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Judicial Professionalization and Its Impact on Democratization

Introduction:

This paper assignment will address the research question “How has professionalizing a judiciary contributed to democratization in newly developing democracies?” Moreover, this paper will analyze how USAID has contributed to transitioning from a politicized judiciary to a professionalized one. I will also review any new democracies which have had technical assistance in professionalizing their judiciary. It will also generally assess the impact of judicial autonomy on the developing state. Lastly, I will make a comparative analysis of Eastern and Southern European judiciary professionalization during the post-communist, “Third Wave” democracies.

The Origination of Judicial Autonomy:

Judicial independence is an important concept in comparative study. It is not typically defined and is commonly asserted within general political rhetoric. I will now define this concept as will argue the merits on why it is a necessary governmental characteristic in securing civil liberties and political freedoms within a developing nation throughout my paper. I chose to adopt a twofold definition first from Maria Popova’s (2012) definition for institutional judicial independence: “Judicial independence refers to the insulation or autonomy of the judiciary from the other branches of government or from the public” (15). I select this following second definition because judicial autonomy is not just isolation from other branches of government but from public pressure as well. Hence, I felt that her definition was insufficient by itself as it did not account for potential reciprocity which can be directed towards justices for exercising their own discretion when rendering a decision that was not popular with either the government or with the body politic. Therefore, I address this concern by also espousing a modified version of the definition supplied by Matías Iaryczower et al. (2002) in “Judicial Independence in Unstable Environments, Argentina 1935-1998” which defines “judicial independence as the extent to which justices can reflect their preferences in their decisions without facing retaliation measure by” political actors within a given government or by the public (699). Subsequently, judicial professionalization involves the depoliticization of a nation’s judiciary and thus its isolation from the political realm. More than simply insulating the judiciary it also must be a distinct realm uninhibited by short term political incentives either through its nomination process nor by means of its composition and functionality. Contemporary political scientists perceive a professional judiciary as an admirable national characteristic that is expected by the international community.

How does one remedy the divergence between judicial autonomy and the political realm from its congruence with the development and continuation of democratic ideals? Domingo argues that political impartiality is paramount chiefly because it provides for horizontal accountability (e.g. determining whether legislative acts are constitutional and whether the government is acting legally and within their institutional boundaries) thereby

guaranteeing that immediate political ramifications do not influence a judicial decision. Moreover, he finds that ensuring liberation from the political realm is vital to procuring an impartial judicial decision. This is especially important given the public forces external to the bureaucratic apparatus such as social pressure from the polity.

The beginning of professionalization, I will argue, begins with the judicial selection process because this is the most determinant characteristic when it comes to judicial autonomy. In American jurisprudence federal judges are ensured judicial independence by being granted lifetime tenure after presidential nomination and Senate confirmation unless they are impeached by Congress (Neil Chisholm 2014, 896). This ensures political detachment which is the first step in transitioning from a politicized judiciary to a professionalized one. However, Margaret Popkin (2000) in her book *Peace Without Justice: Obstacles to Building the Rule of Law in El Salvador* cautions that the granting of lifetime appointments is only useful for professionalizing a judiciary if the appointment process results in qualified nominees being selected (17). Additionally, Pilar Domingo (1999) argues a professionalized judiciary involves financial autonomy as well to help divorce the judiciary from partisan pressures. However, according to Chisholm in his article titled “The Faces of Judicial Independence: Democratic versus Bureaucratic Accountability in Judicial Selection, Training, and Promotion in South Korea and Taiwan” some countries (e.g. in South Korea and Taiwan) take different approaches such as implemented training and hierarchical promotion of judges through an incentivized personnel management process. This discourages judicial autonomy and encourages justices to adhere to their superiors’ judicial interpretations rather than use their own judgement to render an impartial decision. “The desire of politicians to count on ideologically like-minded judges is also part of the democratic life of the region” (Santiago Basabe-Serrano 2012, 136). This type of indoctrination results in a sense of judicial occupational uncertainty which is ubiquitous in the region.

Judicial independence was not widely addressed within political discourse by scholars for some time. In fact, it was not until 1776 when John Adams first propositioned within the American lexicon that it was an essential feature of government for the judiciary to be an independent branch in order to check the legislative and executive powers:

The dignity and stability of government in all its branches, the morals of the people, and every blessing of society depend so much upon an upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislative and executive and independent upon both, that so it may be a check upon both, as both should be checks upon that (Neil Chisholm 2014, 897).

