

Judicial Reshuffles and Women Justices in Latin America



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Abstract: *Can weak judicial institutions facilitate the advancement of women to the high courts? We explore the relationship between weak institutions and gender diversification by analyzing the consequences of judicial reshuffles in Latin America. Our theory predicts that institutional disruptions will facilitate the appointment of women justices, but only when left parties control the nomination process. We test this argument using difference-in-differences and dynamic panel models for 18 Latin American countries between 1961 and 2014. The analysis offers support for our hypothesis, but gains in gender diversification are modest in size and hard to sustain over time. Political reshuffles may produce short-term advances for women in the judiciary, but they do not represent a path to substantive progress in gender equality.*

Verification Materials: The data and materials required to verify the computational reproducibility of the results, procedures, and analyses in this article are available on the *American Journal of Political Science* Dataverse within the Harvard Dataverse Network, at: <https://doi.org/10.7910/DVN/ZEKFG7>.

Can weak institutions, by virtue of their weakness, facilitate access of excluded groups into positions of power? An important literature argues that weak institutions have negative consequences for developing countries. Since politicians cannot assume that rules will endure, they have few incentives to honor intertemporal agreements (Levitsky and Murillo 2013; O'Donnell 1994; Spiller and Tommasi 2007). However, a growing research stream has linked institutional disruptions to women's advancement to positions of power (Campus 2013; Fallon, Swiss, and Viterna 2012; Hughes and Tripp 2015; Montecinos 2017; O'Brien 2015; Tripp 2015). This research has not yet considered whether institutional disruption can explain gains for women justices in the high courts.

We inquire into the relationship between deinstitutionalization and gender equality by analyzing political reshuffles of the judiciary. Latin America provides a useful context to examine possible tensions between an independent judiciary and the rise of women to the high

courts. The region encompasses wide variation regarding judicial purges (Helmke 2017). In parallel, the number of women justices has increased dramatically in recent decades, from 3% of all justices in the region's high courts in 1980 to 19% in 2010.

Existing research rarely addresses the rise of Latin American women in the judiciary. We know a great deal about elected branches of government (Barnes 2016; Došek et al. 2017; Escobar-Lemmon and Taylor-Robinson 2016; Hinojosa 2012; Htun 2016; Reyes-Housholder 2016; Schwindt-Bayer 2010). Yet, the ascent of women justices has received little attention (for exceptions, see Basabe Serrano 2017; Driscoll and Nelson 2015; Iñiguez de Salinas 2003). Studies of women in the judiciary focus overwhelmingly on the United States (Bratton and Spill 2002; Hoekstra, Kittilson, and Andrews 2014; Holmes and Emrey 2006; Hurwitz and Lanier 2001; Norris and Tankersley 2018; Williams 2007), contemporary democracies (Bercholz 2016; Thames and Williams 2013; Valdini and Shortell 2016), and sub-Saharan Africa

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(Bauer and Dawuni 2016; Bonthuys 2015; Dawuni and Kang 2015).

We point to the convergence of two historical trends with countervailing implications for democracy. On the one hand, Latin American courts have been historically subject to political reshuffles intended to curb their independence. On the other hand, leftist governments—which experienced a surge in the 2000s—increasingly appointed women jurists as part of progressive agendas championing inclusion. We argue that when leftist governments conduct political reshuffles, the opening of vacancies in the courts creates an opportunity for the appointment of more women. By disrupting the tenure of men judges, the institutional capture of high courts allows leftist governments to diversify the gender composition of the bench.

Understanding this complex phenomenon is crucial. Gender equality can improve the quality of legal decisions by increasing the diversity of ideas, values, and legal styles (Besson 2005; Feenan 2008; Kenney 2013; Rackley 2013). Women jurists are more likely to make decisions that promote gender equality (Boyd 2016; Boyd, Epstein, and Martin 2010; Dawuni 2016) and may decide differently across cases (Collins, Manning, and Carp 2010). Their presence also brings institutional legitimacy to courts (Grossman 2012). At the same time, women justices can only exercise power if courts are independent.

In the next section, we discuss current explanations for gender diversity in the courts. We then extend theories of institutional disruption to the judiciary. The following sections present empirical evidence. We analyze supreme courts and constitutional tribunals in 18 Latin American countries from 1961 to 2014 and test the theory employing a difference-in-differences design and dynamic panel models. The results show that purges conducted by left parties allowed for the incorporation of women justices, but these gains were modest in size and hard to sustain over the long run.

Women in the High Courts

Scholars often articulate explanations for increasing gender diversification in government in terms of supply and demand (Paxton, Hughes, and Barnes, 2020). Supply-side research emphasizes factors such as women's educational attainment, workplace participation, and presence in professions like education, business, and law (e.g., Fox and Lawless 2004; Paxton and Kunovich 2003; Stockemer and Byrne 2011). Students of the ju-

diary have proxied the supply of women judges using fertility rates, labor force participation, and women's share of lawyers (Arrington 2018; Solberg and Bratton 2005; Thames and Williams 2013; Valdini and Shortell 2016; Williams and Thames 2008). However, research has found little empirical support for supply-side explanations of women's success in the judiciary across countries.

Demand-side research analyzes why women are recruited from the aspirant pool. For instance, several authors note that an increasing number of women legislators promote the advancement of women in the judiciary (Escobar-Lemmon and Taylor-Robinson 2005; Thames and Williams 2013; Williams and Thames 2008). To the extent that they promote policies addressing gender issues, legislators may also want high courts to protect those policies. Cross-national research has found an empirical correlation between women in the national legislature and in the high courts (Hoekstra, Kittilson, and Andrews 2014; Thames and Williams 2013; Williams and Thames 2008). Along the same lines, women national leaders may be more likely to nominate women to high courts. Latin America, having now had 10 women presidents in eight countries, allows us to examine whether women chief executives appoint more women to the high courts.

