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Informal Institutions and Judicial Independence in Paraguay, 1954–2011

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This article explains how informal institutions have prevented the emergence of autonomous judges in Paraguay between 1954 and 2011. The central argument is that co-optation, clientelism, and judicial corruption considered as informal institutions, rooted during the dictatorship, have impeded the appearance of an independent judicial branch in the democratic regime. To test this hypothesis, the article relies on historical narratives, surveys, and semistructured interviews. The conclusions suggest that in countries that have experienced the consolidation of informal institutions oriented toward maintaining the ties of subordination of judges to politicians, constitutional reforms and fragmentation of political power are necessary but not sufficient conditions for improving judicial independence.

INTRODUCTION

After nearly thirty-five years of dictatorship, Paraguay returned to democracy on February 3, 1989. To create the basis for the new regime, a New Constitution approved in 1992 attempted to limit the influence of politicians on Supreme Court decisions. One of the central mechanisms for obtaining greater judicial independence was changing the method of appointment of Supreme Court justices through the creation of the Judicial Council, authorized to nominate candidates selected through a public competition. From these lists, the Senate would proceed to designate justices with approval of the executive branch. Previously, the Constitution of 1967 entrusted the nomination and appointment of judges to the president with the prior agreement of the Senate. This process for selecting justices was intended to depoliticize recruitment and improve candidate qualifications and professionalism.

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Despite these institutional and political changes, Paraguayan judicial independence remains deficient (Turner 2010). As I show in this article, judicial independence in Paraguay has not improved substantially during the last twenty years.[1] On the contrary, between 1989 and 2011 the degree of independence of Supreme Court justices has remained similar to what it was during General Stroessner's dictatorship. Taking into account the variables noted, I explore the factors that explain the lack of change in the degree of judicial independence vis-à-vis Paraguay's politicians. The article begins with a review of the major findings in the specialized literature. Then I propose a framework that argues that the presence of informal institutions, such as co-optation, clientelism, and judicial corruption, are serious obstacles to the emergence of an independent judicial branch. In the third part, I show empirical evidence from Paraguay between 1954 and 2011 that supports this hypothesis. The fourth part offers conclusions.

EXPLAINING JUDICIAL INDEPENDENCE: THE TERMS OF THE DEBATE

The literature has often conceptualized judicial independence as the degree of autonomy judges enjoy when making decisions (Kapiszewski and Taylor 2008; Rios-Figueroa and Taylor 2006; Couso 2005; Domingo 2000). In addition, Ríos-Figueroa and Staton (2014) have noted the necessity of distinguishing two dimensions within the concept of judicial independence: de jure and de facto. While de jure independence deals with formal rules designed to insulate judges from undue pressure either from outside the judiciary or from within, de facto independence refers to judges not responding to undue pressures to resolve cases, and to having financial and physical means to enforce their decisions (Ríos-Figueroa and Staton 2014; Hamilton, Madison, and Jay 2009; Cameron 2002; Kornhauser 2002). In this article I assume both dimensions of the concept of judicial independence in order to analyze Paraguayan judicial politics.

Scholarship cites job stability, the number of arenas and actors involved in the selection process, the period judges hold benches and salaries, and the size of the courts in explanations of variation in cross-national and even within-country judicial independence (Basabe-Serrano 2012; Helmke 2002; Iaryczower, Spiller, and Tommasi 2002). Specifically, the literature indicates a greater number of political actors sharing power tend to increase the probability of attaining greater judicial independence (Dargent 2009; Ríos-Figueroa 2007; Beer 2006; Brinks 2005; Chávez 2004a; Finkel 2004; Ginsburg 2003; Magaloni 2003). However, Popova's book (2012) differs with this approach by showing that in emerging democracies, such as Russia and Ukraine, the sharing of political power does not prevent the influence over judges from other branches of government and from private interests.

Though there are cases, such as that of Egypt, in which the presence of a single political party was not an obstacle to the rise of courts with a high

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degree of judicial independence, when court decisions affected the electoral interests of the hegemonic party, the independence of judges tended to diminish (Moustafa 2003). Thus, this empirical finding ratifies the validity of Ginsburg's pluralist theory (2003) and the idea that it is unlikely that significant judicial independence will develop in countries with a strong executive branch and legislatures in which government party members predominate (Dargent 2009; Herron and Randazzo 2003).

Many of the variables affecting judicial independence were first cited in Verner's (1984) and Rosenn's (1987) rigorous research. Verner (1984) attributed a low level of judicial independence to the relative absence of the power of judicial review and the lack of social legitimacy enjoyed by the courts. Paradoxically, in spite of constitutional reforms and changes in political circumstances in a number of countries, politicians have continued to influence judicial decisions. In fact, in some cases political influence has even grown since institutional reforms were carried out. During the 1990s, Latin America experienced a period of constitutional changes intent on creating more highly specialized, institutionally strong, and above all independent courts (Acuña and Alonso 2001). At the same time that many party systems changed dramatically, ideological orientations of governments were modified, and new political actors participated in the political decision making (Cavarozzi and Abal Medina 2002). However, in spite of these changes, judicial independence did not improve in many countries, with perhaps the exceptions of Mexico and Brazil (Taylor 2008; Finkel 2005).

One implication of these experiences is that there are factors influencing judicial independence that are not directly related to changes in institutional design or modifications in the fragmentation of power. In other words, some countries enjoyed greater judicial independence in the past and maintain that status in the present in spite of changes in institutions or the relation among actors. At the same time, other courts with little independence still have low indices of judicial independence despite rules or political changes. If I take the periods 1992–93 and 2002–2003, Costa Rica, Chile, and Uruguay would fit the description of the first group, while the second group would include Honduras, Ecuador, and Paraguay (Basabe-Serrano and Llanos Escobar 2014; Staats, Bowler, and Hiskey 2005).

While it is important to be familiar with cases in which changes in institutional design and the fragmentation of political power contributed to more independent courts, there is a gap regarding those countries where, in spite of those changes, courts remained deficient in regards to judicial independence. Thus, researching the variables that explain this absence of change contributes not only to shedding light on problems in countries with failed reforms, but also to evaluating the real effect of institutional factors and the political context in the creation of public policies oriented toward improving judicial independence. This article attempts to fill this lacuna by proposing a theoretical framework that, without ignoring the influence that formal institutional factors and the political context might have on the courts, emphasizes

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the importance of informal institutions, such as deep-rooted co-optation, clientelism, and judicial corruption, regarding the degree of judicial independence.

INFORMAL INSTITUTIONS AND JUDICIAL INDEPENDENCE: A THEORETICAL APPROACH

It is not a new idea that Latin American politics cannot be studied solely on a formal basis, but in addition it is necessary to understand the set of practices that produce informal institutions. Guillermo O'Donnell (1993) proposed concepts such as *brown areas* with which he attempted to demonstrate this point. Weyland (2002) and especially North (1990) have pointed out there are guidelines and proceedings not formally established that, due to their efficacy, should be considered part of the rules of the game (Sánchez Urribarri 2012; Helmke and Levitsky 2006). While there are studies linking informal institutions to democratic performance, there are few analyses that relate the presence of this type of institution to changes or continuities in judicial independence (Basabe-Serrano 2014; Llanos et al. 2014; Trochev and Ellett 2014; Brinks 2005; VonDoepp 2005; Chávez 2004b; Ramseyer 2004; Helmke 2002; Russell 2001).

