causes of limited enforcement. Suppose the variation across units—whether political districts, time periods or subpopulations—is driven primarily by the demand (compliance) curve rather than the supply (enforcement) curve. In this case, we see each unit has its own compliance curve, represented by the shifted dotted lines in the left panel of Figure 3. Units trace out an upward sloping relationship when we observe each one in equilibrium (dots). This positive correlation corresponds to a “rational” enforcement model in the sense that it follows the basic economic model that governments engage in more sanctions when there are more offenses. Think of tax enforcement. Self-employed workers can evade taxes more easily than firms. If we look across districts, I expect to see that tax authorities do more audits in districts with high rates of self-employment. If, on the other hand, the enforcement choices of governments fluctuate more than compliance (corresponding formally to more variation in the enforcement supply curves across units), a different

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7 A correlational strategy is based on the relative magnitude of the forces that shift the curves, given that both curves can shift at the same time. It therefore only reveals that one force is more important than the other.
pattern emerges. A line drawn to fit a range of political units will slope downward, as shown in the right panel. A “political” enforcement model predicts that governments exert less effort against offenses, which in turn encourages more legal violations. For example, imagine that some governments are known to be tax havens, which leads firms with shady practices to locate to those districts. Lax enforcement then attracts more tax violations. Put another way, a negative correlation is indicative of different political choices (enforcement-side variation), whereas a positive correlation suggests the same enforcement policy, tailored to different offense levels (compliance-side variation).

The fact that enforcement variation stems from the government supply does not isolate whether politicians are unable or unwilling to enforce the law. Given that the main threat to inference comes from variation in enforcement capacity, one strategy is to control for budgets, bureaucrats, and other observable inputs. More offenses still should be associated with less enforcement after adding institutional controls. But, given possible unobserved variation in institutional capacity, the strategy is most effective when there are exogenous shifters in the motivations for enforcement, such as electoral cycles across time or poverty across districts, as we will see in the case of street vending below. I now suggest how a method based on enforcement elasticity can compensate for the equilibrium approach’s inability to pinpoint the causes of government-side variation in enforcement.

Resource and Electoral Elasticity

The main hurdle to show forbearance is evidence of political intent. Simply asking politicians why enforcement lags raises concerns about “cheap talk.” Politicians may blame a lack of resources when they use forbearance to extract votes or resources, or they may claim benevolent welfare motivations to mask institutional weakness. Due to this risk, I consider a strategy to infer intent from the elasticity of enforcement. Elasticity refers to how responsive one variable, in this
case enforcement, is to a change in another, like budgets, technology, or competing social concerns. Building off the equilibrium framework, the goal is to examine what factors lead to small or large shifts in the enforcement supply. A theory of forbearance implies that resources produce minimal change in enforcement, while electoral factors result in a large shift.

To walk through this reasoning, start with a budget constraint, representing government resources that can be spent on a set of goods and services. For simplicity’s sake, a politician allocates resources between enforcement and all other social goods, as shown by the budget constraint $B$. An exogenous change may reduce the cost of enforcement. For example, a new technology, such as satellite imagery to track illegal logging or squatter settlement expansions, could reduce the costs of enforcement activities. Such a reduction moves the budget constraint to $B'$. If a politician wants to enforce the law, but is constrained by funds, the elasticity of response will be large. This responsiveness to changes in costs is represented visually by a steep indifference curve in which the politician is willing to trade substantial social goods for improvements in enforcement. In this case, the fall in the price of enforcement leads to a substantial increase in the amount of enforcement, as shown by the move from $a$ to $a'$ in the left panel of Figure 4. This scenario also corresponds to theories of selective policy implementation in which enforcement lags because politicians prioritize other social goods. If demand for these other social goods drop, it is equivalent to a shift in the budget constraint and allows politicians to engage in additional enforcement.

Conversely, a politician who does not want to enforce has a flat indifference curve. Additional enforcement requires a substantial sacrifice in other social goods, as shown by the almost horizontal indifference curve. The same change in resources from $B$ to $B'$ produces no increase in the level of enforcement, as in the right panel of Figure 4. There is no movement ($a$ and $a'$ are equivalent) as resources change. Forbearance thus can be distinguished by an inelastic response to changes in the cost or budget available for enforcement. This point reinforces the meaning to
intentional non-enforcement: a politician is unwilling to increase enforcement no matter how cheaply it can be done, or the extent to which other social problems command attention.