Institutional rules also shape the demand for women in government (Paxton, Hughes, and Barnes 2020). Scholars have focused on rules guiding judicial selection (Alozie 1996; Blackwell 2017; Crandall 2014; Driscoll and Nelson 2015; Valdini and Shortell 2016). Yet, there is no consensus that any particular selector (legislature, executive, judiciary, or a combination therein) or method (appointment or election) is superior. Some researchers have found that appointed courts tend to be more diverse than elected ones (e.g., Bratton and Spill 2002; Holmes and Emrey 2006; Williams and Thames 2008). Others find that judicial elections benefit women (Hurwitz and Lanier 2001; Reddick, Nelson, and Caufield 2009; Williams 2007). Given these competing results, some conclude that women have been rising to high courts regardless of the selection mechanism (Dawuni and Kang 2015).

Another institutional factor that could explain women's access to the judiciary is gender quotas, both for the legislature and for the judiciary (Hughes, Paxton, and Krook 2017). Electoral quotas demand a certain percentage of women candidates or legislators (Paxton and Hughes 2015), and they may have indirect effects through the nomination process, as described above (Hoekstra, Kittilson, and Andrews 2014; Williams and Thames 2008).

Judicial gender quotas have been enacted only in a handful of countries (Hoekstra 2010; Piscopo 2015; Schultz and Shaw 2013). In Latin America, Ecuador was the first country to adopt a judicial quota in 1997, mandating that superior courts and rosters of lower-court judges, notaries, and registrars include at least 20% women (1997 *Ley de Amparo Laboral de La Mujer*, art. 3). In 2005, the law was extended to include 20% of judges on the Supreme Court. However, without any mechanism to ensure the quota was met, the law was ineffective. In 2008, the newly adopted constitution mandated gender parity in all branches and levels of government (Piscopo 2015). Still, it was not until 2012, after the Judicial Council adopted explicit selection rules that gave priority to women nominees, that Ecuador's high court became one of the few Latin American high courts to approach gender equity (Basabe Serrano 2019). Like Ecuador, Bolivia's 2009 constitution established gender parity across all institutions, including the courts. However, Bolivia's constitution adopted a unique model of popular election for justices, and gender parity is only guaranteed among candidates, not among those elected (*Ley N° 025 Ley del Órgano Judicial* 2010; see also Driscoll and Nelson 2012).

Societal attitudes toward women's leadership influence both the supply of and demand for women in government (Paxton, Hughes, and Barnes 2020). Previous research has shown that patterns of development affect social expectations for women in positions of power (Escobar-Lemmon and Taylor-Robinson 2005; Thames and Williams 2013; Williams and Thames 2008). Norris and Inglehart (2001) demonstrated that egalitarian attitudes toward women in office are more widespread in postindustrial societies. Normative support for women's presence in decision-making positions has increased globally, evidenced by the growth in women's legislative representation and the spread of gender quotas (Hughes, Paxton, and Krook 2017). Similarly, Escobar-Lemmon and Taylor-Robinson (2005) suggest that growing representation of women in Latin American cabinets since the mid-1990s reflects widespread normalization of women in politics.

Finally, some scholars argue that demand for women in the judiciary is likely to be higher when left-leaning leaders are in power (Hoekstra, Kittilson, and Andrews 2014; Krook and O'Brien 2012). Left-of-center politicians defend egalitarian policies, including policies promoting gender equality, and may receive more pressure from women's organizations. These studies draw from research that links leftist parties to higher numbers of women in national legislatures (Claveria 2014; Kenworthy and Malami 1999; Matland 1993; Reynolds 1999)

and in executive cabinets (e.g., Davis 1997; Escobar-Lemmon and Taylor-Robinson 2005; Reyes-Housholder 2016; Reynolds 1999). To the extent that judicial appointments reflect the preferences of parties that control nomination, we might expect progressive politicians to appoint more women to high courts (Basabe Serrano 2017).

However, the connection between women's advancement in institutional arenas and leftist parties may be contingent on time and place. Historically, leftist parties did not always advance women's causes because women tended to hold more conservative ideological positions than men (Inglehart and Norris 2000; Klausen 2001). Studies of the contemporary period show that leftist parties are not necessarily friendlier to women (Arriola and Johnson 2014; Barnes 2016; Hughes and Tripp 2015; O'Brien 2015). In some countries, women have achieved greater representation in right-leaning parties (Htun 2005).

If we look specifically at judicial nominations, evidence of left party effects is mixed. Whereas researchers have found a relation between leftist selectors and women appointments at the U.S. federal and state levels (Bratton and Spill 2002; Segal 2000), research on Western Europe finds no systematic evidence that left-leaning selectors are more likely to promote women to high courts (Hoekstra, Kittilson, and Andrews 2014).

Institutional Disruption: Reshuffles, Ideology, and Gender

Because much research on gender and the judiciary focuses on stable democracies, the literature has overlooked one powerful source of change: institutional disruption. Students of advanced industrial democracies treat institutions as stable constraints on political actors, which change rarely or slowly (Thelen 2004; Tsebelis 2002). Students of developing countries, in contrast, have documented multiple patterns of institutional disruption, including interbranch conflicts (Helmke 2017), the serial replacement of constitutions (Levitsky and Murillo 2013), and the use of constitutional change as an excuse to purge the high courts (Pérez-Liñán and Castagnola 2016).

Analyses of institutional disruption underscore its consequences for women. A study of 153 countries shows that legislative interruptions—unconstitutional closures of the legislature lasting more than 6 months—lead to improvements in women's representation once the legislature is reopened (Hughes 2007). Gains for women in

politics are also linked to institutional disruptions caused by the ending of civil wars, transitions to democracy, electoral defeats, and scandals (Campus 2013; Fallon, Swiss, and Viterna 2012; Hughes and Tripp 2015; Montecinos 2017; O'Brien 2015; Tripp 2015). Yet, research has not yet considered whether institutional disruption could explain gains for women in the high courts.

We focus our analysis on a distinctive form of institutional disruption in the judiciary: court reshuffles. Reshuffles occur when governments induce the resignation of a majority of high court justices to gain control over constitutional interpretation (Castagnola and Pérez-Liñán 2011; Pérez-Liñán and Castagnola 2009). By replacing a large number of justices at once, reshuffles eliminate a counter-majoritarian veto player with the capacity to obstruct the government's agenda.