I define informal institutions according to Helmke and Levitsky (2006) and Brinks (2005), who define them as a set of socially-shared rules, usually unwritten, that are created, communicated, and enforced through unofficially established channels.[2] In the case of judicial independence, this article proposes the presence of mechanisms for co-optation and clientelism, and the subsequent generation of sophisticated networks of judicial corruption leading to diminishing levels of judicial independence. As these informal institutions become more deeply rooted, they grow stronger, and constitute the true rules of the game shaping judicial life. Thus, when institutional changes or variation in the makeup of the political system occur, co-optation, clientelism, and corruption are so strongly rooted in the courts that almost all attempts to improve the independence of judges with respect to politicians prove fruitless.[3]

In other words, the characteristics of deeply-rooted informal institutions explain why judicial independence does not change in the medium or long term. When judicial independence has been low in a country due to the presence of co-optation, clientelism, and corruption, it is highly unlikely that reforms will immediately improve the degree of judicial independence. In countries in which these informal institutions do not intensely permeate the judicial branch, it is probable that changes in norms will lead to more independent courts. In terms of causal chains, co-optation operates first, then clientele links, and as a means of *greasing* such mechanisms, judicial corruption. Domingo (1999) emphasizes this causal sequence when she argues that a culture of clientelism within the judicial apparatus breeds corruption and impedes the possibility of impartial and independent judicial rulings.

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JUDICIAL CO-OPTATION

According to both the theory of organizations and the political economy literature, co-optation is a form of adjustment aimed at guaranteeing stability for an authority in the face of a threat (Grossman 1991; Collins 1988; Buchanan and Faith 1987; Tullock 1971; Selznick 1948). Thus, while the main objective of co-optation is that of aligning the interests of an actor with those of other actors, the mechanisms for achieving this objective differ in each case according to the nature of the relationship (Bertocchi and Spagat 2001). For instance, during the Soviet period, the Communist Party was clearly aimed at co-opting potential opposition through assigning posts in the government and by establishing the possibility that those occupying such posts could rise to positions of authority. The advantages of membership were conditional on full loyalty to, and support for, the regime (Voslensky 1984). For another example, in the relationship between corporations and nongovernmental organizations, the most common mechanisms of aligning interest are the sponsoring relationships, the labeling agreements, and the personal ties established with the corporate leaders (Baur and Schmitz 2012).

In the same vein, I argue judicial co-optation is the means used by politicians to appoint judges who will be attentive to their interests. Though there are many mechanisms for securing the loyalty of judges, the most common is the recruitment process. In this mechanism the recruits tend to be mediocre lawyers without distinguished professional records, though a few lawyers with a solid professional background may be designated. In fact, their inclusion can provide the proceedings with a veneer of legitimacy. For recruitment purposes, politicians know beforehand which judges will be selected. Social, political, and economic interest groups are the actors that generally inform politicians which judges should be part of the courts. Providing this sort of information is even easier in countries in which the nucleus of lawyers is small and, thus, *everybody knows everybody*. This aspect is essential because the politician can never be entirely certain the judge will always act loyally and in her best interests (Miller 2005).

JUDICIAL CLIENTELISM

Though clientelism and corruption have been considered the two most prominent examples of informal politics in relations between politicians and judges, it is not easy to find a specific definition of judicial clientelism (Llanos et al. 2014). In general, clientelism is defined as the personalized distribution of favors and goods in exchange for support or votes (Stokes 2005; Calvo and Murillo 2004; Auyero 1997). A broader concept defines clientelism as mutually beneficial, particularistic, and informal relationships between patrons and clients that inhibit equal access to public sources and markets (Roniger 2004; Piattoni 2001; Kitschelt 2000). Taking into account some elements of the previous concepts, I define judicial clientelism as a relationship through which politicians benefit from favorable decisions in cases with political

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connotations, while the judges benefit by occupying the benches and, in some circumstances, from the increment of their material and symbolic resources as a consequence of their power within the judicial branch.

According to my framework, once politicians have co-opted the judges via appointment, the clientelist relationship begins. Unlike electoral clientelism in which the exchange takes place only at specific periods of time, in judicial clientelism the relationship is an everyday occurrence (simply because a case of interest to the politician could arise at any time). In this respect, the support the politician needs is both selective and recurring, albeit only for the set of cases in which she needs a favorable decision. In all other matters, judges enjoy independence in making decisions and, in some cases, in improving their material resources via exchange of rulings for illegal payments (Grijalva 2010; Sánchez Urribarri 2010, 2012). Furthermore, if judges have sufficient institutional power to settle controversial political issues, their dependence on politicians is not as pronounced as it is in a traditional clientelist relationship.[4] This new distinction explains why there is greater recognition of the abilities of each of the actors and a greater exchange of favors in judicial clientelism. Thus, the level of cooperation in judicial clientelism is greater than it is in political clientelism (Auyero 1997).

Precisely due to the greater maneuverability enjoyed by judges, politicians have to prioritize intertemporal agreements oriented toward reducing the threats of disloyal behavior. Though there is always the possibility that judges will be dismissed, reaching a point of mutual cooperation is the goal of both sides. The possibility of increasing cooperation between judges and politicians goes hand in hand with the kind of favors exchanged by the parties. While the clientelist relationship begins with the appointment of the judge and an understanding that she will cast judicial decisions favorable to the politician, there is another kind of mutual payment that encourages judicial clientelism (Sánchez Urribarri 2010). On the one hand, politicians tend to act as mediators in nonpolitically important cases in which they have other interests, usually economic. In this case, the politician will go to the judge in search of judicial decisions favorable to the person she indirectly represents. In other words, the politician acts *as if* she were a practicing attorney. On the other hand, the judge can also act *as if* she were a practicing attorney, attempting to obtain judicial decisions that will be favorable to the person seeking her services (Sánchez Urribarri 2010, 2012). In this situation, the dynamic is more complex, given that a mediator, usually a lawyer who must formally agree to take the case, is needed. The mediator not only takes charge of matters like this but also distributes economic resources among those judges involved in deciding the case at hand. This exercise of resource distribution goes from the lowest levels of the judicial branch to the highest. In fact, certain judges acting as ad hoc lawyers are often influencing those who are serving on the higher courts. Thus, while the mediator takes charge of guiding the case through the judicial process, the judge exercises the influence of her own position among those who will make judicial decisions.

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In those countries in which Supreme Court justices enjoy not only jurisdictional capacities but also the power of applying administrative sanctions to colleagues in lower courts, the possibility of applying judicial pressure is even greater (Sánchez Urribarri 2010, 2012).

