

## **An Authoritarian Enclave? The Supreme Court in Mexico's emerging democracy\***

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### ABSTRACT

In transitions to democracy, autocratic rulers often play a powerful role in the initial enactment of a constitution and create institutions to constrain future democratic political players. Do constitutional courts so created work to protect the interests of their autocratic appointers? What strategies do these courts follow to build credibility among the newly elected democratic political players? We explore these questions in the context of Mexico's emerging democracy. Through the analysis of original data on Supreme Court rulings, we assess the extent to which the Mexican Court acts as "an authoritarian enclave" and the role the Court is playing in enforcing the constitutional order in the emerging democracy. Our analysis provides evidence that the Court more often sides with the former autocratic ruling party, particularly in "important cases" and those that challenge the fiscal federal pact, and strikes down legislation or state acts by "opposition-affiliated" institutions. We also demonstrate various ways in which the Court has acted strategically in an attempt to disguise its partisan biases and avoid attacks from the new democratic political players.

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## 1. Introduction

The study of courts in institutionally insecure environments and emerging democracies has received growing attention in comparative politics (Epstein, et al., 2001; Helmke, 2002; Iaryczower et al., 2002). These works highlight that courts in unstable environments and nascent democracies face stronger incentives to act strategically in order to avoid sanctions or attacks from power holders, rather than deciding cases in line with their sincere preferences. Other works have uncovered the complexities of the process through which constitutional courts establish their legitimacy and authority (Epstein, et al., 2001; Vanberg, 1999; and Staton, 2004).

Yet, within the comparative literature on courts and democratization, little has been said about the extent to which constitutional courts might work to preserve the institutional heritage of the former autocratic regime.<sup>1</sup> Autocratic rulers often play a powerful role in the initial enactment of a constitution and create institutions that protect them once out of office (Ramseyer, 1994 and Londregan, 2000) or that constrain future democratic political players (Barros, 2002; chapter 6). The Mexican case is ideal to explore this issue. During the long years of autocratic rule by the Institutional Revolutionary Party (PRI) in Mexico, power holders ruled unconstrained by a malleable constitution and subservient courts. However,

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<sup>1</sup> Helmke (2002) studies the behavior of the Argentine Supreme Court that was appointed by the dictatorship. She develops a theory of “strategic defections” and finds that antigovernment decisions clustered near the end of the regime. Our focus here is different: we explore whether a Court that was appointed by the collapsing autocracy works to constrain the behavior of the future democratic players.

the last PRI federal administration (1994-2000) opted to delegate significant constitutional powers to the Supreme Court through a constitutional reform in 1994. To what extent is the Mexican Supreme Court acting as “an authoritarian enclave,” protecting the institutional heritage of the autocratic regime and the former ruling party? What role is the Supreme Court playing in enforcing the constitutional order in the emerging democracy? This paper answers these questions by performing an empirical analysis of Supreme Court decisions in the period 1995-2005.

The famous “electricity decision” is a clear example of what we consider a judicial ruling that preserves the institutional status quo for the benefit of the PRI. The Mexican constitution places the electricity sector in the exclusive competence of the state. However, the Electricity Law allows for the Federal Electoral Commission (CFE) to buy electricity from private generators. President Vicente Fox, in power since 2000, reformed the regulatory framework of the sector in order to permit a higher percentage of privately generated electricity to be sold by the CFE. The reform did not establish any limits to the amounts of excess energy that the private investors could sell to the CFE. Rather, it provided that the Executive, through regulations, would set the limits for such amounts. The PRI and PRD factions in both chambers of Congress brought a constitutional controversy against Fox’s electricity reform. For the first time, the Supreme Court had to judge on a dispute between the Executive and both chambers of Congress.

Congress claimed that Fox’s plan to increase the limits of existing regulation on buying excess power from private generators was an encroachment of its legislative power. The Court sided with the congressional factions, arguing that Fox’s reform was “a genuine falsification of the law.” The majority opinion was divided into two groups. The first considered that the reform contradicted the Electricity Law because its legislative intent had

not been to authorize the indirect privatization of the electricity sector. The second group declared that the reform violated article 27 of the Constitution, which places the sector exclusively in the hands of the state. The Court's decision resulted in the defeat of President Fox's attempt to promote private investment in the electricity sector and revived the economic nationalism embedded in the constitution that was drafted during the autocratic era of the PRI. We seek to assess whether the Court tends to decide in favor of the dislodged autocrat in a systematic way.

The Supreme Court gained prominence after the transition to democracy. As the electricity decision illustrates, the Court now serves as an effective veto player in the system of government and, as we discuss below, a key arbiter of federalism. Our work elucidates the complex path through which a high court transforms from pure enforcer of legality to interpreter of constitutionality. During the autocratic political era, the Supreme Court abdicated its power of judicial review and acted to enforce the laws enacted by the autocrat, monitoring low-level bureaucrats and judges to act in accordance with the desires of the president and top-level government officials. The president, as leader of the hegemonic PRI, served as the ultimate arbiter of political conflicts and the Court was extremely subservient. Democratization in Mexico brought about a more limited government and a system of checks and balances where the Supreme Court plays a key role.

In this sense, the Mexican case fits the pattern of what Tate & Vallinder (1995) term "judicialization of politics." Our empirical results demonstrate that the expansion of judicial power in Mexico was directly related to division of power and alternation of political power in office, which is consistent with much of the literature on American Courts that shows that courts are more likely to engage in policy-making when power is divided (Spiller and Gely, 1990; Ferejohn, 1999 and 2002; Bednar, Eskridge, and Ferejohn, 2001; Ferejohn and

Weingast, 1992; Epstein and Knight, 1998; Graber, 1998) and with the comparative literature that demonstrates that Courts become more independent when power is fragmented (Epstein, et al., 2001; Helmke, 2002; Iaryczower et al., 2002). What is most striking about Mexico, however, is that the expansion of judicial power has worked primordially for the benefit of the former autocratic regime.

Our conclusion comes from econometric analysis of original data on Supreme Court rulings on constitutional actions and controversies from 1995 to 2005. We model the Court's decision-making as a two stage process: in the first stage, the Court decides to hear or to dismiss a case, and in the second stage the Court decides to uphold or challenge the law or act. These two stages often take place simultaneously. Our results show, first, that the Court has employed dismissals strategically. Dismissals are very different from the decision not to hear a case as a result of the right of *certiorari*. The Mexican Supreme Court is obliged to hear all constitutional actions and controversies regardless of their merits. The Court can nonetheless dismiss a case due to procedural default –e.g., the case might be presented out of procedural term. In practice, justices possess significant leeway to find procedural fault in these cases (Rubio et al., 1994). We demonstrate that justices have overwhelmingly dismissed “unsafe cases” -- cases that would involve the Court in a bitter political battle that might erupt into violent conflict or social mobilization -- and “important cases” that challenge the institutional status quo –i.e., the fiscal federal pact or federal laws. Through alternative model specifications, we also obtain that the Court tends to dismiss more often cases that would hurt the former ruling party.

