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Measuring Electoral Court Failure in Democratizing Mexico

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ABSTRACT. After identifying a lack of attention to electoral courts and post-electoral contestation of elections, this article seeks to compensate for the lack of comparative cross-national data on election dispute resolution by constructing ideal types of electoral court success and failure within one country, Mexico, where primary research has produced needed data. It exposes authoritarian incumbent/opposition bargaining over rules of Mexico's democratic transition in the resolution of post-electoral conflicts in Mexico's municipalities. In identifying legal versus extra-legal paths of post-electoral contestation, it conceives of a "rule of law" ratio—the ratio of extra-legal post-electoral conflicts to legal electoral court case filings—to indicate gradual increases in opposition party compliance with electoral institutions. Upon establishing the lag between the construction of electoral institutions and compliance with them, the article concludes that this gap is attributable to conditions beyond their mere institutional configurations, such as social and political factors, and demonstrates that such compliance with institutions may not be assumed.

Keywords: Democratization • Electoral courts • Electoral governance Mexico • Political parties

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Despite de-legitimizing electoral controversies, even within long-established democracies like France and the United States, little systematic attention has been given to the resolution of post-electoral conflicts. Electoral administration generally has been understudied, prompting Pastor to observe that "[w]hen people think of electoral systems, they do not think of the conduct of elections but rather of constitutional questions" (Pastor, 1999a: 123–142), because developed-country electoral institutions are overlooked, and developing-country scholars focus on big questions like designing democratic institutions rather than on the outwardly procedural issues of whether nations possess the capacity to implement

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free and fair elections (see also Mozaffar and Schedler, this issue). The few who do comparatively analyze electoral administration, such as Elklit and Reynolds (2000) and López-Pintor (n.d.), tend to focus on the whole array of electoral functions, rather than homing in on contestation of elections. Heavily contested elections abound,[1] but almost no attention is paid to the institutions responsible for resolving post-electoral disputes, crucial for reinforcing the legitimacy of fledgling and long-standing democracies alike.

Scholars of election legitimacy and contestation must in many cases look to first-hand accounts of post-electoral conflicts, where they can readily find examples of cluttered jurisdiction over electoral dispute adjudication between legislative and judicial branches: such as in the controversy over hand recounts in the 2000 US presidential election or the ambiguous role of *panwas* as Indonesia's mediating authorities at all levels (IFES, 1999); summary rejection of complaints by "hair-splitting" electoral courts such as in Pakistan in 1994 (NDI, 1994), or the blanket discrediting of electoral authorities by political parties in Ethiopia in 1992 (NDI and AAI, 1992); outgoing authoritarian military leaders such as in Panama in 1989 (NRI and NDI, 1989), or the international community as in Peru in 2000 (Schmidt, 2000).

The institutions charged with resolving these cantankerous conflicts may be divided into two categories: regular constitutional courts charged with ruling in election-related cases, as in most European countries and other established democracies and at least some of Africa's new democracies; and electoral courts, usually autonomous from the three branches of government (sometimes, as in Costa Rica, referred to as the "fourth branch"), common in democracies arising over the last few decades, particularly in Latin America and some of the former Soviet republics (such as Ukraine and Armenia). Little systematized theorizing has been done on why countries would choose one of these institutional arrangements over another, but it is apparent that perhaps an equally pertinent and prior question is how efficiently these systems work in practice. This article addresses the latter question.

Rather than addressing a broad range of cases and institutions, I consider several forms of institutional efficiency—and especially of institutional failure—within one country, 1990s' Mexico. I argue that Mexico's sub-national electoral courts contain sufficient variation in their effectiveness so as to allow observers to derive four distinct ideal types of electoral court failure, applicable in future research to other countries with contested elections. I discuss the electoral reforms leading to the establishment of federal electoral courts as a gambit by authoritarian elites to legitimize their rule which was then extricated from their control by wily opposition leaders. I then present a problem which has confounded studies of electoral institution performance—how to measure electoral fraud—and propose a solution. Finally, I apply this proposed remedy in order to specify the types of electoral court failure, and contend that the method developed here of identifying electoral court failures may have broader applicability to the study of other specialized courts.

Measuring Electoral Fraud

In more theoretical terms, the question is what causes institutions to succeed, or, from the actors' perspectives, what prompts their compliance with some institutions but not with others? Full compliance is hard to measure, as it is a static

phenomenon with no measurable deviation from a regime's baseline norms or rule of law. Non-compliance is empirically much more evident, as deviation from these established patterns. The question is reducible to one of measuring deviations from an authoritarian regime's rule of law, and discerning the causes of these deviations.

Scholars who value formal evidence of institutional inefficiency might seek, instead of measuring behavioral compliance by actors external to the institutions, to measure institutional performance itself. In other words, they might seek a means of directly assessing the institutional "slack" available for authoritarian manipulation, or, with reference to the specific institutions under consideration, the amount of electoral fraud committed even under Mexico's reformed electoral system. While direct evidence of electoral fraud is ample in anecdotal cases, it is much easier to cite incidents of fraud than to aggregate them into any meaningful sum of the effects of this elusive phenomenon. Suspicious electoral trends (such as a 100 percent vote for the Institutional Revolutionary Party [PRI] in districts where there are three candidates), blatant incidents of crooked election day ballot-tallying and flagrant campaign overspending are the talk of Mexican politics,[2] and such testimonials from participants in negotiations to subvert the electoral "will of the people" to pre-negotiated outcomes offer compelling evidence in isolated cases. However, as also found by other researchers seeking to quantify electoral fraud (Choe, 1997; Molina and Lehoucq, 1998; Sadek, 1995), it is easy to suspect, and difficult to verify. One solution, and the one undertaken in this article, is to accept that institutional failure may be measured by a less direct but more accurate indicator: actor compliance with the institutions. The result may be less micro-analytically rigorous than a hypothetical direct measure of institutional inefficiency (in the form of electoral fraud), but it is a much more tractable research strategy.

This is an electoral politics study, but unlike other studies of elections it does not assume the official electoral results to be the final outcome. It argues that in the Mexican case during the protracted transition, such standard approaches miss many of the strategic interactions yielding post-electoral results, which in many cases vary from the outcome of the actual election. I directly compare the difference between "legal" and "extra-legal" post-electoral resolutions by contrasting these outcomes in a representative sample of municipal elections in 14 of Mexico's states over three local electoral cycles (spanning 1989–1992, 1992–1994, and 1995–1998). I demonstrate a dramatic decrease in the number of post-electoral conflicts and a concurrent increase in the utilization of electoral courts; but the transformation is not linear, and it is not due solely to any increase in the strength and autonomy of the state electoral institutions themselves.[3] Rather, I argue that it is actors' decisions to comply with these formal "parchment" electoral institutions, based on self-interest calculations, which determine whether they are actually used. Without actor compliance, particularly by the opposition, the institutional strength of an electoral court is an empty cup, no matter how much it brims over with potential. This is not a trivial point, but it is one which is constantly taken for granted in the literature on "pacted transitions," where the time differential between the creation of institutions and compliance with them is sufficiently small so that these two separate steps are conflated into one by most observers.