JUDICIAL CORRUPTION

Judicial corruption is defined as the use of public authority for the private benefit of court personnel when this undermines the rules and procedures to be applied in the provision of court services (Buscaglia 2001). Within the two categories of judicial corruption that Buscaglia identifies, the mutual payments between politicians and judges described in the previous section falls under operational corruption. Operational corruption is conceptualized as abusive practices that are usually part of grand corruption schemes where political and/or considerable economic interests are at stake. Buscaglia argues that this kind of judicial corruption usually involves politically motivated court rulings and/or undue changes of venue where judges stand to gain economically and career wise as a result of their corrupt act (Buscaglia 2001).

Thus, judicial corruption is not just the last link in the causal chain that begins with judicial co-optation and then proceeds to judicial clientelism but also includes practices used to *grease* the other mechanisms (Domingo 1999). In addition, the relationship between co-optation, clientelism, and judicial corruption is articulated in such a way that with time they come to constitute a set of rules admitted not only within the judicial branch but throughout society.[5] Lawyers and users of the judicial system know how and with whom they must play the game as well as the costs and benefits of requiring the mediation of an influential politician or a judge with a network of contacts in the courts. Although these are unwritten codes, they constitute the mechanisms that some societies have accepted as the most expeditious way to resolve judicial conflicts (Basabe-Serrano 2013; Hammergren 2004). The intensity with which these informal institutions become rooted in a society depends on the time that passes between their appearance and possible reforms to institutions or to the political system. Thus, to the extent that co-optation, clientelism, and judicial corruption are more rooted in the society, the less likely attempts to reform that political system's institutions will succeed.

As with any other informal institution in which the exchange of illegitimate payment is implicit, the rules that make possible the manipulation of judicial decisions are not written down but are clearly understood. The channels for dissemination of rules are basically lawyers who comment to their potential clients on the scenario in which their judicial cases will be decided. Thus, in more notorious cases involving large amounts of money, it is preferable to seek the direct mediation of a politician, while if the connotations of the judicial process are different, the better option would be to rely on the lawyer–judge relationship. While it is always possible the litigant will refuse

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to be a part of one of these types of access to justice, this refusal could reduce the probability of a successful judicial decision.

The media constitute another information channel available to the citizenry regarding the existence of informal institutions or the performance of the judicial branch (Staton 2010). In countries in which co-optation, clientelism, and judicial corruption are deeply rooted, the media provide ample space for the coverage of judicial scandals and the analysis of resolutions that, due to their content, provide a glimpse of the presence of factors foreign to a legal analysis. In addition, the most evident channel of information is the day-to-day citizen network through which ideas regarding the characteristics of the country's judicial branch quickly circulate, as do the means and the actors to which one should appeal in order to obtain positive results (Hammergren 2004). In smaller countries, this mechanism for the transfer of information operates even more efficiently and dynamically.

ENFORCING THE INFORMAL INSTITUTIONS

The final relevant characteristic of the informal institutions is related to mechanisms that allow for enforcing the rules. As Helmke and Levitsky (2006) point out, the actors should be aware that breaking the imposed rules results in some form of credible punishment. In the case of clientelism and judicial corruption, the decision of a judge to distance herself from the dynamics generated with respect to the politician carries explicit sanctions. When dictatorial governments are in place, the very life of the judge or her family could be in danger. Given the political conditions of those regimes, the most immediate punishment could be dismissal from the bench. In cases of limited party competition, breaking the imposed rules could lead to politicians initiating prosecution of judges through the legislature or by other means such as the Judicial Council (Basabe-Serrano 2014). Thus, in countries in which clientelism and judicial corruption are deeply rooted, charges by politicians for scandals in the courts tend to reflect a breakdown in agreements to cooperate between politicians and judges (Llanos et al. 2014).

There are other forms of punishment imposed from within the judicial branch and oriented toward encouraging the judge to resign from the bench (Llanos et al. 2014; Hammergren 2004). The distancing of colleagues, restrictions on participation in international training seminars, elimination from the list of invitees to official ceremonies, and other subtle mechanisms of symbolic coercion bring the *deserter* judge to offer her resignation. Nevertheless, given the high yield generated by clientelism, the probability that judges will break the rules of the informal institutions is minimal (Llanos et al. 2014). In the case of politicians, the breaking of informal rules generates fewer credible sanctions. Perhaps the most important factor is the possibility that the judges will bring to trial and force the dismissal of those who appointed them. However, both the characteristics of the informal

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institutions analyzed and the originating weakness of the judicial branch cited long ago in the *Federalist Papers* (Hamilton et al. 2009) make the application of this sanction unlikely.

In sum, I argue that in countries in which co-optation, clientelism, and judicial corruption are solidified through time, the mere implementation of institutional reforms or changes in the political system will be insufficient to improve the independence of judges vis-à-vis politicians (Llanos et al. 2014; Helmke and Levitsky 2004; Lauth 2000). My theoretical argument is similar to the idea of *loyalty links* proposed by Sánchez Urribarri who defines them as "commitments made by judges to individual (or collective) political players to benefit or, at least, take into consideration their interests once they ascend the bench, in cases that are politically relevant to such political players" (2012, 583). However, my argument is more analytical because it identifies the sequential causal chains that are part of the relationship between judges and politicians. To test my hypothesis, in the following section I analyze judicial independence in Paraguay before and after General Stroessner's dictatorship. I begin with a description of the methodological strategy used and the characteristics of the measurements proposed. Then, based on historical narratives and descriptive statistics, I demonstrate empirically the theoretical argument presented here.

JUDICIAL INDEPENDENCE IN PARAGUAY: RUPTURES AND CONTINUITIES

There are two basic reasons why Paraguay is an excellent case study for testing the relationship between co-optation, clientelism, and judicial corruption as variables that undermine the emergence of a genuine judicial independence. In the first place, between General Stroessner's dictatorship and the democratic regime, there were substantial constitutional changes with regard to selection mechanisms for Supreme Court justices, the size of the court, its attributions, and its degree of financial autonomy. Such changes permit the measurement of the effects of institutional factors on judicial independence. In the second place, political competition was diversified after Stroessner's period in such a way that while three parties achieved legislative representation in 1989, currently there are seven political parties sharing power. As Molinas et al. (2009) show, Paraguay changed from a hegemonic party system in 1954 to a multiparty system in 2004. As a result, it is possible to test whether the changes in the distribution of power improved judicial independence.

In order to measure the dependent variable, judicial independence, a survey involving fifty respondents was carried out among expert lawyers and university professors living in Asunción. The main question asked was as follows: "Conceptualizing judicial independence as the absence of executive and legislative interference in Supreme Court decisions, what is your opinion about the following historical periods in your country? Consider a scaling

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where 1 represents the absolute absence of judicial independence to 10 representing the absolute presence of judicial independence."[6] The information was gathered during the months of January and February, 2012. The sample assured gender equity and ideological balance. On the latter point, those surveyed were asked about their position on a scale of 1 (extreme left) to 10 (extreme right). The mean as regards ideological position of those surveyed was 5.54, evidence of the centrist position of the average informant.