Our focus on reshuffles has a distinctive analytical advantage: Reshuffles are easy to document and operationalize. Whereas selective purges of individual judges can be difficult to distinguish from voluntary resignations, court reshuffles leave visible marks in the historical record. They involve situations in which a majority of justices exits office simultaneously and before the end of their terms. Although it is impossible to prove why justices left office jointly in every historical circumstance, available studies suggest that political pressures drove almost every reshuffle for which we have historical evidence (Basabe Serrano and Polga-Hecimovich 2013; Bowen 2017; Castagnola 2018; Castagnola and Pérez-Liñán 2011; Helmke 2017).

Reshuffles are different from situations in which multiple justices complete their constitutional terms concurrently and leave office in the same year. They should also be distinguished from episodes of court packing, in which politicians gain control of the high courts by expanding the number of seats, rather than by dismissing justices.¹ We leverage these conceptual distinctions to identify placebo and robustness tests below.

Democratically elected leaders induce resignations from the courts using tactics that include constitutional reforms, impeachment, media exposés against justices, and court-curbing legislation. Court reshuffles occur in a variety of democratic contexts, but they usually result from realignments in executive power, changes in legislative coalitions, interbranch conflict, or transitional politics (Basabe Serrano and Polga-Hecimovich 2013; Castagnola 2018; Helmke 2017). Sometimes reshuffles are part of a modernizing agenda (e.g., Mexico in 1994),

but most often they involve partisan attempts to take over the courts. Castagnola (2018, 66) documents that between 1900 and 2014, 63% of all retirements from the Argentine Supreme Court reflected political pressures.

Not surprisingly, authoritarian rulers are also prone to reshuffle the courts. Coups often trigger judicial purges (e.g., Argentina in 1966 and 1976; Bolivia in 1964, 1978, 1979, and 1980; Chile in 1973; the Dominican Republic in 1963; Ecuador in 1972; El Salvador in 1979; Honduras in 1972, 1975, and 1980; or Peru in 1975 and 1992). Authoritarian rulers may purge courts repeatedly (the Stroessner regime reshuffled the Paraguayan Supreme Court in 1964, 1968, 1979, and 1988). Moreover, democratic and authoritarian governments often reshuffle the courts after the adoption of new constitutions (e.g., Bolivia in 1967 and 2009, the Dominican Republic in 1966, Guatemala in 1966 and 1986, Nicaragua in 1987, Paraguay in 1968, Peru in 1980, or Venezuela in 1999) or major amendments (Chile in 2006, El Salvador in 1994, or Guatemala in 1994).

Reshuffles can have unexpected consequences for women. For example, a 1991 constitutional reform mandated a change in the length of terms and appointment procedures for Supreme Court justices in El Salvador. In 1994, the Calderón Sol administration took advantage of this opportunity to reshuffle the Court, replacing justices appointed between 1982 and 1989. "In this manner, an obstructionist president of the Supreme Court was removed from office and a new slate of magistrates was able to be named with minimal influence from the military. In practice, however, the appointment of new magistrates remained highly politicized and partisan" (Bowen 2017, 135). Yet, for the first time, El Salvador appointed two women justices.

In late 2004, President Lucio Gutiérrez accused the Ecuadorian courts of favoring the opposition. The pro-government Congress removed all members of the Constitutional Tribunal, the Supreme Court, and the Electoral Court without following proper impeachment procedures and appointed new members through legislative resolutions. This action sparked mass protests. In April 2005, yielding to demonstrators, Gutiérrez dismissed the new Supreme Court by decree. Congress removed him from office 5 days later (Grijalva 2010, chap. 2). Following this attack on the courts, "Ecuador revised its Organic Law for the judiciary, and [...] established a judicial selection committee that agreed to a 20% quota for women on the Supreme Court" (Hoekstra 2010, 479). However, the reshuffles had not displaced the old guard. The president of the committee, backed by men judges, downplayed the quota law, selecting women judges as only 6% of the Court (UN CEDAW 2007).

¹Reshuffles and packing overlap if an expansion of the court triggers the resignation of several justices (e.g., Paraguay in 1968 or Guatemala in 1994).

The previous examples illustrate that reshuffles can create unexpected opportunities for women in the high courts. Although reshuffles undermine judicial independence, they also represent major episodes of elite turnover. By forcing the opening of multiple vacancies, purges create a window for the entrance of women into the top echelons of the legal system.

However, institutional disruption alone cannot guarantee the advancement of women or other excluded groups. The breakdown of extant institutional arrangements facilitates the circulation of elites, but the new composition of reshuffled institutions depends on additional factors. For example, Hughes and Tripp (2015) find that the end of civil wars facilitated an increase in women's legislative representation in Africa, but only in the twenty-first century, when international forces promoted greater political inclusion. In the case of judicial appointments, the preferences of political actors nominating justices are crucial to determine gender outcomes. If political actors have few incentives to nominate women, reshuffles will not produce greater diversity.

We contend that in the aftermath of a court reshuffle, leftist governments have stronger motivations than other governments to diversify the courts for at least two reasons. First, reshuffles give leftist parties an opportunity to prove their ideological commitment to gender equality. Drawing from legislative politics, we know that women benefit from selection procedures that encourage balancing among multiple candidates, making all-men slates easy to spot. After a reshuffle, governments choose multiple judges at once and therefore are subject to the balancing pressures we observe in electoral lists. Because leftist parties are more exposed to constituency pressures—including those from women's organizations—incentives to appoint women justices should be particularly high for leftist administrations that champion egalitarian policies.

Second, leftist governments may appoint women justices for strategic reasons, engaging in an "inclusion calculation" (Valdini 2019). The appointment of women allows leftist governments to bring legitimacy to a power grab, enables them to control the narrative, and diverts attention from their efforts to limit the independence of the judiciary. Governments may hope that media, activists, and international partners will focus more on the historic advances of women rather than the government's efforts to weaken the courts. In contrast, right-wing governments have fewer ideological commitments to advancing women's leadership, making it more difficult to justify judicial purges with diversity claims.