According to Chisholm’s article the impact made by Adams was widely disseminated throughout Europe—especially in France and Germany. Constitutional provisions were implemented granting judicial independence. This notion soon became an expected norm in comparative political discourse. Judicial independence is the isolation of the courts from other branches of a government; whereas professionalization is the acknowledgment by the political actors of a state as well as its institutions that

the judiciary can overrule these political actors within a government—hence its depoliticization. This judicial action of overruling the courts is called “judicial review” and it is how a government constrains itself through its institutional arrangements (see Pilar Domingo 1999).

Establishing Autonomy Through Judicial Review:

But why is judicial review important to democratization? Tom Ginsburg (2003) in *Judicial Review in New Democracies: Constitutional Courts in Asian Cases* propositions that the expansion of judicial power is due to an international expectancy that fundamental rights should be safeguarded by an independent judiciary. “Related to judicial power is the degree to which judges are independent. A tradition of judicial independence encourages policy makers to acquiesce when judges overturn their decisions. Since judges lack the power to fund or enforce their own decisions, judicial power is highly contingent on the acceptance of other policy makers” (Shannon Ishiyama Smithey and John Ishiyama 2000, 165). Without an institutionally strong and professionalized judiciary civil society will not foster within a developing democracy. “A weak or ineffective judicial sector also closes off opportunities for civic organizations to redress grievances or to try to change laws that restrict their freedom” (Alexander Sokolowski 2013, 21). It is therefore the judiciary that secures individual and organizational political freedoms in a democratically transitioning state. However, judicial professionalization requires that a judiciary be independent from the legislature and depoliticized. This requires that a judiciary possess an institutional mechanism which it can use to check the legislature when it is deemed appropriate to do so. “That is, the judiciary is able to declare laws and actions unconstitutional and serve as a check against excesses by other branches of government. A strong judiciary in newly independent countries helps the state break with its authoritarian past and develop a constitutional culture that teaches state actors that the legal system cannot be transgressed for political gain” (Erik S. Herron and Kirk A. Randazzo 2003, 422). It also mandates that public officials cannot reprimand justices that overrule them. According to Herman Schwartz (1999) in “A Brief History of Judicial Review” the concept of judicial review originated in 1610 from the Seventeenth-Century English doctrine in *Dr. Bonham’s Case*. Contrariwise, European philosophy which was nurtured by the French Revolution dictated that parliamentary preeminence should trump judicial independence. Hence, judicial review was not a major judicial principle until much later (i.e. *Marbury v. Madison*, 5 U.S. 137, 1803).

One school of thought which begins with Alexander Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of American Politics* (2d ed., 1986) is that judicial review runs counter to democratic principles since judges are not elected. Consequently, judicial review can garner legitimacy for democratic processes by enfranchising ethnic minorities where the majority would permanently disregard their interests thereby preserving democracy despite itself. “In such instances of systemic failure, the courts can clear the channels of the political process by striking statutes...judicial review can ensure that minorities remain part of the system” (Ginsburg 2003, 22). Without the recourse of judicial review minority social

cleavages could theoretically be without representation within a majoritarian political arrangement. Consequently, judicial review maintains both acceptability by all factions within a polity while simultaneously upholding representational relevance for what would otherwise be marginalized political factions within a democratic system of government.

According to Pilar Domingo (1999), “Judicial Independence and Judicial Reform in Latin America,” in *The Self-Restraining State: Power and Accountability in New Democracies*, eds. Andreas Schedler, Larry Diamond, and Marc F. Plattner writes that “Overgeneralizations must be avoided, as the nature of judicial review varies from country to country. Moreover, lacking in the literature is systematic analysis of case statistics that can give reliable assessments of how supreme courts in Latin America have used judicial review powers” (161). The study of judicial review is pertinent when evaluating judicial professionalization because it is the institutional device by which a judicial system counteracts the institutional powers of the remaining national governmental apparatus. Nonetheless, Domingo notes that the power of judicial review in Latin America are typically not very strong.