To offer a more precise sequence of possible changes both in judicial independence and in the institutional and political context, I considered the judicial independence for General Stroessner's period and for subsequent democratic presidents. Given that the surveys were applied after the government periods, with the exception of President Lugo's period, the data could be affected by recording bias. To assure the validity of my measurement, I compared the results of the surveys with the data collected by Linzer and Staton (2012). These scholars developed a measure model of judicial independence based on existing data from time-series and cross-sectional analysis. This data is useful because it avoids previous methodological and theoretical problems and provides a new time-series and cross-sectional measure of judicial independence for fifty years and 200 countries. Given the Linzer and Staton measure is captured by years, I grouped their data according to the periods used in my surveys. According to Figure 1, the differences

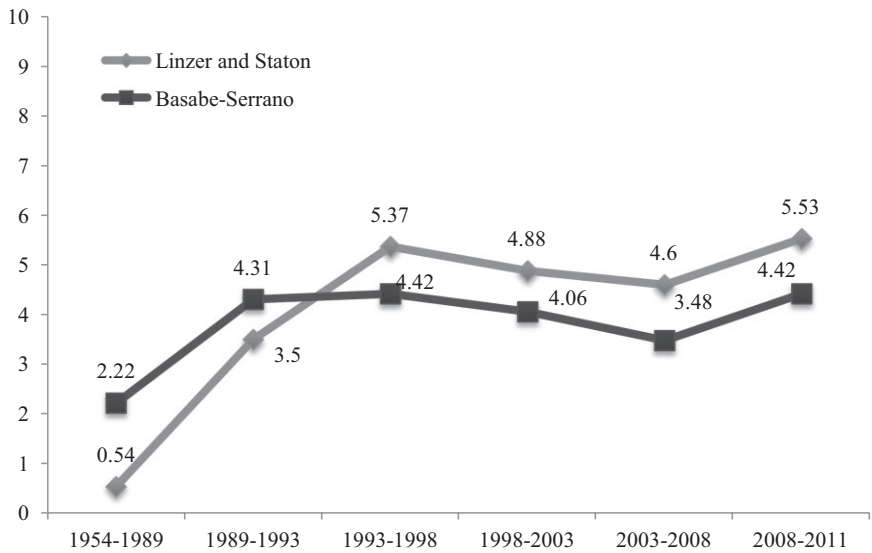


Figure 1. Judicial Independence in Paraguay (1954–2011).*
*The scale ranges from 1: the total absence of judicial independence, to 10: the total presence of judicial independence. Linzer and Staton's scale ranges from 0 to 1, so I normalized their values to compare with my data.

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between the two measurements are small, and both follow the same tendency as my measurement, which suggests a slightly lower judicial independence, with the exception of that present in the Stroessner government, and with less intensity in the period 1989–93.

To measure the presence of co-optation and judicial clientelism mechanisms, thirty-eight semistructured interviews were carried out with key informants. The sample was made up of those experts in judicial matters who had not been surveyed. This methodological instrument was applied during the month of March 2012. As in the case of the surveys, balance was assured in terms of gender and ideological orientation—in the latter case by using a question similar to the one posed in the survey. The mean of the ideological position of those interviewed was 5.28. To measure judicial corruption, I included detailed questions in the survey. Information regarding political context was taken from Paraguay's major print media—*ABC Color* and *Última Hora*—and from the archives of official institutions, such as the High Tribunal of Electoral Justice, the Supreme Court, and the Senate.

GENERAL STROESSNER AND THE COURTS: CO-OPTATION, CLIENTELISM, AND JUDICIAL CORRUPTION

Prior to General Stroessner's period and even during the first years of his government, Paraguay employed professionalized Supreme Court justices who enjoyed a high level of independence. The period from 1949 to 1959 marked the *golden age of Paraguayan justice*, a reference to the ethical integrity and solid academic formation of the Supreme Court judges (Báez 2011). Nevertheless, when General Stroessner managed to consolidate his power as a result of support from both the armed forces and his political party, the National Republican Association (Colorado Party), the courts were soon captured, with the consequent weakening of judicial independence (Rivarola 1991). Co-optation and clientelism were the mechanisms used to exercise influence over the judicial branch as well as over other political institutions (De Riz 2008; Molinas, Pérez-Liñán, and Saiegh 2004).

The process of weakening the courts began with the purge of the principal Supreme Court justices, Humberto Zarza and Arquímides Laconich. Subsequently, the National University of Asunción, the major law school, was also co-opted. Thus, entry into the judicial branch basically depended on membership in the Colorado Party, while the possibility of promotion constituted a *reward* for judicial decisions in which the government had a direct interest (Lambert 1997). While the perception was that the courts acted according to the law in cases in which controversies between private interests were judged, there were selective criteria regarding matters tied to the political arena.[7] As one prestigious trial lawyer indicated: "One could exercise the profession; you knew what you could ask for. You could not go to ask for freedom for someone who was in prison by Executive Order and if you went to file a charge for torture you knew they were going to

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reject it. Or if you asked that they look for someone who had disappeared, they weren't going to look" (Interview No. 11).

The strategies for co-optation and clientelism would be implemented with greater intensity from the moment the military government permitted the different forms of corruption that appeared throughout the period (Lambert 1997). The scale of corruption was not foreign to the judicial branch though there was a lesser degree of visibility than in other decision-making arenas. Thus, co-optation, clientelism, and corruption became rooted over time with the consequent negative incentives toward those who tried, through personal and professional merits, to get a position in public administration (Nickson and Lambert 2002). One public prosecutor characterized Paraguay as having a culture of corruption, saying that "the worst inheritance the dictatorship has left citizens are mediocrity and corruption, and the transition made matters worse" (Interview No. 3).

The decrease in Paraguayan judicial independence between 1954 and 1989 can be attributed to the presence of a hegemonic actor in charge of offering personal rewards and permitting enrichment, generally due to judicial corruption, in exchange for judges deciding in favor of the government in certain cases. It is a matter of a principal-agent game in which General Stroessner guaranteed the decisions of the judges were to his personal benefit using strategies of co-optation and clientelism intended to reduce his own moral risk in the relationship. A renowned Paraguayan lawyer recreated the situation in this way: "During General Stroessner's period one knew perfectly well what was going to happen. You needed to have the support of a feudal lord or nothing happened, it was that simple: the process had to be done by a powerful general or a president of a section of the Colorado Party, or a friend of Stroessner. The General's friends were powerful" (Interview No. 18).

After almost thirty-five years of military dictatorship, co-optation, clientelism, and judicial corruption grew stronger, spreading among judicial operators and ending up rooted as informal institutions oriented toward the judicial branch and the relation between the great political actor and the judges. Given the restrictions on rights existing during that period, violence and fear were the principal means used to maintain and secure the dependence of the courts on government interests (Rivarola 1988). At the same time, punishment for any form of desertion could be severe, including even physical violence.