Second, once the Court chooses to hear a case, our results reveal a further strong partisan bias in the Court's decisions in the second stage, where it disproportionately rules to strike down legislation or challenge state acts by “opposition-affiliated” institutions and

upholds laws or acts by the former ruling party. These results raise the following fundamental question: if the Court is effectively acting as an “authoritarian enclave”, why haven’t the new democratic political players questioned its independence and challenge its decisions?

To answer this question, we explore some of the strategies the Court has employed to build political capital. Staton (2004) finds that one of the ways in which the Mexican Supreme Court has attempted to legitimize itself is by “going public” and appealing to the population at large to publicize decisions that are controversial. Our approach complements Staton’s. We assess, in particular, how the Court has attempted to build credibility among the opposition parties rather than the population at large. We ask how the Court responded to the PRI’s loss of the majority of seats in the powerful Chamber of Deputies in 1997 and alternation of political power in office in 2000. Our data reveals that the PRI’s loss of the majority of legislative seats in 1997 and political alternation in 2000 affected the Court’s behavior in the two stages in different ways: the Court became more prone to strike down legislation and also more willing to rule *against the PRI*, but it continued to overwhelmingly dismiss “important cases” and those that would hurt the former ruling party.

These results are an indication of the Court’s strategic behavior. The Court employs dismissals to filter certain cases because these decisions for the most part remain unpublicized and can be justified on the grounds of pure legal formalism. The Court’s decisions in the second-stage, by contrast, receive far more attention. It is in this second stage, we argue, where the Court has attempted to build its credibility among the new power holders by becoming more proactive and increasingly siding with them, although we demonstrate that this occurs mostly in low salience local level conflicts.

The paper unfolds as follows. The first section places our theoretical approach within the comparative court literature. The second section traces the role of the Supreme Court during the authoritarian era and discusses the 1994 constitutional reform through which politicians empowered the Supreme Court with constitutional powers equivalent to those of many European constitutional courts. The third section presents our original data on Supreme Court rulings on constitutional actions and controversies from 1994 until January 2005.<sup>2</sup> The fourth and fifth sections present our empirical findings concerning the functioning of the Supreme Court in the emerging democracy. We end with a conclusion.

## **1. Courts as strategic players**

An assumption in the literature on judicial politics is that the governing coalition will fill the Supreme Court with justices that better represent its policy positions. It is only when power is divided that politicians will need to compromise by appointing justices that are acceptable to existing veto players (Tsebelis, 2001). At the time the New Mexican Court was created, the PRI still enjoyed the necessary super-majority in the Senate to unilaterally ratify the nominees proposed by former PRI president, Ernesto Zedillo.<sup>3</sup> We thus presuppose that justices appointed to the New Mexican Supreme Court are closer in the policy space to the PRI than to the “opposition” parties—the right-wing National Action Party (PAN), in control

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<sup>2</sup> We focus on constitutional actions and controversies, which did not exist prior to the 1994 constitutional reform.

<sup>3</sup> There is evidence that the former ruling party negotiated with the National Action Party the approval of some justices.

of the presidency since 2000, and the left-wing Party of the Democratic Revolution (PRD). To simplify, we assume that the Court is a unitary actor and that it has a preference to rule in favor of its appointer and to preserve the status quo inherited from the autocratic regime.<sup>4</sup> We characterize the institutional status quo with the following traits:<sup>5</sup> centralization of fiscal authority; a legal framework that permits a great deal of government intervention in economic activity; and what we call a legal apparatus of “limited fundamental rights,” where civil and political rights are inadequately defined and there is no tradition of constitutional interpretation of these rights.<sup>6</sup>

However, the Court is also constrained by the new democratic political players. In line with comparative literature on courts, we posit that courts are strategic players that must be attentive to “the preferences and likely actions of other relevant players in their system of government” (Epstein et al., 2001: 123; see also Smithey, 1999; Vanberg, 1999; Helmke,

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<sup>4</sup> In this paper, we do not model individual decisions by justices. Given the staggered calendar with which new appointments will take place, two new justices have been appointed to the Court and their appointments took place after 2000. Presumably, the ideology of these justices should be significantly different from that of the justices the PRI originally appointed. Since our assumption is that the Court is closer to the PRI on some ideological spectrum, we are obviously ignoring the decisions of these new justices.

<sup>5</sup> Except for the last item related to fundamental rights, this characterization would be relatively uncontroversial among Mexico scholars. See Carpizo (1978).

<sup>6</sup> Below we discuss some of the limitations of the established procedures to enforce fundamental rights. See Rubio et al (1994) for a discussion of the limits of the *amparo trial*, the available procedure for the defense of civil and political rights.

2002; and Iaryczower et al., 2002). The basic insight of this literature is that although courts would like to set their desired policies, they are constrained by the actions power holders are expected to take in response to their decisions.

The literature emphasizes different costs courts must take into account when making their decisions. First, Iaryczower et al. (2002) argue that courts will act in deference to power holders when the governing coalition holds the necessary legislative supermajority to impeach justices or change the constitution to augment the size or limit the powers of the courts. This approach views courts as primordially motivated to protect the *careers of its members*.

Although the PRI lost the majority of legislative seats in the 1997 mid-term elections and it lost the presidency in 2000, “opposition” parties do not control the necessary legislative super-majority to elicit these types of institutional sanctions. The constitution requires a two-third vote in the Chamber of Deputies and the Senate to impeach justices and constitutional reform requires, in addition, approval of the majority of the states’ legislatures. This means that throughout the entire period under study the PRI has enjoyed veto power over the constitution-making game and over impeachments. In the 1997-2000 period, the PRI controlled the presidency and the majority in the Senate, plus the majority of the states’ legislatures. After 2000, the PRI lost the presidency and the majority in the Senate, although it continued to hold 42% of the seats in the Lower Chamber and 47% of the seats in the Senate, in addition to the majority of the state’s legislatures. Thus, the new power holders would not have been able to perform these types of institutional attacks even if an all-encompassing “opposition” coalition had been able form.

In light with the notion of the Court as an “authoritarian enclave,” the Iaryczower et al. (2002) approach would lead us to predict that the Mexican Supreme Court should possess

leeway to act to protect the interests of the PRI *even after this party lost power* because “opposition” politicians can’t credibly threaten to impeach justices or to modify the constitution to sanction the Court.

However, even if power holders lack the necessary supermajorities to elicit the types of institutional attacks implicit in Iaryczower et al. (2002), they can override, disregard, or ignore the Court’s rulings or simply opt not to bring claims to the Court. The key challenge of a constitutional court, as Vanberg (1999: 3) points out, is that it is “dependent on the cooperation of governing majorities ... to lend force to their decisions”. When politicians ignore or disregard a ruling, these sorts of attacks not only may nullify particular decisions, but “their impact may accumulate over time such that the constitutional court itself becomes an ineffective political institution” (Epstein et al., 2001: 128). This second approach presupposes that justices are also motivated by the desire to protect the *institutional reputations* of the Court and issuing decisions the other players will comply (Epstein et al., 2001; Smithey, 1999 and Vanberg, 1999).