Obviously, electoral courts and party compliance with them are far from the only institutions important to the increasing electoral competitiveness of

opposition parties and their acceptance of the regime's liberalizing "rules of the game." Reforms mandating greater opposition through proportional representation, increased transparency of the electoral lists and balloting stations, the creation of a more plural and autonomous national electoral commission (and subsequent reforms in the states), and limits on campaign contributions and media exposure have all positively impacted on parties' decisions to participate in the process, and to "run to win" rather than just running to bargain for a consolation prize later. In fact, the electoral court reforms were among the last of these electoral reforms. However, acceptance or contestation of their rulings remains the single best proxy for whether the opposition accepts the "bundle" of practices represented by the official results. Hence, this work focuses on the endpoint of the electoral decision tree, rather than looking higher up the process for institutional violations of freedom and fairness.

The broader point, that opposition party participation in electoral institutions leads to these parties' acceptance of the electoral rules, reflects not just on the courts themselves, but on electoral institutions more broadly. Institutions matter certainly, but so does the "demand side"—opposition parties' acceptance of them. This fundamental point was lost in the exemplar pacted transitions,[4] as they proceeded so quickly that it was impossible to disaggregate them into component processes. After the smoke cleared in these transitions, actors were either "in the system" and compliant, or "outside the system" and rebellious. Democracy was a matter of maintaining a ruling coalition with more "ins" than "outs."

I now consider four means through which the authoritarian incumbent retained control over the adjudication of Mexico's local post-electoral disputes at the height of its protracted transition (1977–2000).[5] I seek to discern how the authoritarian incumbents of the PRI sought to construct mechanisms to placate the "outs" without sacrificing the power of the "ins." It was a precarious balance the PRI-state sought, and one which ultimately eluded them. But the regime's ability to navigate this fine line—and researchers' ability now to measure it—provides rich material for scholars of electoral institutions.

Rise of Mexico's Opposition and Rule of Law

Great strides have been made over the last decade at Mexico's federal level in making elections credible. Progress at the state and local levels has come much more slowly, as some of the state-level institutions created for administering elections have tended to function much better on paper than in practice. Indeed, characteristic of Mexico's protracted democratic transition, local PRI political machines remain strong and their influence on ostensibly non-partisan electoral institutions continues, even after the opposition National Action Party (PAN) won the presidency in 2000, prompting the first executive branch alternation in over seventy years. In the states, expensive[6] and autonomous electoral institutions have been largely ignored when they are most needed, in resolving post-electoral conflicts. Instead of submitting legal complaints to electoral courts, opposition parties and authoritarian incumbents consistently negotiated extra-legal bargains to resolve post-electoral conflicts which occurred in some 13 percent of all of Mexico's local elections between 1988 and 2001.

Since the 1940s, the PRI encouraged the existence of "cosmetic" opposition through the appropriation of proportional representation seats in congress which helped mask the one-party state's authoritarian grip. As a result of the 1977

electoral reforms which further promoted opposition participation and the widespread 1982 economic crisis, the opposition, and particularly the rightist PAN, actually started to win local elections with regularity. The PRI-state, caught off guard, reneged on its commitments of "moral [and electoral] renovation," and refused to honor victories by the PAN and more isolated social/electoral movements by the incipient left, starting in the early 1980s.

Business leaders who had been charter members of the PRI-state's coalition grew disenchanted with the government in the face of bank nationalizations, the international debt crisis, and profligate public spending, and exited the party in favor of the previously genteel opposition of PAN. After the conservative opposition spent its first 45 years patiently proposing gradual reforms, a new generation of PAN activists in the 1980s demanded deeper changes, and complemented the party's platform of gradualism and debate with more impatient demands, accompanied by anti-election fraud mobilizations and civil disobedience. However, the party developed a "patronage-seeking" imperative which contradicted its more radical "transition-seeking" objective. A pattern developed whereby the PAN mobilized after losing fraudulent elections only to be silenced by concessions from the PRI-state in exchange for silent complicity.[7] The practice, known as *concertacesión* (Mexican slang for "concert" plus "concession") also gained currency on the left, which was much less successful at negotiating with the authoritarian regime. The nascent leftist parties of the early 1980s launched *segunda vuelta* ("second time around") mobilizations—to win through mobilization elections not recognized at the polls.

The disciplined PAN's combination of legal and extra-legal contestation strategies pioneered the move to "juridicize" electoral accountability, starting in the 1940s.[8] Ironically, however, the PAN's concurrent ventures into civil disobedience and extra-legal mobilization, culminating in the extended strikes and hunger strikes of the Chihuahua 1986 governor's race, also provided a precedent for the left's most successful extra-legal mobilization ever, after the fraudulent presidential election of 1988. Indeed, the PAN served the Party of the Democratic Revolution (PRD) as a model of sympathy-grabbing post-electoral conduct rather than the tiny parastatal and leftist parties which comprised the pre-1988 left.

PRD activists walked the post-electoral conflict gauntlet in 1988,[9] before their candidate backed down from the brink of undermining the regime's stability in protest. Contrary to the PAN's principled civil disobedience coupled with behind-the-scenes negotiating with the PRI-state, the PRD's pattern of post-electoral mobilization was usually spontaneous rather than coordinated, local rather than national, and boundless rather than controlled. In the 1980s, the PAN stepped up its shows of discontent with the regime, as did the leftist parties which in 1989 merged with leftist PRI dissidents into the PRD. The decade-long period considered in this work (1989–1998) represents the zenith of post-electoral negotiating, but also the launching of functional electoral courts in most states. Both opposition parties' efforts to "win" consolation posts at the bargaining table prompted a contradictory PRI-state policy of acquiescence and granting of extra-legal spoils while simultaneously constructing a regime of electoral courts autonomous of the executive branch, at least on paper.

Clearly, in the late 1980s and early 1990s there were two separate and divergent focal points of actor expectations. The first was that of the informal bargaining tables, where the opposition parties sought to extract what they could from the

regime, and the PRI-state sought to fill the demands they could meet without jeopardizing control of the regime-controlled electoral opening. The second was the convergence of expectations around the regime's nascent, but utterly biased formal electoral institutions. Here, the authoritarian incumbents sought to channel post-electoral contestation through electoral institutions, which were intended, at least in the most blatant cases, to diffuse tempers while adhering to the PRI-state's pre-determined outcomes, whether executed by the governor or the federal secretary of the interior. In addition to these cases of judicial failure, electoral courts existed which worked according to social norms; that is, they adjudicated post-electoral disputes to the satisfaction of the parties and prevented these disagreements from "spilling over" into street demonstrations and violence.