THE RETURN TO DEMOCRACY: GENERAL RODRÍGUEZ AND THE NEW CONSTITUTION

The fall of General Stroessner had a number of consequences for the political system, most notably an increase in political competition. In addition, the first fissures appeared in what was until then the monolithic unity of both the Colorado Party and the armed forces. In spite of the fact that the first postdictatorship president General Andrés Rodríguez came to power with 74

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percent of the vote and the official Colorado Party captured 66.67 percent of the seats in each of the legislative chambers, the absence of a hegemonic actor was notorious. This was clear during the 1992 National Constitutional Assembly when differences among the various factions of the Colorado Party even generated strategic coalitions with sectors of the opposition (Molinas et al. 2004; Barreda and Costafreda 2002). In fact, the struggle to maintain the Colorado Party's hegemony brought the faction led by Luis María Argaña to seek a resolution in the New Constitution preventing the reelection of then President Rodríguez.

In the judicial branch, the 1992 Constitution modified the mechanisms for the selection of judges. According to the 1967 Constitution, General Stroessner appointed Supreme Court justices with the agreement of the Senate and the rest of the country's judges in agreement with the Supreme Court. The 1992 Constitution created the Judicial Council and gave it the ability to call for a public competition for the selection of candidates to Supreme Court judgeships and to those of the lower courts. From the list of Supreme Court candidates created by the Judicial Council, the Senate chose justices in agreement with the executive branch. For candidates to the lower courts, the Judicial Council proposed lists to the Supreme Court whose members made the final appointment.[8]

On the other hand, the creation of the Jury for Prosecuting Magistrates—*Jurado de Enjuiciamiento de Magistrados*—made up not only of representatives of the Supreme Court but also of the Chambers of Senators and Deputies and of the Judicial Council, was intended to increase the autonomy of lower court judges with respect to their colleagues in higher courts.[9] Constitutional changes were also noteworthy in maintaining the stability of Supreme Court justices. There was a change from five-year periods, coinciding with the presidential mandate, to the possibility of unlimited reelection to an indefinite term until the age of seventy-five (art. 261). In spite of the clarity of the constitutional norm and of a resolution by the Supreme Court itself declaring justices could not be removed until the age indicated, even today some politicians maintain Supreme Court justices should serve for only five years, as do the judges of the lower courts.[10] As for removing Supreme Court justices, the Constitutions of 1967 and 1992 provide for impeachment by the Senate after prior charges filed by the Chamber of Deputies.

Further changes included an increase in the number of justices from five to nine members, thereby increasing judicial discussion and argumentation. There were also changes with respect to the powers granted the Supreme Court. While the previous constitutions established that the Supreme Court determine constitutionality through judicial review, the 1992 Constitution created a specialized chamber for this.[11] In addition, the constitutional chamber has the power to annul definitive rulings on the basis of unconstitutionality, a power that did not exist in the 1967 Constitution. As regards financial autonomy, while the Constitution of 1967 made no mention of this matter, the New Constitution expressly declares the budgetary autarchy of

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the judicial branch, assigning at least 3 percent of the annual budget designated for central government administration (art. 249).

In fact, the increase of the annual budget of the Supreme Court for the period 2006–2010 was higher than 3 percent. While in 2006 the annual budget was 6.3 percent of the central government, in 2007, it was 5.6 percent; in 2008, 6.1 percent; in 2009, 6.5 percent; and in 2010, 7.5 percent (United States Agency for International Development, Centro de Información y Recursos para el Desarrollo, and Centro de Estudios Judiciales 2010). Thus, the change in this issue was not just in formal terms but also in facts. In relation to judges' salaries, in 1997 the Paraguayan Supreme Court judges earned 4,120 USD, just slightly below the salaries of Argentinean judges (5,000 USD) and above those of Chilean (3,800 USD) and Uruguayan (2,870 USD) Supreme Court judges (Rico 1997). In appellate courts, the Paraguayan judges' salaries in 1997 (3,000 USD) were the highest in comparison with their colleagues of Uruguay and Chile (2,990 USD and 2,860 USD, respectively). According to Rico (1997), in the lowest courts the Paraguayan and Chilean judges' salaries (2,330 USD) were only below the Argentinean judges' salaries (4,000 USD) and above Uruguayan judges' salaries (1,900 USD). In fact, with respect to the issue of salaries the judicial reform in Paraguay has been considered a medium-range reform (Sousa 2007). Table 1 provides a summary of the constitutional changes in the judicial branch discussed above.

Judicial branch reforms in the 1992 Constitution were clearly oriented toward providing judges with an institutional design that encourages greater independence from politics. The changes affected different dimensions of the relationship between judges and politicians, thus attempting to reduce incentives for co-optation, clientelism, and judicial corruption. The presence of at least three important political actors in the drafting of the Constitution (Colorado Party, Liberal Party, and the Constitution for Everyone Movement) suggested sufficient bases for improving judicial independence. Nevertheless, as Sánchez Urribarri (2011) and Llanos et al. (2014) have shown for

Table 1. Constitutional Changes in the Supreme Court in Paraguay

Constitutions/Reforms	**1967**	**1992**
Selection mechanisms	President designates, with agreement of Senate	Judicial Council selects; Senate designates with agreement of president
Period on the bench	5 years	Indefinite, to 75 years of age
Size of the Court	5 members	9 members
Budgetary autonomy	No	Yes
Constitutional powers	Judicial review	Judicial review and nullification of rulings

Source: 1967 and 2002 Constitutions of Paraguay.

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other Latin American courts, the institutional changes were motivated more by political reasons than by a genuine desire to improve the performance of the judicial branch.

THE WASMOSY ADMINISTRATION: A NEW SUPREME COURT, NEW FORMS OF CO-OPTATION, CLIENTELISM, AND JUDICIAL CORRUPTION

Major judicial operators believe judicial independence improved in both the Rodríguez and Wasmosy (1993–98) periods.[12] As Figure 1 shows, there were greater levels of judicial independence from 1989 to 1998 than during the dictatorship. However, the difference of means test shows that the means in all periods analyzed do not have sufficient variance to justify the assumption that they are really different. Thus, judicial independence in Paraguay has maintained low scores both before and after General Stroessner. As Molinas et al. (2009) argue, in this period the party competition increased as did the number of actors sharing power, including the National Encounter Party. This is clear from the 1993 electoral results for both the Chamber of Deputies and the Senate. In addition, the breaking up of political power was made more visible with the rise of an important faction of the Colorado Party, the National Union of Ethical Colorados (UNACE), under the leadership of General Lino Oviedo. Figure 2 shows the effective number of parties in the Chambers of Senators and Deputies between 1954 and 2008.