The challenge to render a Court’s decisions efficacious is particularly daunting in new democracies, where courts are “yet to establish their own independence, legitimacy, or authority (or, for that matter, the authority of their constitutional systems)” (Epstein et al., 2001: 126). In line with these authors’ analysis of the Russian Constitutional Court, we argue that the Mexican Supreme Court suffers from a legitimacy deficit that is rooted in the legacy of the authoritarian past. During the authoritarian era, every institution was created to protect the hegemonic rule of the PRI. Politicians turned to the president, never to the Supreme Court, to settle their disputes. Furthermore, presidents had ample leeway to determine the composition of the Supreme Court and remove justices at will. A large proportion of Supreme Court justices followed partisan carriers before or after leaving the

Court, which meant that they had strong incentives to please the president and the official party (Domingo, 1999; Magaloni, 2003).

Thus, opposition parties saw the Supreme Court with suspicion because it acted as agent of the president and the PRI. In the struggle for democracy, conflicts among the PRI and the opposition were instead settled through post-electoral mobilization, civil resistance, and secret deals among opposition party leaders and top-level government officials. Upon its creation, the Supreme Court thus faced the enormous challenge to legitimize itself among politicians from the “opposition” and the public at large. Staton (2004) demonstrates that the Court appeals to the population at large to publicize decisions that are controversial. However, he does not uncover the strong partisan bias in the Court’s behavior that we demonstrate in this paper. We ask how the Court has dealt with the tension that comes from the desire to rule according to its true policy and partisan interests and at the same time build credibility among the “opposition” parties. Below we proceed with our empirical analysis, beginning by tracing the historical evolution of the Supreme Court.

## **2. The authoritarian past and the 1994 reform of the Supreme Court**

Although the Mexican Constitution formally establishes numerous checks and balances, such as division of powers, bicameralism, and federalism, the authoritarian political system during the era of hegemonic rule by the PRI was characterized by a strong *presidencialismo*, a strong dominance of the president over other branches of government deriving from sources beyond the constitution (Carpizo, 1978). The conditions driving *presidencialismo*, in particular the executive’s domination over Congress, are well understood. Formally the Mexican president was not a very powerful player. In practice, however, the president dominated the other branches of government because he was the leader of the

highly disciplined hegemonic party that controlled all branches of government (Weldon, 1997; Casar, 2002).

*Presidencialismo* also implied lack of judicial checks on the executive. Three conditions explained presidential domination over the Supreme Court and the federal judicial power (Magaloni, 2003): 1. the constitution was endogenous to partisan interests. The constitution is formally rigid, requiring the approval of 2/3<sup>rds</sup> of both federal assemblies plus the majority of the states' legislatures. During the years of party hegemony, however, the constitution was in practice flexible because the PRI enjoyed the necessary super-majorities to unilaterally amend it without the need to forge coalitions with the opposition parties. Almost all presidents during the era of PRI hegemony began their six-year terms with a long list of constitutional reforms, ranging from the enactment of profound transformations to the system of property rights and the establishment of various social welfare programs, to simple presidential propaganda. Since it was originally drafted in 1917, the constitution was amended more than 400 times to the PRI's advantage and many of these changes were substantial, including changes in the electoral institutions; the centralization of political power and fiscal resources in the hands of the federal government; the systematic weakening of the judicial power and the Supreme Court; and the restructuring of the system of property rights.

Given extreme constitutional flexibility, there was no room for constitutional interpretation. The primary role the Supreme Court and the federal judicial power played during the autocratic era was to enforce the principle of legality. Through the *amparo* procedure, individuals can sue the state before federal courts for violating their rights or issuing and applying unconstitutional laws. The federal courts also review through *amparo* trials the decisions of local-level courts. Federal courts abdicated their powers to interpret

the constitution and focused mainly on matters of legality. In doing so, federal courts acted as instruments of the autocratic regime, monitoring lower-level state officials and local courts to act in accordance with the desires of top-level government officials and the president. But even in the few cases where federal courts did question legislation, their decisions on constitutionality emerging from *amparo* trials didn't have general effects. *Amparo* decisions only affect the parts in the specific dispute (Rubio *et al.*, 1994).

2. The president exercised a strong control over nominations and dismissals, despite formal rules or so-called "judicial guarantees" (Domingo, 2000). Notwithstanding life-appointments, justices' tenures were extremely short and every single president from 1934 to 1994 was able to shape the composition of his "own" Court (Magaloni, 2003). The Supreme Court was subservient to the president also because most justices tended to follow partisan careers before or after leaving the Court, creating strong incentives to please the leader of the party, namely the president, as a means to further their political ambitions.

3. Up until 1994, Mexican politicians did not delegate enough power to the Supreme Court, excluding from judicial review virtually all cases with so-called "political content": cases related to the organization, monitoring and implementation of elections and electoral laws; and "constitutional controversies" or conflicts among different branches or levels of government with respect to the constitutionality of their acts. This meant that an impressive variety of political conflicts were out of the reach of the Supreme Court. These set of rules that severely limited the role of the Supreme Court derived both from constitutional doctrine dating back from the XIX century and from the fact that politicians in the authoritarian regime delegated to the president, as leader of the hegemonic PRI, the power to arbitrate political conflicts. The Supreme Court eventually established a doctrine of self-

restraint, arguing that constitutional controversies had a strong “political content” and that the Court should not hear political issues -- obviously including electoral disputes.

During the authoritarian era, the president served as the ultimate arbiter of political conflicts in the country. He was able to enforce his decisions vis-à-vis lower level politicians because the hegemonic party sanctioned non-compliance with expulsion from the PRI. The rule of non-consecutive reelection increased the incentives for lower-level politicians to abide by the president’s decisions.

The 1994 constitutional reform transformed the Supreme Court into a true constitutional tribunal akin to many European constitutional courts (Magaloni, 2003; Cossío, 2001; and González Compeán and Bauer, 2002). Elsewhere we develop a theory of why the President chose to delegate his powers to solve constitutional controversies among different braches and levels of government to the Supreme Court (Magaloni and Sánchez, 2001). Regardless of the president’s motives, the fact of the matter is that the reform could not be enacted without the PRI’s support. Furthermore, at the time of the reform, the PRI still enjoyed the 2/3<sup>rd</sup> majority in the Senate necessary to ratify the presidential nominees to the Court single-handedly. This means that the PRI played a prominent role in the enactment of the constitutional reform that governs judicial review in the nascent democracy and in the appointment process.<sup>7</sup>

The reform reduced the number of justices from 25 to 11. Life appointments were changed to 15-year appointments. There would be a transitory period where the justices

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<sup>7</sup> The president attempted to legitimize the new Supreme Court by giving the opposition some influence in the appointment process. The PRD voted against each nominee, while the PAN supported some of them (Sánchez, 2002).

appointed to the Supreme Court would be removed according to a staggered calendar in 2003, 2006, 2009, 2012 and 2015. Most significant, by establishing the “constitutional controversies” and the “constitutional actions”, the reform significantly expanded the power of the Supreme Court, which can now adjudicate on all sorts of issues that the president arbitrated before. Through the constitutional controversies, the Court can adjudicate controversies between different branches and levels of government with respect to the constitutionality of their acts.

