

Judicial Empowerment in Authoritarian Regimes
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Introduction

Political scientists and legal scholars have long-believed judicial independence was only possible under democratic regimes (Tate 1995, 28). However, recent work has begun to slowly turn this conventional wisdom on its head (Moustafa 2007; Ginsburg and Moustafa 2008). These works use case study research to demonstrate judicial empowerment in authoritarian regimes and explain why autocrats would choose to empower their courts. Despite these works some scholars remain unimpressed (Helmke and Rosenbluth 2009). They contend the granting of independence in many of these cases is too contingent on the desires of the authoritarian leadership for real judicial independence to exist.

I join this debate but take a broader and more realistic view of the phenomenon of court empowerment in authoritarian regimes. My method is broader because I test existing theories explaining empowerment using a cross-national dataset. It is more realistic because, unlike past scholars, I do not merely equate empowerment with the formal granting of power. Instead, my measure of empowerment takes into account both formal powers and how well court decisions are respected. The use of this measure allows me to demonstrate, contrary to conventional wisdom, the existence and persistence of true independence in authoritarian regimes. In the process I also demonstrate the inadequacies of theories based on bureaucratic efficiency, credible commitments and political control to explain judicial empowerment. Instead, I demonstrate authoritarian regime types – single party, personalist, military, and monarchy- are significant factors in determining the level of judicial independence in an authoritarian regime.

Specifically, I conclude single party regimes and authoritarian monarchies have the highest levels of judicial empowerment because of their regime interests, their centers of power, time horizons, and needs for legitimacy. Conversely, personalist regimes, military regimes, and

hybrids of the two have the lowest levels of judicial empowerment because they have small centers of power, short time horizons and their interests conflict with their needs for legitimacy. This explanation finds support through regression analysis of 71 authoritarian regimes between 1996 and 2007.

These results are important for several reasons. First, empowered courts can serve as an important check on executive and legislative power and are fundamental to the functioning of democratic government. Their presence in a non-democratic setting is surprising and worthy of further investigation. Second, in an authoritarian context empowered courts can provide an avenue for opposition groups to challenge the regime. Additionally, empowered courts may afford the average citizen a chance to hold their local government officials accountable. Understanding the causes of differences in judicial empowerment will help create a better understanding of the differing levels of accountability in authoritarian regimes. Third, research has shown independent judiciaries as crucial for economic development. Better knowing the sources of judicial empowerment can help to explain differences in economic development between authoritarian regimes. Economic development, in turn, has been shown to play a key role in the democratization process. Understanding the source of differences in judicial empowerment between authoritarian regimes will help gain further insight into the democratization process. Fourth, these results present further evidence that authoritarian regimes are not the same. Authoritarian regimes type continues to prove a significant factor in both institutional development and policy outcomes. This insight suggests scholars would be well served to consider authoritarian regime type as a separate independent variable when examining authoritarian regimes. Fifth, the findings presented here demonstrate, in an authoritarian context, existing institutional configurations impact future institutional development. This finding may

prove important for understanding differences in the development of other institutions in authoritarian regimes like central banks.

This analysis proceeds in five parts. In the second section I discuss the concept of judicial empowerment and how it can be measured. The third section examines the various theories explaining judicial empowerment in authoritarian regimes and introduces regime type theory. The fourth section outlines case selection, method of analysis, and the operationalization of independent variables. The fifth section presents results, which are analyzed in the sixth section. The seventh section concludes by looking at the limitations of my study and offers suggestions for future research.

Defining and Measuring Judicial Empowerment

Finding a clear definition of judicial empowerment in the literature on authoritarian courts is difficult, as authors provide none. Authors typically equate empowerment with autonomy in a particular area of the law such as property rights or administrative law. Critically, authors often assume empowerment entails compliance. Independence and compliance are logically linked concepts. However, it is possible the motivations for granting one are different from the motivations for granting the other. Despite this fact the literature on judicial empowerment in authoritarian regimes largely treats these concepts as linked with authors demonstrating independence and assuming compliance. This study helps fill this void by developing a measure of judicial empowerment encompassing the concepts of independence and compliance.

For the purposes of this study then, judicial empowerment means judicial autonomy and compliance. A judge is autonomous when, "...she does not face undue external or internal pressure (as say from hierarchical superiors) to resolve cases in particular ways" (Rios-Figueroa

and Staton 2009, 12). Compliance occurs when a court's decisions are not ignored or poorly implemented (Rios-Figueroa and Staton 2009, 12). This definition necessitates choosing a measure of judicial empowerment capable of capturing both autonomy and compliance.

I have chosen to use the World Governance Indicators' (WGI) measure for the rule of law as a proxy for judicial empowerment. Autonomy and compliance are difficult concepts to measure. One way to overcome this problem is to observe an outcome reasonably associated with autonomy and compliance (Rios-Figueroa and Staton 2009, 19). In this case, the rule of law is a useful proxy for judicial empowerment given the close ties between my definition of empowerment and common understandings of the rule of law. In fact, the link between rule of law and judicial independence is so central it is found in both historical treatments of the rule of law (Montesquieu 2002, Federalist 78) and more contemporary understandings (Raz 1979, Hayek 1960, Carothers 1998).

The rule of law can be defined both formally and substantively (Tamanaha 2004, 91). Hayek's understanding of the rule of law is a good example of a formal definition. He saw the rule of law as a system where laws were general, equal, and certain (Hayek 1944). This exemplifies a formal definition because it focuses on the form of the law and does not focus on the content of the law. In contrast, substantive understandings of the rule of law go farther by identifying certain laws as 'good'. Carothers (1998) offers a substantive understanding of the rule of law. He defines the rule of law as, "...a system in which the laws are public knowledge, are clear in meaning, and apply equally to everyone. They enshrine and uphold the political and civil liberties that have gained status as universal human rights over the last half-century" (Carothers 1998, 96). Carothers' definition is substantive because, in addition to formal

components like equal application of laws, it includes human rights as necessary components of the rule of law.

The rule of law is a good proxy for judicial empowerment because both formal and substantive understandings of the rule of law require independent courts and compliance. In formal definitions an independent judiciary is necessary to ensure when laws are created they are abstract and applied equally in society (Hayek 1960). The importance of judicial independence is even clearer when using a substantive understanding of the rule of law. The rights in substantive definitions of the rule of law are typically designed as checks on the arbitrary government action against the individual. As Federalist 78 makes clear, such an arrangement necessitates a body independent of the government to ensure these rights are upheld.

Having demonstrated the link between judicial independence and the rule of law, I now turn to explain why the WGI measure for respect for the rule of law is a suitable measure for my study. The WGI defines the rule of law as, "...the extent to which agents have confidence in and abide by the rules of society, in particular the quality of contract enforcement, the police, and the courts, as well as the likelihood of crime and violence" (Kaufmann et al 2008, 4). This definition is substantive because it identifies specific rules and procedures that need to be followed in order to obtain the rule of law. Most importantly it is not merely a measure of formal rules, but also captures the level of compliance in a society. Unfortunately, as the definition makes clear the WGI measure includes not just government compliance with court decisions but also citizens' compliance. This may create some separation between the concept I am interested in and the measure. However, I feel secure in using the measure because of research linking citizens' respect for the rule of law to governmental respect for the rule of law. Taking their cue from those at the top, citizens are likely to not follow the rule of law where the government fails to

adhere to its limits (O'Donnell 1993, 1359-1360). I feel confident the portion of the WGI measure capturing citizen compliance will co-vary with governmental compliance.

