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Political Justice:
Sub-national Determinants of Judicial Efficiency in Mexico, 1993-2000

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Political Justice: Sub-national Determinants of Judicial Efficiency in Mexico, 1993-2000

ABSTRACT

Judicial efficiency can be engineered. Although there are several significant determinants of judicial efficiency that are, relatively speaking, out of the control of policy makers and politicians, this research argues that institutional design is a critical variable over which there is substantial control. In this quantitative study of the judiciary in 11 Mexican states, institutional design is a strong predictor of judicial efficiency. Design choices promise to yield substantive improvements in the efficiency of judicial institutions. Judicial efficiency, in turn, facilitates the vindication of rights in democratic countries and promises to promote the consolidation of democracy. Furthermore, these design choices provide a mechanism by which to hold politicians accountable for their policy decisions regarding the judicial branch.

Introduction

The literature on development and democratization increasingly emphasized judicial reform during the last three decades. However, there is little research on the determinants of reform. The benefits of judicial independence, accountability, access, and efficiency are routinely highlighted,¹ and most of the literature argues that improvements in each of these four areas are associated with economic and political development. A strong judiciary, it is argued, is a crucial determinant of strong markets and democratic consolidation (Domingo and Sieder 2001, 142-47; O'Donnell 1999; Hammergren 1993; Prillaman 2000, Ch. 2; Carothers 2001; Pinheiro 1999). This study highlights institutional characteristics of the judicial sector and analyzes the impact of these institutional features on the efficiency of the justice sector.

¹The literature on justice reform identifies four principal areas that are targeted for improvement. These are the independence and accountability of the judiciary, the efficiency of justice mechanisms, and access to these mechanisms (Prillaman 2000, Ch. 2; Carothers 2001; Pinheiro 1999). This study highlights institutional characteristics of the judicial sector and analyzes the impact of these institutional features on the efficiency of the justice sector.
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Nagle 2000). Judicial reform is universally hailed as desirable, but the determinants of reform remain unexplained.

In addition to the recurrent argument about the benefits of reform, comparative scholarship on the judicial branch focuses overwhelmingly on federal judiciaries and on the interactions between the judicial, executive, and legislative branches at the federal level. As a result, we have a better understanding of Presidents, Assemblies, and Supreme Courts, but the first point of contact for the majority of the population – state courts – remain largely unexamined.

Consequently, comparative judicial scholarship suffers from both a causal and a level-of-analysis bias. The emphasis on a unidirectional relationship between judicial reform and macroeconomic and macropolitical improvements blinds the field to a broader analysis of the determinants of reform, and little attention is given to sub-national patterns of judicial performance. Judicial scholarship needs to examine these gaps in the literature by analyzing the causes of reform and shifting its focus to the individual states.

This study addresses both of these gaps. The focus is on explaining judicial efficiency in 11 Mexican states from 1993-2000. Mexico provides a good laboratory for this research in that its 32 states (including the Federal District) are held together by a federal structure which grants the individual states a certain level of autonomy. Additionally, the different regions of the country provide sufficient variation in economic activity and, since 1988, there is increasing political diversity in the executive (governor) and legislative branches of the states. This study, therefore, shifts the focus of judicial research to the sub-national judiciaries of Mexico, and reframes the causal analysis in order to explain patterns in judicial efficiency rather than the effects of these patterns.
Theories regarding the varying significance of institutional, social, political, and economic pressures on judicial reform yield specific hypotheses regarding judicial efficiency. Institutional design is hypothesized to be the most salient predictor of efficiency, followed by the strength of human rights social movements, the dominance of the Institutional Revolutionary Party (PRI), and the structure of the state economy. The quantitative analysis supports the argument that institutional and social movement factors are more important than the others, both in the magnitude of their impact and in their policy implications. Both variables lead to concrete policy recommendations regarding future improvements in judicial efficiency. Overall, this study contributes to the literature on judicial reform by shifting to a sub-national level of analysis, by testing judicial design against other salient explanations of judicial efficiency, and by generating clear and useful policy recommendations.

The paper proceeds as follows. First, I examine the main arguments in the judicial reform literature and extract relevant hypotheses regarding the crucial independent variables. Second, I discuss the operationalization of the dependent variable and the control variables in the model. Third, I present the findings from the quantitative analysis. Finally, I discuss the implications of these results with particular attention to the concrete policy recommendations derived from the significance of institutional variables.