Constitutional actions are a form of judicial review. Constitutional actions can be promoted by one third of the members of the Chamber of Deputies or the Senate against federal laws or international treaties; one third of the members of the local assemblies against state laws; the Solicitor General (*Procurador General*) against federal and state laws or international treaties; any by the leadership of any political party registered before the Federal Electoral Institute against federal electoral laws. Local parties can also promote an action of unconstitutionality against local electoral laws.

To support the constitutional reform, however, the PRI imposed numerous limitations to the power of the Supreme Court so as to protect itself. First, the PRI originally refused to delegate jurisdiction to the Court on electoral issues. The Court would not acquire the right to review the decisions of the Federal Electoral Tribunal and to rule on the constitutionality of electoral laws until 1996.

The second way in which the PRI attempted to limit the power of the Court was to make it harder to undo legislation. The reform established that the Court’s decisions would not have the effect to annul legislation unless 8 out of the 11 justices voted against the constitutionality of a law. The reform also established that the constitutionality of laws must be appealed within thirty days since the enactment of the law or the first act of application.

In practice, the rule of thirty days significantly reduces the opportunity to challenge many laws that were previously approved by the PRI.

Third, the reform also reduced the stakes of constitutional controversies by establishing that the decisions of the Supreme Court on constitutional controversies would only have effects *inter partes* (suspending the action only among the parties) when a lower level of government acts as plaintiff against a higher level (when a municipality challenges a state or the federation or a state challenges the federation); in controversies between two states; and in controversies between two municipalities from different states.

### **3. The database on the Supreme Court's decisions**

Is the Court acting to protect the interests of its creator? What role is the Court playing in enforcing the constitutional order in the emerging democracy? To empirically assess the institutional evolution of the new Supreme Court, we have created a database on the Court's rulings in constitutional actions and constitutional controversies from 1995 until January 2005.<sup>8</sup> The Court resolved 929 cases between 1995 and 2005. 80% were constitutional controversies among different branches and levels of government with respect to the constitutionality of their acts and 20% were constitutional actions against federal laws, state laws or international treaties.

A clear implication of the reform is that the Supreme Court became the new arbiter of federalism, a task that in the era of party hegemony the president used to perform. Table 1 presents the constitutional controversies filed to the Supreme Court during this period. We

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<sup>8</sup> We exclusively focus on these cases rather than in *amparo* trials because our goal here is to assess the role of the Court in its newly acquired function as arbiter of political conflicts.

coded each case by the partisan identity of the public office involved in the dispute.<sup>9</sup> The defendant was a public entity controlled by the PRI in 88% of the constitutional controversies, the PAN in 9% and the PRD in 3%. The vast majority of the constitutional controversies involve municipalities and states controlled by different political parties. Hence, constitutional controversies have become the most important vehicle for lower levels of government controlled by the PAN and the PRD to fight against higher levels of government, mainly the states, controlled by the PRI.

We also have coded the partisan identity of the parties to the constitutional actions. The PRI was defendant in 68% of the cases, the PAN in 23% and the PRD in 3%. One of the smaller opposition parties (e.g., the Mexican Green Party, Social Alliance, or Convergence for Democracy) was a plaintiff in 37% of these cases, the PAN in 22%, the PRD in 12% and the PRI in 7%. Thus, constitutional actions are the most common vehicle of access to the Supreme Court by the smallest parties.

[Table 1 about here]

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<sup>9</sup> For example, if the defendant was a municipality, governorship or the presidency controlled by the PRI or the challenged law was approved by an assembly where the PRI had majority control or the law was passed by this party in a coalition with other parties, we code this as a PRI-affiliated defendant. Similarly, if the plaintiff was a municipal president, a governor or the president controlled by the PRI or it was an assembly where the PRI had majority control or the case was signed by the PRI in a coalition with other parties, we code this as a PRI-affiliated plaintiff. To identify the partisan identity of these institutions, we employ electoral data from CIDAC ([www.cidac.org](http://www.cidac.org)).

What types of disputes are most commonly brought to the Court? Our database classifies each case by its public policy content. Table 2 classifies constitutional controversies into three broad categories, which are subdivided into several subgroups. “Municipalism” controversies represent 40% of the cases; these comprise, among other, controversies over responsibility of office holders, including removal of legal immunity and impeachment of municipal presidents; conflicts over the establishment of what the Court has labeled “intermediate authorities” between the municipality and the state; and conflicts over economic resources, including jurisdictional fights over taxes and fees and the distribution of revenues sharing funds and federal transfers.

[Table 2 about here]

“Separation of powers” controversies represent 6% of the cases and these include conflicts between the powers of a state or the powers of the federation. The most common form of separation of powers controversies are encroachments by governors or local assemblies against a state’s judiciary.

“Federalism” controversies represent 54% of the cases; these include conflicts over the distribution of revenue sharing funds between the federation and the states. The transfer of revenue shares (*participaciones*) from the federation to the states takes place within the *National System of Fiscal Coordination*, which the states joined in 1980. Other “federalism” controversies include the interstate commerce clause; misuse of federal resources in local elections; and conflicts over federal legislation, including the federal budget, education laws, and environmental laws, among other.

Table 2 also classifies constitutional actions. Electoral issues represent 77% of the constitutional actions the Supreme Court resolved. Among electoral conflicts, the most common where: 1) campaign finance (33%); 2) reforms of a state’s electoral code (15%); 3)

the configuration of electoral bodies in the states (Local Electoral Institutes and Local Electoral Tribunals) (13%); 4) redistricting (8.5%); and 5) distribution of legislative seats according to rules of proportional representation (6%).

Out of the 929 cases decided by the Court between 1994 and 2005, 70% were dismissed. Many of these dismissals are non-strategic decisions – e.g., the plaintiff lacks legal standing (1.16% of the cases); the case is brought out of the procedural term (3.35%); or there is an out-of-trial settlement among the parties to a dispute (3.35%). Most other dismissals, we argue, are more clearly the result of a strategic decision.

Some cases are dismissed, we posit, because the Court fears getting involved in a bitter political battle. Political battles over impeachment and removal of legal immunity are of this sort. The most famous case on a related issue is the conflict over the removal of legal immunity to Mexico City's governor from the PRD, José Manuel López Obrador. López Obrador refused to abide by the decisions of a district court and a federal court of appeals, which ruled on the unconstitutionality of his expropriation of a plot of land for the construction of a hospital. The Federal Congress voted to remove López Obrador of his legal immunity, allowing for his criminal prosecution. López Obrador claimed that President Vicente Fox and the PRI were manipulating the laws to prevent him from contesting in the coming presidential elections --the constitution establishes that candidates are precluded from running for office when there is a criminal trial against them. The district court sent the case for the consideration of the Supreme Court,<sup>10</sup> which decided not to hear it --the argument it gave was that the district court had jurisdiction to determine whether López

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<sup>10</sup> This case did not arrive to the Court through a constitutional action or a controversy. We use it to illustrate the logic of our argument about the reasons to dismiss a case.