**Figure 4. Elastic (Left) and Inelastic (Right) Responses to Enforcement Costs**

In contrast to inelastic responses to resource change, forbearance suggests a high elasticity to changes in electoral costs. For example, forbearance can be distinguished by political enforcement cycles, much like budget cycles observed for other distributive goods. The expectation is that enforcement will drop prior to elections to boost the distribution of resources. More generally, enforcement may vary with the competitiveness of elections, electoral rules (e.g. term limits, appointed versus elected mayors, and so on), or media attention that alter the political costs of enforcement. Observations of electoral patterns suggest institutional slack to change enforcement along with shifting political conditions, rather than binding capacity constraints.

Elasticity measurements provide a cleaner indicator of the causes of enforcement variation than the equilibrium analysis on its own. However, finding moments of exogenous resource or electoral changes can be tricky. Budget increases, for instance, often occur when economic conditions improve generally, also reducing the need to violate certain laws. Politicians therefore may appear unresponsive, when actually boosting sanctions toward declining regulatory violations. This strategy ideally is used in conjunction with the equilibrium analysis. However, endogenous
dynamics are hard to disentangle even with the best cross-sectional data, let alone often-patchy data on legal violations over time. The elasticity approach also paints a stark dichotomy between institutional weakness and political incentives. In many cases, politicians manipulate enforcement, but also operate in the context of substantial resource constraints and competing concerns. The final empirical strategy—a quantitative approach to process tracing—takes another approach to the endogeneity problem suited to data-poor environments and tries to separate the fraction of enforcement variation attributable to capacity and political constraints.

*Enforcement Process Tracing*

Enforcement process tracing tackles the endogeneity between offenses and sanctions in a different way: by looking at government behavior in response to a set of legal violations. Enforcement entails a sequence of behaviors that runs from the detection of an offense to administrative action to the imposition of a sanction. By following each stage, this sequential approach brackets the question of how past political choices about enforcement affect the offense level.

Empirical studies of forbearance must have some notion of enforcement under institutional constraints as a counterfactual. Perfect enforcement is impossible. In any country, rich or poor, we expect some natural “loss” to occur at each step of an enforcement process. The challenge is that we do not know how hard each part of the process is, or more technically, the functional form of the loss function. Absent additional information, a reasonable null hypothesis is one of constant attrition. Statistically, this reasoning suggests a log-linear function, in which the same proportion of cases fails at each stage of the enforcement process (a constant hazard rate). For count data, constant proportional differences are a more plausible and typical assumption than absolute differences. A system that arrests 1000 people for 100,000 offenses is unlikely to convict 1000 of 2000 people charged with a crime. Under the proportional model produced by the logarithmic
transformation, the same percentage would hold for both, such as 1000 of 100,000 arrests and 20 of 2000 charges. While a more precise approach is to calibrate the model using data on other offenses or political units, constant attrition is a sensible baseline absent additional information.

Compared to an alternative theory of constant institutional weakness, forbearance implies that enforcement procedures stop at political bottlenecks. Politicians should make decisions to halt enforcement, even when bureaucrats and police perform their jobs. A sharp deviation from a log-linear trend occurs at the points at which politicians can influence the enforcement process. Bottlenecks are a necessary, but not a sufficient condition to establish forbearance because of the unknown functional form. Deviations can occur because some procedural steps are harder than others. Additional observations, such as direct interventions where politicians act to bring about the bottleneck or larger drops for politically sensitive cases, give strength to a forbearance analysis.

In sum, these empirical strategies are useful in combination with each other. None is a silver bullet. But they all offer falsifiable predictions that diagnose and refine the meaning of forbearance. An equilibrium approach underscores that forbearance need not involve zero enforcement; it means a reduction in sanctions at any given level of offenses. The correlation between offenses and sanctions in equilibrium separates variation in enforcement due to government choices from that due to societal compliance. Observations of how governments react to resource and electoral changes—or the enforcement elasticity—narrow the reasons for government-produced variation. Finally, process tracing confirms that politicians act to produce the observed enforcement patterns. Bottlenecks occur at moments when politicians exercise discretion, rather than moments that require substantial resources. To demonstrate all three of these conditions, preferably through a combination of qualitative and quantitative data in which various types of evidence corroborate one another, amounts to a gold standard of proof.
Street Vending and Squatting in Urban Latin America

It is common in the natural world that not all empirical strategies can be employed simultaneously, or at least not as cleanly as desired. To make the empirical strategies and challenges more concrete, I examine enforcement against unlicensed street vending and squatting. These are two of the most common legal violations in developing countries, and they illustrate both a case of selective enforcement, given that street vending tends to be done exclusively by low-income groups without better labor market options, and uneven enforcement, given that the rich and poor have taken land to build housing. In both cases, I argue that politicians use forbearance to win votes and patch over the inadequacy of social policy alternatives. This argument coincides with qualitative work that recognizes the intense negotiations between politicians and street vendors and squatters (e.g. Dosh 2010; Fischer 2008; Gay 1994; Stokes 1995). It contrasts with explanations focused on problems of institutional resources and corruption (e.g. Cross 1998; O’Donnell 1993; De Soto and Gheres 1989; Tripp 1997). Given that the main focus here is to demonstrate how to identify forbearance, detailed description of the data sources, interviews, and summary statistics are included in the Appendix.