Despite the 1992 constitutional changes, it was not until 1994 that a law was passed creating the Judicial Council. Until then the Supreme Court had five members, some appointed in 1989 after the fall of Stroessner (Benito Pereira, Albino Garcete, and Jerónimo Irala) and others appointed in 1983 by General Stroessner (José Correa and Francisco Pusineri). Thus, on April 28, 1995, the first Supreme Court elected according to the new constitutional

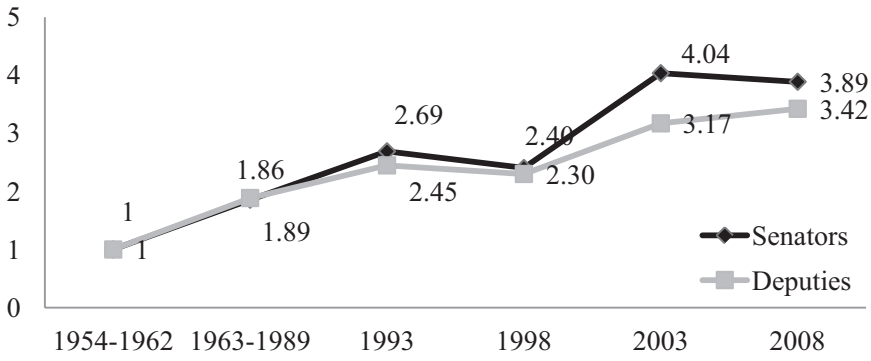


Figure 2. Effective Number of Parties in the Chambers of Senators and Deputies, 1954–2008.
Source: Superior Tribunal of Electoral Justice of Paraguay.

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mechanisms was sworn in. According to the criteria of the majority of experts interviewed, although a few independent and highly professional judges were selected, the majority maintained the dynamics of clientelism and judicial corruption observed during the dictatorial period.[13] A university professor noted: "The problem was that many of the judges, like A, B, or C, dedicated themselves to important matters while the corrupt ones, like D or E, were those who managed the administrative system. While A spent his time in his office, with the door closed, studying documents, D or E were those who managed matters that involved money changing hands" (Interview No. 13).

Thus, the logics of co-optation, clientelism, and judicial corruption remained in place, though with differences (Llanos et al. 2014). While during General Stroessner's period, a single actor had the capacity to control these mechanisms, with the return of a democratic regime not only did the number of political actors increase but also the channels for co-optation. As a consequence, the clientele was divided according to the actors' interests and the distribution of illicit resources through acts of judicial corruption involving more recipients. Thus, with the advent of democracy, groups were formed made up of Supreme Court justices, politicians, lower court judges, prosecutors, and lawyers who, differentiated on the basis of thematic areas (criminal, civil, labor), operated in order to reproduce the logics of co-optation, clientelism, and judicial corruption in force during the dictatorial period. This illegal system is similar to the *tribus judiciales* developed in the Venezuelan judiciary (Sánchez Urribarri 2011; Gómez 2008, 2009; Quintero Tirado 1988). As one prestigious Paraguayan lawyer noted: "if we [his law firm] work on a case and it is known that the other team of lawyers has his judge, then we need a different judge and people who work with him. Even if you want to be clean, you cannot be" (Interview No. 20).

The absence of mechanisms that effectively penalize cases of judicial corruption is another critical point that allows this type of practice to continue. In fact, of all the complaints filed with the Jury for Prosecution of Magistrates between 1992 and 2005, the percentage of those charged and found guilty is minimal compared to those found innocent. The average number of cases that ended with a ruling for judges and judicial employees was only 18 percent during this period. This suggests the Jury for Prosecution of Magistrates has become an organ of institutionalized impunity (Mendonca 2006). Table 2 demonstrates the vulnerability of the corruption control system within the judicial branch.

THE "PARAGUAYAN MARCH" AND ITS CONSEQUENCES FOR JUDICIAL INDEPENDENCE

After General Lino Oviedo was prohibited from running for the presidency, his running mate Raúl Cubas was elected. The attempt by President Cubas to stop trials against Oviedo and the struggle generated with the Supreme Court in this regard were the background to what became known as the Paraguayan

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Table 2. Resolutions Cast by the Jury for the Prosecution of Magistrates (1992–2005)

Year	Total Resolutions	Innocent	% Innocent	Guilty	% Guilty
1992	4	2	50%	2	50%
1993	31	27	87.09%	4	12.91%
1994	51	45	88.23%	6	11.77%
1995	56	52	92.85%	6	7.15%
1996	17	16	94.11%	1	5.89%
1997	13	11	84.61%	2	15.39%
1998	14	13	92.85%	1	7.15%
1999	16	12	75%	4	25%
2000	15	12	80%	3	20%
2001	16	12	75%	4	25%
2002	10	9	90%	1	10%
2003	11	9	81.81%	2	18.19%
2004	24	18	75%	6	25%
2005	27	22	81.48%	5	18.52%
Mean	**21.78**	**18.57**	**82%**	**3.35**	**17.99%**

Source: USAID and the Catholic University of Asunción 2006.

March, a week of demonstrations in 1999 after the assassination of Vice President Luis María Argaña (Uharte 2012). Cubas resigned as a result, leaving Paraguay with a power vacuum that had to be resolved once again by the Supreme Court. While some constitutionalists argued that the appropriate course was to immediately call elections to elect a president and vice president, the Supreme Court decided to name, as the former head of the Senate, Luis González Macchi president, and to call elections only for the vice presidency (Brugnoni 2009).[14] This was the turning point that unleashed a decline in Paraguayan judicial independence as reflected by the results of the measures in Figure 1.

During this period, the co-optation characteristic of the Judicial Council and the Jury for Prosecution of Magistrates did not change while clientelism became more serious (Abente 2012). As for the fragmentation of power, new groups arose that turned Paraguayan politics into a true multiparty system (Uharte 2012). Beloved Fatherland (*Patria Querida*) and the UNACE, created by Colorado Party dissidents and headed by General Oviedo, were both incorporated into the party system. While the political system and institutional design changed, the deficiencies observed regarding judicial independence since the return to democracy remained the same. Furthermore, judicial corruption increased to the point that journalists commented that Supreme Justice Enrique Sosa's decision to resign on February 4, 2003 was primarily to not be part of the accumulation of corruption scandals that affected the Supreme Court daily.[15] In this context, between 1996 and 2006, the citizen trust in judicial and political institutions did not improve (Vial, Orrego, and Alcaraz 2006; Seligson 1998).

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DUARTE FRUTOS AND THE *PULVERIZATION* OF THE SUPREME COURT

The scenario of corruption and the lack of judicial independence were capitalized on by Nicanor Duarte Frutos during the subsequent election through his proposal to change Supreme Court justices. Soon after taking office and under pressure from other political parties with seats in the legislature, President Duarte declared, "We are going to pulverize, if necessary, the judicial branch."[16] After negotiations oriented toward winning a majority would make impeachment of sitting members of the Supreme Court a viable recourse (Elixeno Ayala and Oscar Paciello had died), the anticipatory resignations of justices Irala, Sapena, Lezcano, and Paredes facilitated the political project for renovation of the court. Finally, only justices Fernández and Ríos underwent impeachment proceedings and dismissal, clearing the way for the total reconfiguration of Paraguay's highest court. The appendix in this article describes the cohorts and reasons for resignation/dismissal of Supreme Court justices since 1989.