Obrador should return the expropriated lot of land to the plaintiff, or if no longer feasible, the district court should instead determine the amount of monetary compensation. In the midst of intense political polarization, López Obrador mobilized around one million people to the main square of Mexico City. This is the largest public demonstration ever recorded in Mexico's post-revolutionary history. The intense mobilization on López Obrador's behalf led Vicente Fox to back off, asking for the resignation of his Attorney General in charge of prosecuting the case. We argue that in deciding not to rule on this case, the Supreme Court made a strategic choice to remove itself from this political battle, successfully preventing López Obrador from mobilizing one million people at the doorsteps of the Court instead of the Zócalo across from the president's office, and ruining its legitimacy.

The Court has also opted to dismiss most of the cases that challenge the formulas for the distribution of revenue sharing funds and that challenge the discretionary allocation of federal transfers from the states to the municipalities. After alternation of political power in office took place, the locus of power within the PRI has rapidly shifted from the center to the localities. Governors of the PRI are today the most important political players within this party, which continues to be the strongest party at the sub-national level. During the era of party hegemony, the PRI undermined the opposition by systematically diverting fiscal resources from states and municipalities controlled by these parties and rewarding its own with more funds (Rodríguez, 1997).

The distribution of funds from the federation to the states is governed by formulas that were negotiated between the states and the federation within a "federal fiscal pact", the National System of Fiscal Coordination. These formulas were originally drafted in such a way that poorer states, where the PRI is stronger, receive disproportionate shares. When the PRI lost the majority in the Chamber of Deputies in 1997, this party was forced to build

coalitions with other political parties to pass legislation. The PAN conditioned support of the budget on more transfers and programs to the localities and increased control of federal programs by municipal governments (Flamand, 2004). Many of the disputes that are brought to the Court, as we showed above, are related to conflicts over the distribution of these augmented federal funds and the Court has opted to dismiss most of them.

The Court also dismissed a series of constitutional controversies where indigenous municipalities challenged a constitutional amendment on indigenous rights. The Court dismissed these cases arguing that it can't review the constitutionality of a constitutional amendment. As in all matters of constitutional interpretation, the Court would have had leeway to intervene in these cases. However, we believe that the Court made a strategic choice to not get involved in the constitutional interpretation of indigenous rights because these were politically too salient.

The sections below present a systematic analysis of the Court's decisions. We proceed in two steps. First, we model the decision to dismiss or hear a case. Once the Court chooses to hear a case, we model the decision to strike down legislation or uphold the law or act and whether the Court favors a PRI-affiliated institution vis-à-vis one controlled by one of the other political parties.

#### **4. The Court's decisions in the first stage and strategic dismissals**

We perform a logit model of the decision of the Supreme Court's to dismiss a case (the omitted category are cases that the Court heard). To be sure, the decision to dismiss a case is not independent from the direction of the ruling. Our hypothesis is that the Court decides to dismiss a case in part because of procedural default but also for strategic reasons: it expects that if it heard the parties to the claims, its decision would offend a powerful

political player. This means that there is likely to be an endogeneity problem because decisions in the first stage are influenced by likely decisions in the second stage and vice versa. Unfortunately, we lack appropriate instrumental variables to solve for this problem for the dismissal models. However, when we model the Court's decision in the second stage – after it chooses to hear a case – we employ a two-stage estimation procedure that attempts to mitigate potential biases in the analysis.

Our hypotheses are that the Court has employed dismissals to filter “unsafe cases” - cases that would involve the Court in a bitter political battle that might erupt into violent conflict or social mobilization- and “important cases” that challenge the institutional status quo –e.g., the federal fiscal pact or federal legislation – and that might offend the former ruling party.

To test for these hypotheses, we employ the following independent variables. We add a dummy variable for cases over the responsibility of office holders –e.g., impeachment and removal of legal immunity cases (*Impeachment*). We believe that the Court will seek to shy away from these cases because they often entail a risk that the parties will resort to violence or social mobilization to challenge the Court's ruling. We thus expect this variable to have a positive sign.

To capture cases that challenge the fiscal federal pact, we add two dummy variables for cases involving political battles over different aspects of the fiscal federal pact: 1) conflicts over the discretionary allocation of federal transfers and revenue sharing funds going from the states to the municipalities (*Transfers*); and 2) conflicts over the terms of the federal fiscal pact, including the interstate commerce clause and conflicts over the Fiscal Coordination Law (*Federal Pact*). Our hypothesis is that the Court will tend to side away from cases that challenge the fiscal federal pact between the states and the federation that was

cemented during the era of hegemonic rule by the PRI. We thus expect the signs of these variables to be positive.

To capture important cases, we add a dummy for constitutional controversies and actions challenging federal legislation –e.g., the federal law of education or an international treaty (*Federal laws*) –as opposed to local legislation. Our hypothesis is that the Court will tend to dismiss these cases more often. We also add a dummy for cases that entail the potential to produce general effects (*erga omnes*) if justices decide by a vote of 8 or more (*rule of eight*). These cases are obviously more salient than those that only affect the parties to a dispute. We expect these variables to have a positive sign.

We also assess if the Court has systematically chosen to dismiss cases related to alleged political encroachments by governors or local assemblies on judicial independence (*judicial independence*). We also add a dummy variable for cases involving conflicts over the jurisdiction of taxes and fees (*Tax Jurisdiction*). Municipalities depend on 81% of their revenue from federal and state transfers. The rest comes from a combination of fees, the property tax and debt (Diaz-Cayeros and Silva, 2004). Municipalities increasingly fight with the states to control these resources and we seek to assess how the Court stands with respect to tax jurisdiction battles.

We add two dummy variables to control for the changing political environment. The first codes for the 1997 electoral defeat of the PRI and the initiation of divided government in Mexico while Zedillo was still president (*Zedillo-divided*). This variable takes a value of 1 for all the decisions of the Court made after the opposition took majority control of the Chamber of Deputies, until the 2000 elections. The second codes for the defeat of the PRI in the presidential elections in 2000 and the initiation of the Vicente Fox’s administration (*Alternation*).

Finally, we add a dummy indicating if the plaintiff was a municipality. Since municipal governments tend to have poorer legal advisors, in controlling for *municipality* we are indirectly controlling for controversies that might have more procedural defaults, translating into higher dismissal rates. Our results are presented in table 3.