Street Vending in Santiago, Chile

I begin with the case of unlicensed street vending in Santiago, Chile, because it is a least-likely case. On standard measure of state capacity, such as bureaucratic quality and tax collection, Chile excels. High levels of institutional capacity make it unlikely to observe weak enforcement under capacity-based theories. Yet, an estimated 53,000 unlicensed street vendors work selling everything from feather dusters to used clothing in the streets of Chile’s capital, Santiago. Why does the government tolerate these public violations of the law?

Chile’s combination of police centralization and political decentralization makes it an ideal case to analyze using an equilibrium approach. A single national police force (Carabineros) controls
enforcement of legal violations. At least formally, then, these are no differences in institutional quality or police resources across space. However, Santiago is divided into 34 sub-districts (comunas), each of which elects a local mayor. Mayors therefore can select enforcement policies consistent with their constituents’ preferences.

The direct beneficiaries of forbearance toward street vending are poor workers. Surveys suggest that more than three-quarters of street vendors earn below two-minimum wages (Assef Saavedra 2005: 63), although wages vary wildly with the goods sold and location. There also are indirect benefits from street vending, such as lower-priced consumer goods. Technically, street vending is a property law violation because vendors occupy public space for personal commercial gain. The costs fall on the public at large, and include a loss of public space, traffic congestion, and additional business competition. While some businesses use street vendors to distribute their products, I consider street vending to be an economically progressive legal violation, given that the main benefits go to vendors themselves and price-sensitive consumers. This distributive incidence is confirmed in public opinion polls on street vending. In separate research (Author’s Survey 2013), I show that 73 percent of poor voters approve of street vending, compared to 23 percent of nonpoor voters. This split does not exist for white-collar crime or violent crime, for which more than 95 percent of all respondents disapprove.

Given class-based preferences, I expect that enforcement will vary with the share of poor voters in an electoral district. In part as a legacy of the dictatorship’s relocation policies, residential segregation is marked in Santiago. Some districts concentrate poor residents; others have almost exclusively wealthy ones. In districts with high concentrations of poor residents, politicians are more likely to forbear and attract more vendors due to their lax enforcement policies. In districts with few poor voters, the most viable strategy is to enforce, following most voters’ preference and displacing vendors to poor districts. Therefore, consistent with the equilibrium strategy proposed, I
expect a negative correlation between offenses and sanctions across districts. Of course, poor districts differ in other ways: they may collect fewer taxes, receive worse police attention, and employ less well trained bureaucrats. To distinguish capacity-based explanations, I expect district demographics to predict enforcement only for offenses where class preferences over enforcement differ, and not more broadly for violent crime that everyone opposes.

No off-the-shelf data are available to measure enforcement against unlicensed street vending. I therefore collected records from each district government, and administered a survey to the director or sub-director of the district office in charge of street commerce and inspections. As an indicator of sanctions, I measure the number of police operations that involve decommission of merchandise or equipment. I use the number of unlicensed vendors recorded by inspectors to estimate offenses. Crime data are available from the police, and include both arrests and reports of crime to proxy for sanctions and offenses, respectively.

Figure 5 presents the results of a comparison of enforcement patterns. As the left panel shows, there is a negative relationship between enforcement and street vending, as predicted by a theory of forbearance. Beyond the general correlation, poor districts both tend to have more street vendors and do less enforcement. Nonpoor districts generally have fewer street vendors, and do more police operations. The relationship is attenuated by the fact that some districts have such complete control (or unprofitable conditions that discourage vendors) that operations are unnecessary. Crucially, the right panel confirms that a clear contrast emerges with the case of hard crime that all citizens want to control. The relationship is strongly positive and no differences exist between poor and nonpoor districts. These observations suggest that the police follow the same enforcement approach and only change their behavior based on the crime rate.
Chile’s institutional design permits a type of elasticity exercise. In most contexts, the fact that poor districts enforce less and have more legal violations could reflect their inferior resources and institutions. However, because the national police control enforcement in all districts, it is unlikely that differences in institutional resources account for the negative correlation observed for street vending. Competing local policy priorities also cannot easily explain the pattern given that enforcement does not require use of municipal resources. By holding fixed the institutional environment, and looking across electoral districts, the elasticity has to be with respect to the decisions of mayors. Furthermore, the elasticity to electoral conditions appears to be high. Not every district maintains records on enforcement operations in previous years. However, in five districts where I could locate a time series, operations decreased by more than half in the months before an election.