The two motivations—sincere incentives versus strategic calculations—could work jointly or independently. We do not try to adjudicate between these mo-

tivations, which are observationally equivalent: They emphasize that leftist governments are more likely to use judicial reshuffles to appoint women to the high courts. Leftist ideology has been particularly salient in Latin America, experiencing a rise of left-leaning political leadership in the late 1990s and early 2000s—the "Pink Tide." During this period, leftist presidents led more than half of the countries, often supported by left-leaning legislatures. Although these governments sometimes struggled to advance women's legislative representation (Friedman 2009; Funk, Hinojosa, and Piscopo 2017), leftist presidents have had greater success promoting women in institutions where they have greater say, such as in executive cabinets (Basabe Serrano 2020; Escobar-Lemmon and Taylor-Robinson 2005). We expect to see similar benefits for women jurists in the aftermath of a court reshuffle. Therefore, we hypothesize that *high court reshuffles will produce an increase in the proportion of women justices when conducted by left governments.*

Another example from Ecuador illustrates our argument. President Rafael Correa came to power in 2007 after campaigning as an advocate for "Socialism of the 21st century." Correa was a Catholic who opposed abortion and favored traditional family roles with a "modern economic man," but he campaigned on the claim that his citizens' revolution had "a woman's face" (Lind 2012, 255). Shortly after his election, a constituent assembly led by Correa's party adopted a new constitution. The new charter replaced the old Supreme Court with a 21-member National Court of Justice and mandated the Judicial Council to pursue gender parity in nominations (article 183). The court reshuffle became effective in 2012, when the pro-government Judicial Council replaced the all-men Supreme Court with a National Court composed by 43% of women jurists. "As far as we have been informed, our National Court of Justice is the only one in the world that has been formed in an equitable manner," said Correa (Ministry of Justice, Human Rights and Cults 2014).

Even if high court reshuffles conducted by leftist governments produce an increase in the proportion of women justices in the short run, it is important to determine whether this contribution persists over the long run. We remain agnostic on this point. On the one hand, if left parties appoint women for strategic reasons, it is possible that advances will fade away in the aftermath of reshuffles, as women justices retire over time and new (men) justices are appointed. On the other hand, as suggested by some of the previous examples, some reshuffles may involve the adoption of gender quotas with long-term effects. Furthermore, it is equally possible that court reshuffles will undermine judicial

independence, weakening the standing of high courts and thus reducing women's barriers to entry. We explore these possibilities below.

Data

To test the hypothesis, our sample covers 18 Latin American countries between 1961 and 2014. The countries are Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Paraguay, Uruguay, and Venezuela. Historical coverage begins in 1961, when the first Latin American woman joined the Mexican Supreme Court. Because nine countries have separate supreme courts and constitutional tribunals, our sample contains information for 26 different courts. The unit of analysis is thus the country-court-year ($N = 1,172$). The dependent variable captures the percentage of women justices in a supreme court or constitutional tribunal by the end of the year. It ranges between 0% and 100% (Bolivia's Constitutional Court in 2008–9, when Silvia Salame was the only acting judge).

Main Predictors

Reshuffle is a dichotomous measure capturing irregular episodes of court renewal (95 episodes in 1961–2014). It has a value of 1 in years when a majority of justices left the court, unless justices served for fixed terms in office and their terms ended concurrently in that year (Castagnola 2018; Castagnola and Pérez-Liñán 2011). Reshuffles took place under all regime types: 41% under authoritarianism, 33% in semi-democracies, and 26% in democracies (Mainwaring, Brinks, and Pérez-Liñán 2007).

Left Government takes a value of 1 when the ideology of the president is on the left, 0 otherwise. We created this variable combining ideology measures by Arana (2017), Murillo, Oliveros, and Vaishnav (2010), Lodola and Queirolo (2005), and Coppedge (1997). We coded as leftists all heads of state whose average score was less than 2.5 in a 5-point left–right scale (about 19% of leaders in the sample).² Left governments orchestrated 20 reshuffles, equivalent to 8% of court-years under progressive administrations. Non-left governments experienced a similar rate of reshuffling.

The coding of *Reshuffle* and *Left Government* in dichotomous form allows for the estimation of a

²See page 3 of the supporting information (SI) for a list of left administrations.

difference-in-differences model presented in the next section. However, we show in the supporting information (p. 6) that continuous measures produce equivalent results. To account for the conditional effect anticipated by our hypothesis, models incorporate the interaction *Reshuffles* \times *Left*.

Supply: Women's Education and Occupation

Women's Schooling captures the average years of schooling attained in a country, based on Barro and Lee (2013). Because data are reported at 5-year intervals for 1950–2010, we interpolated between lustrums and extrapolated for 2011–14. Scores range from 1.2 (Guatemala in 1961) to 10.7 (Colombia in 2014). *Women Lawyers* measures the “supply” of women in the legal profession. The values represent series on the percentage of women lawyers in each country, based on Michelson (2013). The SI (p. 4) provides details on the estimation of missing figures and reliability of this measure for early years. Values in our sample range from 5.9% to 63.5%.

Demand: Women in Government and Institutions

Women in Congress measures the percentage of women legislators in the lower (or only) house, and it ranges from 0% (Paraguay in 1993 and 1998) to 53.1% (Bolivia in 2014). This variable is taken from Hughes, Paxton, and Krook (2017). *Woman President* takes a value of 1 when the head of state was a woman and 0 otherwise. Since women have been elected as presidents in a handful of countries—Argentina, Bolivia, Brazil, Chile, Costa Rica, Nicaragua, and Panama—their administrations cover only 4% of the observations. *Legislative Quota* is a dichotomous indicator reflecting periods (27% of the court-years in our sample) when gender quotas were in place for legislative elections (Hughes, Paxton, and Krook 2017). *Judicial Quota* is a dichotomous variable that captures the adoption of formal judicial quotas in Ecuador since 2005 and Bolivia since the 2011 judicial election.

To account for traditional explanations focusing on the courts' institutional design, we use three dichotomous variables that capture who appoints judges. *President* captures whether the head of state participates in the nomination. This occurred in 45% of the country-court-years in the sample. *Congress* captures whether the legislature intervenes in appointments (39% of the observations). Finally, *Council* measures when a judicial

council nominates or appoints justices (14% of the observations). These categories are not mutually exclusive; where several institutions participate in the process (e.g., the president nominates and the congress confirms), more than one indicator receives a value of 1.