The opposition parties felt compelled to at least pay lip service to the formal institutions, as a post-electoral protocol for informal negotiations with the PRI-state required the opposition to have tried and failed through institutional routes first (López Obrador and Martínez interviews). By a similar logic, PRI-state officials claimed that they had no choice but to perpetuate the granting of post-electoral concessions as the only way to keep the heightened expectations of the opposition parties at bay and prevent them from fomenting ungovernability or even violence.[10] How could this dual cycle of high expectations from extra-legal bargaining and low expectations from legal proceedings be broken? When did the PRI-state and its opposition stop manipulating the courts and actually use them, and when did these actors stop manipulating the post-electoral bargaining tables and disband them? The legal and extra-legal routes to post-electoral conflict resolution started to diverge in the early to mid-1990s, but only after Mexico's weak rule of law suffered several years of direct competition between these two focal points.

The following section seeks to typify the behavior of electoral courts during the period between creation and compliance by classifying electoral courts into the five ideal types based on their adjudication records. However, before proceeding, I specify the proper time-frame for these observations by devising a revealing indicator of electoral court success or failure (again in political rather than juridical terms), the "rule of law ratio," presented in Tables 1, 2, and 3. This ratio, the total number of PAN/PRD post-electoral conflicts per municipality divided by the number of PAN/PRD court cases filed per municipality, offers a rough but vivid indicator of whether the law was followed and allows us to identify the gap between creation and compliance as that of greatest flux. The ratio, which approaches the threshold of full compliance by actors with the electoral courts as its value approaches zero, drops by half from 1.33 to 0.6 between the two initial periods under study, and then falls even more precipitously, from 0.6 to 0.2, between the second and third periods.

During T1, the first period, for every four post-electoral conflicts there were only three court complaints filed. A compelling case is made for the primacy of mobilizations over sole recourse to the courts. This T1 and T2 tendency to place street demonstrations ahead of court complaints changes dramatically during T3 (where the ratio falls to 0.2), when it may be said that opposition parties came to abide by the institutions, with relatively few exceptions.

One compelling reason for the drastic decrease in the T3 rule-of-law ratios may be that the federal electoral court, largely considered autonomous and fair since 1994 (Eisenstadt, n.d.: chap. 5), was granted constitutional authority as an appeals chamber for state post-electoral disputes in 1996. Indeed, state legislators throughout Mexico are still homogenizing their electoral laws with federal

TABLE 1. *Electoral Courts versus Local Post-electoral Conflicts: First Electoral Period.*

First period T1 State and Year	Municipal *N*	Electoral Court type	Cities with PAN complaints	PAN post-electoral conflicts	Cities with PRD complaints	PRD post-electoral conflicts	Rule of law ratio (conflicts/cases)
Campeche1991[1]	9	phantom	0	0	0	1	unknown
Chiapas 1991[2]	112	phantom	0	3	0	14	unknown
Chihuahua 1992	67	none	no court	0	no court	2	no court
Guanajuato 1991	46	working	26	7	10	2	9 / 33 = 0.27
Jalisco 1992	124	paper shuffle	18	12	10	6	18 / 26 = 0.69
Mexico 1990	122	working	13	5	24	14	19 / 37 = 0.51
Michoacán 1989	113	phantom	0	0	0	47	unknown
Nuevo León 1991	51	working	2	0	5	2	2 / 7 = 0.29
Sonora 1991	70	whitewash	unknown	6	unknown	1	unknown
Tamaulipas 1992	43	none	no court	6	no court	4	no court
Tlaxcala 1991	44	none	no court	1	no court	0	no court
Veracruz 1991[3]	207	working	9	6	32	27	33 / 41 = 0.80
Yucatán 1990	106	clipped	unknown	20	unknown	0	unknown
Zacatecas 1992	56	phantom	0	3	0	3	0
Total	1148	21% work	68	69	81	123	192/144 = 1.33[4]

1. There were no complaints turned in on time, but after the deadline 14 complaints were filed.
2. The conclusion that the Chiapas 1991 and Michoacán 1989 electoral courts described in the electoral law did not exist in practice was based on testimony by political parties and later electoral judges that they had not heard of the courts, and on surveys of at least two print dailies in each state during the two months following the election.
3. Unlike the other cases, precise data on the number of municipalities contested by each party was unavailable, even from Veracruz electoral judges. I used aggregate data of all case filings by each party in the 1991 municipal races published in the *Dictamen de Veracruz* newspaper (Carrillo Tejeda 1991).
4. The 1.33 "rule of law" ratio results from dividing the overall total number of conflicts by the known number of court cases. Dividing the total number of conflicts but only in states where court complaint totals are known (N=8) yields a "rule of law" ratio of 0.70. The real "rule of law" ratio is somewhere between these extremes, call it 1.02 (averaging these two extremes).

Note: For explanation of selection and coding, see Eisenstadt (1998, 341–343).

Sources: Author survey of state electoral court documents and local and national newspapers, as listed in Eisenstadt (1998, 344–379).

TABLE 2. *Electoral Courts versus Local Post-electoral Conflicts: Second Electoral Period.*

Second Period T2 State and Year	Municipal *N*	Electoral Court type	Cities with PAN complaints	PAN post-electoral conflicts	Cities with PRD complaints	PRD post-electoral conflicts	Rule of law ratio (conflicts/cases)
Campeche 1994	9	working	3	0	3	0	0 / 4 =0
Chiapas 1995	112	paper shuffle	6	4	37	59	63 / 42 = 1.5
Chihuahua 1995	67	working	7	1	15	0	1 / 22 = 0.05
Guanajuato 1994	46	working	17	3	10	6	9 / 20 = 0.45
Jalisco 1995	124	working	6	9	3	0	0 / 9 = 0
Mexico 1993	122	working	7	8	21	27	35 / 28 = 1.25
Michoacán 1992	113	whitewash	6	3	46	38	41 / 50 = 0.82
Nuevo León 1994	51	whitewash	30	4	5	3	7 / 31 = 0.23
Sonora 1994	70	working	12	1	6	0	1 / 14 = 0.07
Tamaulipas 1995	43	working	9	1	4	0	1 / 12 = 0.08
Tlaxcala 1994	44	working	5	1	8	17	18 / 12 = 1.5
Veracruz 1994	207	working	12	2	65	22	24 / 74 = 0.32
Yucatán 1993	106	clipped	13	5	1	0	5 / 14 = 0.36
Zacatecas 1995	56	working	5	2	6	5	7 / 10 = 0.70
Total	1148	71% work	133	35	225	177	212 / 342 = 0.62

Sources: As for Table 1.