Another way to think about the elasticity to electoral conditions is to observe whether mayors who run for office in different districts change their behavior. A notable case comes from the former mayor of Santiago, Pablo Zalaquett. Zalaquett represents a conservative party (Independent Democratic Union, UDI), and began his career in politics as the mayor of a poor district, La Florida. La Florida conducts minimal enforcement operations against street vendors. Prior to municipal elections, the mayor even appointed a special advisor to manage street vending in
order to sidestep inspectors who try to sanction vendors. Operations to decommission merchandise fell from an average of three per month in nonelection years to zero. In 2008, Zalaquett ran for mayor of Santiago, a middle-income district and business center. Still representing the UDI, Zalaquett promised frequent control operations against street vendors and emphasized order in his “I Want a Clean Santiago” campaign. Zalaquett’s opponents tried to shame him for his inability to control street vending in La Florida, and circulated photos showing a proliferation of street vendors in La Florida. Nonetheless, fulfilling his promise, Zalaquett has conducted frequent street vending control operations in Santiago center. The change in behavior—the same politician with the same party has pursued radically different enforcement operations as he moved districts—is one example of how concern about electoral repercussions leads to swings in enforcement behavior and overwhelms even partisan ideology.

Lastly, a loose version of enforcement process tracing confirms that mayors intervene to stop sanctions, rather than facing resource constraints. While formally the police can initiate operations on their own, mayors emphasize that the police only intervene when asked because the police know that street vending is “a way for the poor to make a living in Chile.” If enforcement drops off in poor districts because the police are less responsive to these areas, I should observe mayors demanding police presence and waiting for an institutional response. This is not the case. Rather, mayors say they do not call the police because it would jeopardize their constituents’ welfare and their electoral chances. As one remarked, “If you bring the police, you are worse than

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8 Author interview with José Luis Fouticelle, Head of Inspections, District of La Florida, Santiago, Chile, June 20, 2012.
10 More generally, I find no difference in the number of operations conducted by mayors from left and right parties once controlling for district demographics.
11 Author interview with Pedro Isla, Mayor, District of San Ramón, Santiago, Chile.
Pinochet.” Enforcement thus breaks down at a political decision point in which mayors decide whether to ask for police presence, not at the moment in which the police need to mobilize resources to respond.

Qualitative interviews with politicians and bureaucrats reinforce that politicians in poor districts prefer not to enforce due to the distributive and reputational costs. Although Chile has made dramatic progress to reduce extreme poverty, unemployment remains the Achilles’ heel of left-leaning administrations. Unemployment insurance covers less than a quarter of the workforce, and local job intermediation programs struggle to crowd out demand for short-term employment. Politicians’ observations that street vending is a “palliative for macro problems,” and that “disorder is necessary for people to work” were typical of the links made between forbearance and unemployment problems. Mayors in nonpoor districts, in contrast, rejected forbearance as a way to solve employment issues and stressed that their constituents demanded “cleanliness and clear streets.” The perceived electoral costs of enforcement also differed dramatically across district types. I asked the director of inspections in all 34 districts whether they believed that mayors gained (“1”) or lost (“10”) political support when they removed street vendors. The mean response in poor districts was a three, compared to an eight in nonpoor districts. In contrast, when asked whether it was common for the police to take bribes to remain in city streets. Not a single bureaucrat, nor the dozen leaders of street-vending organizations that I interviewed, agreed. Thus, politicians face different incentives to manipulate enforcement depending on the district where they run for office, and block or request enforcement accordingly.

12 Author interview with director of inspections, District of Pedro Aguirre Cerda, Santiago, Chile, June 26, 2012.
13 See Sehnbruch (2006) for an overview of the Chilean labor market, and reliance on street vending in periods of unemployment.
14 Author interview with Tamara Homel Navarro, Councilor, District of Pudahuel, Santiago, Chile, January 17, 2012.
15 Author interview with local councilor, District of Puente Alto, Santiago, Chile, June 20, 2012.
16 Author interview with councilor, District of Providencia, Santiago, Chile, January 6, 2012.
To review, this case study showed how the empirical methods presented can be combined to make a persuasive case for forbearance. Using a unique dataset on both vendors and control operations, I documented a telltale negative correlation between offenses and sanctions. While this pattern on its own only reveals that variation comes from supply-side choices, it is persuasive evidence of forbearance in Santiago, given that the police do not vary across space. Moreover, a placebo test showed that this pattern does not emerge in the case of violent crime. Additional observations of the enforcement elasticity—such as evidence that sanctions drop around elections, and mayors change enforcement when they run for office in different types of district—further confirmed the electoral logic driving forbearance. I also found political bottlenecks in which mayors refused to call in police to control street vending. Rich qualitative evidence reinforces that electoral concerns about enforcement in the absence of effective unemployment programs drive the enforcement patterns.