[Table 3 about here]

All the coefficients perform as expected and all reach reasonable levels of statistical significance. The Supreme Court tends to more often dismiss impeachment cases that are difficult to enforce. There is also evidence supporting our claim that the Supreme Court has chosen to leave most matters of the federal fiscal pact (*federal pact*) and the distribution of federal transfers from the states to the municipalities (*transfers*) to the politicians. The signs of the coefficients for these variables are both positive and statistically significant. However, there is no evidence that the Court more often dismisses *tax jurisdiction* battles. As expected, the Supreme Court disproportionately dismisses cases that challenge *federal laws* and those that possess the potential to produce general effects (*rule of eight*). Cases brought to the Court by municipalities that are likely to suffer more from procedural default are more often dismissed. Finally, there is no evidence that the Court changed its dismissal strategy after the PRI's electoral losses of 1997 and 2000. This last result implies that the Court continued to dismiss the same types of cases despite the changing political environment.<sup>11</sup>

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<sup>11</sup> Most of our results remain unchanged if we exclude the constitutional controversies over indigenous rights that were dismissed on the grounds that the Court can't interpret the constitutionality of constitutional amendments. The variables *municipality* and *rule of eight* and *PRI-defendant* lose statistical significance if we exclude these cases, although they remain correctly signed.

The last two models test more directly if dismissals disproportionately help the PRI. Model II controls for the partisan identity of the defendant – it adds a dummy variable for cases in which a PRI-affiliated institution or legislative body was the defendant (*PRI-defendant*). Consistent with our expectations, the results demonstrate that the Court tended to more often dismiss cases that would hurt the PRI.

Model III tests whether the Court tended to dismiss more often cases where an important federal institution was challenged. It adds two independent variables that identify if the defendant was the president or the federal Congress. The results show that there is compelling evidence that the Court sides away from cases that challenge important federal institutions –the coefficients for *Congress-defendant* and *president-defendant*<sup>12</sup> are positive and statistically significant. The variable *PRI-defendant* remains positive in Model III although its statistical significance drops.

## **5. The Court’s decision-making in the second stage**

We explore in this section the Court’s rulings once it decides to hear a case. We are interested in understanding the factors that drive the Court to strike down legislation and whether the Court’s decisions disproportionately help the former ruling party. Both of these will reveal crucial aspects of the Court’s behavior in the emerging democracy, namely the extent to which the Court acts as an “authoritarian enclave” predominantly ruling to strike down legalization or state acts by “opposition-affiliated” institutions and if the Court has

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<sup>12</sup> Unfortunately, there are not enough cases in which the president was defendant so we can’t assess whether the Court treated differently President Zedillo or President Fox.

become more independent from its creator as a result of divided government and alternation of political power in office.

To model the Court's rulings, we first account for cases where the Supreme Court found the law or state act unconstitutional. Our dependent variable for unconstitutionality decisions takes a value of 1 for cases where the Supreme Court found the law or state act to be unconstitutional and 0 when the Court affirmed the law or state act. Excluding the dismissals, the Court decided the law or state act was unconstitutional in 40% of the cases it heard. Consistent with the notion of "authoritarian enclave," we expect the Court to be significantly more prone to strike down legislation or state acts by "opposition-affiliated" institutions. However, our hypothesis is that the Court should mitigate its partisan bias after the PRI loses the majority in the Chamber of Deputies in 1997 and the presidency in 2000. To take into account the endogeneity problem discussed above, we employ as independent variable the predicted decision of the Court to dismiss a case (*dismissals-predicted*) that comes from a first-stage estimation. Predicted dismissals are expected to have a positive sign in the unconstitutionality model –that is, we expect the Court to more often filter cases that would entail decisions of unconstitutionality.

The first two models in table 4 display the results of our analysis of unconstitutionality rulings. Our expectations regarding the Court's decisions are fulfilled. From model I we conclude that there are strong partisan biases in the Supreme Court's decisions. The variable PRI-defendant is negative and statistically significant, which means that the Court more often strikes down legislation or state acts of "opposition-affiliated" institutions than of PRI-affiliated ones. Note that *Congress-defendant* and *president-defendant* are not statistically significant. We are thus confident that the Court is conditioning its

resolutions on party, not on level or branch of government.<sup>13</sup> Model I also demonstrates that, as we expected, the Court became more proactive after the PRI lost the majority of seats in the Chamber of Deputies in 1997 and after alternation of political power in office in 2000. The variables *Zedillo-divided* and *alternation* are both positive and statistically significant.

Model II seeks to assess if the effect of the variable *PRI-defendant* on unconstitutionality decisions is constant after the PRI lost the majority in the Chamber of Deputies and the 2000 presidential elections. We thus created two new variables that reflect cases where the PRI was defendant in the 1997-00 period and in the post-2000 period (*PRI-97-00* and *PRI-post-2000*). As expected, we obtain a positive and statistically significant result for both of these variables, suggesting that after alternation of political power in office, the Court began to mitigate its partisan biases by increasingly ruling in favor of the “opposition.”<sup>14</sup>

To assess in which types of cases the Court tends to favor the PRI over the opposition, we run a third model where our dependent variable takes a value of 1 for a decision in favor of the PRI and 0 when the Court favored any other political party or a tribunal. We eliminate from the analysis the cases where the PRI acted as plaintiff and defendant. The Court decided in favor of the PRI in 64% of these cases. As in the

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<sup>13</sup> Of we control for whether a municipality was plaintiff, we still find very strong effects for *PRI-defendant*, making us confident that the Court conditions its decisions on party not on level of government.

<sup>14</sup> We were unable to run this model leaving the variables *Zedillo-divided* and *alternation*. However, we are confident that the Court mitigated its partisan biases because we obtain the same results in the partisan model below.

unconstitutionality model, we add as independent variable predicted dismissals that come from a first stage estimation. Consistent with our results in the previous sections, we expect this variable to have a negative sign, which means that the Court should dismiss more often cases that would hurt the PRI. Results are shown in the last column of table 4.

The variables *federal laws*, *transfers*, *federal pact* and *impeachment* are positive and statistically significant, although only at the 90% confidence level. Our results thus suggest that the Court's biases in favor of the former ruling party are manifested predominantly in "important cases", in cases that challenge the fiscal federal pact, and in impeachment cases. This is another way of saying that the Court tends to favor the "opposition" predominantly in low salience local level conflicts. *Predicted dismissals* is negative and statistically significant, which is a confirmation of the results in the previous section that show that dismissals disproportionately help the former ruling party. We obtain positive signs for the political alternation variables, although only the variable *Zedillo-divided* is statistically significant, which suggests, as we discuss below, that the Court's change of behavior was significantly stronger in the period 1997-2000.

To have a sense of the range of the effects of these variables, table 5 presents simulated probabilities. We present predicted probabilities for some variables of interest. First consider decisions to dismiss. Holding all variables at their mean values, the predicted probabilities that a case will be dismissed is 0.84. The Court predominantly filters with dismissals "important cases" and those that challenge the fiscal federal pact with dismissals—the predicted probabilities that a Court will dismiss a case that challenge the fiscal federal pact is 0.92, the distribution of federal transfers 0.92, and a federal law 0.94, whereas only 65 percent of the cases that challenge local laws get dismissed. The Court also tends to dismiss more often cases that have the potential to generate general effects—these show a 96 percent

chance of being dismissed as opposed to cases that have effects *inter partes* which will be dismissed 76 percent of the times.