TABLE 3. *Electoral Courts versus Local Post-electoral Conflicts: Third Electoral Period.*

Third Period T3 State and Year	Municipal *N*	Electoral Court type	Cities with PAN complaints	PAN post-electoral conflicts	Cities with PRD complaints	PRD post-electoral conflicts	Rule of law ratio (conflicts/cases)
Campeche 1997	9	working	3	0	1	3	3 / 5 = 0.60
Chiapas 1998	112	working	7	0	33	20	20 / 40 = 0.50
Chihuahua 1998	67	working	1	0	1	0	0 / 2 = 0
Guanajuato 1997	46	working	10	0	7	0	0 / 15 = 0
Jalisco 1997	124	working	20	0	9	0	0 / 28 = 0
Mexico 1996	122	working	18	1	18	6	7 / 34 = 0.21
Michoacán 1995	113	working	5	0	26	13	13 / 30 = 0.43
Nuevo León 1997	51	working	12	0	0	1	1 / 12 = 0.08
Sonora 1997	70	working	8	0	5	0	0 / 11 = 0
Tamaulipas 1998	43	working	14	0	11	1	1 / 25 = 0.04
Tlaxcala 1998	52	working	3	0	4	1	1 / 10 = 0.10
Veracruz 1997	207	working	4	0	22	0	0 / 23 = 0
Yucatán 1995[1]	106	working	13	1	11	7	8 / 24 = 0.33
Zacatecas 1998	56	working	6	0	5	0	0 / 10 = 0
Total	1182	100 % work	124	2	156	52	54 / 269 = 0.20

1. This court in particular reverted to institutional failure in adjudicating the 1998 state legislative races, but functioned properly in hearing the 1995 mayoral races and hence is considered "working."

Sources: As for Table 1.

standards in the hope of not being second guessed by federal magistrates. Save for exceptions like Yucatán, where in early 2001 Governor Víctor Cervera Pacheco—encouraged by other regional PRI machine boss traditionalists—rejected the federal electoral court's bid to stop the Yucatán PRI-ístas from shamelessly stacking the state's electoral commission with cronies,[11] state authorities have been receptive to interventions by the increasingly powerful electoral court.

For its part, the Tribunal Electoral del Poder Judicial de la Federatión (TEPJF) demonstrated a dramatic increase in its discretion late in 2000 when it annulled the November 2000 Tabasco governor's race, which had been declared in favor of the hand-picked successor of powerful party boss Roberto Madrazo.[12] Since 1996, dozens of federal appeals—in a majority of Mexico's states—have reversed state electoral court decisions (Electoral Tribunal of the Judicial Power of the Federation, [TEPJF] 1999). But this gambit by the federal electoral courts still required compliance from authorities in Mexico's states, which even in 2001 was not entirely forthcoming. Even a fortified and highly professionalized federal electoral court could not instantly overcome a legacy of electoral court failures at the state level, which had rendered the institution another negotiating forum, rather than a Solomonic purveyor of electoral justice.

Ideal Types of Judicial Failure

Just as the ideal of electoral justice was gaining currency after notorious electoral frauds in several mid-1980s gubernatorial elections and the 1988 presidential election fiasco, states started to catch up with evolution in federal electoral law. Lagging the federal electoral reforms of 1986 by between two and ten years, at least 16 of the 31 states had legislated the existence of electoral courts by 1989. By 1996 all had electoral courts, and in approximately half of them, electoral college certification had been replaced by electoral institution judicial certification (Crespo, 1996: 114–128). However, the introduction of electoral courts was *not* immediately accompanied by the expected reduction in post-electoral conflicts. A standard "institutional strength" argument would ask how autonomous the electoral court was from the executive branch, assuming that the more independent the institution, the greater the likelihood it would succeed in channeling post-electoral conflicts through judicial institutions. However, as shown by a tally of post-electoral conflicts recorded between 1989 and 1994 in 14 states, the number of these conflicts was not immediately reduced as electoral courts were reformed and fortified.

The number of post-electoral conflicts did drop dramatically during the last three-year period analyzed (1995–1998), but I argue that this was due directly to opposition party decisions to comply with electoral institutions, however imperfect, rather than continuing to resort to *concertacesiones* and the *segunda vuelta.* The institutions themselves were significant, but more because of the potential they represented for resolving disputes equitably, should all parties have chosen to use them, than as ends unto themselves. They did not serve as "face value" deterrents to electoral fraud, and in fact, during the period intermediate between the construction of electoral courts and when they were imbued with credibility, the courts actually stimulated post-electoral conflicts—at least by the PRD—adding one more informal bargaining table to the post-electoral process. The increase in post-electoral conflicts between the first and second periods confirmed that opposition parties' strategies vis-à-vis the institutions were critical,

and that the parchment strength of these institutions was only one of several determinants of these strategies.

In addition to constructing quantitative measures of compliance with electoral courts, this article seeks to make qualitative assessments. I classify the four most common forms of electoral court failure (as well as characterizing a fifth residual category, "working courts"), and illustrate each from the 14-state sample, arguing that if electoral court success is defined as the channeling of all conflicts through legal (as opposed to extra-legal) routes, then failure must be measured in terms of the number of post-electoral conflicts and not by reference to a random indicator of electoral court performance isolated from the social-political purposes of these institutions. The four ideal types of unsuccessful state electoral courts to be discussed in turn are: "clipped courts," overruled by other governmental actors, mainly the state legislature acting as an electoral college; "phantom courts," ignored by all other actors (those in government and those in the opposition parties) to such an extent that parties do not even bother filing complaints; "whitewash courts," which succumb to informal executive branch pressures for verdicts to legalize informal bargains; and "paper shuffling courts," inaccessible to political party complainants because their excessively formalistic and rigorous procedures lead them to summarily reject all complaints. A fifth type is the "working courts," whose legally based but uneventful rulings are not attended by drama, intrigue, or extra-institutional challenges, but which are the only ones serving the public interest of electoral justice rather than the particularistic interest of political actors.