Squatting in Bogotá and Lima

While Santiago was a hard theoretical case, it was an easy case from a measurement perspective. An available resource, national police support, went unused in systematic ways. I now consider how to identify forbearance in perhaps the more common case where capacity constraints and political choice mix. I focus on a paired comparison of squatting in Bogotá and Lima to highlight some of the perils of measurement strategies regularly used to compare enforcement, and the identification challenge in weaker institutional environments. According to national household surveys, Lima has triple the squatter settlement population compared to Bogotá. But these statistics alone tell us little about enforcement. Lima is a sprawling city known for its open desert land, while mountains hem in Bogotá and limit the quantity of open land for seizure. An equilibrium approach could account for the joint patterns of offenses and sanctions. However, enforcement against squatters is such a rare event that there is minimal variation to analyze. Given these different
starting conditions and the rarity of sanctions, enforcement process tracing is ideal to analyze how politicians respond to squatting. I collected administrative data on each step of the enforcement process to identify political bottlenecks, as well as testing the elasticity of enforcement responses. As in the case of street vending, I highlight that mayors prefer forbearance due to the inadequacy of social policy—in this particular case, housing—rather than problems of institutional weakness in the police or bureaucracy.

Like unlicensed street vending, forbearance toward squatters tends to be economically progressive and divide the public along class lines. Most squatters come from the bottom third of the income distribution (INEI 2011; Author’s Survey 2013). In Lima, most squatting occurs on state land, thereby transferring public resources to low-income groups. In Bogotá, squatters build on private or state land zoned for other purposes, such as environmental protection zones. Unlike in past decades, most squatters pay an intermediary to locate land on which to build. On average in Bogotá, for instance, the poor pay $2000 for a lot without services or adequate zoning, which provides a hefty profit to intermediaries. The city government then pays the cost of service extension, which hikes the price of serviced lots to $9,900 (Maldonado Copello 2009: 332). The costs, including occupied state land, inefficient service provision, and urban sprawl, fall on the public at large. Consistent with the progressive incidence, public opinion divides on squatting. While 44 percent of upper-class respondents support evictions of squatters, just 26 percent of lower-class ones do (Author’s Survey 2013).

Enforcement process tracing begins by specifying the universe of cases against which a government could have acted. A “case” involves an individual construction (that houses five people on average), not an entire squatter settlement. Although imperfect, administrative data sources can help give an upper bound estimate of offenses. A plausible measure of the wider universe of illegal land occupations in Bogotá comes from the number of new “provisional” water connections. Each
household in an informal settlement almost immediately applies to receive water, and the city’s water company acquiesces to avoid service theft and comply with the Constitutional Court’s mandate. According to the water company, there were 23,024 new “provisional” connections in Bogotá between 2006 and 2011. Lima does not automatically grant squatters access to water so the same measure cannot be used. However, the Peruvian household survey does ask respondents if they live in a house formed accessed through a land invasion and if they have a property title. The deadline to receive property titles ended in 2004 so households lacking property title likely built their houses after that date. By this metric, there are almost 90,000 new squatter households.

The city governments in Lima and Bogotá take fundamentally different approaches to the detection of squatters. In 2003, Bogotá created an agency to monitor illegal construction through a combination of satellite photography and teams of engineers. The agency has registered 13,931 illegal land occupations from 2006 to 2011. Authorities spotted around 60 percent of informal land occupations. In contrast, calculating how many illegal land occupations are detected is complex in Lima because no single agency monitors squatting. By law, the Lima city government is supposed to report illegal land occupations to the state agency that owns the land. But monitoring is minimal. The city planning authority follows land invasions through newspaper reports, and not a single inspector monitors illegal land occupations. Other levels of government fare little better. The national land agency has no monitoring procedures, or even a detailed registration of its holdings, which means that it takes months to determine if invaded land even belongs to the state. I found that only a handful of district governments had any type of proactive monitoring of land invasions. Combined across district, city, and state institutions, I found 5,920 cases, or just 6 percent of all

17 Author interviews with Carlos Escalante, Executive Director, Metropolitan Planning Institute, Lima, Peru, June 23, 2011; Alvaro Anicama Gonzalez, Director, Inspections and Control, Lima Metropolitan Municipality, November 20, 2011.
illegal land occupations uncovered from household surveys, were sent to state attorneys to take action in Lima.