Now consider decisions of unconstitutionality. Of the cases that the Court hears, only in 36 percent of them it will choose to strike down legislation. The political alternation variables powerfully shape the Court's propensity to strike down legislation. In the period of unified control of government by the PRI, the predicted probability that the Court would strike down legislation was only 17 percent. This probability increases to 0.54 and 0.36 after the PRI lost the majority of seats in the Chamber of Deputies in 1997 and the presidency in 2000. The Court's change in mode of behavior is thus significantly stronger in the period 1997-2000 as opposed to 2000-2005, a point to which we return below.

Consider the partisan biases in the Court. The predicted probability that the Court will strike down a law or act of a PRI-affiliated institution is 0.28 as opposed to 0.64 for an "opposition-affiliated" institution. The Court mitigated its partisan biases after the PRI lost majority control of the Chamber of Deputies in 1997 and the presidency in 2000. The predicted probability that the Court would strike down legislation by the PRI during the period of unified government was as low as 0.06. This probability increased to 0.50 in the period 1997-00 to decrease to 0.31 in the period 2000-2005.

Lastly, our results uncover the types of cases in which the Court is more prone to side-up with the PRI. The predicted probability that the Court sides with the PRI in cases that challenge federal laws is 0.95 as opposed to 0.36 in cases that challenge state laws. Similarly, the predicted probability that the Court sides with the PRI in cases that have the potential to generate general effects is 0.81 as opposed to 0.53 in cases that generate effects *inter partes*. The Court also sides with the PRI more often in cases that challenge the fiscal federal pact (0.94) and the distribution of federal transfers (0.95).

The fact that the Court is more proactive and also less supportive of the PRI in the period 1997-00 than after the presidential loss in 2000 is somehow unexpected. We offer the following explanation for this result. Most likely, the Court's credibility is not constant across the three periods and hence the incentives to act strategically also vary. The Court's behavior at time  $t + 1$  is likely to be influenced by its accumulated credibility, resulting from the decisions it makes at time  $t$ . The Court needs to be most strategic when its credibility is lowest and the balance of power changes for the first time such that the "opposition" can begin to credibly threaten to attack the Court. If this interpretation is correct, the need to act strategically would be strongest just after 1997, to become weaker as the Court accumulates enough political capital as a result of a series of strategic decisions.<sup>15</sup> In effect, the Court more often strikes down legislation or state acts against the PRI during the period 1997-00, which presumably should have increased its credibility among the "opposition" --many of the Court's decisions are also being publicized, as Staton (2004) demonstrates, which might have contributed to increase the Court's legitimacy among the wider public. Presumably, the Court can bring the law closer in line with its true policy or partisan preferences as its credibility and legitimacy increase, which is what the post-2000 data reveals.

## 6. Conclusion

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<sup>15</sup> Before 1997, the Court most likely suffered from a stronger credibility deficit among the "opposition," but these parties had no control of a powerful federal institution such as the Chamber of Deputies and could not threaten to attack the Court.

In transitions to democracy, autocratic rulers often play a powerful role in the initial enactment of a constitution and can create institutions that will constrain future democratic political players. Do constitutional courts so created work to protect the interests of their appointers? What strategies do these courts follow to build credibility among the newly elected democratic political players? Our work contributes both to the literature on democratization and the literature on strategic courts by first, assessing the impact of the autocratic heritage on the workings of democracy, and second, by uncovering some of the strategies institutions that are appointed by the former autocratic regime employ to build credibility among the new power holders.

We demonstrated significant partisan effects in the Court's behavior. First, the Court tends to disproportionately dismiss "important cases" and those that might hurt the PRI. Second, there is a significantly higher probability that the Supreme Court will strike down legislation or state acts by "opposition-affiliated" institutions than by PRI-affiliated institutions. Third, we also show that the Court tends to rule more often in favor of the former ruling party in "important cases" and those that challenge the fiscal federal pact. The Court favors the opposition over the former ruling party predominantly in lower salience local level conflicts. Finally, relative to the period of unified government control by the PRI, the Court has increased the frequency with which it rules against the former ruling party. Our results suggest, however, that the Court was more likely to rule against the PRI in the 1997-00 period rather than in the 2000-05. We interpret this result as an indication that the Court was able to bring the law closer in line with its true policy and partisan preferences as its credibility increased. Thus, there is compelling evidence that the Supreme Court is working to constrain the behavior of the new democratic political players so as to maintain the institutional status quo inherited from the autocratic regime.

Our results do not imply by necessity that the Supreme Court judges based on the partisan affiliation of the parties to a dispute. As the electricity decision cited in the introduction illustrates, there are many cases for which ideology clearly matches with party. On the economic policy space, the PRI is to the left of President Fox and the PAN. In deciding in favor of the PRI's congressional faction in this case, the Court favored economic nationalism over the internationalization and privatization of the electricity sector. In our analysis, this decision is coded as an "important" decision in favor of the PRI, although the Court most likely rejected Fox's reform on the basis of ideology. In future papers we plan to explore how the Court's partisan biases match into some meaningful policy space.

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**Table 1 Constitutional Controversies by Institution in Conflict, 1994-2004\* (% in parentheses)**

Plaintiff	Defendant						Total
	Municipality	Local Assembly	Governor	State S. Court	President	Federal Congress	
Municipality	1 (0.14)	155 (22.21)	67 (9.6)	5 (0.72)	16 (2.29)	368 (52.72)	612 (87.68)
Local Assembly	1 (0.14)	0 (0)	7 (1)	1 (0.14)	0 (0)	2 (0.29)	11 (1.58)
Governor	7 (1)	18 (2.58)	0 (0)	0 (0)	11 (1.58)	9 (1.29)	45 (6.45)
State S. Court	0 (0)	16 (2.29)	2 (0.29)	0 (0)	1 (0.14)	0 (0)	19 (2.72)
President	1 (0.14)	2 (0.29)	2 (0.29)	0 (0)	0 (0)	3 (0.43)	8 (1.15)
Federal Congress	0 (0)	0 (0)	0 (0)	0 (0)	3 (0.43)	0 (0)	3 (0.43)
<b>Total</b>	<b>10 (1.43)</b>	<b>191 (27.36)</b>	<b>78 (11.17)</b>	<b>6 (0.86)</b>	<b>31 (4.44)</b>	<b>382 (54.73)</b>	<b>698 (100)</b>

