

**Judicial Policy Implementation in Mexico City and Mérida**

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## Abstract

Recent theoretical work on judicial policy implementation posits a public enforcement mechanism for judicial decisions that challenge governmental authority. While this mechanism nicely links insights from both positive and normative theories of compliance, it raises two issues that I address in this paper. First, there is a distinction between the degree of support constituents may afford a court and the real political costs people are capable of imposing on their recalcitrant representatives. Second, insofar as information concerning the nature of the conflicts high courts resolve is purported to be vital to the possibility for public enforcement, we ought to expect public officials to attempt to influence the information to which their constituents have access. Spinning political conflict, after all, is what good politicians do best.

## **Introduction**

Why do some of world's constitutional courts challenge governmental authority over all kinds of policies while others avoid conflict over particularly sensitive or salient political issues? Why do some elected officials immediately obey judicial resolutions that challenge their authority while others find ways not to implement those decisions? These are important questions insofar as scholars care to understand the role constitutional courts play in ensuring that elected officials respect a state's fundamental political rules.<sup>1</sup> If constitutional courts are unwilling to challenge governmental authority or public officials are unwilling to implement politically unfavorable decisions, the degree to which constitutional courts can serve as effective horizontal mechanisms of accountability will be considerably constrained. Despite the importance of both questions, much of the growing comparative politics literature on law and courts has sought to explain judicial behavior, without addressing the reactions of government officials to adverse judicial decisions.<sup>2</sup> The result of this pattern of research is that scholars are left with a largely one-sided account of judicial politics – one that provides much empirical support for theories of judicial decision-making, but little support for theoretical claims about the implementation of judicial policy.

In contrast to this trend, recent work by Vanberg integrates a diverse literature on judicial activism and policy implementation by specifying what might be called a public enforcement mechanism for judicial orders – one in which public support for courts and the related pressure constituents can place on their representatives may induce compliance with adverse judicial resolutions.<sup>3</sup> On this account, public support also can provide the political cover courts require to take on sensitive political conflicts. Of

course, this mechanism works only if people are sufficiently informed about the nature of the conflicts they are purported to enforce. Accordingly, Vanberg considers how the relative transparency of judicialized conflicts influences inter-branch conflict.<sup>4</sup>

Despite the important theoretical advance Vanberg makes in simplifying a diverse yet connected literature, his model leaves a number of issues underdeveloped. In this paper I address two. First, public support for courts and public capacity to impose significant costs on their representatives for instances of non-compliance are distinct concepts. As such, they should remain so in our analyses. Second, if the kind of information to which people have access concerning inter-branch conflict affects their ability to enforce judicial decisions, we might expect both courts and elected officials to try to influence the way information is transmitted to the public. In this sense, the information surrounding judicialized conflicts could be endogenous to the interactions between judges and political officials themselves. This complicates unidirectional causal claims about the effect of information on the willingness of judges to challenge political authority and the willingness of public authorities to comply. It also suggests that political communication may permeate the politics of law in many of the same ways as it does politics in general.

I develop these concerns through a comparative case study of the reactions of two Mexican executives to two highly visible resolutions of the Mexican Supreme Court. In the first case, President Ernesto Zedillo complied with a Supreme Court order within hours of its release. In the second, Yucatán Governor Víctor Cervera defied the Court for nearly a month, and specifically failed to meet the Supreme Court's deadline for implementation. The difference in these reactions captures precisely the kind of non-

compliant governmental behavior thought to be a problem in Mexico. The problem is not that authorities never comply, but rather that they resist and delay, failing to implement judicial orders within the judicially defined time frames.<sup>5</sup>

I divide the remainder of this paper as follows. In the subsequent section, I briefly review the theoretical literature on implementation. I then describe the basic facts of the cases I compare. Next, I analyze the cases considering expectations derived from the theoretical literature. I highlight how the variance in expected costs associated with non-compliance can explain the variance in Zedillo and Cervera's reactions. I also address how both Zedillo and Cervera sought to frame their conflicts, and in that way likely influenced information surrounding the cases. I leave the final section for some concluding remarks.

### **Theories of Judicial Policy Implementation**

There are three general explanations of compliance. Proponents of legitimacy theory argue that because the coercive sources of judicial power are minimal, courts heavily rely on societal beliefs in their legitimacy in order to induce the proper implementation of their most disliked decisions.<sup>6</sup> Judicial legitimacy is typically conceptualized as diffuse public support, or the degree to which people are committed to the institutional structure of the judiciary.<sup>7</sup> On these accounts, judicial decisions are followed to the extent that those asked to comply fundamentally support the institutional powers of the court resolving the conflict.