Theory and Hypotheses

Several key arguments appear in the literature on judicial reform at the national level. Each argument addresses different pressures to reform and identifies different constraints faced by the reform project. The various arguments fit broadly into four principal analytical approaches in comparative politics, focusing alternately on
Institutions, social movement pressures, political agency, and structural relationships. In the sections that follow, I identify the main concepts and arguments in each of these areas, and identify variables and hypotheses in order to test their strength in explaining judicial efficiency in the Mexican states. First, I identify and discuss the dependent variable — judicial efficiency. The remainder of the section is dedicated to the independent variables.

**Judicial Efficiency**

An efficient judicial sector is a critical component of democracy (Salas 2001, 17). Delays prevent a timely resolution of conflicts, and also prevent others in need of resolution from accessing the justice system. Thus, efficiency and access are closely linked, and low levels of efficiency prevent citizens from vindicating their rights. Delays in the judicial process lead to the "erosion of individual and property rights" (Dakolias 2001, 80). An inefficient judiciary, therefore, prevents full citizenship and is a barrier to the consolidation of democracy.²

The dependent variable of judicial efficiency is operationalized as the proportion of new cases in first instance courts³ in state jurisdictions that proceed to sentencing and final disposition.⁴ This measure is commonly referred to as clearance rates in other

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² "The need to reduce judicial delay, and the more general need to strengthen the managerial capacity of institutions involved in justice administration ... will undoubtedly be an area of continued and increasing demand" (Biebesheimer 2001, 110).

³ In contrast to appellate courts.

⁴ This measure is useful but it has two limitations. First, this metric for efficiency does not capture delays in bringing a case before court or delays in concluding particular types of cases. It does not measure time to disposition. Mexican courts, along with Latin American courts in general, suffer from exceedingly long delays and a high average time to disposition, so this is an important issue. However, comparative data on pre-hearing detention times or overall disposition times is not readily available. Second, the efficiency measure used here does not capture the proportion of cases that are closed or dismissed summarily. There are many reported cases of the abuse of dismissal powers and of systematic closures of certain types of cases. For example, the *amparo* or appeal process in Mexican federal courts has been criticized because the early dismissal rates are unusually high (Zaldivar Lelo de Larrea, 2002). The measure of efficiency used here does not account for similar patterns that may exist in state courts.
studies of court performance, including those of courts in the United States (National Center for State Courts). Clearance rate statistics are important in the analysis of judicial efficiency and reform in Latin America because rates are generally very poor throughout the region. Importantly, the measure is not exact because it calculates the percentage of new cases in a given calendar year that reached disposition. Therefore, some states can have clearance rates greater than 100% if they received few cases in one year but cleared many from the previous year. The metric remains, however, a useful measure for comparative purposes. The data for this measure are obtained from yearly state reports (Anuarios Estadisticos) published by the Mexican government’s National Institute for Statistics, Geography, and Information (INEGI). The variation in judicial efficiency is illustrated using figures from 1997 displayed in Figure 1. Due to data constraints, only 20 states are included in this graph.

Figure 1. Clearance rates for 20 Mexican states in 1997 (Baja California Norte is at the top).
Institutions

The 1980s saw renewed attention to the role of institutions in determining political outcomes. The literature on this "new institutionalism" is marked by a tension between treating institutions as dependent or independent variables. The argument for treating institutions as independent variables is promoted notably by March and Olsen (1984), while Remmer (1997) argues that in an era of dramatic macroeconomic change and institutional volatility the focus should be on treating institutions as dependent variables, especially in small open economies, and on identifying the determinants and dynamics of this change. Remmer’s argument, however, is largely directed at national institutions in an era of banking crises and neoliberal adjustment policies. Moreover, the mutability that Remmer associates with institutions is a not a characteristic generally associated with the judicial branch at the level of the state. For these reasons, the subnational design of this study follows the causal orientation of March and Olsen, Shugart and Carey (1992) and other proponents of the new institutionalism and treats institutions as independent variables.