Clipped Courts. This class of electoral court failure, characterized by the overruling of verdicts by the state's electoral college (usually under orders from the governor, or the federal secretariat of the interior), or, in its lesser form, by legislative decree of the formation of a municipal council in a conflictive municipality, was by far the most common in my sample. Since public records exist of most (but not all) of these acts of institutional disregard for judicial verdicts, they could be easily researched. As the most "legal" means for the PRI-state to deny opposition victories, by acknowledging the substitution of political for legal criteria in decision making (but fully within the law), this was the authoritarian incumbent's choice for overturning adverse electoral results—at least from the early days of PRI consolidation in the 1930s and 1940s, through the mid-1990s, when PRI legislative majorities were lost for the first time in several states, and electoral colleges were reformed out of most state electoral laws. Clipped courts almost always benefited the PAN at the expense of the national PRI. Cases in this category include: Sonora 1991, Yucatán 1990, and Yucatán 1993.

The most intriguing case in my entire sample, the 1993 Yucatán electoral court, would have been a whitewash court had it complied with federal PRI-state orders to revoke the PRI's Mérida mayoral victory, and granted it to the PAN. However, the electoral court refused to betray the local PRI, even after the national PRI-state flew the electoral magistrates to Mexico City to put pressure on them, and the *concertacesión* had to be cleansed through the legislature's PRI-ista majority electoral college, which did dutifully reverse the clipped court's verdict, while attracting extensive adverse publicity in the process.

Phantom Courts. While less common than the clipped courts, this is the most dramatic type. It represents courts codified in electoral laws, but which do not

exist in practice, at least not in any form known to electoral law specialists from electoral institutions or the political parties. The most dramatic example is the Zacatecas electoral court which was presented with *no* cases in the 1992 local elections, while 32 disputes were taken directly to the electoral college for adjudication (Zacatecas Electoral Commission, 1992: 35, 38).[13] The opposition parties held the powers of this institution in such low esteem that they did not even bother using it.

A less transparent but nearly as compelling case of electoral court irrelevance was visible in Veracruz, where only one of the five electoral court magistrates present at a group interview had any recollection of the electoral court's 1988 and 1991 post-electoral activities. No pre-1994 records existed in the 1997 electoral court's archives, and the lone recorded history, borrowed from the personal effects of a former magistrate, was a 1988 pamphlet enumerating the filing of 106 complaints by party or municipality, and the date of the resolution, which offered a 20-page discussion of the role of electoral court complaints, and explained the judicial precedents established in the deliberations. But the most important facts were missing from this booklet, a publication apparently intended more to justify the court's existence than to record legal happenings. None of the verdicts of any of the 106 cases was given in the entire 83-page document (Veracruz Tribunal of Electoral Controversies, 1989).[14] The pre-1994 Veracruz electoral courts were not recollected by any of the dozen political activists interviewed, and were utterly ignored in press and secondary accounts from the highly divisive 1988 and 1991 local polls.[15] Similarly, for Chiapas 1991,[16] Campeche 1991, and Michoacán 1989, there exist no official records of any electoral court activities in electoral archives, activists' memories, or in printed accounts. But on paper, each of these states had formidable electoral courts. In Campeche, electoral courts were mentioned in the 1987 electoral code, but disappeared from the 1991 electoral code altogether, only to reappear as a juridical figure in 1993.[17]

Whitewash Courts. This form of institutional failure covers cases in which state and/or federal executives intervene in the certification of local elections by imposing their wills on electoral courts, which then "cleanse" electoral fraud through legal institutions. However, as may be imagined, when executive interference occurred prior to the electoral court ruling, the agreements were made in smoke-filled rooms rather than on the public record. Hence, verifying the existence of such informal pacts to "legalize" electoral improprieties is an understandably delicate exercise. First-hand interviews, but only if corroborated by at least one other source from a party or political institution or a reliable journalistic account, were used to confirm the status of whitewash courts. This type of institutional failure is no doubt underrepresented in my sample, and in the public record generally. Party activists constantly decried the existence of such arrangements, particularly between the PAN and the PRI, but could rarely substantiate allegations except when they intercepted and taped the cellular phone conversations of whitewashing operatives or when a negotiator reneged afterwards and publicized the deal-making episode to damage an opponent's reputation (and frequently his own in the process).

Like the clipped courts, the few whitewash courts which have been exposed were mostly commissioned by the national PRI-state to sanitize local PAN victories, in places like Nuevo León 1994 (the Monterrey mayor's race), although they are also used in Michoacán 1992 to defuse seven post-electoral conflicts with the PRD.

Although these are the only whitewash courts verified in my sample, whitewash courts would be preferred by the PRI-state to clipped courts, which publicly expose the inconsistencies between the judicial and political verdicts to the detriment of each institution's credibility. Whitewash courts delivered the authoritarian incumbent's desired outcome without the adverse publicity generated by the clipped courts.

Paper Shuffling Courts. This is the only category of electoral court failure that represents institutional breakdown due to causes internal to the court rather than to pressures exogenous to that institution.[18] In these cases, complaints filed by any political parties are summarily dismissed for procedural reasons, before their arguments are even considered by the magistrates. The court may decide to summarily reject most or all cases for legally-grounded reasons. "Legality" within a narrow procedural definition is not at issue; what is being questioned is flexibility of magistrates in assuring political parties access to electoral justice and the very nature of these rigid laws which preclude election losers from settling their disputes in court. While the lack of preparation and even the filing of "bad faith" complaints by political parties must also be addressed, the electoral court's objective of reducing social conflicts by channeling them off the streets and into the courtroom is obstructed in paper shuffling courts by excessively regimented laws and/or inflexible magistrates.

Paper shuffling courts occurred twice in my local election sample: in 1992 Jalisco (where all 63 complaints were rejected) and in 1995 Chiapas (68 complaints rejected).[19] This sample would have been much larger had I used criteria more broadly based (such as electoral courts where most but not all of the cases were rejected, say more than 80 percent, given the average federal electoral court rejection rate of approximately 55 percent over four federal electoral processes), or by considering the rate of ballot box annulments resulting from "founded" verdicts in those cases which were accepted for full consideration (approaching an average of 4 percent at the federal level between 1988 and 1997). However, by selecting on a much narrower basis (only electoral courts which rejected *all* cases), I present only the starkest examples, which I believe are beyond question even by electoral experts, some of whom admitted privately that the paper shuffling courts are confounding their broader social-political objectives.