Scholars invoking communications theory highlight the ways judicial decisions are crafted and ultimately interpreted by those required to implement them. The most interesting proposition derived from this perspective is that specificity in the language

used to describe a holding can constrain public authority reactions. In particular, unambiguous language decreases the degree to which public officials can develop creative interpretations to judicial resolutions, interpretations that undercut the spirit of the court's intent.<sup>8</sup>

Other researchers have appealed to rational choice theory to explain compliance. The general proposition forwarded by these studies is that implementation can be best explained by considering the political costs and benefits associated with alternative choices over compliance.<sup>9</sup> Specifically, these models have typically been decision theoretic. The authors do not consider the interdependency of choice, but rather evaluate how a single individual's decision changes as a function of a set of exogenous parameters; that is, the individual under analysis makes a decision in a social vacuum. Such a model simply posits that compliance is a function of the relative costs and benefits associated with implementing an unfavorable decision. A testable hypothesis consistent with this approach is that public officials ought to be more willing to implement changes in relatively unimportant policies than in policies of significant importance. This is to say, the propensity to comply with an unfavorable resolution ought to be decreasing in the benefits derived from the challenged policy.

Vanberg integrates these approaches in three ways. First, he recognizes that if courts enjoy wide public support, then we might expect the public to help enforce their decisions. The idea is that if people trust their courts to make good decisions and are committed to their institutional structure, they may be willing to punish their representatives for evading a judicial resolution. Second, Vanberg suggests that a necessary condition for public enforcement of judicial resolutions is that people are

actually informed about and understand the substance of the conflicts courts resolve. A confused public or one that is entirely uninformed about a judicial holding cannot be an effective source of enforcement. Thus, the transparency of the conflict being resolved, both the amount of information available to the public and the clarity of the legal issue at stake, ought to increase the likelihood of judicial activism and compliance. Finally, Vanberg specifies a game-theoretic account of compliance that includes the normative concept of legitimacy. This addition both allows for courts to avoid non-compliance by strategically avoiding conflict and clearly demonstrates that a political theory can recognize the importance of normative constraints on human behavior and rationality within the same framework.<sup>10</sup>

As empirical evidence in support of his claims over implementation, Vanberg provides a detailed case study of an interaction between Chancellor Adenauer and Germany's Federal Constitutional Court (FCC), which suggests that strong public support for the FCC induced Adenauer to accept an unusually unfavorable resolution.<sup>11</sup> While other studies have considered the impact of constituency interests on implementation, this paper represents the first attempt to explicitly test Vanberg's model outside Germany.<sup>12</sup>

Despite Vanberg's important contribution, his model raises at least two issues that warrant unpacking. First, Vanberg conditions his expectations over judicial policy implementation on the costs of a public backlash for defiance, as perceived by elected officials. Of course, the public backlash parameter might be operationally defined in all of the following ways: the degree of trust people place in their constitutional courts; constituent opinion over the court's decision; the number of voters dissatisfied with their

representative's response; the proximity and level of competition of a pending election; public protests or the threat thereof; or, the public official's personal interest in maintaining an image as a supporter of the rule of law. While including a single cost parameter is an appropriate simplifying assumption for a general model, it conflates two distinct concepts in ways that might cloud an empirical test. In particular, distinct levels of public support may measure the willingness of constituents to defend their courts; however, it may not capture the capacity of citizens to impose the kinds of costs on elected officials that will make them pay attention. Even if a majority of constituents believe that the resolutions of their constitutional court ought to be immediately implemented, this majority may not be in a position to meaningfully punish non-compliance. Clearly this is the case if elections are rigged. Also, in as much as issues matter, there are likely to be multiple issue dimensions over which representatives might be judged aside from the rule of law. In sum, public support and public capacity to impose significant costs on defiant officials are related but distinct concepts. Below, I control for willingness to punish, in addition to other factors, and show how the expected difference in publicly imposed costs of defiance can affect implementation.

The second issue is relatively simple. Vanberg assumes that information, specifically the transparency of question under judicial review, is exogenous to the interaction he analyzes. However, since information is purported to be so important to the choices political officials make over compliance, should we not expect them to try to influence that information?<sup>13</sup> This is a critical issue because if elected officials are able to effectively frame their legal conflicts, they may be able to reduce the constituency costs associated with non-compliance. On the other hand, it is certainly possible for an official



to inadvertently raise the costs of non-compliance by spinning a conflict in a particular way. In fact, Vanberg's own account of Chancellor Adenauer's battle with the FCC details efforts by Adenauer to convince his constituents that particular FCC decisions could be disobeyed – an effort that seemed to increase rather than decrease opposition to his position.<sup>14</sup> In what follows, I suggest that the spin Cervera and Zedillo placed on their respective conflicts could have influenced their respective costs of non-compliance, albeit in entirely different ways. The analysis highlights the importance of considering information as likely endogenous to judicial-executive relations.

In the following section, I analyze the Zedillo and Cervera cases. I consider four hypotheses on implementation derived from the literature, all qualified by a *ceteris paribus* condition. They are that the immediate implementation of a judicial resolution is more likely when 1) the issue's transparency is relatively high, 2) the political importance officials assign to the issue under review is relatively low, 3) public support for the court is relatively high, and 4) the particular costs constituents can impose on their representatives are relatively high. I argue that the two cases are similar along all but one of the key theoretical dimensions: the costs Zedillo and Cervera could have plausibly expected to be associated with defying the Supreme Court.<sup>15</sup> I contend that the difference in these costs can explain the variance in their reactions. I also review how Cervera and Zedillo influenced the information surrounding their conflicts, arguing that these efforts likely affected the political ramifications of alternative responses to the Court's decisions.