The WGI measure has two major benefits making it useful for the present study. First, the WGI, unlike other measures of the rule of law, spans multiple years. This is important because I am synthesizing theories developed through case study analysis and testing their generalizability. The more cases and the more years I can cover the more broadly applicable my results become. Second, the WGI measure provides data for virtually all nations in the world. This again provides a large and diverse dataset capable of yielding generalizable results.

Ultimately, concepts like the rule of law and judicial empowerment are difficult to measure (Kapiszewski and Taylor 2008, 749-751). As a result, existing measures are imperfect. However, the WGI measure remains, "...undoubtedly the most carefully constructed and widely used governance indicators today" (Arndt and Oman 2006, 13). The WGI is a reasonable measure of the rule of law and conceptually the rule of law is a logical outcome of judicial empowerment¹.

Theories of Judicial Empowerment

A number of theories exist to explain why an authoritarian regime would choose to empower its courts. These theories can be divided into three categories: bureaucratic efficiency, political/ social control, and credible commitments.

Bureaucratic Efficiency

Theories of judicial empowerment based on bureaucratic efficiency argue regimes grant independence to help solve the principle-agent problem, overcome political obstacles and pass unpopular legislation. Independent courts help elites by providing regime leaders with greater

¹ A more detailed response to critics of the WGI can be found in Kaufmann, Kraay, and Mastruzzi 2007.

administrative control over low-level officials (Widner 2001, Solomon 2004, Moustafa 2007, Ginsburg 2008, Magaloni 2008, and Widner and Scher 2008). As organizations, like state bureaucracies, grow those at the top have a harder time controlling those at the bottom. Courts help solve this problem by allowing citizens, who have the most contact with low-level officials, to hold them legally accountable. This provides the regime with information about who is doing what and has the added benefit of increasing regime legitimacy.

Political Control

Political control theory centers on a regime's desire to control the political agenda once out of office. In this case independent courts act as insurance against the ruling regime losing power (Ginsburg 2003, Hirschl 2004, Finkel 2008). When incumbents anticipate losing power they empower courts to provide a venue to challenge the rule of the new incoming regime. Additionally, an independent court helps lock in the exiting regime's political order by acting as an institutional barrier to unilateral changes by the new regime. Similarly, authoritarian regimes may empower courts in response to changes in the power dynamics within the country and regime (Magaloni 2008). In this case the regime creates independent courts not because they are losing power, but to help maintain power. Courts become a new institutional mechanism to control society and elites. These explanations are problematic because they can only explain the judicial empowerment when the authoritarian regime is out of power or losing power. This theory does not explain cases of empowerment in stable authoritarian regimes.

Credible Commitments

Independent courts can provide a credible commitment to investors that the regime will respect property rights. Credible commitments theories contends that regimes empower courts in order to signal to investors, both domestic and foreign, their willingness to have their power

limited by a third party (North and Weingast 1989). For investors this commitment is most important in the area of property rights. Investors need assurance their businesses will not be taken from them by the government without compensation. Once this commitment is demonstrated economic development should follow. This argument is supported by both individual cases (Smith 2007 and 2008; Smith and Farrales forthcoming) and cross-nationally (Feld and Voight 2003; Silverstein 2003).

Independent courts provide protection of property rights, contract enforcement, and most importantly a stable legal environment. These factors encourage investment, which leads to economic development. Authoritarian regimes rely on state revenue to supply the public and private goods necessary to maintain power. Unlike explanations attributed to efficiency and political/social control, credible commitments theory requires both independence for courts and compliance by the regime (Smith and Farrales forthcoming). However, credible commitments cannot explain all cases of judicial empowerment. Some authoritarian regimes do not rely on productive income and tax revenue to fill state coffers. These regimes use high levels of unearned income from sources like natural resource wealth to generate state wealth. Since the state controls this sector of the economy they do not need to create institutions, like independent courts, capable of checking state power to create credible commitments to investors (Wright 2008). In these cases credible commitments theory suggests these states should have low levels of judicial empowerment. However this is not the case. Some regimes, like the Middle East oil monarchies, have high levels of judicial empowerment despite a decreased need to create credible commitments for economic investment. Credible commitments theory cannot explain these cases suggesting the need for a new theory.

Regime Type

Focusing on authoritarian regime types provides a way to explain specific cases like the Middle East oil monarchies that do not neatly fit current theories and provides a more complete understanding of other cases. Regime type refers to qualitative differences between different types of authoritarian regimes. In particular, the typology focuses on difference in leadership selection, preferences, and the implementation of policy (Geddes 2003, 71). For this study I adopt the regime classification system developed by Barbara Geddes (2003)². Her typology divides regimes into single-party, personalist, military, or hybrids of the three. Joseph Wright (2008) augmented this basic typology to also include authoritarian monarchies and to cover all years up to and including 2002. I expand this classification further to include all the years up to and including 2007. This results in seven total regime types: Single Party, Military, Personalist, Monarchy, Single-Party Personalist, Military-Personalist, and Single-Party Military Personalist. Years in which control of the territory of a country is in doubt are excluded along with years in which a country is undergoing foreign occupation.

I contend factors associated with different regime types influence whether or not a regime chooses to empower courts. These factors are: legitimacy, regime interests, center of power, and time horizons. Below I outline how each of these factors impact judicial empowerment. Then I provide a brief description of each main regime type and demonstrate how these factors vary by regime type. Table 1 provides an overview of the relationship between regime type, the four factors, and expectations for empowerment.

How a regime maintains legitimacy impacts empowerment. Regimes lacking in institutions to provide legitimacy are more likely to use courts as a potential source of legitimacy. As stated above independent courts help regime legitimacy by providing a check on

² For detailed coding rules see Geddes 2003 Appendix A.

the power of the regime. There are various ways regimes can increase legitimacy like creating independent legislatures, allowing opposition parties, and facing electoral competition (Lai and Slater 2006). When regimes lack these institutions they are more likely to empower courts to generate legitimacy. Granting power to an independent body helps make the regime appear more legitimate. Also, complying with decisions made by this body further help to improve how the regime is perceived both by its citizens and international actors.

Similarly, what institutions the regime has at its disposal from controlling society impact judicial empowerment. Regimes with multiple institutions capable of controlling society are less likely to turn to coercive tactics to maintain order (Davenport 2007). In these regimes the courts are less likely to be a direct part of the coercive apparatus of the state. Conversely, regimes with fewer institutions capable of non-coercive social control are more likely to use their courts as tools of repression. Thus the presence or absence of these institutions will change the overall character of the courts. Specifically, single party regimes are the least likely to use repression because they have the most institutions for incorporation. Military regimes and personalist regimes are more likely to use violence against citizens than single party regimes because they lack institutions of incorporation (Davenport 2007, 500). In these cases courts will be used as tools of coercive control; will not be autonomous; and will therefore not generate a strong rule of law. Instead these situations can be more accurately described as rule by law as the regime uses the law and courts as a direct tool of its coercive apparatus.

A regime's response to its level of legitimacy is determined by interests, centers of power, and time horizons. This response in turn affects judicial empowerment. One factor in determining a regime's response is its interests. Regimes who desire stability and longevity are more likely to be concerned about low levels of legitimacy and more likely to respond by

creating institutions. A second factor is center of power in a regime. A regime's center of power refers to who controls power in the regime. Regimes with large centers of power are more likely to value stability and longevity and therefore more likely to be concerned with low levels of legitimacy. The third factor is a regime's time horizon. Wright (2008) points out, the benefits of an authoritarian regime restraining its power take time to develop (328). As a result, it seems unlikely a regime would invest in institutions that constrain its power immediately if it perceives it will not be in power long enough to enjoy the rewards. The shorter a regime's time horizon the less likely it is to empower courts. The collective effect of these factors determines the level of judicial empowerment in a regime. Next, using both extant literature and data from my own cases, I detail how each of the four factors vary by regime type. In the process I demonstrate how these factors interact to produce judicial empowerment.