After detection, the next steps in the enforcement process require bureaucrats to open an administrative case against an illegal land occupation. In Bogotá, detection is the responsibility of the city government, but sub-city districts (localidades) take responsibility for subsequent administrative proceedings. District governments face a number of obstacles unique to enforcement in a context without addresses. City officials identify illegal land occupations using geographic coordinates, but district officials do not have GPS units or choose not to carry them due to high crime rates. Relying on photographs and approximate locations, local officials struggle to identify land occupations because physical appearances change rapidly. Between visits by officials, an isolated, tin shack can be enclosed by hundreds of similar ones. Once located, all legal correspondence must be hand-delivered, which means that the identification process needs to be repeated multiple times. Legal cases must be filed against the owner of the construction; squatters claim to be renters to avoid responsibility. Given these obstacles, roughly 20 percent of illegal land occupations result in administrative actions. Likewise, legal and administrative procedures to identify individual legal claimants greatly slow enforcement in Lima. I found just 180 cases against illegal settlements open across all state entities, involving roughly 4,500 claimants.

After opening an administrative case, courts also must issue the sanction. In Bogotá, the court process allows those affected by enforcement to file constitutional appeals (tutela), which can delay and even undermine sanctions. Once the court authorizes an action, the case returns to the district government. About 39 percent of administrative actions make it through the judicial review to end in a demolition order. Unfortunately, determining the number of cases with demolition orders is impossible in Lima. Most legal cases end with judicial resolutions to expropriate the land in
favor of the squatters. Precisely because of the weakness in institutional procedures, there is much greater uncertainty about how cases move through the enforcement process in Lima.

The final step in the enforcement process—and the one most commonly measured—involves the imposition of a sanction. In both cities, politicians play a key role in this stage. In Bogotá, mayors must sign and schedule the removal of an illegal construction. But mayors largely refuse to sign or postpone evictions until cases pass their statute of limitations. Only 4 percent of court orders result in a sanction being imposed, which is the lowest rate of efficacy in the entire enforcement process. In Lima, the data again are less clear, but the Attorney General’s Office estimates that 5 percent of cases result in evictions.

Figure 6 visually summarizes the “leakage” at each step of the enforcement process, ending in almost no sanctions. On the vertical axis, I log the number of cases so the change can be interpreted as the percent decline at each step. In other words, the straight dotted line represents the proposed counterfactual of constant attrition. In Bogotá, the rate of institutional leakage, about a third, seems higher than that observed in Lima. What is most important is that a sharp deviation occurs from the log linear trend when mayors have to sign eviction orders. This drop suggests a political bottleneck at the point where mayors exert the most control over enforcement in Bogotá. In Lima, a major drop-off occurs in the number of cases that enter the legal system in the first place. Local mayors have a strong impact on detection because they observe illegal land occupations in their districts, and see no political benefits in reporting them.

It is possible that political bottlenecks reflect administratively challenging parts of the enforcement process. However, this is not consistent with bureaucratic assessments. To bureaucrats, by far the most complicated part of enforcement is identifying claimants against whom they can issue a sanction. In Bogotá, almost every housing bureaucrat interviewed (24 of 26) considered the political costs of enforcement, not resource or technical limitations, to be the main
constraint on enforcement. I also asked bureaucrats whether they believed that the mayor lost (“1”) or gained (“10”) votes if he enforced against illegal land occupations. The average response was a “3,” and only one bureaucrat believed that the mayor would gain electoral support. Typical sentiments were that, “Any politician who dares to do [evictions] dies politically”\(^{18}\) and “No mayor will have a political career going after the poor who build simple houses unless they have somewhere to put them.”\(^{19}\)

**Figure 6. Enforcement Process Tracing of Squatting in Bogotá (Left) and Lima (Right).**

In Lima, institutional capacity does play a greater role. Bureaucrats divided on the role of political and resource constraints, with half (14 of 25) naming political costs as the primary obstacle. Only one bureaucrat thought that mayors gained political support through enforcement. However, the lack of enforcement capacity itself is a deeply political choice that could be reversed.

Information on squatter settlements is maintained for a host of purposes unrelated to enforcement, which would allow mayors to do far more against squatters if they so desired. Squatters approach the police for certificates to verify their physical occupation of land, and register their neighborhood associations with a national agency to then receive authorization for public services and programs.\(^{20}\) Mayors use this information to report invasions to authorities when the case involves valuable

\(^{18}\) Author interview with judicial advisor, Rafael Uribe Uribe, Bogotá, Colombia, July 7, 2010.