But when is *de jure* judicial review strong? Is there statistical data to support a proposition that entails when developing countries will implement consequential judicial review? Vineeta Yadav and Bumba Mukherjee (2014) in *Democracy, Electoral Systems, and Judicial Empowerment in Developing Countries* find that by using an interaction term between concentration and trust that there is a negative statistical relationship with judicial review for developing countries where the government does not have an alternating or competitive political party system (94). Thus, the inverse proposition coincides with the scholarly consensus that competitive political parties result in significantly higher probability of *de jure* judicial review after empirical testing with cluster-adjusted robust standard errors (Ibid, 69).

A Regional Review of Judicial Professionalization in Latin America, Southern and Eastern Europe:

Latin America:

This relatively new expectation within contemporary political discourse that the judiciary should have independence spread throughout Latin America during the period that Samuel P. Huntington (1991) coined “The Third Wave” in his book by the same name. According to Laurel E. Miller et al. (2012) Latin America’s governments in the 1990s alternated between democratization and authoritarianism. Finkel (2008) argues in *Judicial Reform as Political Insurance: Argentina, Peru, and Mexico in the 1990s* that international financial institutions play a role in contributing to judicial restructurings within Latin America. “By the mid-1990s, the link between judicial improvements and economic reform had become standard fare in the discussion of growth strategies for the developing world, with judicial reform seen as a necessary complement to the purely economic reforms of the previous period” (Finkey 2008, 25). Thus, the transitions for authoritarian regimes to capitalist societies encompassed judicial reforms due to economic incentives proffered by international financial institutions (e.g. the

Inter-American Development Bank). As a result, Latin American courts which had been routinely disregarded by their national governments suddenly found new life during the Third Wave of democratization.

Argentina, for example, saw President Raul Alfonsín attempt to consolidate democratic government and establish civilian control over the military. Furthermore, the Alfonsín government tried to establish a civil society by implementing judicial independence among other initiatives to ensure civil liberties. Additionally, Guillermo O'Donnell (1994) in "Delegative Democracy" finds that only three of the region's polyarchies actually operated as their institutional designs specified. "Only in the oldest Latin American polyarchy (Costa Rica) and in two cases of redemocratization (Chile and Uruguay) do the executive branch, congress, parties, and the judiciary function in a manner that is reasonably close to their formal institutional rules, making them effective institutional knots in the flow of political power and policy" (O'Donnell 1994, 36). Consequently, much of Latin American adjudication is not due to a nation's institutional design but rather its informal institutions (see Gretchen Helmke and Stephen Levitsky). In such instances a study of judicial professionalization in developing democracies in Latin America can become an opaque area to conduct scholarly study.

Argentina is an interesting case because political leaders voluntarily handed over their influence of the judiciary. Here Argentina's Peronist president Carlos Menem agreed to exchange "ownership" of the Argentine Supreme Court in order to have the right to run for election again. He thereby consented "to establish an independent National Judicial Council to select all lower-level federal judges" (Jodi S. Finkel 2004, 56). This professionalization of the judiciary granted it autonomy it had not previously enjoyed. However, primarily professionalizing the Argentinean judiciary was only followed through with from initiation to implementation because the ruling party realized that they were about to lose their position of power. "The Argentine case suggests that the likelihood of implementation, the crucial element of judicial reform, increases as the ruling party's probability of reelection declines" (Ibid, 57). This is because political parties that are in the minority (thus out of power), or fear that they will soon be in the minority, find solace in having a check upon the government by an independent judiciary. Similarly, B. C. Smith finds in *Judges and Democratization: Judicial Independence in New Democracies* that political actors are motivated to support judicial independence in situations where political control alternates periodically from one parties to another. William M. Landes and Richard A. Posner (1975) first used the term "insurance theory" to describe this political behavior by risk adverse politicians that anticipate that they will be out of power soon thereby they support greater levels of judicial autonomy (see also: Randazzo, Kirk A; Gibler, Douglas M; Reid, Rebecca). Likewise, Finkel (2005) in "Judicial Reform as Insurance Policy: Mexico in the 1990s" remarked how Mexico had altered its institutional design by substituting the composition of the Supreme Court and redesigning the judiciary. This resulted in the Federal Judicial Council (CFJ) which directed the administration of the judiciary and the independence of the justices (Finkel 2005, 91). Once political parties became more competitive (political reforms) subsequently judicial independence takes place as well (institutional reforms). Similarly, Caroline C. Beer (2006) infers that a more competitive political party resulted in a higher level of judicial independence and

altering the judges' conduct when presided over a court system (36). Scholars have overwhelmingly concluded that a competitive party system is the most effective method to foster judicial professionalization.

