

Constructing the Third Branch: The Mexican Supreme Court and Modern Mexican Politics

Chapter Summaries

Chapter 1: Introduction

Over the past eight years the Mexican Supreme Court has come to play an increasingly important role in Mexican politics. The Court has also used an aggressive public relations strategy to advocate further judicial reform and to improve its public image. Still, the Court continues to hear a significant number of claims of non-compliance with federal court decisions and has had occasional trouble itself inducing compliance with its own decisions. What might this new, but nevertheless strained, role for the court suggest to scholars about accountability in democratizing states? What might explain the variance in judicial activism on the Mexican Supreme Court and compliance with its decisions? Why has the Court chosen to publicize only a subset of its constitutional resolutions? This chapter reviews the Court's undeniable new role on the political landscape and introduces the project's central questions by placing the Mexican case within a larger comparative context. I end by underscoring the project's most significant results.

Chapter 2: Strategic Public Support

I discuss how positive and normative approaches to judicial activism and compliance might be integrated in a model of judicial review that invokes the mass public as an important defender of judicial authority. I present a formal model of judicial review that suggests implications for constitutional adjudication, the selective publication of constitutional decisions, and compliance with judicial orders. The most significant theoretical claim concerns the critical role of information in constitutional politics.

Chapter 3: Institutions of the Mexican Federal Judiciary

In this chapter I turn specifically to the Mexican case. I review the historical trajectory of the Mexican Federal Judiciary for three distinct purposes. First, in order to properly evaluate the empirical work that follows in the subsequent chapters, it is critical that the reader have some degree of familiarity with the most important institutions of Mexican judicial review. Second, the significant historical variance in the Supreme Court's institutions provides some needed *prima facie* evidence for one of the model's assumptions -- that elected officials *might* retaliate against particularly aggressive courts with institutional tinkering unfavorable to the justices ("ministers," in Mexican parlance). Finally, despite the voluminous literature on Mexican politics, there is a general absence of quality English sources on the Mexican Supreme Court. This chapter provides some basic descriptive data on the subject.

Chapter 4: Judicial Public Relations

I address the Supreme Court's public relations work. I describe three of the Court's most important goals -- enhancing its own legitimacy, altering pieces of its institutional structure and inducing public authority compliance. Further, I describe the changing nature of its public relations office and briefly discuss the media outfits that cover the Court.

Chapter 5: Judicial Activism and Public Relations

I address Supreme Court's decision-making in constitutional cases and its choices to selectively publicize its resolutions. Following a brief review of the Supreme Court's constitutional review authority, I analyze the decision-making of the Court using an original data set on the universe of constitutional resolutions issued by the Court between 1995 and 2002. I test a number of observable implications of the theory laid out in Chapter 2. I find that the Supreme Court was not biased toward supporting the former ruling party; however, the Court clearly appears to have been affected by politics. In particular, the Court appears to have conditioned its constitutional decisions on the importance of the policies it reviewed for federal political officials and on whether or not federal government was unified or divided. Moreover, the Court was far more likely to strike down public policies when the public was likely to learn about the decision, suggesting the vital role of information in constitutional politics. Finally, the Court appears to have publicized cases in a way designed to maximize the likelihood of political compliance.

Chapter 6: The Impact of Judicial Public Relations

In Chapter 6, I demonstrate the impact of the Court's public relations work on its media coverage. The analysis suggests that the Court is able to influence both the probability of a case receiving media coverage and the quality of the coverage itself.

Chapter 7: Public Authority Compliance

In Chapter 6, I address public authority compliance with decisions of the lower federal courts and the Supreme Court in two ways. First, I present two case studies of non-compliance/compliance with Supreme Court decisions. The first involves a 2000-2001 electoral controversy in the Yucatan peninsula. The second involves a 2000 conflict between the President of the Republic and the Congress. I find that varying degrees of public imposed costs can explain the variance in responses

In the second half of the chapter, I analyze an original data set on compliance developed from the Supreme Court's own case files. The novel feature of this section is the measure of compliance. Here I conceptualize compliance as temporal – that is, one does not merely comply or fail to comply, but rather one complies more or less quickly. The compliance measure is a count of days between the time the Court first required a particular action be taken until the action is carried out. Using an event history model, I find that the Supreme Court had particular trouble ensuring compliance with decisions in agrarian cases. I also find that the most significant problem with non-compliance in Mexico concerns informational failures. In short, parties are not required to physically attend court and they do not adequately communicate their efforts to comply with federal judicial orders. This result suggests that significant efficiencies could be gained by requiring litigants to appear personally in court.

Chapter 8: Comparative Implications and Conclusions

To be written.