### **The Zedillo Case**

In the wake of the 1994 peso crisis the Mexican economy was strengthened by fifty-two billion dollars in loan commitments made by the United States, Canada and several

international lending agencies. Using these funds, the Secretary of Finance and Public Credit (SHCP), primarily through the National Banking and Securities Commission (CNBV) attempted to ensure the viability of the country's banks.<sup>16</sup> The SHCP's most politically controversial policy involved the assumption of debt from certain banks incapable of meeting their obligations. It did so via the Fund for the Protection of Bank Savings (FOBAPROA), a federal trust created in 1990. What made this policy controversial was that a number of the loans assumed under FOBAPROA were granted under questionable risk management standards, and in some cases were illegal – made by bank managers to family members, friends, and in some cases to themselves.<sup>17</sup> Some of these loans were unrecoverable, and in March of 1998, the Zedillo administration proposed transferring these obligations to Mexico's general public debt.

As some of the irregular loans assumed under FOBAPROA involved bankers and industrialists closely connected to Zedillo's Partido Revolucionario Institucional (PRI), the political opposition in Congress approached the proposal with much skepticism. Over the next year, opposition party members in the Chamber of Deputies requested information on the internal structure of FOBAPROA. These requests were denied by the Zedillo administration, which cited provisions of the Law on Institutions of Credit (LIC) limiting the release of financial information to the judicial and executive branches only.<sup>18</sup>

In September of 1998 a Chamber subcommittee hired Michael Mackey to audit the Zedillo administration's handling of the bank crisis. Before Mackey could complete his work, Carlos Cabal Peniche, the former president of Banco Unión, a failed national bank, announced that he had helped illegally channel twenty-five million dollars into the 1994 PRI electoral campaign. He did so through a trust account opened by members of

the PRI's executive committee and funded primarily by loans granted by Banco Unión to phantom companies affiliated with Cabal himself.<sup>19</sup> These loans made-up part of the unrecoverable debt set to be assumed by the Congress. Although Zedillo denied knowledge of these transactions, Cabal claimed that the President had participated in the scheme directly. Cabal's allegations, true or not, lent a degree of specificity to the Chamber's search for information on the nature of FOBAPROA. Although Mackey cited legal support supposedly releasing the SHCP from his obligation to protect the secrecy of financial transactions, his request was definitively on July 9, 1999.<sup>20</sup>

In response, the Chamber moved a constitutional controversy claim against Zedillo and members of his cabinet. The Court's August 24, 2000 decision held that "the interest safeguarded by the concept of fiduciary secrecy must not obstruct the Congress's [aforementioned] faculties when private debt is converted into public debt."<sup>21</sup> The Court required the President to compel the Secretary of Finance to deliver the requested data to the Chamber within thirty days. Zedillo complied immediately, issuing an order to that effect within hours of the announcement.<sup>22</sup>

### **The Cervera Case**

The Yucatán State Electoral Council (CEE) is the primary administrative authority responsible for the state's elections. The CEE is comprised of seven counselors, appointed by the twenty-five member, unicameral state legislature under a 4/5<sup>th</sup> super-majority voting rule. All officially registered political parties and non-profit social organizations each may nominate up to three candidates.<sup>23</sup>

On August 31, 2000 the fifteen delegates affiliated with the PRI voted to extend the current counselors' terms through the May 2001 election. The eight delegates from

the Partido Acción Nacional (PAN) and two from the Partido de la Revolución Democrática (PRD) voted against the extension, leaving the PRI five votes shy of the super-majority requirement. Disregarding the voting rule, Congress emitted a legislative decree approving the extension, and Víctor Cervera Pacheco, the state's PRI governor, published it without objection. In response, the state PRD executive committee moved a constitutional revision claim before the Superior Bench of the Federal Electoral Tribunal (TEPJF) in Mexico City. On October 12, the TEPJF invalidated the decree for having violated the constitutional requirement of due process and ordered a new election.

Instead of endorsing the 59 nominees previously ratified for the first election, a committee chaired by majority leader Myrna Hoyos voted to amend the probative evidence necessary to satisfy the qualifications for CEE membership. It then applied the new standards to the names proposed in August. After doing so, the number of eligible candidates dropped from 59 to 14 – the exact number necessary to fill the seven counselor positions and their seven substitutes. Curiously, the remaining nominees included only candidates proposed by the PRI and social organizations affiliated with the PRI. No candidate proposed by opposition political parties or organizations affiliated with those parties survived the cut.<sup>24</sup> On October 16, Governor Cervera published the new standards in the Official Yucatán Diario and Hoyos moved that the Congress vote on the proposed candidates. In light of the fact that the Governor's publication of the new rules and the Congress's final vote were set to take place on the same day, the nominating organizations were provided no opportunity to update their rejected proposals. The PAN and the PRD membership walked out of the legislative session, and the remaining nominees were elected unanimously by fifteen *priístas*, technically satisfying the super-

majority requirement. In response, the PRD and the PAN appealed to the TEPJF. On November 15, the tribunal again struck down the Congress's procedures, requiring Governor Cervera to take all necessary actions to ensure the resolution's proper implementation.