Courts versus Bargaining Tables

The 14 states incorporated within the sample were selected to assure broad variation in levels of post-electoral conflict (see Table 4). Two states selected were among the highest number of post-electoral conflicts (Chiapas and Michoacán where these occurred in as many as 40 percent of the local races during the time period studied), as were several states with among the lowest incidence of post-electoral conflicts (Campeche, Chihuahua, Nuevo León, and Tlaxcala, with post-electoral conflicts in fewer than 5 percent of the polls). Variation was also sought to include geographical dispersion, a mix of rural and urban states, and a range of electoral competition between the PRI and the opposition. As demonstrated in Table 4, the series of electoral races considered in each state was that of the reform-introducing institutions of post-electoral conflict resolution (the electoral court founding or "second stage") as well as the election prior to this institutional innovation, and the race immediately after this change. Table 4 shows that this

TABLE 4. *Local Elections at Different Stages of State Electoral Court Evolution.*

First Stage (1989–1992) Pre-electoral courts Low institutional autonomy[1]	Second Stage (1992–1995) Electoral court founding Medium institutional autonomy[2]	Third Stage (1995–1998) Post-founding election High institutional autonomy[3]
Campeche 1991	Campeche 1994	Campeche 1997
Chiapas 1991	Chiapas 1995	Chiapas 1998
Chihuahua 1992	Chihuahua 1995	Chihuahua 1998
Guanajuato 1991	Guanajuato 1994	Guanajuato 1997
Jalisco 1992	Jalisco 1995	Jalisco 1997
Mexico 1990	Mexico 1993	Mexico 1996
Michoacán 1989	Michoacán 1992	Michoacán 1995
Nuevo León 1991	Nuevo León 1994	Nuevo León 1997
Sonora 1991	Sonora 1994	Sonora 1997
Tamaulipas 1992	Tamaulipas 1995	Tamaulipas 1998
Tlaxcala 1991	Tlaxcala 1994	Tlaxcala 1998
Veracruz 1991	Veracruz 1994	Veracruz 1997
Yucatán 1989	Yucatán 1992	Yucatán 1995
Zacatecas 1992	Zacatecas 1995	Zacatecas 1998

1. Following federal reforms, enacted between 1986 and 1989, which included the following components: PRI congressional manufactured majority, executive-run electoral commission, legislative political auto-certification, few limits on campaign spending, no photo ID or audited electoral lists.
2. Following federal reforms, enacted between 1990 and 1991, which included the following components: increase in minority seats, party roles in electoral commission, partial judicial election certification, some limits on campaign spending, photo ID and some control over lists.
3. Following federal reforms, enacted between 1993 and 1994, which included the following components: limits on majority party seats, ombudsmen run elections, complete judicial certification, high campaign spending limits, photo ID and list auditing. The 1996 reforms were quite significant, but added new jurisdictions to existing institutions rather than profoundly altering the configuration of electoral institutions.

timetable in the states followed major federal electoral reforms, with an average lag of some two to three years behind federal electoral reforms.

The sample is representative, identifying PAN or PRD post-electoral conflicts in some 16 percent of the municipalities in T1, 15 percent in T2, and in 4 percent of the T3 municipalities.[20] The sample was limited by the level of cooperation by electoral court judges in providing information on cases they heard. I was summarily denied access to the electoral court docket in Chiapas, Tabasco, and Yucatán, which have been, perhaps not surprisingly, some of the most controversial "paper shuffling" and "clipped" electoral courts. These information barriers were overcome, except in Tabasco, allowing the inclusion of Chiapas and Yucatán in the 14-state sample. In Chiapas one of the political parties provided a photocopy of the document (corroborated by publication two years later of the court's proceedings), and in Yucatán, unusually detailed newspaper accounts provided information about all the electoral court cases presented and their resolution. It should be noted that while extensive post-electoral conflicts were launched in several governors' races during the time of this study, and that there have also been a few such conflicts over state legislature and city council seats, I focus only on mayoral races, as they are by far the posts most frequently contested via post-electoral conflicts.

A slight bias exists in my sample toward larger states with urban capitals (such as

Guanajuato, Jalisco, Mexico State, Nuevo León, and Veracruz), as electoral officials more readily disclosed information in cities with university research traditions (where electoral officials were frequently also law school professors), where previous interest had been expressed by foreign electoral observers, and where electoral competition was an accepted fact. I offset this large state bias by adding several small and predominantly rural states (Campeche, Chiapas, Tlaxcala, and Zacatecas). Descriptive data averages for my 14-state sample are largely representative of national averages for frequency and intensity of post-electoral conflicts, and in the demographic characteristics of municipalities with such conflicts (population, standard of living index, etc.). My sample deviates by no more than 5 percent from the average in most categories of my national post-electoral conflict sample.

All processes represent the first local election for which there existed autonomous electoral courts, defined as those possessing the ultimate authority over electoral certification of local races (Table 4).[21] These electoral courts were not always fully independent—as they often relied on the governor for nomination; but at least by the second period of study they could be considered sufficiently independent to be courts, rather than just administrative agencies. As shown in Table 1, courts existed in some states during the first-period, but with a highly subordinate status. All of the first period courts possessed the authority to suggest resolutions to the electoral college, but in no case could they impose resolutions with the weight of law.

Tables 1, 2, and 3 classify the electoral courts in my sample according to my four typologies of electoral court failure. In the first period, only 3 of the 14 states possessed working courts, and with the caveat that none of the 1989–1992 electoral courts possessed outright legal authority. By the second period, all the courts were at least partially independent of the legislature's electoral college by definition (in some cases the electoral court could still be overruled, but only by a qualified majority of the legislature), as I selected to ensure that the second period represented the initiation of more autonomous electoral courts. By the second period, 10 of the 14 courts "worked," based on analysis of their case records, protagonist interviews, and secondary sources. Notably, there was only one case of regression, the Nuevo León court's reversion from "working" status in 1991 to "whitewash" court institutional failure in 1994. Otherwise, a clear but slow progression toward "working courts" is evident.

Two other observations from the classification of electoral courts, but not presented in Tables 1–3 above, are worth stating. The first is that by T3, the PRI filed electoral court complaints in more municipalities than did the PAN or PRD, while in T1 (again based on data from only five states), and T2, the PRD filed them in more cities than the PAN or PRI. This trend indicates not only that the opposition parties came to take electoral courts more seriously, but also that, as a consequence, the PRI had to start defending its vote judicially, rather than just resorting to the old ways of electoral corruption. The second trend indicative of increasing credibility of electoral institutions as well as of increasing competition between parties, is that T1 electoral court complaints were overwhelmingly to contest mayoral and gubernatorial races, while by T3, the legal contestation of legislative and city council races, to challenge proportional representation as well as uninominal seats, was also common.[22]

Upon specifying the crucial period between creation and compliance through construction of a rule-of-law ratio approaching zero, as actors increasingly

accepted electoral court verdicts without challenging them in street demonstrations, this article was able to focus on the types of electoral institution failure characterizing this limbo period. The burden of phantom court failures may fall on the political parties, who did not even bother to use them, regardless of whether there existed indicators that filing cases to them would be a waste of scarce resources. The other three types of electoral court failure were largely due to abuses by the party-state. The clipped and paper shuffling courts provided legal justifications for discretionary decisions, while the whitewash courts did not even bother to provide such paper trails. While these ideal types of electoral court failure (and the complementary increase in the number of working courts) offer a framework for future comparative research, the broader finding is that the failure of judicial institutions can be measured.