\(^{19}\) Author interview with housing director, Rafael Uribe Uribe, Bogotá, Colombia, July 7, 2010.

\(^{20}\) National registration occurs through the Superintendency of Public Registries (SUNARP); district registration occurs through offices of citizen participation.
resources, such as land reserved for public goods, archeological reserves, and so on. Yet mayors bristled at the idea of reporting “ordinary” squatters because they believed that the state had no other way to provide housing to their constituents. As one mayor put it, “We can’t stop land invasions when there is no policy from the central government to offer housing to people.”\textsuperscript{21} Even the head of the national land agency blames limited detection on the fact that politicians and citizens do not view enforcement as legitimate without housing alternatives.\textsuperscript{22} Thus, mayors have the ability to increase detection at very little cost. They choose not to do so.

Analysis of the elasticity of enforcement further confirms a model of forbearance. I do this in two ways: by comparing responses by types of offenses in Bogotá, and by enforcement costs in Lima. In Bogotá, both the poor and rich have built houses in the environmental preserve that borders the city. Under institutional capacity theories, enforcement against the rich is surprising because of their superior access to lawyers and larger constructions. Yet these demolitions also have lower political costs because they do not involve sympathetic claimants in need of housing. Consistent with these different electoral costs, I found that all evictions conducted involved nonpoor claimants or vacant lots. Mayors explicitly have defended the poor who have built their houses in Bogotá’s hillsides against enforcement, often legalizing their constructions. For instance, a court order required the removal of all construction in the forest preserve that rings the city.\textsuperscript{23} Bogotá Mayor Gustavo Petro instead signed a pact to stop enforcement against illegal land occupations by the poor, while taking a hard line against wealthy groups that built in the preserve.

As he told the press, “We only want [the agreement] to protect land in the forest preserve that

\begin{footnotesize}
\begin{enumerate}
\item Author interview with Washington Ipenza, Mayor, Villa María del Triunfo (1984-86, 1999-2006), June 18, 2011.
\item Author interview with Sonia Cordero, Superintendent, Superintendency for State Goods (SBN), Lima, Peru, November 24, 2011.
\item In 2006, environmental groups brought a lawsuit against the city government for its failure to protect the preserve from urbanization. Environmental advocates won in the lower court, which ordered the city to remove all constructions from the preserve and protect the area from future land occupations.
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\end{footnotesize}
traditionally has been used as neighborhoods in the eastern hill and that are low-income neighborhoods, we do not want a single square meter more of the hills touched by construction industry interests and to capture rents that end up impoverishing the city” (emphasis added).\textsuperscript{24}

In contrast to the sensitivity to electoral costs, enforcement behavior is unresponsive to changes in the administrative costs. Consider the use of new technology in Bogotá. The city’s housing agency uses sophisticated satellite imagery to provide high-quality information to authorities, which helps local bureaucrats concentrate their inspection efforts. But complex administrative work still ends without a sanction when cases involve poor households. Likewise, consider how the Peruvian government has responded to the rise of new technology: drones that take aerial photographs. For decades, local and national authorities have fought illegal land occupations on archeological sites with variable success. With the increasing availability of drones, the government is able to monitor encroachments in real time. Evictions of squatters on archeological land have increased.\textsuperscript{25} This change in enforcement activity in response to a reduction in the cost of monitoring shows that the government prefers to enforce on archeological sites, but previously faced constraints. Yet, the same technology has not been used to control squatting in peripheral urban areas where the poor tend to occupy land for housing purposes. Interviews with local mayors confirmed this split approach in which “empty land” could be turned over to the poor for housing purposes, while archeological land demanded cooperation with national authorities and new technology.\textsuperscript{26} Hence, Peru’s incomplete adoption of new technology that reduces the costs of enforcement suggests that capacity constraints are not the full story.

\textsuperscript{24} “Petro no permitirá construcciones en los Cerros Orientales,” \textit{El Espectador}, 26 Jul 2013; “Firman pacto para atajar construcción en los cerros orientales de Bogotá,” \textit{El Tiempo}, 26 July 2013. Petro also has shifted the enforcement focus to intermediaries who sell land in areas unsuited for urban development, rather than the purchasers.