Life Tenure is a dichotomous variable capturing when justices are not limited by fixed terms in office. Life terms may delay the renewal of courts and thus preserve gender inequalities. This applies to only 25% of the observations. Finally, *Size* controls for the number of members in the court. Larger courts may easily accommodate more diversity. This variable ranges from 3 (Supreme Court of Paraguay, 1947–67) to 33 (Supreme Tribunal of Justice in Brazil since 1989), with a mean of 12 members (data from Pérez-Liñán and Castagnola 2016).

Supply and Demand: Cultural and Institutional Development

Sexism measures levels of sexism for countries in the sample. The World Values Survey asks respondents whether they agree with the statement “On the whole, men make better political leaders than women do.” Average scores for particular country-years range from 0 (*strongly disagree*) to 4 (*strongly agree*). We employed a latent growth curve model to estimate scores for all country-years in the sample. Details of this variable are available in the SI (pp. 3–4).

The Women Civil Society Participation Index, developed by the Varieties of Democracy Project, offers an alternative measure of cultural trends (Coppedge et al. 2011). The index results from a Bayesian factor analysis of indicators for freedom of discussion for women, women’s participation in civil society organizations, and the role of women journalists (based on surveys of country experts). Scores range from 0 (*women are highly constrained*) to 1 (*women have the ability to participate*). We also incorporate Varieties of Democracy’s index of *Electoral Democracy*, which ranges from 0 (*authoritarian*) to 1 (*democratic*; Coppedge et al. 2011).

Judicial Independence (Linzer and Staton 2015) is a composite measure of de facto judicial independence. It ranges between 3.9 (Nicaragua in 1961) and 93 (Chile in 2007). Political elites usually attempt reshuffles when the judiciary is partially independent, to maximize chances of success. In the sample, 61 reshuffles took place within one standard deviation of the mean (between 24 and 65). Only two reshuffles took place one standard deviation above the mean, and 31 occurred one standard deviation below the mean. Women may confront lower barriers of entry if courts are not independent.

Results

Figure 1 plots the evolution of the dependent variable for all high courts in our sample. The figure also marks with vertical lines the timing of judicial reshuffles. The evidence indicates that a large number of reshuffles in the twentieth century did not bring improvements in women’s access to the high courts, consistent with the expectation of the conditional effects of institutional disruption.

As an initial assessment of judicial purges conducted by left governments, we employ a difference-in-differences (DD) estimator, reported in Table 1.³ The treatment is defined by the interaction *Reshuffle* × *Left*, but we cannot know with certainty the duration of the effects since justices retire over time. Thus, we estimate three versions of this model. In Model 1.1, the proportion of women in the court is estimated 1 year after the reshuffle. In Model 1.2, the treatment is presumed to last over the next 5 years. In Model 1.3, the treatment is presumed to last a decade. The model includes dichotomous variables to identify subjects (courts) and periods (years).

Table 1 indicates that judicial reshuffles conducted by left governments expand the number of women in the court by a significant percentage (about 5% on average in the aftermath of the purge).⁴ The DD estimates also suggest that this effect tends to decline over the long run, possibly as a result of attrition. This pattern is consistent with a dynamic process in which the number of women in the court is boosted by political intervention, but converges to a steady level over the long run. We explore this possibility in the next section.