For theoretical and pragmatic reasons, judicial design is a crucial independent variable in the analysis of judicial efficiency. "Adherence to the rule of law," writes Salas (2001), "involves an evolutionary search for those institutions and processes that will best facilitate authentic stability through justice" (Salas, 23). Theoretically, it is reasonable to expect that the compositional structure of the judiciary – as well as the selection criteria and tenure of judges – are crucial to judicial performance. Pragmatically, the significance of institutional design as an independent variable has important implications for policy
proposals and implementation. Design choice is an activity that is clearly within the control of politicians, so the significance of institutional design provides both a rationale for policy recommendations and compelling reasons for holding politicians accountable for the choices they make.

Critical components of strong judicial institutions are identified by Buscaglia, Dakolias, and Ratliff (1995) and by Caballero Juárez and Concha Cantú (2002, 270-280). Both groups of scholars identify the following features of strong judicial design: a Council of Judicature, a clear and accessible mechanism of receiving and processing complaints, a legal training institute, a statistics office, and a clear process of professional evaluation and career development. Similarly, Sarles (2001) highlights the importance of judicial training schools, internal mechanisms of review and accountability, and an independent budget process. Caballero Juárez and Concha Cantú’s classification of Mexican state judiciaries reveals broad differences in the institutional structure of Mexican judiciaries. Specifically, the presence of the institutional components outlined above varies greatly across states, leading to differences in the judiciary’s capacity for oversight and accountability, training, grievance processing, and evaluation. States that do not have the recommended institutional components are expected to be less efficient.

The judicial selection process also varies across states. In some states, the executive branch has significant powers of appointment and the tenure of judges coincides with the tenure of the governor. States that have a more politicized judicial selection procedure are expected to be less efficient.

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5 This study, which was sponsored by the U.S. National Center for State Courts and by the National Autonomous University of Mexico (UNAM), is a groundbreaking study of judicial institutions in Mexico’s states.
I seek to identify which institutional design patterns have a greater impact on judicial efficiency, and to test the explanatory strength of institutional design against economic, political, and social pressures for judicial efficiency. Accordingly, judicial design is measured in two ways: 1) the presence of important institutional components identified in the literature as leading to more accountable, professional, and responsive judiciaries (Institutional Design), and 2) the design of the judicial selection process (Judicial Selection Design). Institutional Design is an original index (0-6) constructed by reviewing the structure of state judicial institutions reported by Caballero Juárez and Concha Cantú. These design patterns are compared with recommendations from existing literature on judicial institutions and ranked according to whether the recommended institutional components are present or absent. Higher numbers in this index reflect a greater presence of recommended components. Judicial Selection Design is also an original index constructed from an analysis of state political constitutions. The index ranks each state (1-5) according to the independence of its judicial selection process from political intervention. Higher numbers indicate greater independence whereas lower numbers indicate greater politicization. Sarles (2001) notes that international reform efforts have focused attention on issues of judicial independence, particularly on the overlapping terms of judges and the Executive at the federal level (Sarles, 54). In this study, political intervention in the judicial selection process is identified by the relative dominance of the executive (Governor) in the selection of judges and by the overlap of terms for judges with the term of the governor (i.e., concurrent or coinciding terms). The

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6 I include only the five most important institutional components enumerated by Caballero Juárez and Concha Cantú. Of these five components, the Council of Judicature has the greatest impact, so it is weighted. The six-point scale results from giving the Council two (2) points and the remaining components one point each.
combination of these two design choices results in a judicial body that is closely tied to the executive and is replaced by each new governor. The judiciary becomes both volatile and politicized. In short, its independence is compromised. Conversely, independence from political intervention is identified with an increased role of the legislature in the judicial selection process, by an increased role of new institutional structures (such as the Council of Judicature) in that process, and by judicial terms that do not coincide with the term of the governor. For example, in states like Baja California Sur or Puebla, the governor nominates candidates for the **Tribunal Superior de Justicia** (the state Supreme Court), and the legislature has little recourse but to confirm those nominations. Similarly, in states like Chiapas and Hidalgo, the failure of the state legislature to confirm governor nominations means simply that the governor gets to appoint his or her nominees. At the other end of the spectrum, states like Morelos or Yucatán have a selection process that does not include the governor. The Council of Judicature, which is one of the components of strong institutional design and is usually composed of representatives of the legislature, the judiciary (including lower courts), and the governor’s office, makes the nominations for the high court. These nominations then go directly to the legislature and the nominees do not get confirmed unless they are approved by a majority. Clearly, these represent different design choices.