Single Party

Single-party regimes consolidate the power of the state in one large political party. These regimes are defined as those, "...in which the party had some influence over policy, controlled most access to political power and government jobs, and had functioning local-level organizations" (Geddes 2003, 72). As this definition makes clear the center of power in a single party regime is the party. This creates multiple veto points and shapes the interests of the regime. These regimes have multiple ways to legitimate their rule; many institutions of social control; prefer the party cohesion and control of government; and have long time horizons.

Most single-party regimes make use of elections as a means of legitimating rule and controlling opposition forces (Schedler, 2006). Additionally, they create large state institutions like parties, bureaucracies, and legislatures to dispense patronage, co-opt elite, and marginalize opposition forces (Brownlee 2005, Magaloni 2006, and Greene 2007). These institutions

provide them with multiple institutions capable of providing legitimacy and social control (Lai and Slater 2006, 117 and Davenport 2007, 490). This means these regimes are less likely to use courts as tools of repressive control.

Tables 2a and 2b provide two examples of the level of institutional development in single party regimes. These tables show the level of legislative and executive competition in each of the four main regime types as scored by the Database of Political Institutions (DPI). Every single party regime in the dataset has some level of executive and legislative competition. This means at the very least these regimes all provide a basic means for integrating citizens into the regime. Additionally, 77% of the single party regimes allow multiple parties to compete and win seats in legislative elections. This means there are multiple avenues in society for citizens to express opinions helping social control and legitimacy. Finally, in 33% of single party regimes opposition parties control at least a quarter of legislative seats and 35.7% of these regimes have opposition presidential candidates to winning more than a quarter of the vote. This is the highest level of competition in the DPI scale and demonstrates the level of legitimacy these regimes generate through the use of political parties, legislatures, and elections.

Additionally, single party regimes prefer regime stability and cohesion (Geddes 1999, 129). Party member hopes for career advancement hinge on the success of the party. If an ambitious young party member wants to someday be President it is in his best interest to ensure the party remains in power. Historically single party regimes have had long time horizons (Geddes 1999, 133). This trend continues in my data with single party regimes having existed for an average of 32.7 years second only to monarchies (See Table 3).

Taken together these factors suggest single party regimes should have high levels of judicial empowerment. Due to a large center of power these regimes value stability and

longevity. As a result, they create numerous institutions to provide the regime with legitimacy. One specific way to help promote longevity, stability, and legitimacy is by empowering courts. This is even more likely in single party regimes because of their long time horizons. These regimes can expect to exist long enough to enjoy the benefits of judicial empowerment.

Military

Military regimes hold power primarily through the threatened or actual use of force and are led by an officer or officers (Nordlinger 1977, Stepan, 1971, Janowitz 1977). These regimes have the fewest sources of legitimacy, lack non-coercive institutions of social control, value the institutional survival of the military over control of office, and have the shortest time horizon.

Geddes defines a military regime as, "...those governed by an officer or retired officer, with the support of the military establishment and some routine mechanism by which high-level officers could influence policy choice and appointments" (Geddes 2003, 72). Because military officers govern military regimes their core interests are different from other authoritarian regimes. These regimes value the integrity of the military over political control (Geddes 1999, 125-126). This can often create internal splits leading to regime collapse. Consequently, military regimes have the shortest time horizon of the four main regime types (Geddes, 1999, 133). Table 3 shows this to also be the case in my data with military regimes averaging the fewest years in power, 8.8.

Military regimes generally lack institutions capable of providing legitimacy and non-coercive social control (Lai and Slater 2006, 117 and Davenport 2007 490-91). This stems from the fact these regimes often do not need institutions like legislatures, parties, and elections to maintain their rule (Wright 2008, 334-335 and Gandhi 2008, 101). As a result, military regimes

are more likely to rely on courts as tools of oppression and less likely to use them as independent check on their power.

The present data set reflects the conclusions of previous work (see tables 2a and 2b). Military regimes are second only to monarchies in the number of regime years with no electoral competition. 42.5% of military regimes have no electoral competition for legislatures or the executive. For the most part military regimes do not have the institutions available to other regime types to help control citizens and generate legitimacy.

However, not all military regimes are short lived. Those that can resolve internal disputes among the ruling Junta can proceed to longer tenures. These military regimes are more likely to develop the institutions necessary to generate legitimacy because they become more concerned with continuing their hold on power. For more long-term military regimes the junta surrounding the leader begins to act like a political party or royal family. These regime elites work to ensure the regimes stability to increase their own chances for material and political reward. As a result, overtime military regimes can be expected to turn to judicial empowerment to help improve their legitimacy.

In the short-term however, military regimes can be expected to have low levels of judicial empowerment. In the short-term these regimes lack institutions of legitimacy. They are unlikely to use judicial empowerment as a tool to improve legitimacy because it conflicts with their needs for institutions of social control, because they have short-time horizons, and because the interests of the small center of power are divided.

Personalist

Personalist regimes span the globe, with some scholars even arguing personalism is a characteristic of all authoritarian regimes (Brooker 2000, 37). Scholars of personalist regimes

define them by their concentration of power in the hands of an individual (Chehabi and Linz 1998, 7 Jackson and Rosenberg 1982, 22 and Bratton and van de Walle 1997, 61). Geddes (2003) notes most personalist regimes begin as military or single-party regimes but become personalist when a leader, "...had consolidated control over policy and recruitment in his own hands, in the process marginalizing other officers influence and/or reducing the influence and functions of the party" (72). All this means for personalist regimes the center of power, unlike any other regime type, is one person. Additionally, these regimes have few sources of legitimacy, a mixture of coercive and non-coercive institutions of social control, are intent on appropriating as much wealth as possible, and have the second shortest time horizon.

Personalist regimes rely heavily on the use of force and patronage to maintain their rule (Chehabi and Linz 1998, 19). This necessitates the creation of some institutions like parties and legislatures to help dispense spoils. Over time, patronage becomes directed to an increasingly narrow constituency of family members. Because of the narrow nature of personalist rule, succession usually falls to family members of the founding leader (Chehabi and Linz 1998, 15). This narrow circle means few institutions capable of providing legitimacy and increasingly fewer institutions capable of non-coercive social control (Davenport 2007, 490).

The mixed nature of institutions in authoritarian regimes is represented in the current dataset. On the one hand 22.5% of personalist regimes have no legislative or executive competition. 8.5% of these regimes allow multiple parties to compete in legislative elections, but none have ever won seats. Finally, in 44.2% of personalist regimes multiple parties compete in legislative elections and win at least a quarter of the seats. These figures highlight the heterogeneous nature of institutional development in personalist regimes. These regimes do use

institutions but the existence of independent institutions capable of checking the regime's power conflicts with the interests of the regime.

The main interest of personalist regimes is wealth appropriation (Chehabi and Linz 1998 and Geddes 1999, 130). This combined with the concentration of power in the hands of one leader completely alters the way personalist regimes perceive judicial empowerment. Personalist leaders desire wealth and independent institutions, especially courts, can hurt the leader's ability to appropriate. Additionally, because these regimes have a single person at the center of power there are no other regime members capable of altering the regime's course. Without a party or royal family to encourage attention to legitimacy, personalist leaders forsake judicial empowerment in favor of wealth.