In sharp dissimilarity to much of the Latin American continent which involves a omnipresent number of lithe court systems—especially Argentina or Chile—Brazil's federal courts have rendered several momentous verdicts which have had profound effects on public policy. "On numerous occasions, courts have been called upon to evaluate decisions made by Congress or the president, and on a fair number of such occasions, courts effectively halted policy implementation and sent policymakers back to the drawing board, with effects that reverberated across the entire body politic" (Matthew M. Taylor 2008, 3). This is an imperative passage that validates that the judicial systems in Latin America cannot simply be painted with a broad brush. The Brazilian example exemplifies how judicial professionalization given a favorable milieu can constrain the policy choices that political actors can make within a consolidated democracy. Conversely, Taylor propositions that minority parties or groups can effectively obstruct policy objectives which they are in opposition to by appealing to the Brazilian federal court system for remedy. "Thus, the Brazilian judiciary has come to be seen as a privileged enclave, and public dissatisfaction has reached an all-time high. Meanwhile, Brazilian judges express great satisfaction with a justice system that the public almost uniformly scorns" (Dodson, Michael 2002, 215). Therefore, the Brazilian judiciary is brought into the epicenter of the policy making process albeit in an archetypally plodding manner and usually succeeding the commencement of policy implementation. Yadav and Mukherjee point out that the institutional design for the Brazilian judiciary granted wide latitude for judicial review right after democratic transition (109). One could conjecture that getting institutional design done right directly after democratic transition is the best bet in qualifying judicial professionalization.

Eastern and Southern Europe During the Post-Community Era:

Other regions of the world had struggling judiciaries as well. "In the Baltic states, the weakness of the judiciary—a Soviet inheritance—makes it difficult for the judicial arm to balance the other branches of government" (Mary Kaldor and Ivan Vejvoda 1997, 66). Likewise, Lithuania also has a weak judiciary. In both Russia and Ukraine politicians can continue to exert pressure on the courts through ex parte dialogue with justices. Popova finds that without an institutional design that controls for political manipulation judicial decisions are more likely to be decided through these conversations that take place outside of the courtroom. In fact, ex parte conversations are deemed a legitimate information gathering technique in both countries. However, many of these justices express a willingness to receive external judicial reform guidance. By "judicial reform" I am using Finkel's (2008) definition from *Judicial Reform as Political Insurance: Argentina, Peru, and Mexico in the 1990s* of "institutional changes claiming to increase the independence and authority of the judicial branch" (1). In many cases judicial decisions are ignored by political elites in developing countries. The institutional power of the judiciary must be recognized and adhered to by politicians and the public within civil society to effect meaningful social change. Notably, Andrei Buzin, an electoral law expert, finds Russian judicial independence to be tremendously deficient (Popova 2012, 150). Likewise,

Ukrainian justices have been dismissed for demonstrating judicial independence in the face of stern political opposition. Alas, Freedom House claimed in 2008 that Ukraine had become the first post-Soviet country that was not inside the Baltic to be categorized as “free” (Ibid 162). Only time will tell if Russia will revert its course and become an emerging democracy again.

In Hungary the independence of the judiciary is secured by constitutional mandate. “The professional judges are to be appointed by the President of the Republic in a legally prescribed process, and the President of the Supreme Court is elected by Parliament with a two-thirds majority upon the proposal of the President of the Republic” (László Sólyom, and Georg Brunner 2000, 48). In the Hungarian court system job security is ensured as long as certain provisions were not violated. Furthermore, the Hungarian judicial system is compromised of an independent Judicial Council to reaffirm judicial autonomy in Hungary.

Bulgaria has also dealt with the momentous democratic transition in the early 1990s. When under communist rule judicial selection was made under political consideration. Now in the post-communist era the judiciary is returning to “the Weberian ideal of an objective rule-oriented judiciary” (Albert P. Melone 1996, 234). The writers of the 1991 Bulgarian Constitution safeguarded judicial professionalization with separate budgetary allocation through an independent commission and a secure tenure with dismissal only made during disability, retirement, or prison sentencing.