The hypothesis regarding judicial design is the following:

**H₁:** Judiciaries that are marked by improved institutional design (operationalized as either Institutional Design or Judicial Selection Design) will have increased judicial efficiency in the clearance of cases.
Social Movement Pressures

In 1992, the Mexican federal government formed the National Human Rights Commission (CNDH). Since that time, the individual states have followed suit and by 1994 every state had an official human rights organ, with non-governmental human rights organizations (NGOs) also forming at different rates around the country. Although the human rights movement in Mexico dates back well into the 1960s and 1970s, it grew dramatically during the late 1980s (Welna 1997), and its peak coincided with the formation of the national and state official human rights’ offices.

Though the extent to which the rise of human rights NGOs influenced the formation of official commissions is a question that is beyond the scope of this study, a clear effect of the formation of the official human rights organization is that there has been a political opening in the state’s posture towards human rights. One key aspect of this opening is the demand for access to an efficient, independent, and accountable justice system. Evidence of this opening is found in the documentation of complaints made against agents of the state. The complaints are demands on the state for justice. Significantly, most of these complaints are against police, prosecutors, and other members of the justice system, including the judiciary (Anuarios Estadísticos of individual states, INEGI).

Social pressure generated by the human rights movement generates an incentive for judicial reform. Although most research on social movements has focused on explaining the emergence of new social actors (Meadam, Tarrow, and Tilly 2001, 14-16), this study looks at societal pressures as important independent variables in explaining variations in judicial strength across the Mexican states. The rise of the human rights
movement and its presence in state and non-governmental organizations is generating increased demands on the judiciary. Therefore, social pressure generated by the human rights movement is expected to have a significant impact on the reform process.

This proposition is tested in two ways. The first operationalizes social pressure as the number of human rights NGOs in the state, while the second uses citizen complaints about human rights violations as an indicator of social pressure. The testable hypotheses are the following:

\[ H_{2.1}: \text{Higher numbers of human rights NGOs will have a positive influence on the efficiency of the judiciary.} \]

\[ H_{2.2}: \text{Higher levels of citizen complaints about human rights violations will have a positive effect on the efficiency of the judiciary.} \]

**Political Will: Agency and Reform**

Agency arguments focus on the political will to reform (Hammergren 1993; Woodson 2002). The agency proposition emphasizes the role of key political actors in determining the direction and success of reform efforts. However, its primary weaknesses are its lack of conceptual clarity and the resultant difficulty in operationalization. In particular, how do we thoughtfully define “will”? One of the goals of this research is to clarify what is meant by political will in regards to judicial reform and to specify causal relationships between political will and the reform process.

Some authors have argued that the judiciary cannot reform unless there is a strong commitment for reform by judges in top positions of the judiciary (Nagle 1997). Others have argued that it takes a strong commitment from the state – in the executive, legislative, or judicial branches – to implement reform (Hammergren 1993). The theme
of commitment resonates with the term "government commitment" used by Tsebelis (2002) in a discussion of actors and policy choices. The term also helps to clarify what is meant by political will. It refers to an identification between actors and the goals of reform despite the presence of obstacles and constraints. In the Latin American context, Nagle (1997) argues that judges – spoiled by corruption and other rents collected due to their privileged positions – often become obstacles to reform because it is not in their interest to alter the status quo. The commitment to change the status quo, therefore, must come from a deep or near ideological identification with the goals of reform. It is reasonable to expect that this commitment would come from new political actors or political actors that are ideologically driven.