Time only serves to compound this problem. Personalist regimes have longer time horizons than military regimes but shorter ones than single-party regimes (Geddes 1999, 133). Table 3 shows the personalist regimes in the dataset have survived an average of 15.9 years. Normally, this would encourage judicial empowerment. However, because personalist regimes become more kleptocratic the longer they remain in power; the need to circumvent the rule of law in order to enrich the personalist leader increases overtime. These factors point to personalist regimes actually becoming less likely to empower courts over time. In all, personalist regimes are expected to have low levels of judicial empowerment due to their interests and concentration of power in the hands of one person.

Monarchy

Authoritarian monarchies are marked by the importance of heredity for succession and access to power (Anderson 1991 & 2000, Kostiner 2000). Their center of power is the royal family and kin network (Cheibub and Gandhi 2004, 28). They have multiple ways to legitimate

their rule but lack the political institutions of other regime types, they prefer to maintain stability and longevity, and have the longest time horizon.

Modern authoritarian monarchies lack the legitimacy of more historical monarchies with longer histories of rule (Brooker 2009, 62). Most importantly, monarchies cannot legitimate the rule of the executive through election. Kings are never put to a vote. Instead they use a mixture of elected and appointed legislatures and mostly social benefits to maintain legitimacy among their citizens (Herb 1999). The vast oil wealth of most modern monarchies means they have been able to afford generous public goods in order to engender support among the citizens. However, they still lack the institutional sources of legitimacy that other regimes use to support their rule (Gandhi 2008, 94). This suggests they are likely to use courts as a source of legitimacy, but not as a direct tool of repression.

97.8% of the monarchies in my data set do not elect their executive. Similarly, 50.5% of monarchies allow no legislative competition. These are the lowest numbers among all four regime types. This means these regimes must rely on other means to boost their legitimacy. Unlike personalist regimes, the interests and centers of power in monarchies encourage judicial empowerment.

The interests in authoritarian monarchies are similar to those in single parties. Members of the ruling family value long, stable rule. This urge for stability stems from the broad base of power in authoritarian monarchies. The royal family functions like the ruling party to focus the regime's attention on issues of legitimacy and stability. As result, monarchies develop large public sectors to buy support from the populace. Additionally, because these regimes do not make use of elections and parties they are most likely to use judicial empowerment as an institutional source of legitimacy. The fact monarchies have the longest time horizon of any

regime type further encourages judicial empowerment (Handenius and Teorell, 2007, 150). The monarchies studied here last an average 36.3 years, the most of any regime type. These regimes can expect to rule long enough to enjoy the benefits of judicial empowerment.

To summarize, I expect single party regime and monarchies to have the highest levels of judicial empowerment. These regimes have long time horizons and large centers of power with an interest in longevity and stability. Personalist regimes and military regimes are expected to have low levels of judicial empowerment. Personalist regimes concentrate power in the hands of one person and value wealth accumulation over any other goal. There is no check on the leader's behavior meaning these regimes are not only likely to have low levels of development but these levels should decline over time. Military regimes have larger centers of power than personalist regimes, but the interests of junta members are often divided. This means these regimes are unlikely to last long enough to benefit from judicial empowerment. However, should these differences be resolved over the long-term, military regimes should turn to judicial empowerment as a means to improve legitimacy. In these cases the junta will act like a ruling party and help guide the regime towards more institutions capable of maintaining regime stability. Finally, I expect hybrids incorporating either military or personalist elements to have low levels of empowerment for the same reasons as the main regime types. The next section will briefly describe the four main regime types and demonstrate how the four factors interact to affect judicial independence in each case.

Case Selection, Method and Data

The universe of cases for this study is all authoritarian regimes during the years 1996, 1998, 2000, 2002, and 2003-2007. Authoritarian regimes are defined as those regimes where, "... opposition parties have been banned or subject to serious harassment or institutional

disadvantage, or if the ruling party has never lost control of the executive and has controlled at least two-thirds of legislative seats in all elections before 1985” (Geddes 2003, 71). In order to test the various theories of judicial empowerment I employ a linear mixed effects model. This model treats country as random effect to account for correlation between observations from the same country. The resulting dataset includes 455 country year observations and 71 countries. In order to test the various theories I develop a set of proxy variables to measure the relationships in each theory.

To test the bureaucratic efficiency theory I need a variable to capture the size of the government. Large governments are more likely to have the types of principal-agent problems that judicial empowerment can solve. To measure government size I use government share of GDP from the Penn World Tables (*govshare*). Larger government involvement in the economy would indicate a larger government overall. Based on the literature the *govshare* variable should have a positive association with judicial empowerment.

To measure political control I use two measures to gauge the degree to which a regime’s position in power is unstable. The first is a continuous variable measuring the number of battle deaths due to internal conflict (*lndeaths*). To help normalize the distribution of this variable I use its natural log in all models. Data from this variable are taken from the PRIO Battle Deaths Dataset (Lacina and Gleditsch 2005). The second variable is an indicator variable for the level of electoral competition in a country (*electoral*). This variable is constructed from the Database of Political Institutions and is scored a one if opposition parties earned at least 25% of the seats in either legislative or executive elections and zero if opposition parties earned anything less than 25% (Beck et al 2001). Political control theory predicts the *lndeath* and *electoral* variables will have positive associations with judicial empowerment.

To test credible commitments I use two variables. One (*rents*) captures the level of unearned income from two sources: oil exports and foreign aid. Data on oil exports and oil prices are taken from the U.S Energy Information Administration. Oil rents are crude oil exports as a percentage of GDP. Foreign aid data comes from the World Development Indicators (WDI) and measures foreign aid as a percentage of GDP. These two percentages are combined to form the *rents* variable. Credible commitments theory hypothesizes countries with high levels of rents will have a reduced need for empowered courts to provide credible commitments. I expect the *rent* variable to have a negative association with judicial empowerment.

The second variable testing credible commitments measures the other side of the theory. The continuous variable *invest* is the share of GDP taken up by investment. This variable is taken from the Penn World Tables. This variable captures a country's need for earned income. Countries with a larger share of their GDP taken up by investment will have a greater need for credible commitments. There should be a positive association between the *invest* variable and judicial empowerment.

Finally, the variables to test regime type theory come from Geddes (2003), Wright (2008) and updates by the author. This data translates into seven indicator variables for each of the regime types in the dataset: *Single Party*, *Military*, *Personalist*, *Monarchy*, and *Hybrid*. Reiterating Table 1 above, I expect monarchies and single party regimes to have higher levels of empowerment than personalist or military regimes. Hybrids should have levels of empowerment near the levels of military and personalist regimes.

Lastly, I will include an interaction term to test for the effect of time on military and personalist regimes. As stated above, in the short-term these regimes should have similarly low levels of judicial empowerment. However, over time their trends should diverge. Specifically, I

expect long-lasting military regimes to increase their levels of judicial empowerment and long-lasting personalist regimes to decrease their level of empowerment. The interaction terms *personalist x YIP* and *military x YIP* will capture this effect if it exists. The *YIP* variable is a count of the number of years a regime has survived.

In the next section I present the results of my analysis. In this section I will fit three models. The first will contain only the variables for the four existing theories. The second model adds the regime type variables for comparison. The third model includes the interactions for times.

Results

Table 4 reports the regression results. In the first model, testing only the variables from the existing theories of judicial empowerment. The variables *indeaths*, *govshare*, *invest*, and *electoral* are all significant. Of these three variables only the *govshare* variable's sign is in the predicted direction. A one-percentage point increase in the government's share of the GDP is associated with a .164 increase in judicial empowerment. This is a very small effect size. It would take nearly a six percent increase in government share of GDP to yield a 1-point increase in judicial empowerment.