Reforming a Judiciary:

The beginning of the export of American jurisprudence to Latin America did not begin with the Third Wave but with the First Wave of democratization. “Traditional accounts of law and development characterize the “first wave” of such efforts as beginning with the American movement to promote reform among Latin American judiciaries and law schools during the 1960s” (Jedidiah Kroncke 2012, 493). Some scholars (e.g. David Trubek and Marc Galanter) found these attempts at exporting transitional law to be failures because cultural and historical considerations of developing democratic countries had not been made (Ibid, 494). Though judicial professionalization exporting measures have been continued by American and supranational organizations they have not universally successful because of the nature of a country’s transitional process from an authoritarian regime to a democratic state or from other intrinsic socioeconomic factors.

Both judicial independence and professionalization are challenging hurdles to reach if a nation’s judiciary is not adequately funded. “According to the Basic Principles on the Independence of the Judiciary adopted by the [United Nations] UN in 1985, “it is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions”” (B. C. Berkinshaw-Smith 2017, 117). Thus, the international community has called for each nation to make available an adequate institutional design for their judiciary. Unfortunately, this can often be a challenge for emerging democracies to fully finance their court systems. Furthermore, the depoliticization of a judiciary requires that its funds are allocated directly by means of a portion of the nation’s overall budget instead of under another governmental branch’s or bureaucratic department’s umbrella—a judiciary

can only function adequately when its institutional arrangement does not fall under the guise of another political entity or bureaucratic apparatus. On the other hand, some scholars do not concur with the proposition that financial dependence will increase the perception of judicial performance. Vanessa A. Baird and Debra Javeline (2010) contend “We find that perceived financial dependence of courts on national authorities has no significant effect on perceived judicial performance, whereas perceived financial dependence of courts on local authorities has significant negative effects” (332). Nonetheless, I presume that judicial professionalization is more likely when a nation’s court system is sufficiently financed. (Besides, Baird and Javeline are reviewing the perception of lawyers which may be influenced by their preconceived notions of Anglo Saxon Law versus Civil Law or Common Law legal systems.)

The United States as well as the international community and Non-Governmental Organizations have endeavored to create and maintain an atmosphere that leads to judicial professionalization. The United States Agency for International Development (USAID) is an independent agency of the federal government which was established by President John Fitzgerald Kennedy’s executive order on November 3, 1961. “President Kennedy recognized the need to unite development into a single agency responsible for administering aid to foreign countries to promote social and economic development” (USAID 2018). USAID has effectively passed the torch from merely offering to make available support for socioeconomic progress to also incorporate democratization improvements over the course of the past two decades. One of the methods which USAID utilizes to assist developing countries is providing outside guidance on how to professionalize their judiciaries, respectively. This coercive “help” can be given directly through financial means or by foreign advisors offering external guidance. Another way that aid can be made in the direction of democratization transitions is through indirect means such as supporting essential democratic institutions such as an autonomous judiciary “that help to level the political playing field by securing and guaranteeing fair procedures for the democratic actors and by checking the power of the nondemocratic actors” (Thomas Carothers 2009, 7). USAID by this means provides gradual political variation while maintaining an organizational ethos of encouraging socioeconomic development (Ibid, 14).

In central Latin America landlocked Paraguay has sought such assistance from USAID. Paraguay has dealt with corruption and dictatorship from the Colorado Party. Thus, a party quota system has greatly politicized the judiciary there. “Most notably, the Council of Magistrates, the critical actor in terms of judicial system appointments, continues to operate through a partisan quota system which has distorted the selection of judges, prosecutors, and public defenders in favor of the Colorado Party” (USAID 2009, vi). This system allowed for the democratization of the judiciary to transpire but, consequently, resulted in a judiciary system that was incapacitated. Furthermore, there has been considerable political influence upon the judiciary.

USAID recommends utilizing a “cross-cutting emphasis on anticorruption and transparency efforts” in order “to strengthen control and prevention mechanisms, and in the judicial sector to encourage more transparent enforcement processes” (Ibid, viii). However, if the party patronage system continues to result in politically derived judicial appointees rather than an independent judiciary, USAID’s assistance efforts will not bear fruit. The

Paraguayan judicial system is too politicized. Since judicial nominations are made based on political service instead of quality and proficiency Paraguay's level of professionalization remains low. Despite worldwide sponsored judicial professionalization initiatives USAID is concerned about impartiality and judicial independence from political influences. Furthermore, they are focused on ensuring a professional capacity to meet their objectives. Paraguay's court system suffers "from low levels of training, efficiency, and professionalism" (Ibid, 13). Can the international community facilitate the judicial professionalization in Latin America when institutional designs are structurally frail and judicial nomination practices remains hyper politicized? The recent election of President Fernando Lugo has ended the more than sixty years of domination by the Colorado Party but only time will tell whether the continuous democratic transition will contribute to a professionalized judiciary.