Conclusions

This article has sought to demonstrate, in one of the most important but highly specific arenas of transition—the post-electoral bargaining space—that the divergent strategies of the PAN and PRD were instrumental in maintaining pressures for liberalization, while simultaneously collecting sufficient electoral spoils to keep alive their internal aspirations of sharing power. The gradual evolution toward working courts and low rule-of-law ratios (indicating actor compliance with court procedures) does not confirm automatic compliance by the opposition parties with the institutions constructed by the authoritarian incumbents. But it does indicate increasing compliance by the opposition parties (and particularly by the PRD, responsible for some 80 percent of the post-electoral conflicts), which had largely accepted reformed electoral institutions by the third period, and consolidated their own authority sufficiently to prevent freelance post-electoral mobilizations from surfacing in opposition to national party headquarters' policies.

These parties' positions were constantly shifting in response to various factors (covered in Eisenstadt, n.d.), which include the closeness of the margin of their second-place finish (in the case of post-electoral conflicts), the level of party organization in contested election localities, the disposition of potential street demonstrators, or simply the lag-time needed by political parties to learn how to file effective complaints and to become convinced that the electoral courts were worthwhile. Discerning the causes of the post-electoral conflicts is a task for future research. Yet the most significant finding of the present article is that contrary to conventional theories, opposition party compliance with "rules of the game" is far from automatic, even if those rules appear to be equitable. Formal rules are only part of the story. Informal practices, typified here as backroom post-electoral bargaining tables, often illuminate more of actors' behavior than merely reviewing court dockets visible in broad daylight. The dominance of extra-legal bargaining over legal proceedings was predictably evident in my 14-state sample during period one (before the introduction of autonomous electoral courts). However, not so predictably, the dominance of the extra-legal over the legal also prevailed in period two, when the opposition parties exploited both paths of dispute resolution, maximizing their side-payment settlements rather than any norm of electoral justice. Only in period three was the predictable pattern of formal institution dominance over informal bargaining firmly established. These findings have implications for future research both in micro-institutional studies of judicial institutions generally and in macro-level research on democratic transitions.

What of the lag between the creation of electoral courts and compliance with them, the crucial second period, T2? This specification of the period required for the actors to decide to comply is a necessary consideration, one which I assert may be factored into most studies on the transition to a rule of law (separate but often collinear with democratic transitions). Past studies of judicial institution-building and democratization may have failed to formally measure actor compliance for two reasons. They assumed actor compliance because, in the abrupt pacted transitions they studied, such compliance was largely granted by all actors in the elite settlement pact. In addition, there existed no subtle means of measuring partial compliance anyway. Such compliance was all or nothing, like the pacted transition. By establishing a baseline for non-compliance with these judicial institutions, it is possible to measure empirical performance against this standard.

In general, judicial institutions in established rule-of-law polities are difficult to model as political actors. As Gillman appropriately points out (1997: 11), the difference between rational judges adhering to strong individual preferences and those adhering to norms of principled behavior in a set social order is difficult to ascertain. Unlike reelection-maximizing legislators or budget-maximizing bureaucrats, judges tend to be appointed for extended terms and into positions where the resources or discretion available for their maximization defy the parsimonious incentive models of rational politicians. However, in consolidating judiciaries, where judges' gowns may not yet cover executive branch incursions into judicial decision-making, magistrate incentives may still be laid bare, as they were in Mexico's subnational electoral courts in the early 1990s.

Studying pre-consolidation judicial institutions alone is insufficient for getting to the bottom of magistrate motivations, although it is an effective start towards understanding authoritarian courts and those in new democracies. However, a means of empirically measuring the institutional success of the judiciary has yet to be derived. But even if judicial success is unobservable in broad political (as opposed to strictly legal) terms, except as the affected parties' compliance with decisions, there is a way out. This sleight-of-hand measurement technique, defining "working" judicial institutions as those that do not fail, may be feasible only under very specific conditions, where all or most incidents of non-compliance are verifiably manifested. But when such conditions exist, such as in period two protracted transitions when institutions are largely autonomous on paper, but actor compliance is still not a given, this method may be applicable in considering political rulings where plausible judges' incentives may be inferred.

Anecdotal evidence suggests at least the relevance of these findings to other cases; and as more sophisticated data are collected, further research may extrapolate the four ideal types of electoral court failure to other countries' electoral courts, and, perhaps, consider relations between electoral commissions and electoral courts in other "fourth power" electoral justice systems. This micro-analytical approach to the "supply side" of electoral justice verdicts, combined with promising efforts by specialists to present more nuanced accounts of political parties, civil society, and international monitors on the "demand side" of electoral justice (Hartlyn, 2000; Schedler 2000; Schmidt, 2000), may open up sophisticated windows to the political bargaining that underlies apparently rote procedures. Recent post-electoral disputes in non-"fourth power" regimes also indicate a need for the systematic study of legislative-judicial relations over electoral disputes in these democracies.