The variable *invest* is also significant and in the predicted direction. It too has a very small effect size. Domestic investment would need to increase by ten percent to yield a 1-point increase in judicial empowerment. This provides very limited support for credible commitments theory.

The *indeath* and *electoral* variables is statistically significant but the sign is negative when political control theory suggests it should be positive. Instead of increasing the chances of judicial empowerment, as political control theory suggests, increased instability reduces judicial

empowerment. This may make sense given the measure used for instability. Increased deaths from civil war may encourage a regime to shift to more coercive methods of maintaining stability, hurting the level of judicial empowerment in the regime. However, the other measure of political control theory, electoral competition, is insignificant. This suggests authoritarian regimes do not empower courts to lock in advantageous political rules. Overall, Model 1 finds little support for the existing theories of judicial empowerment.

Model 2 introduces the dummy variables for regime type³. Each variable is significant and in the predicted direction. Among the variables for existing theories of empowerment both *lndeaths*, *invest* and *govshare* remain significant and in the direction estimated by Model 1. Overall, the introduction of the regime type variables does not alter the results found in Model 1. Model 2 provides strong support regime type theory. Model 3 further confirms these findings.

Model 3 includes the interaction terms for years in power and personalist and military regimes. This interaction is significant and positive for military regimes. For each year a military regime is in power, Model 3 predicts their judicial empowerment score will improve by approximately 2 points. This confirms the earlier hypothesis that military regimes would turn to judicial empowerment over time to help cope with legitimacy problems. The interaction term is not significant for personalist regimes and years in power. The model does not predict any change in levels of judicial empowerment for personalist regimes over time.

Monarchies remain the regime type with the highest predicted level of judicial empowerment followed by single parties, hybrid regimes, personalist, and military regimes. The coefficients for *lndeaths* is significant but in the opposite direction predicted by political control theory. The variable *electoral* is not significant and also in the opposite direction predicted by

³ In both models 2 and 3 Single Party regimes are the omitted category.

the theory. This means the model finds little support for political control theory. The coefficient for the *rents* variable is negative, supporting credible commitments theory, but statistically insignificant. Similarly, the *invest* variable is in the predicted positive direction but it too is statistically insignificant. Thus, I must conclude, based on my model there is little support for credible commitments theory's explanation of judicial empowerment. The *govshare* variable is significant and in the positive direction predicted by bureaucratic efficiency theory. While the effect is modest, a 1% increase in the government's share of GDP only translates into an increase in judicial empowerment by .2, it does support bureaucratic efficiency theory. Finally, the *YIP* variable is positive but insignificant.

In all, Model 3 finds only modest support for bureaucratic efficiency theory, no support for credible commitments theory, and no support for political control theory. Only regime type theory produces consistent results that are both statistically and theoretically significant.

Explanation

Regime type theory argues the decision to empower courts in an authoritarian regime is based on legitimacy, time horizons, centers of power, and interests. In particular single party regimes and monarchies are most likely to choose to empower their courts and personalist and military regimes are least likely. These insights are confirmed by the regression analysis above. Single party regimes and monarchies are predicted to have positive levels of judicial empowerment compared to all other regime types.

For single party regimes judicial empowerment is another tool to help insure the regime's goal of stability and longevity. The center of power in a single party regime is the party. Party members have a vested interest in maintaining the regime's legitimacy so they can continue to receive financial and professional benefits. This causes the regime to seek out as many

opportunities to improve legitimacy as possible, including judicial empowerment. Judicial empowerment is further bolstered by the long time horizons of single party regimes. Party members can expect to be in power long enough to enjoy the rewards of judicial empowerment.

Monarchies are very similar to single party regimes. They have large centers of power, long time horizons, and value stability and longevity. Critically, they lack many of the institutions available to single party regimes to improve their legitimacy, particularly executive elections. Consequently, they are the most likely regime to use judicial empowerment as an institutional mechanism to enhance legitimacy. These regimes need ways to bolster their legitimacy and judicial empowerment is one such way. The data bear this out, predicting monarchies to have levels of judicial empowerment, nearly 20 points higher than single party regimes in Models 2 and 3.

Regime type theory argues in the short-term personalist regime and military regimes will have similarly low levels of judicial empowerment. This is due primarily to having small centers of power and interests counter to judicial empowerment. Models 2 and 3 support these conclusions predicting personalist regimes to have levels of judicial empowerment nearly 20 points lower than single party regimes and military regimes to have levels nearly 22 points lower. Personalist regimes value wealth over legitimacy and stability. Military regimes find it easier to use coercive methods to maintain control in the short-term. Additionally, divisions within the junta prevent it from pushing for judicial empowerment like in single party regimes or monarchies.

Regime type theory argues time in office affects how personalist regimes and military regimes view judicial empowerment. Model 3 fails to support this hypothesis in terms of

personalist regimes. The dynamics of personalist rule do not shift dramatically enough over time to affect levels of judicial empowerment. However time does have an effect in military regimes.

For every year a military regime maintains its power its judicial empowerment increases by 2 points. Regime type theory contends this shift is due to changes in the interests of regime members. Typically, military regimes are short lived because of splits within the regime. This hurts judicial empowerment. However, long-term military regimes have resolved these splits. Now their interests begin to align with those of single parties and monarchies. Regime members begin to desire stability. This necessitates legitimacy, which can be obtained through judicial empowerment. This explains the results in Model 3. The longer these regimes maintain power the more likely they are to empower their courts.

Lastly, hybrid regimes have uniformly low levels of judicial empowerment. Regimes with elements of personalism or military rule have significantly lower levels of judicial empowerment compared to single parties. These findings only serve to confirm the conclusions made about the main regime types. The interests and centers of power in personalist and military regimes exert a negative impact on judicial empowerment.

Conclusion

This study tested existing theories of judicial empowerment in authoritarian regimes against a data set of 71 countries between 1996 and 2007. The results of this analysis found little support for existing theories. Instead it found strong support for a new theory of judicial empowerment based on regime type. This finding suggests judicial empowerment is a factor of a regime's interests, center of power, time-horizon, and need for legitimacy. Single party regimes and monarchies have the highest levels of empowerment because of their large power bases, interests in stability and longevity, long time horizons, and needs for legitimacy. Conversely,

military regimes have low levels of judicial empowerment because of their short time horizons, small power bases, conflicting interests, and reduced need for legitimacy to maintain control. Likewise, personalist regimes have low levels of empowerment due to a power base of one, an interest in wealth accumulation, reduced need for legitimacy, and shorter time horizons. This theory provides a new understanding of the reasons for judicial empowerment focusing only on the characteristics of regimes.

These findings are important because they shed new light on the process of judicial empowerment in authoritarian regimes. This matters in a fundamental sense because it suggests, contrary to conventional wisdom, independent courts can exist in authoritarian regimes. More specifically these findings suggest a need for scholars to disaggregate authoritarian regimes and take the unique characteristics of each regime type into consideration when dealing with judicial empowerment. These results also suggest judicial empowerment is contingent on the development of other institutions. This has broad consequences for the study of other institutions in authoritarian regimes.

The study is not without limits. The database only covers ten years and thus excludes most of modern history. It is possible the relationships found here will be different when a larger time period is considered. In particular, existing theories, which find little support here, may prove significant when more observations are added. Additionally, the dependent variable is an imperfect proxy for judicial empowerment. Future scholars should seek out better ways to measure concepts like independence and compliance more directly.