Transnational judicial professionalization efforts are limited by the actions of political actors themselves in each nation to contrive an institutional design that provides for an autonomous judiciary. Furthermore, economic conditions can make democratization transitions and consolidation more likely to emerge. Alexander Sokolowski (2013) in "Democracy and Governance Team Leader, Bureau for Europe and Eurasia, United States Agency for International Development (USAID)" propositions that "Economic diversity and distribution of wealth should be expected to strengthen political competition, provide fewer opportunities for corruption, and create greater possibilities for judicial independence" (8). And I have previously discussed how a higher level of party competition supposes that risk adverse political actors will strengthen judicial autonomy so that when they are out of power they can impede the majority's public policy initiatives when a minority party opposes them. Ergo, the depoliticization of both the judicial nomination process and the rendering of a judicial decision requires that justices have a prolonged tenure so that justices do not have to fear reprisal from political actors or the general public when they render a decision which is unpopular or adverse to the current policy agenda of government officials; additionally, justices must have the institutional capacity to impact civil society. Contemporary democratic norms of behavior are to adhere to judicial decisions and not to infringe on the established civil rights of political opponents whether internal or external to the bureaucratic apparatus. Larry Diamond and Leonardo Morlino (2004) in "The Quality of Democracy: An Overview" proposition that "Assuring political and civil rights requires many of the institutional conditions of fairness and horizontal accountability discussed above with respect to participation, competition, and vertical accountability. First and foremost, among these institutions is an independent, capable, and constitutionally authoritative judiciary" (26). This is in sharp contrast to Kroncke who found the judiciary to have the least impact on social movements. On the other hand, B. C. Berkinshaw-Smith remarks that simple technological advancements in teleconferencing equipment can help with court case backlogs (e.g. Latvia) and case management systems (e.g. Croatia) thereby improving judicial professionalization, capacity, and productivity (115-116).

Conclusion:

The consensus made by scholars is that USAID has come short in its endeavors to improve judicial professionalization in the developing world. Carothers (2009) in "Revitalizing U.S. Democracy Assistance: The

Challenge of USAID” suggests that this shortcoming is due to "shifting priorities" among the organizational mission of USAID as the primary reason that organizational outcomes on institutional design have been such an overt public agency failure.

Judicial professionalization in Latin America has been predominantly invigorated by international financial institutions rather than intrinsic institutional design. With the notable exception of Brazil judicial independence has historically been readily overlooked by political actors. Contrariwise, post-communist nations in Eastern Europe reestablished professionalized judiciaries which upheld the rule of law instead of political whims. In either case, judicial autonomy has fostered a civil state within consolidated democracies. Individual liberties and political freedoms have been established and protected when a nation’s court systems were empowered to ensure justice and impartiality for its citizens.

The professionalization of the judiciary in developing countries requires that it have autonomy from the other branches of government. This requirement can only be met when a judiciary has the institutional mechanism that allows it to fulfill its mandate—namely, the constitutional prerogative to check the legislative or executive. Risk adverse political actors will redistribute to the judiciary more institutional authority when political power alternates between political parties. Therefore, international initiatives to foster judicial professionalization should emphasize competitive elections soon after the democratic transition has occurred.

Potential Future Research:

Future research could include a focus on the scope of review for a judiciary in a developing country after a democratic transition and creating trust among constituents in their institutional arrangements. Also, Freedom House data could be used to measure levels of democratization to observe whether there is a statistical relationship with judicial professionalization. I find the de jure judicial review used by Yadav and Mukherjee to be an effective metric—at least when used as an interaction term (when factoring together concentration and trust) or another similar indicator of judicial independence. My reasoning is that judicial review is the best barometer to analyze judicial professionalization since it is the institutional design feature that makes the greatest impact for a country that recently transitioned to a democracy. It might also be interesting to conduct research on corruption within the court systems of consolidated democracies. Finally, I would suggest that the public policy impacts of the professionalized Brazilian judiciary would be an interesting case study particularity in comparison to either Argentina or Chile.

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