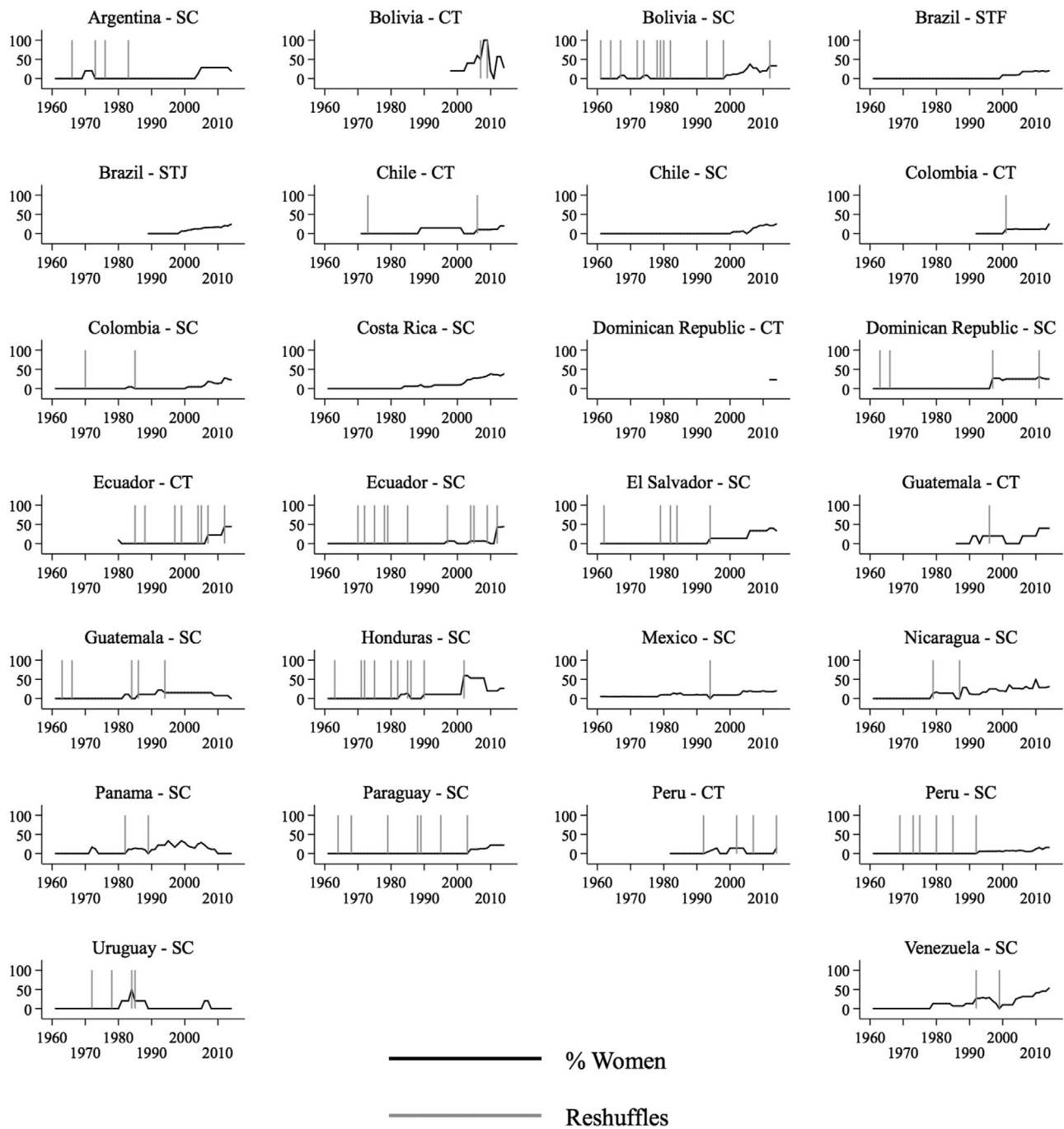
Dynamic Panel Models

Since the gender composition of high courts does not change rapidly, the percentage of women justices in any given year has a correlation of .89 with the previous year. To account for this fact, we estimate dynamic panel models, which include a 1-year lag of the dependent variable.

Table 2 presents four dynamic models. In contrast to DD estimates presented in Table 1, dynamic panel models explicitly allow us to disentangle the conditional

³Figure 1 supports the assumption of parallel (flat) trajectories prior to most reshuffles.

⁴Left governments were no less likely to purge women. Women represented 3% of justices purged by the non-left and 6% of those purged by the left. However, left parties were more likely to nominate women (11% of post-reshuffle appointments vs. 7% of the non-left).

FIGURE 1 Percentage of Women in Latin American High Courts, 1961–2014


Note: SC: Supreme Court; CT: Constitutional Tribunal; STF: Supremo Tribunal Federal; STJ: Supremo Tribunal de Justiça.

effect of reshuffles under left governments from the net effects of reshuffles or left administrations. Thus, Models 2.1 and 2.2 report the unconditional effects of *Reshuffle* and *Left Government*, and Models 2.3 and 2.4 report fully specified models including the interaction term. All models incorporate the control variables discussed in the previous section.

For robustness, we employ two alternative estimators. Models 2.1 and 2.3 account for the panel structure using fixed effects at the court level and for autocorrelation using an *ar*(1) error structure. Given the long series analyzed, we are unconcerned with potential bias created by the correlation of residuals with the lagged dependent variable (Nickell 1981). However, to address this issue,

TABLE 1 Difference-in-Differences Estimator

	(1.1)	(1.2)	(1.3)
Length of treatment	1 year	5 years	10 years
Effect of Reshuffle × Left	4.96*	3.05**	2.01*
	(2.01)	(1.11)	(0.96)
N	1,172	1,172	1,172

Note: Dependent variable is the proportion of women in the high courts. Entries in parentheses are standard errors. Court and year indicators are not reported.

*p < .05, **p < .01.

we replicate the analysis using the generalized method of moments (GMM) in Models 2.2 and 2.4 (Alvarez and Arellano 2003; Arellano and Bond 1991). This strategy instruments the lagged dependent variable using earlier lags and first differences of the exogenous predictors.⁵

Both estimators produce equivalent results, reinforcing our confidence in the findings. While *Reshuffle* has a significant effect in Models 2.1 and 2.2 (p < .01), the unconditional effect of Left Government is not significant in any model. In other words, there is no evidence that progressive governments appoint more women to the judiciary, but institutional reshuffles help to diversify the high courts.

The interaction between *Reshuffle* and *Left* presented in Models 2.3 and 2.4 provides strong support for our hypothesis, with estimates similar in magnitude to those in Table 1. Court reshuffles have no significant impact on the number of women justices when the administration is not on the left, but they expand the percentage of women by about 5% when leftist governments conduct the purges. The marginal effect of *left reshuffles* is 4.5% in Model 2.3 and 5.2% in Model 2.4.

Interpretation of these findings requires three additional considerations. First, although the marginal effects support our hypothesis, the impact of reshuffles on women’s advancement is substantively small. In a 19-member supreme court, a purge conducted by a leftist government produces one additional woman justice on average (0.052 × 19, from Model 2.4).

Second, as suggested by Table 1, even these moderate gains may recede within a few years. The coefficient for the lagged dependent variable is .62 and .67 in Models 2.3 and 2.4, indicating a rapid dissipation of the shock and a possible return to the gendered “equilibrium” of

⁵A robust estimator generated similar results. In Model 2.2, the Arellano-Bond test for zero autocorrelation is significant (p < .01) for first-order, but not for second-order residuals (p = .22), indicating that the assumptions of the instrumental model are satisfied.

TABLE 2 Dynamic Models of Women in High Courts

	(2.1) FE	(2.2) GMM	(2.3) FE	(2.4) GMM
Reshuffle	1.62** (0.62)	1.85** (0.63)	0.91 (0.69)	0.92 (0.71)
Left Government	0.97 (0.54)	0.66 (0.54)	0.68 (0.54)	0.33 (0.55)
Reshuffle × Left			3.57* (1.49)	4.31** (1.47)
Women’s Schooling	1.44** (0.48)	1.88** (0.55)	1.50** (0.47)	1.94** (0.55)
Lawyers	0.20* (0.09)	0.10 (0.14)	0.19* (0.09)	0.10 (0.14)
Women in Congress	0.05 (0.05)	0.05 (0.05)	0.05 (0.05)	0.06 (0.05)
Woman President	2.61* (1.02)	1.55 (0.89)	2.51* (1.01)	1.46 (0.89)
Judicial Quota	4.70** (1.71)	5.40** (1.63)	4.43** (1.70)	5.11** (1.63)
Legislative Quota	1.19 (0.80)	1.41 (0.87)	1.17 (0.79)	1.40 (0.87)
Appointed by President	1.29 (1.93)	3.47 (3.94)	1.20 (1.90)	2.67 (3.95)
Appointed by Council	1.72 (1.46)	4.29 (2.39)	1.61 (1.44)	3.76 (2.40)
Appointed by Congress	0.68 (1.67)	3.19 (2.62)	0.71 (1.64)	2.77 (2.62)
Life Tenure	0.93 (1.42)	2.57 (2.01)	0.98 (1.40)	2.60 (2.01)
Size of the Court	0.09 (0.09)	0.05 (0.12)	0.09 (0.09)	0.07 (0.12)
Sexism	3.75 (3.10)	3.37 (3.87)	4.33 (3.09)	3.78 (3.88)
Participation	-2.08 (3.03)	-6.21 (3.68)	-1.66 (2.99)	-5.96 (3.68)
Judicial Independence	-4.66 (2.69)	-7.51* (3.60)	-4.74 (2.66)	-7.78* (3.60)
Electoral Democracy	1.58 (2.34)	4.19 (2.88)	1.49 (2.31)	4.16 (2.87)
Women Justices (t-1)	0.62** (0.03)	0.68** (0.02)	0.62** (0.02)	0.67** (0.02)
Constant	-18.74* (7.94)	-18.48 (12.36)	-20.32* (8.02)	-19.19 (12.36)
N	1,136	1,152	1,136	1,152
Rho		0.17		0.16