Due to its patrimonial and corporatist structure, as well as its hegemonic and authoritarian tradition, the PRI is not expected to be one of these actors. Rather, the PRI is expected to have a negative relationship with institutional change and judicial efficiency at the state level. It would not be in the interest of the PRI to promote reform – including judicial reform – that increases the checks and balances on governance and institutions. Additionally, the PRI is not a very ideological party (Coppedge 1997 and 1998; Grindle 2004, 166-172) and, in spite of promoting judicial reform at the federal level, it has not taken any firm stance or action at the state level. Conversely, the center-left PRD and the rightist PAN are both ideological parties that have strong commitments towards judicial reform. The PAN is a conservative party of the right, with strong business ties and a free market ideology. It is reasonable to expect the PAN to pressure for reform in the area of commercial and business law, and to pressure for greater efficiency in commercial transactions. The PRD is a progressive party of the left, with

7 NGO data is from Christopher Welna at Notre Dame and the AMDH.
strong ties to social movements and activist networks. The PRD is therefore expected to pressure for reform in the area of public justice and criminal procedures. As a result, judicial strengthening is expected where either the PAN or PRD are dominant, but no significant improvement is expected where the PRI is dominant.

The competing interests of the political parties lead to the following hypotheses.

**H₃.₁:** States that have a PRI governor will show lower levels of judicial efficiency.

**H₃.₂:** States that have a strong presence of the PRI in the state legislature (over 50 percent of the seats) will show lower levels of judicial efficiency.

**Economic Pressures: The Political Economy of Reform**

States that have a strong commercial and financial sector face more pressure to improve the justice system than states that depend less on commercial activity and financial services. Buscaglia, Dakolias, and Ratliff (1995) argue that the size and dynamism of the business sector influences the level of judicial performance (Buscaglia, Dakolias, and Ratliff 1995, 36). There are two theoretical reasons for this: a structural or macroeconomic one, and a rational or microeconomic one. The structuralist emphasizes incentives generated by macroeconomic structures, while the rationalist approach emphasizes the individual calculus of different actors. These structuralist and rationalist theories of reform can both be grouped under the rubric of political economy – both theories explain political outcomes (judicial efficiency) by resorting to economic arguments. Structuralist and rationalist arguments, therefore, form a two-part logic of political economy – a macro-analytic logic and a micro-analytic logic, respectively.⁸

⁸ Thanks to Ken Roberts for suggesting this phrasing.
The two logics complement each other and reinforce the expectation that high concentrations of commercial and financial activity lead to greater judicial efficiency. First, the macroeconomic structure of each state can create incentives for reform. Commercial and financial sectors tend to have high concentrations of transactional activity and disputes. Consequently, these sectors place a premium on an efficient judicial process. The combined size of the commercial and financial sectors, therefore, provides a structural incentive for judicial reform. Second, the micro-analytic perspective highlights the incentives that individual commercial enterprises have in pressuring the state to reform judicial institutions, and the constraints that these actors face in doing so. States that have a large percentage of their GDP generated by commercial and financial sectors are likely to have a higher concentration of individual actors and business associations that will make demands for an efficient judiciary. Business sectors have concentrated, organized, and motivated actors. Large business sectors develop chambers of commerce and commercial associations that have strong financial incentives to generate pressure for improving the efficiency of business transactions, contract enforcement, and dispute resolution. These characteristics provide rational actors in the business community with an advantage in overcoming Olsonian collective action problems (Olson 1971). This advantage results in a strong capacity to exert pressure on the state for reforms.

The macro-analytic argument emphasizes the macroeconomic structure of the state economy and the pressures that this exerts on the state from above, while the rationalist argument emphasizes microeconomic dynamics and the pressure that this exerts on the state from below. In both logics, the character of the state economy exerts an influence on a political outcome, i.e., economic structures and relationships affect
reform. Moreover, in both frames of analysis – the macro and the micro – the expectation is that states with large commercial and financial sectors will show greater success in reforming the justice sector. The relationship is summarized in the following hypothesis:

\[ H_4: \text{Higher levels in the percent of the state's GDP generated by commercial and financial sectors will lead to increased judicial efficiency.} \]

The concept of commercial and business activity is operationalized as the proportion of the individual state’s gross domestic product (GDP) that is generated by the commercial and financial services sector, as defined by INEGI. These are two of the government’s primary categories for classifying economic activity, and figures are available for every state from 1993 to 2000.

**Methods and Controls**

The dependent variable (judicial efficiency) is continuous, so ordinary least-squares (OLS) is used to estimate the coefficients of the explanatory variables. Given that individual states are expected to have a distinct pattern of relationships between variables vis-à-vis other states, the data are grouped by state. Therefore, this study employs OLS modified to calculate panel-corrected standard errors (PCSE) as recommended for pooled cross-sectional time-series data (Beck and Katz 1995).