Notes

1. Pastor (1999b: 19–25) identifies 81 "flawed" elections worldwide between 1988 and 1999, just among those covered by the *Journal of Democracy*.
2. Systematic fraud in the 1988 presidential election approaching 5 percent of the total number of votes has been acknowledged even in pro-PRI accounts, such as Báez Rodriguez (1994). More critical studies have estimated the percentage of fraudulent votes as much higher, using, for example, the number of suspicious ballot boxes where the PRI received close to 100 percent of the votes (or even more than 100 percent!) in a five candidate field (Aziz and Molinar, 1990: 165–166). At the anecdotal level, an entire lexicon exists to describe the acts of the electoral "alchemists" or "raccoons" (for the bandit-like eye cover), such as "vote tacos," "the pregnant ballot box," "operation tamale" (the exchange of votes for a meal), and the "crazy mouse" (arbitrarily reassigning a voter's precinct several times so that if they want to vote, they must go from precinct to precinct). President Vicente Fox estimated, prior to the watershed 2000 presidential election, that the PRI-state would manage to inflate its vote share by some 3 percent.
3. This statement is elsewhere confirmed via a multinomial logit model in which the dependent variable is post-electoral conflicts and one of the independent variables—found not to be strongly significant—is a coding of "electoral institution autonomy from the executive branch" (Eisenstadt, n.d.: chap. 5).
4. The model case is Spain, where the famous Pact of Moncloa was signed in 1977 between most social groups, launching a quick and peaceful transition from the Franco dictatorship. Other "Third Wave" transitions included those in southern Europe in the 1970s and 1980s followed by the 1989 transformations in Eastern Europe and South America's democratizations in the late 1980s.
5. For a further discussion of the concept of protracted transitions, see Eisenstadt (2000).
6. The budget for administration of federal mid-term congressional elections in both 1997 and 2000 was more than twice the sum of the entire legislative branch budget, and three times the federal judiciary's allocation during that year. Although detailed state budget data is scarce, it appears that the federal pattern of election expenditures is upheld in the states (Mejía González, Michoacán Electoral Tribunal Document P-197/98, personal correspondence with author, 30 April 1998).
7. These concessions usually consisted of recognizing the PAN victor, or in one governorship, naming a PAN interim governor when the PRI-ista victor suddenly resigned, in exchange for PAN support on PRI congressional initiatives. Such PAN complicity became especially important between 1988 and 1991 and also since 1997, as during the congressional sessions of these years the PRI by itself no longer held the two-thirds majority needed to pass constitutional amendments in the lower house of Congress (Alcántara, Castillo Peraza, Moreno, and Nuñez interviews).
8. The first of the PAN's seven legislative bills to construct an electoral justice regime was presented in 1947 (PAN, 1990: 11). The party launched several notable post-electoral conflicts, but at least in its first three decades, the party usually accompanied appeals to the executive branch and street mobilizations with formal complaints to the Supreme Court. However, the party stopped this practice after the Supreme Court failed to respond to PANista complaints (Alvarez de Vicencio, 1995: 109–151).
9. Actually the PRD was not registered as a party until 1989; it emerged out of the post-electoral movement of 1988 (see Bruhn, 1997).
10. I tallied 205 deaths attributable directly to post-electoral conflicts nationwide between 1989 and 2000, with 153 of them resulting from PRI-state/PRD post-electoral conflicts, and only five attributable to conflicts between the PRI-state and the PAN. These deaths came in 1 257 post-electoral conflicts over three local election cycles (some 7 220 local races), for a 15 percent average rate of conflict (Eisenstadt, n.d.: chap. 5). My figures loosely corroborate the PRD's claims that 595 party activists and affiliated social

movement leaders have been slain over the last decade ("595 perredistas han muerto en los últimos 10 años," *Noticias de Oaxaca*, 31 October 1998).

11. The Yucatán legislature in October 2000 named its 2001 electoral commissioners without the needed 80 percent majority ratification by the state legislature. After state authorities failed to achieve this majority, the PRD and PAN filed a complaint to the Electoral Tribunal of the Judicial Power of the Federation (TEPJF), which ordered the Yucatán legislature to rename its commissioners. The Yucatán legislature renominated the same commissioners, prompting further federal electoral court intervention, and defiance by the legislature and the governor, Cervera Pacheco. Early in 2001 the electoral court named its own slate of Yucatán electoral commissioners, who were precluded from taking office for several months.
12. Madrazo had won the 1994 governorship amidst allegations of severe violations of campaign spending laws. In one of its most significant decisions prior to 2000, the federal electoral court in 1998 approved IFE efforts to investigate Madrazo's alleged improprieties in principle, but stated that by the statute of limitations the time had expired. The electoral court's surprising annulment of the Tabasco 2000 governor's race—based on indicators of electoral fraud rather than on any singular and resounding evidence—was a blow to Madrazo's well-known aspirations to lead the fragmented national PRI.
13. According to the well-informed president of the 1998 Zacatecas electoral court, Octavio Macías Solís, also a professor of electoral law at the Zacatecas Autonomous University, 1995 was the state's first experience with electoral courts (interview).
14. Federal electoral court-published reports of local electoral results also committed this error with some frequency. While it might be argued that the omission of verdicts could have been deliberate (especially if none of the verdicts was founded and the federal electoral court did not want to tarnish the image of its state counterparts), this is not likely in the reports published in the states themselves, where neither political party activists nor electoral officials recalled any significant cases. It would have been in the interests of the political parties to recount any electoral court "war stories" favoring them, could they have recalled them, but they claimed to have no direct memories at all of the phantom courts.
15. While the *Diario de Xalapa* and the national press were silent, the court's president, Schleske Tiburcio, did of course remember the chamber and its work. While he agreed that the role of the electoral courts was misunderstood and that the institution was transient at that time, he insisted that the court did impact on the electoral process, by forcing ill-trained and poorly disciplined parties to abide by state regulations (interview).
16. The main opposition in Chiapas starting precisely in 1991, the PRD used Chiapas' electoral courts for the first time, albeit ineffectively, in the state's 1994 gubernatorial election (Guzmán interview). As in most states at the time, the governor's top appointee, the state secretary of the interior, headed the Chiapas electoral commission.
17. Head Magistrate Juan Antonio Renedo Dorantes, a member of the 1991 Campeche electoral court, confirmed (interview) that electoral reform had not been concluded in time to include the electoral court articles in the printed 1991 electoral code. The electoral court existed, but received no complaints during the legal time frame ("Ninguna queja o recurso en el Tribunal Electoral," *Tribuna de Campeche*, 25 August 1991: 1). However, the period for accepting complaints was extended a week, yielding 14 complaints filed, which were all accepted for consideration and then all ruled as unfounded ("En el TEE, 14 recursos de inconformidad," *Tribuna de Campeche*, 30 August 1991: 1).
18. It is possible, given my explanation of whitewash courts, that the paper shuffling courts resulted from informal pacts and were merely instruments of manipulation by higher-level authorities. In other words, paper shuffling could just be a means of executing a whitewash. But as I have acknowledged, whitewash courts may be much more pervasive than can be verified. Where no evidence of the application of external pressure on

magistrates may be proven (or where such pressure does not lead to clipped court behavior), I could not classify them as such. I argue that they are observationally distinguishable.

19. Other paper shuffling courts exist, such as Tabasco 1994, where magistrates refused to grant data needed for inclusion in the sample. This type of institutional failure was much more common in gubernatorial races than in mayoral contests. It is understandably more difficult to prove fraud in 20 percent of the ballot boxes across an entire state, rather than in a single municipality.
20. PAN/PRD post-electoral conflicts occur more frequently in the 14-state sample than when all 31 states are considered, but the overrepresentation is no higher than 5 percent in any of the three periods.
21. In many cases gubernatorial elections were still decided by an electoral college, to which the electoral court could make "recommendations" (as in the case of the 1988 federal elections).
22. Appeals of proportional representation city council and state legislature seats comprised 20 percent of the 412 post-electoral appeals from the states to the federal electoral court during the first two years of the constitutional reform's enactment (Federal Electoral Tribunal of the Judicial Power of the Federation, 1998, 1999).

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