Note: Dependent variable is the proportion of women in the high courts. Entries in parentheses are standard errors.

*p < .05, **p < .01.

TABLE 3 Short- and Long-Term Effects of Judicial Reshuffles

Model	Short-Term Marginal Effect	(Standard Error)	Long-Run Multiplier	(Standard Error)
Left Government				
2.3 Fixed Effects	4.48**	(1.34)	11.92**	(3.65)
2.4 GMM	5.23**	(1.32)	16.08**	(4.21)
Non-Left				
2.3 Fixed Effects	0.91	(0.69)	2.41	(1.84)
2.4 GMM	0.92	(0.71)	2.82	(2.18)

Note: Dependent variable is the proportion of women in the higher courts. Estimates are based on Table 2.

*p < .05, **p < 0.01.

the court. (Within 5 years, the initial impact of 5.2% in Model 2.4 declines to 0.73%, or 5.2×0.67^5 .)

Third, however, even if the initial number of women justices appointed in the aftermath of a purge declines over time, the cumulative contribution of a reshuffle is greater than the initial 5% increase in the share of women. Because the new composition of the court remains in place (albeit at a declining rate, due to attrition) over several years, the total contribution of a reshuffle—vis-à-vis the counterfactual of an unpurged court—must be estimated over time. The long-run multiplier for the effect of reshuffles in Model 2.3 indicates a cumulative gain of 12% in the percentage of women justices over the long term ($4.5/(1 - 0.62)$).

Table 3 compares the marginal effect of purges conducted by governments on the left and on the right of the political spectrum, in the short run and over the long run, based on estimates from Models 2.3 (fixed effects with autoregressive error) and 2.4 (GMM).

Only purges conducted by the left expand the number of women justices. The long-term effects of left reshuffles are substantially greater than their immediate effects, but reshuffles fall short of any major transformation toward gender parity.

Estimates for other variables provide support for demand and supply explanations. On the demand side, women executives and judicial quotas promote the appointment of women in high courts.⁶ On the supply side, whereas women's years of schooling are statistically significant in all models, the proxy for the percentage of women in the legal profession is only significant in Models 2.1 and 2.3. These findings confirm that the presence of women in high courts is likely to increase in a sus-

tained manner when there is a verifiable advancement of women in society.

We find little support for explanations based on appointment procedures. This result contrasts with prior comparative findings (e.g., Valdini and Shortell 2016), possibly because almost every selection procedure is “exposed” to credit claiming in Latin America. In contrast, judicial independence is negatively related to the proportion of women in high courts. This is consistent with our thesis: Strong unelected institutions delay the entry of new actors to positions of power. Political reshuffles undermine judicial independence but also lead to court renewal.

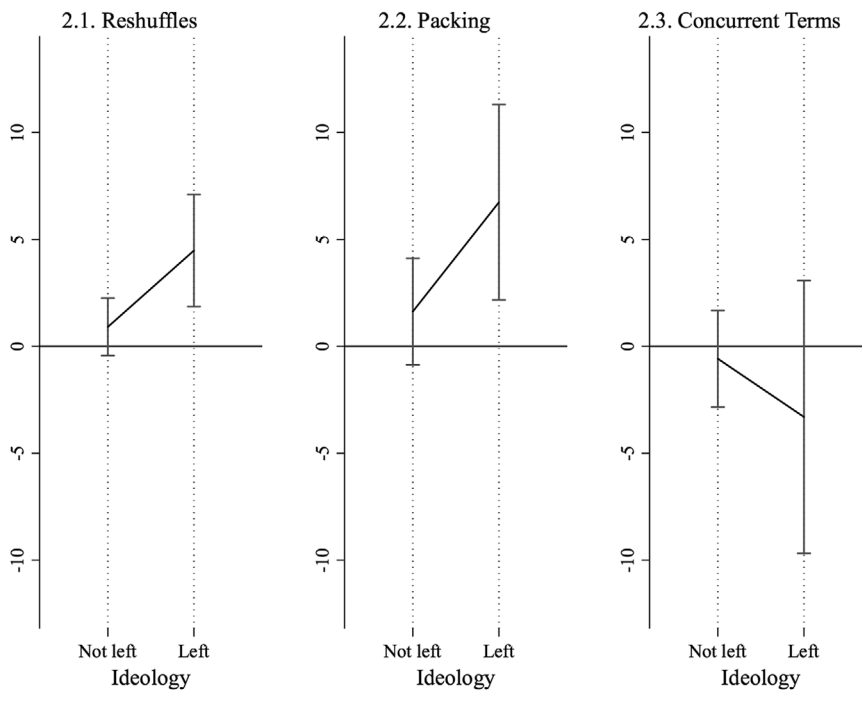
Robustness and Placebo Tests

To probe on the theorized mechanisms, we developed a set of ancillary tests. These tests show that episodes of court packing (which pursue the formation of new partisan majorities in the court by adding seats rather than by removing judges) follow the same pattern of court reshuffles. In contrast, episodes in which a majority of justices end their constitutional terms concurrently do not lead to the nomination of more women. Due to limited space, we present the details of this analysis as part of the SI (pp. 5–8). The tests also show that using continuous measures of ideology or judicial turnover does not alter our main findings.