On a related note, this study fails to explore questions about the importance of concepts like formal independence and compliance in the authoritarian regime setting. There has been little research into whether one matters more than the other for authoritarian regimes. Future

work needs to focus on this understudied area. Whether formal independence is enough to garner regimes increases in legitimacy or whether regimes must comply with court rulings in order to gain a benefit are questions not yet answered. Research into this understudied area could yield important insights for the fields of public law, democratization, and political economy.

Table 1: Authoritarian Regime Type and Factors Impacting Judicial Independence

Regime Type	Legitimacy	Interests	Center of Power	Time Horizon	Judicial Empowerment?
Single Party	High	Party Cohesion and stable control	Party	Long	Yes, high levels
Military	Low	Institutional Survival of Military	Junta	Short	No in short-term. Yes in long-term
Personalist	Medium	Appropriate Wealth	Personalist Leader	Medium	Unlikely in short term decrease with time
Monarchy	Low (No Executive Elections)	Family cohesion and stable control	Royal Family	Long	Yes, high levels

Table 2a: Legislative Competition by Regime Type. Table reports total number of regimes in each category and (Percentage of cases within each regime type)

LIEC Score Regime Type	Single Party	Monarchy	Personalist	Military
1 = No Leg.	0 (0%)	23 (24.7%)	17 (13.2%)	10 (25%)
2 = Unelected Leg.	0 (0%)	24 (25.8%)	12 (9.3%)	7 (17.5%)
3 = Elected, 1 Candidate	15 (13%)	0 (0%)	0 (0%)	0 (0%)
4 = Elected, 1 party multiple Candidates	12 (10.4%)	20 (21.5%)	1 (0.8%)	0 (0%)
5 = Multiple parties legal but only 1 party won seats	0 (0%)	8 (8.6%)	11 (8.5%)	0 (0%)
5.5 = not clear whether multiple	4 (3.5%)	0 (0%)	0 (0%)	0 (0%)

parties ran and only one party won or multiple parties ran and won more than 75% of the seats				
6 = multiple parties DID win seats but the largest party received more than 75% of the seats	38 (33%)	7 (7.5%)	28 (21.7%)	4 (10%)
6.5 = multiple parties won seats but it is unclear how many the largest party got	0 (0%)	0 (0%)	3 (2.3%)	0 (0%)
7 = largest party got less than 75%	46 (40%)	11 (11.8%)	57 (44.2%)	19 (47.5%)
Total	115 (100%)	93 (100%)	129 (100%)	40 (100%)

Table 2b: Executive Competition by Regime Type. Table reports total number of regimes in each category and (Percentage of cases within each regime type)

EIEC / Regime Type	Single Party	Monarchy	Personalist	Military
1 = No Exec.	0 (0%)	0 (0%)	4 (3.1%)	0 (0%)
2 = Unelected Exec.	0 (0%)	91 (97.8%)	25 (19.4%)	17 (42.5%)
3 = Elected, 1 Candidate	31 (27%)	0 (0%)	9 (7%)	0 (0%)
4 = Elected, 1 party multiple Candidates	14 (12.2%)	0 (0%)	0 (0%)	0 (0%)
5 = Multiple parties legal but only 1 party won seats	0 (0%)	0 (0%)	0 (0%)	0 (0%)
6 = multiple	29 (25.2%)	0 (0%)	47 (36.4%)	7 (17.5%)

parties DID win seats but the largest party received more than 75% of the seats				
7 = largest party got less than 75%	41 (35.7%)	2 (2.2%)	44(34.1%)	16 (40%)
Total	115 (100%)	93 (100%)	129 (100%)	40 (100%)

Table 3: Average Years in Power by Regime Type

Regime Type	Single Party	Monarchy	Personalist	Military
Avg. Years in Power	32.7	36.3	15.9	8.8

Table 4: Regression Results: Table reports beta coefficients (Standard Errors) and significance level for each independent variable. * = Sig. at 10% ** = Sig. at 5% *** = Sig. at 1% Omitted Regime Type is Single Party

Dependent Variable:	Model 1	Model 2	Model 3
Judicial Empowerment			
Monarchy		19.866*** (6.122)	19.798*** (6.116)
Military		-17.027** (5.328)	-19.827*** (6.081)
Personalist		-17.076*** (4.850)	-19.9024** (7.9907)
Hybrids		-17.699*** (4.869)	-16.947*** (5.193)
Indeaths	-0.777*** (0.218)	-0.795*** (0.217)	-0.578*** (.215)
Rents	-0.053 (0.038)	-0.058 (0.0383)	-0.0469 (0.0373)
Govshare	0.164** (0.0722)	0.166** (.048)	0.212*** (0.070)
Invest	0.094* (0.048)	0.0799* (0.048)	0.069 (0.046)
Electoral	-1.951* (1.143)	-1.507 (1.135)	-1.426 (1.106)
Personalist x YIP			0.032 (0.166)
Military x YIP			1.942***

			(0.444)
YIP			0.087 (0.086)
Const	29.120*** (3.087)	36.647*** (4.126)	32.733*** (5.024)
N	463	463	455
Log-Likelihood	-1661.527	-1641.686	-1599.997

Bibliography

Alesina, Alberto and Wacziarg, Romain. 1998. "Openness, Country Size, and Government."

Journal of Public Economics 69: 305-321.

Almond, Gabriel A. and Sidney Verba. 1963. *The Civic Culture: Political Attitudes and*

Democracy in Five Nations. Princeton, NJ: The Princeton University Press.

Anderson, Lisa. 1991. "Absolutism and the Resilience of Monarchy in the Middle East."

Political Science Quarterly 106(1): 1-15.

Anderson, Lisa. 2000. "Dynasts and Nationalists: Why Monarchies Survive." In *Middle East*

Monarchies" The Challenge of Modernity, ed. Joseph Kostiner. Boulder, CO: Lynne

Rienner Publishers.

Arndt, Christiane and Charles Oman (2006). "Uses and Abuses of Governance Indicators".

OECD Development Center Study.

Baum, Lawrence. 1976. "Implementation of Judicial Decisions." *American Politics Quarterly*

4:86-114.

Beck, Thorsten et al. 2001. "New Tools in Comparative Political Economy: The Database of

Political Institutions." *World Bank Economic Review* 15(1): 165-176.

Bratton, Michael and Nicolas van de Walle. 1997. *Democratic Experiments in Africa: Reimge*

Transitions in Comparative Perspective. New York: Cambridge University Press.

- Brooker, Paul. 2000. *Non-Democratic Regimes: Theory, Government, and Politics*. New York: St. Martin's Press.
- , 2009. *Non-Democratic Regimes 2nd Ed.* New York: Palgrave Macmillan.
- Brownlee, Jason. 2005. *Authoritarianism in an Age of Democracy*. New York: Cambridge University Press.
- Brownlee, Jason. 2009. "Portents of Pluralism: How Hybrid Regimes Affect Democratic Transitions." *American Journal of Political Science* 53(3): 515-532.
- Cannon, Bradley C. and Charles A. Johnson. 1999. *Judicial Policies: Implementation and Impact* 2 Ed. Washington DC: CQ Press.
- Caldeira, Gregory A., James L. Gibson. 1992. "The Etiology of Public Support for the Supreme Court." *American Journal of Political Science* 36 (3): 635-64.
- Carothers, Thomas. 1998. "The Rule of Law Revival." *Foreign Affairs* 77(2): 95-106.
- Carothers, Thomas ed. 2003. *Promoting the Rule of Law Abroad: In Search of Knowledge*. Washington D.C.: Carnegie Endowment for International Peace.
- Bueno de Mesquita et al. 2003. *The Logic of Political Survival*. Cambridge: The MIT Press.
- Chehabi, H. E. and Juan Linz. 1998. *Sultanistic Regimes* Baltimore: The Johns Hopkins University Press.
- Cheibub, Jose A. and Jennifer Gandhi. 2004. "Classifying Political Regimes: A Six-Fold Measure of Democracies and Dictatorships." Presented at the Annual Meeting of the American Political Science Association, Chicago.
- Cingranelli, David L. and David L. Richards. 2008. *The Cingranelli-Richards (CIRI) Human Rights Data Project Coding Manual Version 2008.3.13*.
http://ciri.binghamton.edu/documentation/ciri_coding_guide.pdf