\textsuperscript{26} Author interview with John Barrera, Mayor, District of Ancón, Lima, Peru, December 1, 2011.
Mayors in both cities emphasize that the main constraint on enforcement is housing policy. Housing expenditures as a fraction of GDP are a standard measure of a country’s effort. Colombia spends 0.25 percent of GDP, which still is a far cry from housing programs in Brazil, Mexico, and Chile that cost closer to 1 percent of GDP. Peru spends just 0.04 percent of GDP on housing programs, which stands among the lowest percentage in Latin America (Szalachman and Collinao 2010). These statistics alone suggest that the countries do little to house the poor through formal means, but information on the targeting of expenditures only worsens the picture. In 2010, 90 percent of housing supply in Lima was built for the richest quintile of families, and 69 percent of Lima households could not afford any housing on the market (Bouillon 2012: 69). While Colombia formally targets its housing policy at poor households, the vast majority of housing subsidies go unused because the poor cannot find affordable housing on the market in Bogotá (Gaviria and Tovar 2011). City and local mayors cannot expand housing expenditures and construction without national cooperation. Given minimal housing provision, politicians consistently stressed that it would be unjust and politically costly to enforce, even as they lamented the strains on municipal resources to provide services and complicates for planning. As one mayor exacerbated with land invasions in Lima summed up the typical sentiment: “We can’t stop land invasions when there is no policy from the central government to offer housing to people.”

To wrap up, if we studied enforcement against squatters through traditional proxies, such as the number of offenses or cars, we would have concluded that Bogotá engages in substantial action and Lima is incapable of enforcement. The combination of enforcement process tracing and elasticity analysis provides a more accurate case coding, and a nuanced view of enforcement politics. Both city governments engage in forbearance toward squatters. Institutional weakness matters, but not in the ways typically discussed. Rather, the failings of housing policy shape local enforcement

choices. The issue is not whether mayors can bring in the police to evict squatters; it is whether squatters have anywhere else to live. Without adequate housing policy, mayors favor forbearance as a way to improve welfare informally and to win support from poor constituents.

**Conclusion**

Many scholars interpret the ineffectiveness of law in developing countries as a state failure. Limited budgets, poorly trained bureaucrats, and lousy monitoring undoubtedly thwart enforcement in many contexts. However, law also has profound distributive consequences. In this article, I introduce the concept of forbearance to describe intentional choices not to enforce laws and regulations. In many circumstances, politicians decide whether, how, and against whom to enforce laws, just as they decide whether to provide schools or sanitation or tax cuts. Because forbearance can be revoked and ramped up off government balance sheets, it can be a powerful means to cement political support. It is not just a tool to favor for the wealthy: quite the opposite, by forcing individuals to violate the law to secure basic goods, forbearance can target resources to the lowest tranches of the income distribution. The case studies revealed that forbearance is a common way to compensate for deficiencies in formal welfare states, and provide basic goods, such as employment and housing, to the poor.

Concepts require empirical legs. This article concentrated on the identification of forbearance in part to strengthen the theory and in part to improve empirical work. Ideas of intent, or even reduced enforcement, are nebulous. I tried to give these definitional elements precise empirical meaning through measures of elasticity and enforcement-curve shifts, thereby reinforcing the concept’s theoretical content. I imported an equilibrium approach to enforcement from price theory. This framework allowed me to characterize the related, but distinct, phenomenon of variation in sanctions due to government choices and due to the level of offenses, just as a supply and demand framework separates changes in production inputs from changes in consumer
preferences in economic markets. Additional tools from the study of distributive politics, such as attention to political cycles of enforcement, and variants on process tracing, such as a focus on political bottlenecks, further separated the causes of limited enforcement. Measurement and identification challenges remain inherent to studies of illegal behavior, as the applications to urban Latin American lay bare, but this framework provides a natural way to reason causally about enforcement politics and to document an overlooked form of distributive politics.

While focusing on the distributive consequences of forbearance, and their potential use as a form of informal welfare, I should clarify that forbearance is not equivalent to other distributive transfers. Law breaking imposes public harms such as the deterioration or appropriation of public goods, insecure property rights, unfair business competition, and so on. It also can impose costs on the very low-income groups who receive the material benefits in the form of constrained citizenship rights, legal insecurity, and environmental risks, such as the collapse of precarious squatter housing. More abstractly, legal violations can erode a state’s reputation for law and order. These material and abstract costs raise a series of political economy questions: Under what circumstances do politicians favor forbearance over other distributive tools? When politicians have the powers to control both law making and enforcement, when do they prefer to alter policy through enforcement? When do governments move away from reliance on forbearance as a form of welfare provision? And how does the incidence of forbearance combine with other goods and social policies? Such questions constitute the frontier for research on enforcement. But we can only begin to answer them if we interpret existing and future empirical results with the recognition that politicians can and do choose to enforce law separate from the institutional resources at their disposal.
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