This time, neither the Governor nor the Congress responded to the TEPJF. In fact, Hoyos claimed that the tribunal had itself violated the law.<sup>25</sup> For his part, Governor Cervera argued that the TEPJF had violated Yucatán's sovereignty.<sup>26</sup> In mid December, the TEPJF selected its own electoral council and required the Congress to administer oaths of office; the Congress again refused to implement the decision.<sup>27</sup>

On January 15, actuaries hired by the TEPJF took the oaths of the federally-imposed counselors, and demanded that Cervera release to them thirty-eight million pesos, then held by the state's Secretary of Finance. Not only were the funds not released, but scores of PRI activists denied the counselors access to the CEE's official building. Effectively, Yucatán had two electoral councils.

This state of affairs continued for nearly two months. On March 11, the Congress approved a proposal initiated by Governor Cervera seeking to combine the membership of the two councils. Despite the fact that the resulting legislative decree clearly evaded the TEPJF's resolutions, it was not an administrative act as had been the Congress's election of the counselors in the first place. Instead, it established a new legal order. As such, the conflict now lay outside of the TEPJF's jurisdiction, and on March 14 it declared itself incompetent, noting however that the Supreme Court could clearly take up the matter.<sup>28</sup>

Immediately following the decision, the PRD, the PAN and the Labor Party (PT) all filed claims with the Supreme Court seeking an order declaring the decree unconstitutional. On its face, the decree appeared to violate the federal Constitution's prohibition on amendments to electoral laws within 90 days of an election. The Supreme Court's decision striking down the decree went further. Among other holdings, the Court claimed that the decree itself, regardless of when it was passed, violated the very structure of Mexican federal government by attempting to evade a decision of a judicial body properly empowered to rule on the matter. The Court required the Governor to fully implement the previous TEPJF resolutions.

In response to a question about whether or not he would defy the Supreme Court, Governor Cervera responded, "How am I going to comply with the terms of a resolution if I don't know the terms"?<sup>29</sup> Days later, the Governor questioned the legitimacy of the Court's decision noting that "this resolution deserves to be studied because it contains more political ingredients than juridical."<sup>30</sup> However, he did promise compliance. Yet by April 16, the deadline the Court had set for full implementation, the funds had not been released, retarding the new council's ability to properly prepare for the election. Cervera eventually ordered the funds released, but not until April 28, one month following the Court's original decision, nearly two weeks after their transfer had been required and only one month before the upcoming election.

### **Comparative Analysis**

I divide this section into two parts. In the first, I analyze Zedillo and Cervera's reactions with respect to the expectations on implementation reviewed above. In the second, I

discuss how Cervera and Zedillo likely influenced the information surrounding their conflicts.

### **Implementation**

Above I claimed that the Zedillo and Cervera cases were similar along all of the theoretical dimensions except the actual costs that their constituents could have imposed in response to non-compliance, and that these costs can explain the varying responses of the two executives. Here, I present evidence of that claim. Although qualitative methods do not provide the kind of precise measures of uncertainty offered by quantitative methods, addressing uncertainty is of no less importance in a qualitative study.<sup>31</sup>

Accordingly, I end this section by addressing possible sources of uncertainty that might temper the central causal inference I draw.

### **Transparency**

Both cases were highly covered by the media. National newspapers, magazines, radio and television programs all reported on the political conflicts underlying the cases; the constitutional issues set to be resolved by the Court; the Court's eventual resolutions; and the subsequent reactions of the government officials whose authority the Court had challenged.<sup>32</sup> Undoubtedly, Zedillo and Cervera could have reasonably expected their actions to be reported to their constituents. Additionally, the executive actions required in both cases were similar in substance, and they could not have been more easily comprehensible. The Court did not provide either Zedillo or Cervera much room to evade compliance via some sort of creative interpretation. Either Zedillo would order his Secretary of Finance to turn over the information or he would not. Either Cervera would order his Secretary of Finance to release the funds or he would not.

## **Political Importance**

What I call political importance measures the official's sense of the policy benefit derived from the matter under judicial review. Here I describe what Zedillo and Cervera stood to gain from either a favorable judicial resolution or from ignoring an unfavorable resolution. In short, it is likely that both officials perceived the issues to be highly important.