- Clague, Christopher, Philip Keefer, Stephen Knack, and Mancur Olson. 1996. "Property and Contract Rights in Autocracies and Democracies". *Journal of Economic Growth* 1: 243-76.
- Collier, David and Steven Levitsky. 1997. "Democracy with Adjectives: Conceptual Innovation in Comparative Research." *World Politics* 49(3): 430-451.
- Dalton, Russell J. and Don Chull Shin eds. 2006. *Citizens, Democracy, and Markets Around the Pacific Rim: Congruence Theory and Political Culture*. New York: Oxford University Press.
- Dalton, Rusell J. and Nhu-Ngoc T. Ong. 2006. "Authority Orientations and Democratic Attitudes: A Test of the Asian Values Hypothesis." In *Citizens, Democracy, and Markets Around the Pacific Rim: Congruence Theory and Political Culture*. Eds. Russell J. Dalton and Don Chull Shin. New York: Oxford University Press.
- Davenport, Christian. 2007. "State Repression and the Tyrannical Peace." *Journal of Peace Research* 44(4): 485-504.
- Eckstein, Harry. 1998. "Congruence Theory Explained." In W. Reisinger et al, *Can Democracy Take Root in Post-Soviet Russia?: Explorations of State-Society Relations*. Lanham, MD: Rowman and Littlefield.
- Epstein, Lee, Jack Knight, and Olga Shvetsova. 2001. "The Role of Constitutional Courts in the Establishment and Maintenance of Democratic Systems of Government." *Law and Society Review* 35 (1): 117-164.
- Feld, Lars P. and Stefan Voigt. 2003. "Economic Growth and Judicial Independence: Cross-Country Evidence Using a New Set of Indicators." *European Journal of Political Economy* 19: 497-527.

- Finkel Jodi S. 2008. *Judicial Reform as Political Insurance: Argentina, Peru, and Mexico in the 1990s*. Notre Dame, IN: Univ. Notre Dame
- Folch, Abel Escriba. 2003. "Legislatures in Authoritarian Regimes." Working Paper. Center for the Advanced Study in Social Science, Juan March Institute.
- Gandhi, Jennifer and Adam Przeworski. 2006. "Cooperation, Cooptation, and Rebellion Under Dictatorship." *Economics and Politics* 18(1): 1-26.
- Gandhi, Jennifer. 2008. *Political Institutions Under Dictatorship*. New York: Cambridge University Press.
- Ganev, Venelin. 2003. "The Bulgarian Constitutional Court, 1991-1997: A Success Story in Context". *Europe-Asia Studies* 65(4): 597-611.
- Geddes, Barbara. 1999. "What Do We Know About Democratization After Twenty Years?" *Annual Review of Political Science* 2: 115-44.
- , 2003. *Paradigms and Sand Castles*. Ann Arbor: University of Michigan Press.
- Ginsburg, Tom. 2003. *Judicial Review in New Democracies*. New York: Cambridge University Press.
- Ginsburg, Tom. 2008. "Administrative Law and the Judicial Control of Agents in Authoritarian Regimes." In *Rule by Law: The Politics of Courts in Authoritarian Regimes*, eds. Tom Ginsburg and Tamir Moustafa. New York: Cambridge University Press.
- Ginsburg, Tom and Tamir Moustafa eds. *Rule by Law: The Politics of Courts in Authoritarian Regimes*. New York: Cambridge University Press.
- Greene, Kenneth F. 2007. *Why Dominant Parties Lose*. New York: Cambridge University Press.
- Hadenius, Axel and Jan Teorell. 2007. "Pathways From Authoritarianism." *Journal of Democracy* 18(1): 143-156.

- Hayek, F.A. 1944. *The Road to Serfdom*. Chicago: University of Chicago Press.
- Hayek, F.A. 1960. *Constitution of Liberty*. Chicago: University of Chicago Press.
- Hayek, F.A. 2007. *The Collected Works of F.A. Hayek Vol. 2*. Ed. Bruce Caldwell. Routledge, London: The University of Chicago Press.
- Herb, Michael. 1999. *All in the Family: Absolutism, Revolution, and Democracy in the Middle Eastern Monarchies*. Albany: State University of New York Press.
- Herbst, Jeffery. 2000. *States and Power in Africa*. Princeton, NJ: Princeton University Press.
- Heston, Alan Robert Summer and Bettina Aten. 2009. Penn World Table Version 6.3, Center for International Comparisons of Production, Income and Prices at the University of Pennsylvania.
- Hirschl Robert. 2004. *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*. Cambridge, MA: Harvard Univ. Press
- Huntington, Samuel P. 1993. "Clash of Civilizations?" *Foreign Affairs* 72 (Summer): 22-49
- Huntington, Samuel P. 2003. *The Clash of Civilizations and the Remaking of World Order*. New York: Simon and Schuster Paperbacks.
- Inglehart, Ronald and Christian Welzel. 2005. *Modernization, Culture Change, and Democracy: The Human Development Sequence*. New York: Cambridge University Press.
- Jackson, Robert H. and Carl G. Rosberg. 1982. *Personal Rule in Black Africa: Prince, Autocrat, Prophet, Tyrant*. Berkeley: University of California Press.
- Janowitz, Morris. 1977. *Military Institutions and Coercion in the Developing Nations*. Chicago: University of Chicago Press.
- Johnson, Charles A. 1979. "Judicial Decisions and Organizational Change: A Theory."

- Kapiszewski, Diana and Matthew M. Taylor. 2008. "Doing Courts Justice: Studying Judicial Politics in Latin America." *Perspectives on Politics* 6(4): 741-767
- Kaufmann, Daniel, Aart Kraay, and Massimo Mastruzzi. 2007. "The Worldwide Governance Indicators Project: Answering the Critics." *World Bank Policy Research Paper 4149*
- Kaufmann, Daniel, Aart Kraay, and Massimo Mastruzzi. 2008. "Governance Matters VII: Aggregate and Individual Governance Indicators 1996-2007." *Working Paper 4654*
Washington DC: World Bank.
- Keefer, Philip. 2002. *Database of Political Institutions: Changes and Variable Definitions*. New York: The World Bank.
- Kostiner, Joseph. 2000. *Middle East Monarchies: The Challenge of Modernity*. Boulder, CO: Lynne Rienner Publishers.
- La Porta, R., Lopez-De-Silanes, F., Shleifer, A., and Vishny, R. 1997. Legal Determinants of External Finance *The Journal of Finance*, 52 (3), 1131-1150.
- La Porta, Rafael, Florenico Lopez-de-Silanes, Andrei Shleifer, and Robert W. Vishny. 1998. "Law and Finance." *Journal of Political Economy* 106 (6): 1113-1155.
- , 1999. "The Quality of Government." *The Journal of Law, Economics, and Organization* 15(1): 222-279.
- Bethany Lacina & and Nils Petter Gleditsch, 2005. "Monitoring Trends in Global Combat: A New Dataset of Battle Deaths", *European Journal of Population* 21(2-3): 145-116.
- Lai, Brian and Dan Slater. 2006. "Institutions of the Offensive: Domestic Sources of Dispute Initiation in Authoritarian Regimes, 1950-1992." *American Journal of Political Science* 50(1): 113-126.