Despite the reorganization of the court, co-optation, clientelism, and judicial corruption remained (Fretes 2012; Abente 2008). The limited capacity of the Jury for the Prosecution of Magistrates to discipline judges and judicial employees did not change much either. Given the political struggle is now divided among a greater number of actors with representation in the Chambers of Senators and Deputies, the different judicial entities were distributed through *quotas*, a mechanism used in other countries, such as Ecuador and Venezuela, before Correa's and Chávez′s respective periods (Basabe-Serrano and Llanos Escobar 2014; Sánchez Urribarri 2011).[17] As for judicial corruption, that situation has also changed very little, instead becoming a systemic problem (Mendonca 2005, 2010). In this regard, the 2005 *Transparency Paraguay* report indicates that among the ten most corrupt institutions in the country, the judicial branch is fifth. Information in the same vein is found in the report drafted in 2000 by the *Institute of the World Bank* and the Paraguayan government. The report indicates that among the twenty most corrupt public institutions, the judicial branch is sixth (Mendonca 2005). Figure 3 shows the judicial corruption measured in this article.

THE LUGO ADMINISTRATION: MORE CLIENTELISM, MORE JUDICIAL CORRUPTION

When Fernando Lugo began his presidential period in 2008, the logic of co-optation and the mechanisms for clientelism had already become informal institutions running the judicial branch in Paraguay (Abente 2007). These institutions were not only present during the thirty-five years of dictatorship but have remained during the past twenty years of democracy, representing the perfection of a highly sophisticated system of illegitimate exchanges and payments as well as ways of operating that are known and socially accepted. As I have cited, this illegal system that includes lawyers, judges, administrative officials, and politicians is similar to *tribus judiciales* in Venezuela

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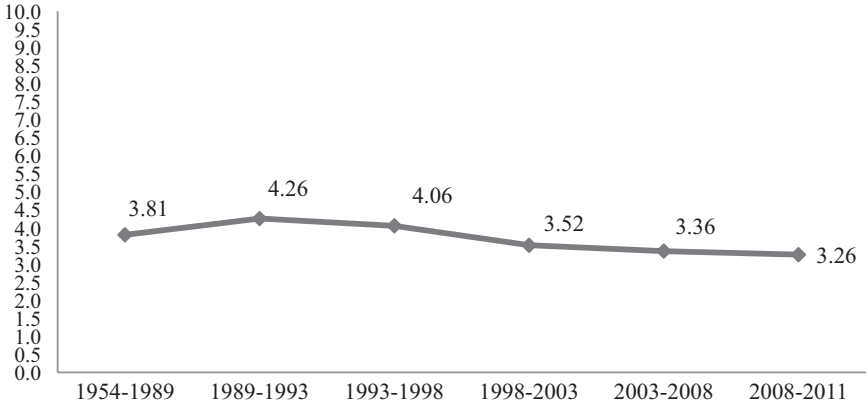


Figure 3. Judicial Corruption in Paraguay (1954–2011).
*The scale goes from 1, representing a country in which judicial corruption is absolute, to 10, representing a country in which judicial corruption is nonexistent.

(Sánchez Urribarri 2011; Gómez 2008, 2009; Quintero Tirado 1988). In regard to this, a Paraguayan journalist best known for his work on issues of judicial corruption stated:

> Here we have a perfect organization dedicated to the buying and selling of rulings and judicial summons (*autos interlocutorios*); that is the judicial branch, with honorable exceptions. The judicial branch is a mafia; right now it is (. . .) the principle organization of organized crime in the country. The party the judge or the politician belongs to is neither here nor there. They are operators; not operators in the political party sense but in terms of business and rulings. It is not a question of doctrine. They are friends, they are accomplices; they work together in a coordinated fashion to come up with sentences, to do business." (Interview No. 31)

According to Figure 2, while the fragmentation of political power continued growing in both the Chambers of Senators and Deputies, that change in the political system had no direct effect on the degree of independence of judges vis-à-vis politicians and other social and economic actors. For instance, in 2011 Judge Gustavo Bonzi was sanctioned by the Jury for Prosecuting Magistrates as a consequence of an exculpatory ruling in favor of fourteen people accused of kidnapping a renowned businessman. This sanction was imposed, although the legal process did not receive a decision from the appellate court.[18] Nevertheless, the last two Supreme Court justices appointed during the Lugo administration (Benítez Riera and Bareiro de Módica) have a marked difference in their independence, professional background, and ethics. Proof of this is the accountability of the Judge Benítez Riera who, when he completes his period as the Supreme Court Chief, and to the surprise of diverse actors, will return in full his reserve funds to the Ministry of

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Finance.[19] Unfortunately, as in the case of the 1995 Court, such changes were insufficient in light of the established rules of the judicial game (Lambert 2011). The data provided in Figure 3 reveal that during President Lugo's period, the levels of judicial corruption increased slightly over previous periods.

In sum, after over twenty years of democracy, Paraguay has not managed to overcome the dependence of Supreme Court justices on politicians. Furthermore, the logics of co-optation, clientelism, and judicial corruption evidenced during General Stroessner′s period have intensified, albeit with the participation of more actors and more sophisticated ways of operating. Thus, both the constitutional changes proposed and the distribution of political power among more political parties have not been sufficient to defeat a set of informal institutions that have been rooted historically in the judicial branch of Paraguay.

CONCLUSIONS

This article has shown how constitutional reforms and political fragmentation are not sufficient conditions for improving judicial independence when co-optation, clientelism, and judicial corruption are rooted in the society. Thus, to the extent that these informal institutions persist, they constitute serious barriers to strengthening judicial independence. In Paraguay, the logics of co-optation, clientelism, and judicial corruption observed throughout the thirty-five years of Colorado Party domination left their mark, acquiring features of permanence and social and political acceptance. In addition, violating these rules led to penalties clearly recognized by all involved in the relationships. Corruption grew little by little until reaching current levels, as demonstrated by a series of specialized measurements (Barreda and Bou 2010). As a consequence of these social phenomena, the citizen trust in the judicial system and political institutions did not change (Vial, Orrego, and Alcaraz 2006; Seligson 1998).

The 1992 Paraguayan Constitution included a series of reforms oriented toward separating judges from politicians. These changes were not limited solely to mechanisms for the selection of judges but were directed as well at other types of factors related to the size of the court, its jurisdiction, the length of appointments, and financial autonomy. However, the results of almost twenty-five years of democracy have been unconvincing. Paraguay continues to be one of the countries in Latin America with the lowest levels of judicial independence and the highest levels of judicial corruption. In fact, judicial corruption has grown in recent years, becoming a critical problem from 1998 to the present.