The Chamber of Deputies did not formally accuse Zedillo of direct participation in the FOBAPROA scandal, even after the Banco Unión data was released, so we might ask whether or not Zedillo cared at all about the decision to deny Mackey access. There are at least two reasons why Zedillo could have perceived the issue to be important. First, while he likely did not believe that the data would directly implicate him, it is likely that the President would have rather prevented the opposition from digging through a new mountain of financial information. Offering the opposition more information, even if Zedillo knew he was not involved, could have presented further opportunity for the construction of theories about how the president might have helped illegally fund his own 1994 campaign. Given Zedillo's strong interest in developing a legacy as a committed reformer, an issue to which I return below, avoiding the elongation of the investigation must have been highly valued. Second, as Zedillo argued, he could have significantly disagreed with the constitutional claim raised by the Chamber. The case raised an important issue about the separation-of-powers, and it is likely that Zedillo significantly valued the continued strength of the presidency over the legislature, especially in an area where the law plausibly empowered the executive branch to deny the request.<sup>33</sup> Clearly, this imputation of Zedillo's policy interests is speculative. However, there is an



observable reason to believe that Zedillo greatly valued maintaining possession of the information, whatever the particular rationale happened to be. The Zedillo administration found increasingly creative ways to withhold the information from the Chamber, and did not release the data until compelled by a Supreme Court order. This, if nothing else, suggests that the President cared about maintaining control. If there was no policy benefit to denying Mackey access, then we might have expected Zedillo to turn over the information upon the first request.

It might be argued that while Zedillo may have valued the data before the election, Labastida's loss would have decreased his interest in maintaining control. While the interests I posit above would not be affected by the electoral fortunes of the PRI, if Zedillo was protecting the information in order to shield his co-partisans or Labastida himself from further scandal, it is possible that the Fox victory could have reduced the policy importance of the denial. While plausible, the Banco Unión data did not implicate Labastida. Moreover, there appears to have been a debate within the PRI about how the Mackey request should have been handled, with some members arguing that failing to release the data caused more harm to the PRI's already damaged image. In short, the denial damaged the PRI's 2000 electoral chances, by providing additional rhetorical fodder for reform-minded candidates. Unless Zedillo was attempting to engineer a PRI loss, the policy benefit of the denial should not have changed after the election.

As for the Yucatán case, there are at least three reasons why the Governor was likely to perceive the issue at stake to be important. First, the pre-electoral controversy had dominated the Governor's public appearances and media coverage since his initial conflict with the TEPJF in October of 2000. He had already defied the second highest

court in the federal judiciary for six months prior to the Supreme Court's involvement in the case, and this itself, independent of the underlying conflict, made the issue important. Second, the Governor, as he argued, could have sincerely believed that Yucatán's sovereignty was under attack. Third, given the closeness of the election, votes taken on May 27 were going to matter in a ways they probably did not during the previous years of questionably fair electoral competition. While the federally-imposed electoral council contained a majority of members affiliated with the PRI, it was not uniformly *ceverista*. In this light, some have argued that the longer Cervera could delay the new council's ability to fully carry out its mission, the easier it would be for him to frustrate its attempts to ensure a fair election.<sup>34</sup>

### **Public support**

In light of the fact that the decisions were issued within seven months of each other, it is likely that the Court enjoyed similar levels of deep societal commitment to its institutional structure following both its Zedillo and Cervera resolutions. That said, it may be the case that diffuse public support for the Court was lower in Yucatán than it was in the Republic as whole. If that were true, than we might attribute the difference in Zedillo and Cervera's reactions to differences in the Court's support. This would be consistent with expectations, but I would not be able to disentangle such an effect from that hypothesized to be associated with the perceived costs of non-compliance.

Ideally I would like to compare measures of the Supreme Court's national diffuse support with its diffuse support in Yucatán. Unfortunately, I do not have access to data that allow such a comparison. I do, however, have a measure of how Yucatecos judged the Supreme Court's behavior in the Cervera case and a measure of the Supreme Court's

national approval rating only months after the Zedillo decision.<sup>35</sup> Both are measures of the Court's specific support, a concept positively correlated with legitimacy.<sup>36</sup>

(Table 1 here)

Table 1 shows a comparison of public support for the Supreme Court following the two decisions.<sup>37</sup> As it turns out, 52% of respondents in the Yucatán poll judged the Court's behavior to have been good to very good during the pre-electoral conflict. Comparatively, 50% of respondents in the national poll strictly approved of the Court's job. While this does not represent overwhelming public support, the key here is that the Court's support was relatively similar at the national and state levels. At the very least, if there is a difference, it would appear that the Supreme Court might have enjoyed marginally more public support in the Cervera case than it did in the Zedillo case – this, in contrast to the problem I identify above.