- Landes, David S. 1998. *The Wealth and Poverty of Nations: Why Some Are So Rich and Some So Poor*. New York: W. W. Norton and Company.
- Levitsky, Steven and Lucan Way. 2002. "The Rise of Competitive Authoritarianism." *Journal of Democracy* 13(2): 51-65
- Lust-Okar, Ellen. 2005. *Structuring Conflict in the Arab World: Incumbents, Opponents, and Institutions*. New York: Cambridge University Press.
- Magaloni, Beatriz. 2006. *Voting for Autocracy*. New York: Cambridge University Press.
- Maagaloni, Beatriz. 2008. "Enforcing the Autocratic Political Order and the Role of Courts: The Case of Mexico." In *Rule by Law: The Politics of Courts in Authoritarian Regimes*, eds. Tom Ginsburg and Tamir Moustafa. New York: Cambridge University Press.
- Marshall, Monty G. and Keith Jagers. 2009. "Polity IV Project: Dataset Users' Manual." <http://www.systemicpeace.org/inscr/p4manualv2007.pdf> (August 20, 2009).
- Montesquieu, Baron de. 2002. *The Spirit of Laws*. Amherst, N.Y.: Prometheus Books.
- Moustafa, Tamir. 2003. "Law versus the State: The Judicialization of Politics in Egypt." *Law and Social Inquiry* 28: 883-930.
- , 2007. *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*. New York: Cambridge University Press.
- Murphy, Walter F., and Joseph Tanenhaus. 1990. "Publicity, Public Opinion, and the Court." *Northwestern University Law Review* 84(3 and 4): 985-1023.
- Murrow, James D. et al. 2008. "Retesting Selectorate Theory: Separating the Effects of W from Other Elements of Democracy." *American Political Science Review* 102(3): 393-400.
- Nathan, Andrew J. 2003. "Authoritarian Resilience." *Journal of Democracy* 14(1): 6-17.

- Nordlinger, Eric. 1977. *Soliders in Politics: Military Coups and Governments*. Englewood Cliffs, NJ: Prentice-Hall.
- North, Douglass C. and Barry R. Weingast. 1989. "Constitutions and Commitment: The Evolution of Institutional Governing Public Choice in Seventh-Century England." *The Journal of Economic History* 49(4): 803-832.
- O'Donnell, Guillermo. 1993. "On the State, Democratization and Some Conceptual Problems: A Latin American View with Glances at Some Postcommunist Countries." *World Development* 21(8): 1355-1369.
- Puddington, Arch. 2009. "Freedom in the World 2009: Setbacks and Resilience." *Freedom in the World 2009: Essays*. <http://www.freedomhouse.org/template.cfm?page=130&year=2009> (August 20, 2009).
- Pereira, Anthony W. 2008. "Of Judges and Generals: Security Courts under Authoritarian Regimes in Argentina, Brazil, and Chile." In *Rule by Law: The Politics of Courts in Authoritarian Regimes*, eds. Tom Ginsburg and Tamir Moustafa. New York: Cambridge University Press.
- Putnam, Robert D. 1993. *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton, NJ: Princeton University Press.
- Raz, Joseph. 1979. "The Rule of Law and Its Virtue." In Robert L. Cunningham, ed. *Liberty and the Rule of Law*. College Station: Texas A&M University Press: 3-21.
- Rigobon, Roberto and Dani Rodrik. 2004. "Rule of Law, Democracy, Openness, and Income: Estimating the Interrelationships." *Economics of Transition* 13(3): 533-564.

- Rios-Figueroa, Julio and Jeffrey K. Staton. 2009. "Unpacking the Rule of Law: A Review of Judicial Independence Measures." CELS 2009 4th Annual Conference on Empirical Legal Studies Paper. Available at SSRN: <http://ssrn.com/abstract=1434234>.
- Sandholtz, Wayne and William Koetzle. 2000. "Accounting for Corruption: Economic Structure, Democracy, and Trade." *International Studies Quarterly* 44(1): 31-50.
- Sandholtz, Wayne and Mark M. Gray. 2003. "International Integration and National Corruption." *International Organization* 57(4): 761-800.
- Schedler, Andreas. 2006. *Electoral Authoritarianism: The Dynamics of Unfree Competition*. Boulder, CO: Lynne Rienner Publishers.
- Shapiro, Martin. 1981. *Courts: A Comparative and Political Analysis*. Chicago: University of Chicago Press.
- Silverstein, Gordon. 2008. "Singapore: The Exception that Proves the Rule." In *Rule by Law: The Politics of Courts in Authoritarian Regimes*, eds. Tom Ginsburg and Tamir Moustafa. New York: Cambridge University Press.
- Smith, Charles A. 2007. "Judicialization: The Key to European Unification and Expansion" in *The State of the European Union*, ed. Yannis Stivachtis, Ashgate Publishers. Pp 127-139
- Smith, Charles Anthony. 2008. "Credible Commitments and the Early American Supreme Court." *Law and Society Review* 42(1): 75-110.
- Smith, Charles Anthony and Mark J. Farrales. Forthcoming "Court Reform in Transitional States: Chile and the Philippines." *Journal of International Relations and Development*.
- Smithey, Shannon I. and John Ishiyama. 2000. "Judicious Choices: Designing Courts in Post-Communist Politics." *Communist and Post-Communist Studies* 33: 163-182.

Stepan, Alfred. 1971. *The Military in Politics: Changing Patterns in Brazil*. Princeton, NJ: Princeton University Press.

Solomon, Peter H. 2004. "Judicial Power in Russia: Through the Prism of Administrative Justice." *Law and Society Review* 38: 549-582.

Tamanaha, Brian Z. 2004. *On the Rule of Law: History, Politics, Theory*. New York: Cambridge University Press.

Tate, C. Neal. 1995. "Why the Expansion of Judicial Power?," in *The Global Expansion of Judicial Power*. New York: NYU Press.

Trochev, Alexei. 2008. *Judging Russia: Constitutional Court in Russian Politics 1990-2006*. Cambridge, pp. 19-53.

Tullock, Gordon. 1987. *Autocracy*. Boston: Kluwer Academic Publishers.

Wasby, Stephen L. 1970. *The Impact of the United States Supreme Court: Some Perspectives*. Homewood, IL: The Dorsey Press.

Weeks, Jessica L. 2008. "Autocratic Audience Costs: Regime Type and Signaling Resolve." *International Organization* 62: 35-64.

Widner, Jennifer. 2001. *Building the Rule of Law*. New York: W. W. Norton & Company.

Winder, Jennifer and Daniel Scher. 2008. "Building Judicial Independence in Semi-Democracies: Uganda and Zimbabwe." In *Rule by Law: The Politics of Courts in Authoritarian Regimes*, eds. Tom Ginsburg and Tamir Moustafa. New York: Cambridge University Press.

Wright, Joseph. 2008. "Do Authoritarian Institutions Constrain? How Legislatures Affect Economic Growth and Investment." *American Journal of Political Science* 52(2): 322-343.

Yom, Sean L. 2009. "Jordan: Ten More Years of Autocracy." *Journal of Democracy* 20(4): 151-166.

Zakaria, Fareed. 1997. "The Rise of Illiberal Democracy." *Foreign Affairs* 76(6): 22-43.