In addition to the independent variables described in previous sections, the model includes the following control variables: new cases entering first instance courts, judicial spending per capita, GDP per capita, and population. These are state-level variables just like the other independent variables. The first control (new cases) is simply a measure of the raw number of cases entering first instance courts in the state. This variable captures the internal pressure exerted on the judicial system by caseload demands and work levels.
Judicial spending per capita is the total annual budget for the judiciary divided by the state’s population for that year. This variable captures the financial resources available to the judicial branch. Additionally, this metric is a proxy for the personnel levels in the judiciary. Accurate and systematic data on the size of the judicial staff over time are difficult to find, but the budgetary data provide a useful proxy for this concept that is comparable across states. GDP per capita captures the overall development level of the state, as well as the state’s relative position within Mexico’s economy. Finally, the population control captures an external pressure on the judiciary that might create increased demand for judicial services and therefore be a constraint on judicial efficiency.

**Findings**

Table 1 shows the results of the analysis. The different operationalizations of judicial design – *Institutional Design* and *Judicial Selection Design* – are used individually because they are correlated with each other. The Institutional Design Model uses *Institutional Design*, while the Judicial Selection Model uses *Judicial Selection Design*. Overall, the stability of results between the two models reinforces the findings.

The critical findings are that judicial design choices and human rights organizations are significant determinants of judicial efficiency ($H_1$ and $H_{2,1}$). Both measures of judicial design have positive and significant relationships with judicial efficiency. In substantive terms, a one-unit increase in *Institutional Design* leads to an increase in clearance rates of 1.60 percent, while an increase in *Judicial Selection Design* leads to an increase in judicial efficiency of 2.01 percent. These figures suggest design improvements can greatly improve the functioning of a state’s judiciary. If a state were to move from a 0 to a 6 on the *Institutional Design* index, for example, its clearance rates...
would improve by 9.60 percent. More realistically, perhaps, if a state were to move from a 0 to a 3 on the same scale, its clearance rates would improve by nearly five percent. Given the low clearance rates of some states (see Figure 1), this would be a significant achievement. In simple terms, therefore, institutions do matter.

The findings regarding Judicial Selection Design are provocative for other reasons. Recall that this index measures the independence of the judicial selection process from executive intervention. The significance of this variable indicates that the efficiency of the judiciary depends on its political independence. Political independence results in a more democratic, transparent, and egalitarian selection process. These qualities dissuade political favoritism and nepotism and lead to the selection of more capable, qualified, and effective personnel. A judiciary that follows this process is likely to be more efficient – from the state Supreme Court down to local courts, and this is supported by the findings. The political independence of the judiciary, therefore, is worth promoting and protecting, and it is a matter of design choice.

This finding is consonant with the observations of other analysts regarding the rule of law in Latin America. Salas exemplifies the support for judicial independence when he writes that "[j]udicial independence is central to the Rule of Law" (Salas, 29). At least in terms of efficiency, the findings buttress this normative argument. Also, the findings support Sarles's argument against executive interference with the selection and tenure of judges.

Similarly, the hypothesis regarding human rights NGOs (H21) is supported. The number of NGOs has a positive and significant relationship with judicial efficiency. In substantive terms, a one unit increase in the number of NGOs results in a 2.11 or 2.34
percent increase in clearance rates, depending on the model. However, the citizen complaints hypothesis (H_{2,2}) is not supported. The latter variable is significant, but the sign is in the opposite direction than expected. This is puzzling at first, but upon closer inspection there is a theoretical reason why this is so. Human rights complaints generate pressure to review and scrutinize proceedings, often resulting in the addition of steps to present and future proceedings. It makes sense, therefore, that citizen complaints has a negative relationship with judicial efficiency.

It might be argued that the same process should hold for human rights NGOs. NGOs, however, do not have such a narrow impact on the judicial process. Human rights NGOs facilitate a broad range of activities, most of which are directed towards public education, access to justice, legal aid and counseling, and lobbying (Carothers, 11; Dakolias, 80-81). In contrast to human rights complaints, these activities do not have the effect of slowing down the judicial process. Therefore, the negative relationship between citizen complaints and efficiency and the positive relationship between NGOs and efficiency are not contradictory findings.