### **Public Costs of Non-compliance: Zedillo**

In his December 1994 inaugural speech, Ernesto Zedillo laid out a vision for a new kind of Mexican politics – a kind of politics in which the Republic's laws would truly govern public policy-making.<sup>38</sup> Many Mexican presidents entered office noting similar societal desires. What makes Zedillo unique is that he actually proposed a set of fundamental political reforms supposedly aimed at creating better formal institutions to ensure the rule of law and dismantling informal institutions that overly concentrated power in the presidency.<sup>39</sup>

The 2000 presidential election presented Zedillo with an opportunity to make good on his commitment to the rule of law. Indeed, seconds after the Federal Electoral Institute announced that Vicente Fox Quesada would likely be the next President, Zedillo

appeared live from the presidential residence standing in front of a portrait of Benito Juárez and proclaimed his full support for the transition. The following day, Zedillo met with PRI state governors including Roberto Madrazo of Tabasco, the chief source of his intra-party opposition, and asked that they all recognize Fox's electoral triumph, blaming the loss on public fatigue with PRI governance.<sup>40</sup>

Both Zedillo's reaction to the initial election results and his appeal to the party's state leaders were viewed disdainfully by many priistas, especially those who believed the President was attempting to build a personal democratic legacy at the expense of the party. Representative of this reaction, federal deputy Efrén Enríquez Ordóñez, argued that Zedillo preferred to "leave a legacy to his children as the great *democratizer*" than to remain faithful to his party.<sup>41</sup>

The intra-PRI opposition to Zedillo continued to build in the weeks following the election. In fact, by July 21, five groups within the PRI were calling for the President's expulsion from the party.<sup>42</sup> Ernesto Zedillo lacked much of whatever party support he had enjoyed over his sexenio. The time for him to seriously promote policy goals was over.

Whether or not defying the Court might have resulted in some sort of public turn against a possible late term policy proposal, Zedillo would have been unable to promote one without any party support. Additionally, by the time the Court released its decision, Zedillo's candidate had already lost the presidential election – the first electoral defeat for a PRI presidential candidate in 71 years. Obviously Zedillo faced no meaningful electoral constraints; he was already a lame duck. So, did Zedillo face no public costs for defiance at all?

Despite his weakened political position resulting from the election, or perhaps because of it, Zedillo continued to promote his message of a new Mexico.<sup>43</sup> Indeed, Zedillo had been championing the great transition for nearly two months at the time of the resolution. Although it is unlikely that the President's policy or electoral goals could have been affected by a negative public reaction to whatever decision he took, had he defied the Court, Zedillo would have undoubtedly affected his legacy as a committed democrat. And, this was something that Zedillo valued greatly. Indeed, 50% of the president's press releases between July and September 2000 explicitly make reference to the accomplishments of his sexenio; 42% of those press releases are about Mexico's new democracy.<sup>44</sup> In the sense that a legacy is developed largely by public opinion, the President is likely to have perceived the costs associated with a negative public reaction to non-compliance to have been relatively large. An alternative way of conceptualizing these costs is to think about what the Zedillo legacy had to gain from compliance. In other words, by immediately issuing the order Zedillo could further develop his legacy. Had he defied, he would have forgone this important opportunity, and that missed chance can be conceptualized as a utility loss. Whether conceptualized as a direct hit on his legacy or a missed opportunity to develop it further, Zedillo faced significant costs for failing to implement the decision. Zedillo's response evinces an understanding of the likely incongruity of championing a transition to democracy while defying the Supreme Court.

#### **Public Costs of Non-Compliance: Cervera**

Unlike Ernesto Zedillo, Víctor Cervera was in no danger of affecting an image as a committed democrat. His legacy could not have been greatly damaged by defying the

Court nor would his legacy be greatly enhanced by complying. The governor was widely viewed as traditional PRI dinosaur. In contrast to Zedillo, he had significantly centralized power and by so doing polarized the Yucatán political landscape. In Yucatán, you were either with or against the Governor.

In spite of having little to lose in terms of a democratic legacy, Víctor Cervera did confront possible electoral constraints. At the time of the Court's resolution, the May 27 election had yet to be contested by his chosen successor and a majority of his constituents believed that the Supreme Court had behaved appropriately during the conflict. Cervera clearly cared about the election. He had fought strong opposition inside the state PRI to successfully promote the gubernatorial candidacy of his longtime friend Orlando Paredes Lara. Also, the election was set to be the closest in Yucatán history.<sup>45</sup> Accordingly, Cervera may have faced serious electoral costs for defiance.

The real question is how much electoral support would Cervera have likely lost as a result of his delayed response to the Supreme Court. I submit that the answer to this question is very little, for at least two reasons. First, given the kind of politician Cervera was and his five-month defiance of the TEPJF, his reaction to the Court's order was not unexpected by Yucatecos. It is unlikely that many Yucatecan voters would have been shocked by his delay. Along these lines, one might suspect that Cervera's reaction would have been perceived as unacceptable by mostly voters already pre-disposed to vote against his candidate. If that were the case, then it would appear unlikely that Cervera would perceive significant costs associated with non-compliance. Indeed, as is suggested by the data in Table 2, party identification was strongly related to one's opinion over Cervera's behavior in the pre-electoral conflict.<sup>46</sup>

(Table 2 here)

Among those respondents in the *Reforma* poll who were likely to vote in the May election, just over 73% of PRI identifiers rated the Governor's behavior as good to very good; only 8% of these respondents rated the Governor's behavior as poor to very poor. In contrast, just over 68% of panistas judged his behavior to have been poor to very poor. The most interesting result concerns the split in opinion among independent voters, where 42% rated the Governor's behavior as good to very good and 36% rated it as poor to very poor. This result suggests a second reason why the Governor likely viewed the costs associated with non-compliance as negligible.