**Table 2 Classification of constitutional controversies and actions according to the merit of the case**

<b>CONSTITUTIONAL CONTROVERSIES</b>			<b>CONSTITUTIONAL ACTIONS</b>		
<b>MUNICIPALISM</b>	<b>40</b>	<b>(279)</b>	<b>ELECTORAL CONFLICTS</b>	<b>77</b>	<b>(100)</b>
Planning and Provision of Public Services		(20)	Political Parties, Campaign Financing, Coalitions between parties, Minimum threshold for registration	33.85	(44)
	2.2				
Economic Resources	9.6	(87)	Composition of Local Legislatures	14.62	(19)
Expenditure and free allocation of county resources Fiscal Jurisdiction / Federal Transfers'			Distribution of Legislative Seats Proportional Representation and First Minority Formulas		
Responsibility office holders	9.8	(89)	Electoral Institutions	13.08	(17)
Impeachment of county members Local congress, administrative, and judicial oversight			Composition of State Electoral Tribunals Local Electoral Institutes, Organic Law and Appointments		
Land and Territory	3.2	(29)	Electoral Reforms	15.38	(20)
Intermediate Authority	6.0	(54)			
Establishment and reform of decentralized agencies Governor's control of agency board					
<b>SEPARATION OF POWERS (local or federal)</b>	<b>6.6</b>	<b>(46)</b>	<b>NON ELECTORAL CONFLICTS</b>	<b>23</b>	<b>(30)</b>
Encroachments against legislatures	0.9	(8)	Fundamental Rights	3.85	(5)
Excessive use of rulemaking power / Refusal to publish a law / Refusal to enact administrative rules / Establishment of tax exemptions by the executive			Abortion Labor Laws		
Encroachments against the judiciary	2.2	(20)	Fiscal Legislation	2.31	(3)
Expenditure oversight / Irregularities on appointments and ratifications to the bench / Impeachments against judges / Limitations on jurisdiction					
Encroachments against the executive	2.0	(18)	State Legislation	2.3	(3)
Budget battles / Legislative refusal to formalize appointments to the bench / Legislative appointments to administrative agencies / Adm. Procedural Act					
<b>FEDERALISM</b>	<b>53.4</b>	<b>(373)</b>	Other	14.62	(19)
Federal Pact	1.3	(12)			
Interstate commerce clause / Fiscal coordination / Electoral use of federal resources					
Federal Legislation and Constitutional Amendments	39.9	(361)			
Total	100	(698)	Total	100	(130)

**Table 3: The Court's decisions in the first-stage: dismissals**

	Model I		Model II		Model III	
	Coef.	SE	Coef.	SE	Coef.	SE
<i>Zedillo-divided</i>	-0.25	0.31	-0.15	0.31	0.09	0.32
<i>Alternation</i>	0.08	0.26	0.20	0.27	0.39	0.28
<i>Impeachment</i>	0.77***	0.30	0.86***	0.31	0.94***	0.31
<i>Transfers</i>	1.68***	0.37	1.76***	0.37	0.94**	0.41
<i>Tax Jurisdiction</i>	0.05	0.43	0.01	0.43	-0.20	0.46
<i>Federal Pact</i>	3.94***	1.08	3.86***	1.09	1.93*	1.11
<i>Judicial Independence</i>	1.02**	0.49	1.19**	0.51	1.25***	0.51
<i>Federal laws</i>	4.53***	0.45	4.46***	0.45	2.27***	0.58
<i>Rule of eight</i>	2.66***	0.92	2.43***	0.94	2.41***	0.93
<i>Municipality</i>	2.81***	0.87	2.49***	0.90	2.47***	0.90
<i>PRI-defendant</i>			0.59**	0.27	0.53*	0.28
<i>President-defendant</i>					1.55***	0.57
<i>Congress-defendant</i>					2.60***	0.51
<i>Constant</i>	-3.51***	0.91	-3.82***	0.94	-4.01	0.97
* significant at the 90% confidence level **significant at the 95% confidence level ***significant at the 99% confidence level	N=794 Lr Chi2(10) 380.72 Prob >Chi2 =.000 Pseudo R2=.38		N=794 Lr Chi2(11) 385.54 Prob >Chi2 =.000 Pseudo R2=.39		N=794 Lr Chi2(13) 417.55 Prob >Chi2 =.000 Pseudo R2=.42	

**Table 4: The Court's decision in the second-stage**

	CONSTITUTIONALITY DECISIONS				DECISIONS IN FAVOR OF THE PRI	
	Model I		Model II		Model III	
<i>Zedillo-divided</i>	1.80***	0.53			-5.04***	3.37
<i>Alternation</i>	1.03*	0.57			-1.52	1.16
<i>Impeachment</i>	-0.13	0.98	0.31	0.88	12.65*	7.70
<i>Transfers</i>	-1.17	1.15	-0.79	1.07	27.76*	16.31
<i>Tax Jurisdiction</i>	3.47***	0.74	3.38***	0.77	-0.78	0.83
<i>Federal Pact</i>	0.52	1.45	0.34	1.48	20.15*	11.80
<i>Judicial Independence</i>	-1.59	1.29	-1.27	1.17	11.29	7.21
<i>Federal laws</i>	-2.73	1.74	-2.38	1.55	44.37*	25.18
<i>Rule of eight</i>	0.55	0.41	0.44	0.41	1.69	1.61
<i>Congress-defendant</i>	-1.85	1.70	-0.50	1.25		
<i>President-defendant</i>	-1.01	1.39	-0.66	1.45		
<i>PRI-defendant</i>	-1.58***	0.56	-3.70***	0.78		
<i>PRI-97-00</i>			2.93***	0.74		
<i>PRI-post2000</i>			2.15***	0.74		
<i>Dismissal-predicted</i>	8.70**	3.81	6.96**	3.27	-70.52*	42.46
<i>Constant</i>	-3.87***	0.90	-2.17***	0.79	27.04**	14.07
* significant at the 90% confidence level	N=262 Lr Chi2(13) 78.89		N=262 Lr Chi2(13) 87.90		N=243 Lr Chi2(10) 72.48	
**significant at the 95% confidence level	Prob >Chi2 =.000		Prob >Chi2 =.000		Prob >Chi2 =.000	
***significant at the 99% confidence level	Pseudo R2=.22		Pseudo R2=.25		Pseudo R2=.21	

**Table 5: Predicted Effects of selected independent variables**

	<b>Dismissals</b>	<b>Unconstitutionality</b>
All Variables Mean	.84	.36
<b>Political Alternation</b>		
<i>Zedillo-unified</i>	.79	.17
<i>Zedillo-Divided</i>	.80	.54
<i>Alternation</i>	.85	.36
<b>Fiscal Pact</b>		
<i>Taxes</i>	.81	.92
<i>Transfers</i>	.92	.20
<i>Fiscal Pact</i>	.92	.49
<b>Important cases</b>		
<i>Federal laws</i>	.94	.09
<i>Local Laws</i>	.65	.38
<i>Rule of eight</i>	.96	.44
<i>Effects inter-partes</i>	.76	.31
<b>Partisanship</b>		
<i>PRI defendant</i>	.84	.28
<i>Opposition- defendant</i>	.76	.64
<i>PRI-95-97*</i>		.06
<i>PRI-97-00*</i>		.50
<i>PRI-post-2000*</i>		.31

Note: predicted probabilities come from simulating models 1 from table 4 changing the value of the independent variable of interest while holding all the rest of the variables to their mean values.

\*predicted probabilities come from simulating model 2 from table 4.