Figure 2 compares the short-term marginal effects of reshuffles (Figure 2.1, based on Model 2.3 and Table 3), court-packing events (Figure 2.2, based on SI Model 4.1), and the end of concurrent terms (Figure 2.3, based on SI Model 4.3). Left governments appoint more women only in the aftermath of purges and packing events, reinforcing our claim that the nomination of more women reflects not just the *opportunity* created by open seats, but also the *incentives* to legitimize an action against the courts.

⁶Controlling for judicial quotas would introduce posttreatment bias if politicians legitimize reshuffles through the adoption of quotas. Results are similar if we remove this control.

FIGURE 2 Marginal Effects of Court Renewal on Percentage of Women in High Courts



Note: Reshuffles are defined as episodes in which a majority of justices leave the court without their terms formally ending (Model 2.3); in packing episodes, the size of the court is enlarged by at least 20% (SI Model 4.1); concurrent terms indicates that a majority of justices left the court because their terms ended concurrently in a given year (SI Model 4.3). Bars reflect 95% confidence interval.

Conclusion and Contributions

Our understanding of the processes that have diversified high courts has been mostly limited to supply- and demand-side factors that facilitate women’s inclusion in stable democracies. This study shows that judicial purges, a common event in weakly institutionalized democracies, can advance women’s representation on the bench. Although political reshuffles undermine the strength and independence of the judiciary, they may also be a vehicle for women’s ascension to the high courts.

However, not every political purge has positive effects for women. Only leftist governments have used reshuffles consistently to promote women to the highest courts. Moreover, our results urge strong caution in advocating court purges as a strategy for gender advancement. Gains are substantively modest—an average increase of about 5% in women justices in the aftermath of a purge—and are not sustainable over the long run.

Why do judicial purges by left governments increase women’s representation on high courts? Judicial purges remove what is often the single largest obstacle

to women: incumbent men. Faced with an entire high court to populate, selectors may perceive that there is more space to include women judges. After a purge, some elite men judges may also see the court as diminished in power and thus as a less desirable posting, reducing the supply of qualified men replacements. Under these circumstances, judicial reshuffles lower the barriers for women to enter, and left governments take advantage of the opportunity to bring greater balance to the court.

Women’s rise could also be explained by increasing demand for women justices. That is, after a court reshuffle, women judicial nominees may become more appealing. Activists could take advantage of moments of crisis to ramp up pressure on governments to include women in decision-making positions. In the midst of a reshuffle, the perception that women are more submissive or cooperative than men—and therefore may be more pliable and less likely to exercise checks on executive power—could make them more attractive to selectors. Alternatively, the perception that women are less corrupt may make them particularly attractive nominees after an executive power grab, when leading governments want to reestablish the notion that their judiciary is fair and

independent. Indeed, increasing women's numbers may be a political calculation on the part of left parties designed to distract from government actions criticized as anti-democratic.

Our data do not allow us to uncover the true motives of leftist governments. However, we do gain analytical leverage by comparing the effects of purges and court packing to the effects of more democratic forms of turnover—when the majority of justices end their constitutional terms concurrently. That only purges and court packing result in gains for women judges suggests that left governments do not take every opportunity they can to increase women's representation. Instead, we see evidence that left government power grabs make incumbents more vulnerable to domestic or international pressures to diversify courts, and that left parties choose women justices, which allows them to appear more inclusive at a moment when they are acting to undermine the independence of the judiciary. Further research should examine these mechanisms more closely.

Our findings contribute to four bodies of literature. First, we have extended prior arguments about the gendered effects of institutional disruption to the judiciary. Preceding cross-national research on legislative representation found that women are more politically successful after legislative interruptions (Hughes 2007), civil wars (Hughes and Tripp 2015; Tripp 2015), democratic transitions (Fallon, Swiss, and Viterna 2012; Montecinos 2017), and major electoral defeats and corruption scandals (Campus 2013; O'Brien 2015). Evidence from judicial reshuffles in Latin America shows for the first time that institutional disruptions may benefit women at the highest levels of the judiciary.

Second, our study contributes to debates about the role of leftist political parties in advancing women's rights and representation. Scholars have considered how Latin American left governments shaped feminist policies (Blofield, Ewig, and Piscopo 2017; Friedman 2009; Heumann 2014; Kampwirth 2008; Lind 2012; Lind and Keating 2013) and women's legislative office (Friedman 2009; Funk, Hinojosa, and Piscopo 2017). Our results comport with much of this research in finding that party ideology matters in some cases but not in others. On its own, rule by a left-leaning government is insufficient to drive gains in women's representation on Latin American high courts, but political ideology is an important explanatory factor.

Third, our research contributes to scholarship on anti-democratic forces and women's rights and representation. In legislative politics, scholars have argued that authoritarian and semi-authoritarian regimes elevate women's presence in legislatures to distract from

their democratic failures (Reyntjens 2010). Advancing women's rights is seen as a safer route to democratization than real power sharing (Donno and Kreft 2019). Even in the least democratic contexts, advancing women's rights and representation can earn governments praise from the international community (Bush 2011; Towns 2012). Our results on judicial purges suggest that leftist governments may also see the reputational benefits associated with advancement of women. In the midst of criticism from international organizations, foreign governments, and human rights activists, who see court reshuffles as a threat to democracy, making advances in women's representation on high courts could shift the narrative in a positive direction, providing legitimacy and stability.

Finally, our study contributes to the nascent literature on weak institutions (Holland 2016; Levitsky and Murillo 2013), showing that, under certain conditions, they facilitate the entrance of new players into power. However, institutional weakness may also undermine these gains over the long run. Research on legislative disruptions suggests that nondemocratic routes to elite turnover can undermine women's political advancement if they are too frequent (Hughes 2007). Our study suggests a similar pattern: In the absence of deeper social transformations, women's gains in the higher courts may be limited and hard to sustain, and may not truly represent substantive progress. Future empirical research could profit from identifying the circumstances in which the advancement of women justices reflects a progression that is likely to hold over time.

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Supporting Information

Additional supporting information may be found online in the Supporting Information section at the end of the article.

Appendix 1: Indices

Appendix 2: Robustness and Placebo Tests