Observing a link between party identification and public opinion concerning Cervera's behavior tells us that the Governor's reaction was neither likely to lose him much support from his partisans nor gain him opposition support. However, there were a significant number of independent identifiers, and support for Cervera among independents was split. Still, 65% of independents specified a preference in the governor's race. What we would really like to know then is how undecided, likely voters perceived Cervera's behavior. As it turns out, Cervera's support was actually quite strong among those respondents likely to vote but who had yet to choose a candidate by May 5. In fact, 59% of undecided, likely respondents rated the Governor's behavior as fair to very good, while only 24% rated his behavior as poor to very poor. The point: the voters most likely to change their minds largely approved of Cervera's behavior. Unlike Zedillo, Cervera faced little costs for defying the Court. The electoral costs were marginal and he could not have seriously affected his democratic legacy by ignoring the order.

### **Uncertainty**

In the interests of addressing error associated with the inference I draw over the impact of perceived costs on compliance, I wish to highlight three possible causes of uncertainty. First, the public support data for Cervera reported in Table 2 come from a poll taken a week after the Governor had delivered the requested funds to the CEE. It is possible that respondents would have reported lower levels of support had the poll been taken earlier. Still, the argument is about the distribution of support for Cervera, and thus we must ask whether or not the observed support would have been lower across all respondents had *Reforma* conducted the survey before final implementation? For example, it may have been the case that undecided voters raised their support for the Governor relatively more than other voters in response to his transfer of the funds. If that were the case, then Cervera surely faced high costs for his continued non-compliance. Additionally, the item I use to measure support for the Governor actually measures respondent opinion about Cervera's behavior over the entire conflict – not just about his response to the Supreme Court. Thus, I am unable to completely disentangle public opinion on Cervera's reaction to the TEPJF from opinion about his reaction to the Supreme Court. Unfortunately, given data restrictions, I cannot fully address either concern.

Second, the poll on national support for the Supreme Court was taken in early December 2000, roughly three months after the decision. This raises a question about whether or not the responses reflected opinions over Supreme Court behavior in late August. On the other hand, the Zedillo resolution was arguably the Court's most significant, and it is reasonable that December opinions were affected by it. More seriously, the poll was taken two days after Fox's inauguration, and opinions on all branches of Mexican government were likely boosted in light of the transition. There is



reason to believe that Fox support and Supreme Court support are correlated, since job approval ratings on the Congress, the President and the Supreme Court fell at similar rates during 2001-2002.<sup>47</sup> Indeed by February of 2002, only 39% of respondents to *Reforma's* national poll reported high to very high job approval ratings for the Supreme Court. Of course, the crucial issue is whether or not support for the Court varied between the nation and Yucatán, and it is certainly possible that the Court's support in Yucatán has fallen, as well. Since there is no corresponding Yucatán poll in February of 2002, there is no way to tell.

Third, it might be argued that the real explanation for the variance in executives' responses is that Zedillo, and not Cervera, was personally committed to the rule of law and never once considered delaying the implementation of the Court's decision. Clearly, evidence suggesting that Zedillo privately considered a delay, but was dissuaded by a possible negative public reaction would be sufficient to dispel such a concern. In the absence of such evidence, there still may be reason to believe that defying the Court was a theoretically possible action available to the President. Indeed, respected experts on Mexican politics have argued that Zedillo, despite his legacy, was not always and under all circumstances fully committed to the rule of law. Reviewing his role in corruption investigations Levy and Bruhn argue that, "Even in the more sober Zedillo administration...selection of anticorruption targets appears to follow the president's own political logic (including maintaining legitimacy internationally) more than the independent logic of a judiciary."<sup>48</sup> Although Zedillo had helped build the institutional structure of the new Supreme Court, the FOBAPROA decision represented the first time the Court directly challenged the President's authority in a case of such significance. In

the same way that Thomas Jefferson might have considered defying John Marshall or Richard Nixon might have considered defying Warren Burger, Zedillo could have at least considered refusing to deliver the data – especially if Levy and Bruhn’s contention about the President’s respect for the judiciary is correct.

### **Influencing Information**

In order to consider how reasonable it is to assume that information is exogenous to the implementation process, I now describe how Zedillo and Cervera framed their conflicts.

As I note above, it is possible that framing attempts may have different effects on the costs of non-compliance. The discussion of these two cases makes this point clear.