Both judicial design variables were hypothesized to have the strongest relationship with judicial efficiency, and there is evidence to support this proposition (H_1). The models show that institutional design and the design of the judicial selection process have a significant and positive relationship with judicial efficiency, and that the magnitude of the impact of each of these variables on efficiency is substantial. This finding should assuage the concern of some analysts that reform efforts directed at efficiency and independence are somehow incommensurate. Carothers, for example, suggests the promotion of judicial independence conflicts with the promotion of judicial
efficiency (Carothers, 12). The findings support the opposite conclusion. Namely, judicial independence has a positive impact on judicial efficiency. Judicial independence and efficiency are not competing objectives in the judicial reform agenda.

There is also strong support for the economic pressures argument (H4). This finding is striking when one considers the substantive implications of the results. A one-unit increase in economic pressure leads to a near one-unit change in clearance rates. In other words, a one percent increase in the percentage of state GDP generated by financial and commercial services results in a one percent improvement in judicial efficiency. There is a near one-to-one relationship between economic pressures and judicial efficiency.

However, this finding does not lead to any concrete policy recommendations. In contrast to the ready policy implications of judicial design and the slightly more attenuated policy implications regarding the promotion of NGOs, macroeconomic structural change does not lend itself to clear policy recommendations.

There is no support for the hypotheses concerning the presence of the PRI in government. Two additional models were analyzed in which the variable PRI Governor was replaced by PRI Legislature (H3.2). The results of these models are not reported but they are similar to those in Table 1, with no changes in the significance of variables. The stability of these results adds further support to the overall findings, but the non-finding regarding the presence of the PRI is unexpected.

As Domingo and Sieder (2001) note, the process of judicial reform is “necessarily a political process” (Domingo and Sieder, 162). There are certainly differences in the policy orientations of the PRI, PAN, and PRD, and these differences may not be
adequately captured in this study. Some of the ways in which future research may be able to elucidate the relationship between Mexico's political parties and the reform process are addressed in the conclusion.

Finally, none of the control variables are significant. The insignificance of judicial spending per capita is notable in light of the other arguments in this study about judicial independence. Judicial spending, to the extent that it captures the financial resources available to the judiciary, can be a measure of judicial independence. However, its insignificance indicates it is not a reliable measure of the concept of independence. Alternatively, its insignificance also suggests that the budgetary strength of the judiciary is not important in comparison with the design of the judiciary. (See Table 1 following page.)

Conclusions

Institutional, social, and economic pressures are significant determinants of judicial efficiency. The implications of these findings, however, are different for each variable. On the one hand, the significance of both judicial design measures and the NGO variable translates into clear policy implications. In concrete terms, states should incorporate the recommended components of Institutional Design into the judicial branch and design the judicial selection process to promote political independence. Policy projects directed at reforming the judicial sector can rely on an empirical rationale for these choices rather than normative arguments. Similarly, the findings support national and international projects aimed at fomenting social movements in the form of non-governmental organizations. This study, therefore, suggests that recent international efforts to increase
# TABLE 1
Dependent Variable = Judicial Efficiency
Clearance Rates (Sentenced Cases/Total New Cases)

<table>
<thead>
<tr>
<th>Independent Variables</th>
<th>Institutional Design Model</th>
<th>Judicial Selection Model</th>
</tr>
</thead>
<tbody>
<tr>
<td>economic pressures</td>
<td>0.77*** (0.09)</td>
<td>0.80*** (0.07)</td>
</tr>
<tr>
<td>(lagged, n-1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PRI governor</td>
<td>3.58 (5.00)</td>
<td>5.91 (4.64)</td>
</tr>
<tr>
<td>NGOs</td>
<td>2.11*** (0.49)</td>
<td>2.34*** (0.56)</td>
</tr>
<tr>
<td>citizen complaints</td>
<td>-0.14** (0.07)</td>
<td>-0.13* (0.07)</td>
</tr>
<tr>
<td>Institutional Design</td>
<td>1.60*** (0.47)</td>
<td></td>
</tr>
<tr>
<td>new cases</td>
<td>-0.0003 (0.001)</td>
<td>-0.0003 (0.001)</td>
</tr>
<tr>
<td>Judicial spending</td>
<td>-0.09 (0.10)</td>
<td>-0.10 (0.10)</td>
</tr>
<tr>
<td>(per capita)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GDP per capita (1000)</td>
<td>-0.36 (0.35)</td>
<td>-0.14 (0.38)</td>
</tr>
<tr>
<td>population (1000)</td>
<td>-0.0007 (0.001)</td>
<td>-0.001 (0.001)</td>
</tr>
</tbody>
</table>