The literature has been emphatic in pointing out that the exercise of political power by a small group is an essential element in the loss of independence by the courts. In Paraguay, the return to democracy has brought

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with it a significant increase in the number of parties and actors in the political arena (Molinas et al. 2009). The Colorado Party lost its hegemony and now competes with other groupings for spaces in the legislative and executive branches (Marsteintredet, Llanos, and Nolte 2013). In fact, President Lugo was not a member of the Colorado Party or under its influence. Nevertheless, judicial independence has not improved and remains at the lowest levels in the region according to the *Global Competitiveness Report* (World Economic Forum 2012). This empirical finding is interesting because it coincides with Popova's argument that an increase in the fragmentation of political power in Ukraine and Russia did not necessarily usher in more judicial independence (Popova 2012).

This article has shown that under certain circumstances, informal institutions exercise greater influence on change (or lack thereof) than those formally established. Specifically, I argue that in countries in which informal institutions designed to undermine the independence of the judicial branch are given enough time and the right conditions to become rooted within society, the probabilities of change are lower, or at the very least such changes will involve more effort to bring about. This empirical finding is not restricted to Paraguay. Among other examples presented in this article, scholars have reported a similar relationship in African countries such as Benin (Stroh and Heyl 2015; Llanos et al. 2014; Ellett 2013). Thus, institutional reforms and the fragmentation of political power are necessary but not sufficient conditions for improving judicial independence. The logics of co-optation, clientelism, and judicial corruption observed in Paraguay between 1954 and 2011 have served to test this suggestive hypothesis.

Even before the fall of President Lugo, there were voices calling for a New Constitution for Paraguay.[20] In this respect, one of the issues being debated has to do with the design of institutions that allow for greater independence of judges vis-à-vis politicians. While changes in the formal rules of the game will always be necessary to further the independence of judges to make decisions, it would also be useful if those who design Paraguay's public policy consider history. Perhaps by understanding how informal institutions that permeate the judicial branch work in their country, they will find answers for coming up with effective change.

NOTES

1. According to Article 262 of Paraguay's Constitution, the Judicial Council is made up of the executive branch, Chamber of Senators, Chamber of Deputies, Supreme Court, two lawyers elected by their peers, a professor from the National University Law School, and a professor from a law school of a private university that has been in existence for at least twenty years.
2. According to Helmke and Levitsky (2004), this concept of informal institutions is similar to those proposed by North (1990), O'Donnell (1996), Carey (2000), and Lauth (2000).

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3. From a different perspective, Trochev and Ellett (2014) show how the vibrant social networks of judges can support judicial autonomy.
4. The institutional power increases when they have powers such as constitutional review.
5. Llanos et al. (2014) describe a series of informal practices oriented toward diminishing judicial independence in Latin American and African countries. Similar tools have been reported by Popova (2012) in her comparative study of Russia and Ukraine.
6. The survey asked the same question about each historical period included in the measuring: August 15, 1954–February 3, 1989 (General Stroessner); February 3, 1989–August 15, 1993 (Andrés Rodríguez); August 15, 1993–August 15, 1998 (Juan Carlos Wasmosy); August 15, 1998–August 15, 2003 (Raúl Cubas and Luis González Macchi); August 15, 2003–August 15, 2008 (Nicanor Duarte Frutos); and August 15, 2008—date survey given (Fernando Lugo).
7. Ginsburg and Moustafa (2008) and Solomon (2007) agree with this criterion. They show that in authoritarian regimes the courts may also have important functions in social, political, and administrative arenas.
8. The Judicial Council is made up of a Supreme Court justice, a representative of the executive branch, a senator, a lower-house deputy, two lawyers, and two law professors, one from a public and the other from a private university. This institutional design was intended to provide representation within the Judicial Council from a variety of actors, thus assuring greater autonomy in selecting candidates to judgeships. In addition, it was hoped that access to the judicial branch would be guaranteed to lawyers with differing ideological positions through the merit-based public competition.
9. While part of the ability to sanction remained with the Supreme Court, the creation of the Jury for Prosecuting Magistrates was intended to improve internal judicial independence.
10. The Paraguayan Senate continues to swear in Supreme Court justices for five years. In response, one by one, justices have requested the constitutional chamber of the Court to interpret Article 261 of the Constitution, obtaining favorable decisions regarding the indefinite nature of their tenure.
11. Both the 1967 and 1992 Constitutions maintain the idea that decisions by the Supreme Court declaring a judicial norm unconstitutional affect only the case in question. There is no constitutional control regarding general effects—*ergaomnes*.
12. During President Wasmosy's administration, there was improvement in the protection of electoral, constitutional, and legal rights (Abente 2007).
13. Pérez-Perdomo (2007) shows a similar pattern of judicial corruption in Venezuela.
14. In a similar way Sánchez Urribarri (2010) shows a set of key politicized decisions of the Supreme Court in Venezuela. The rulings are related to the role played by the constitutional chamber in paving the way for the recall referendum against Hugo Chávez in August 2014.
15. Paraguayan daily *ABC Color*, February 5, 2003. http://archivo.abc.com.py/2003-02-05/articulos/32330/corrupcion-en-la-corte-motiva-la-renuncia-del-ministro-enrique-sosa (accessed July 5, 2015).
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APPENDIX: PERIODS AND REASONS FOR DEPARTURE OF PARAGUAYAN'S SUPREME COURT JUSTICES (1983–2011)

Justice	Entry Date	Exit Date	Reason
José Correa	1983	01/04/95	Not confirmed
Francisco Pussineri	1983	01/04/95	Not confirmed
Benito Pereira	1989	01/04/95	Not confirmed
Albino Garcete	1989	01/04/95	Not confirmed
Jerónimo Irala	1989/1995*	27/10/03	Resigned before impeachment
Raúl Sapena	28/04/95	27/10/03	Resigned before impeachment
Oscar Paciello	28/04/95	30/09/98	Died
Luis Lezcano	28/04/95	02/12/03	Resigned before impeachment
Wildo Rienzi	28/04/95	01/07/06	Reached age limit (75 years)
Enrique Sosa	28/04/95	04/02/03	Resigned
Felipe Paredes	28/04/95	01/11/03	Resigned before impeachment
Elixeno Ayala	28/04/95	27/06/01	Died
Carlos Fernández	28/04/95	25/11/03	Impeached**
Bonifacio Ríos	26/05/99	25/11/03	Impeached**
José Altamirano	18/03/04	01/09/09	Not confirmed by the Senate
Antonio Fretes	01/04/98	Serving	
Víctor Núñez	04/06/03	Serving	
César Garay	18/03/04	Serving	
Miguel Bajac	18/03/04	Serving	
Sindulfo Blanco	18/03/04	Serving	
Alicia Pucheta	18/03/04	Serving	
Raúl Torres	18/03/04	Serving	
Luis Benítez	16/12/10	Serving	
Gladys Bareiro	16/12/10	Serving	

* Justice Irala was confirmed on the bench in 1995.
** Justices Fernández and Ríos were impeached by the Senate.
Source: Archive of the Supreme Court and the Senate.

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