Control Variables

<table>
<thead>
<tr>
<th></th>
<th>Institutional Design Model</th>
<th>Judicial Selection Model</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>52</td>
<td>52</td>
</tr>
<tr>
<td>States</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>Min. observations per state</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>R-squared</td>
<td>0.5490</td>
<td>0.5415</td>
</tr>
<tr>
<td>chi-squared</td>
<td>634.3</td>
<td>1495.46</td>
</tr>
<tr>
<td>P &gt; chi-squared</td>
<td>0.0000</td>
<td>0.0000</td>
</tr>
</tbody>
</table>

* p > .10, ** p > .05, *** p > .01

Figures in parentheses are panel-corrected standard errors (PCSE) using pairwise selection.
the involvement of civil society in the judicial reform process are laudable. The Inter-American Bank (IDB), the United Nations, the U.S. Agency for International Development (USAID), and the World Bank are notable funding sources for and promoters of civil society (Biebesheimer 2001; Dakolias 2001; Sarles 2001), but additional research should focus on the differences between these organizations and their projects. Specifically, research ought to highlight the differences between lending programs and grants, and the different targeted areas of reform (e.g., private or public law, commercial or criminal justice). Although the international promotion of reform for economic reasons may be important, the dire condition of many Latin American criminal justice systems deserves more attention. Importantly, most criminal and public justice is administered at the state level in Mexico, further justifying sub-national studies in that country and other large federal systems.

Although increasing the number of human rights NGOs and, more generally, augmenting the organization of social movements are less tangible objectives than adding an institutional component to the judiciary or altering the judicial selection process, the results show that these broader social projects are just as important as the institutional ones. The analysis shows that the path to improved judicial efficiency is paved in part by social pressures. Social actors have a critical impact on the performance of the judiciary. Future research ought to explore this relationship, particularly in light of the local victories of the PAN and the PRD over the last decade and the PAN’s rise to national prominence. These events may create a political opening for additional social actors, increased organization or participation, and judicial reform.
On the other hand, although economic pressures are significant, it is difficult to devise concrete policy recommendations consonant with their significance. How does one increase a state’s commercial and financial sectors? Macroeconomic changes are difficult to manipulate, so economic prescriptions remain general and abstract.

The basic argument of this paper is that institutional design choices are consequential decisions. This is the virtual mantra of the new institutionalism, and the evidence supports it. However, future research should be directed at clarifying the relationship between judicial institutions and judicial performance, as well as between social and political actors and institutional change. Judicial design should be made the dependent variable and the focus should shift to the determinants of design choices. That is, given that institutional design choices matter for judicial efficiency, what explains the particular design choices in the first place? What are the determinants of Institutional Design and Judicial Selection Design? In short, what are the determinants of reform?

In this regard, the non-finding regarding the presence of the PRI in government may be elucidated further. It is likely that the different parties choose different reform projects or pursue different types of justice reforms that are not captured in this study. Therefore, future research that focuses on the patterns of justice reform before and after the national prominence of the PAN in 2000 is likely to lead to insights regarding the politics of reform. Additionally, future research that makes judicial design the dependent variable and explores the reform priorities of the different parties promises to teach us more about judicial politics. Fundamentally, additional research along these lines will expand the size of the dataset and increase the robustness of any findings.
Overall, the results suggest that the problem of inefficient judiciaries is not solely one of overwhelming structural obstacles such as macroeconomic performance (GDP), case volume (*new cases*), or population, much less one of legal culture (controlled for in the sub-national design). Rather, the most important remedies for a poorly functioning judicial sector – judicial design and social pressures – are ones over which, in varying degrees, there is a substantial degree of control. Particularly with regard to institutional design, judicial efficiency is a matter of policy choice. Ultimately, this provides the basis for holding politicians of all parties accountable for the design choices they make.
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