Zedillo’s effort to influence information surrounding his case began long before the conflict was judicialized. Interestingly, the argument he developed in the conflict with the Chamber could have served to increase the costs of defying the Supreme Court. In contrast, Cervera’s attempts to influence information began in a case already judicialized, and it would appear reasonable that his spin could have decreased the costs of non-compliance.

### **Zedillo and Information**

From the Chamber of Deputies’ first request, Zedillo and his Secretary of Finance claimed to be statutorily constrained from releasing the information on the suspected trust accounts. In particular, they argued that to meet the Chamber’s requests would violate the privacy rights of all contributors to the trust, not just Carlos Cabal. Despite the fact that Mackey cited a valid exception to the banking privacy statute, his requests were not specific enough to meet the statutory standard. In this sense, Zedillo attempted to frame the issue for his constituents as a purely legal conflict – one being waged over a mere

distinct statutory construction.<sup>49</sup> Along these lines, the President's refusal to turn over the requested documents had nothing to do with the fact that the information sought by the Congress might actually implicate him in electoral scandal; rather, it was about protecting investor confidence in the Mexican banking sector. In light of the recent collapse of the Republic's banks, this argument was not implausible.

Once the decision was released the President turned a clear setback into an opportunity to further highlight his commitment to the rule of law. Within hours of the Court's announcement, Zedillo emitted a press release promising to comply in full. Moreover he characterized this promise as another step his administration would take toward developing a fully consolidated democracy. In addition to promising to turn over the requested information, Zedillo expressed his long commitment to the rule of law and the separation of powers.<sup>50</sup>

Zedillo's effort to affect the information surrounding his case was aimed at legitimating his decision within the existing legal structure; his argument was about the law. This was a reasonable approach in the context of a conflict with the Congress. However, once the case became judicialized, this spin likely placed a serious constraint on Zedillo's set of possible reactions. Having already developed a position that drew authority from the Republic's own institutional structure, Zedillo could not have easily argued that a decision of the Supreme Court, the fundamental authority on interpreting Mexican law, could be defied. In short, the spin he developed before the judicialization of the conflict may have increased the costs of non-compliance by making anything but immediate compliance appear fantastically inconsistent with the approach to the conflict he had already developed.

## **Cervera and Information**

In contrast to Zedillo, Cervera began his public statements over the controversy in a fully judicialized conflict. Cervera made no effort to develop an argument based in the intricacies of the existing legal structure. Rather, he challenged the very nature of Mexican federalism, by arguing that the TEPJF lacked the power to install its own electoral council, and later that the Supreme Court's decision was influenced by political factors. The central public relations strategy pursued by the Governor was to frame the problem in terms of a regional-central divide, a divide that was quite salient in Yucatán. Once the Supreme Court issued its resolution, there was nothing particularly incongruous about his argument for Yucatán state sovereignty and defying the Court.

From the beginning, Cervera contended that the TEPJF had overreached its jurisdiction by continually interfering with the local Congress's work. In early January, 2001 Cervera hosted eleven PRI governors and PRI national leader Dulce María Sauri in Mérida in order to discuss the relationship between the federal government and the states, and to get their support for his battle with the tribunal. At the close of the meeting, Cervera reminded his guests that, “[I]t is the obligation of all state authorities to keep watch over individual state sovereignty.”<sup>51</sup> This effort to frame the conflict in terms of state sovereignty was calculated. Given his constituents' strong sense of regional identity, the appeal was aimed at precisely the right people.<sup>52</sup> Indeed, nearly 50% of respondents in the *Reforma* poll considered their personal identity to be *yucateco*. Only 29% considered themselves *mexicano*. Moreover, nearly 38% of respondents agreed with the statement that Yucatán ought to be an independent state! Among those respondents, 71%

judged Cervera's behavior during the pre-electoral conflict to have been fair to very good.

The Governor's attempt to frame the conflict in terms of the regional-central divide likely helped lower the possible costs associated with non-compliance. Despite the fact that many Yucatecos supported the Supreme Court's decision, the Governor may have maintained his own support by linking his position to the strong sense of regional autonomy shared by his constituents. In this sense, Cervera may have communicated his way out of much of the constraints supportive publics can impose on recalcitrant executives.

### **Conclusion**

Why do some elected officials immediately implement the decisions of their constitutional courts while others delay and defy? In this paper, I have argued that while Vanberg's model nicely integrates an important set of insights from a relatively diffuse literature it leaves a number of issues unresolved. Here I have addressed two. I believe that this paper sheds some insight on these issues and raises questions for future research.

First, I contend that the willingness and capacity of the public to enforce judicial decisions are distinct concepts and might remain so analytically. While the Supreme Court enjoyed significant support in Yucatán, the distribution of political support for Cervera was such that he had little to fear from a public backlash in response to defying the order. In the end, because the theoretical model is multivariate, additional tests will likely require multiple observations in order to get systematic control over alternative causal variables. However, operationalizing the constituent-based costs of non-compliance will be tricky in a large-n study. I suggest that while data on diffuse public

support or specific public support for individual decisions are better than having no measure of the costs associated with non-compliance, they are probably not enough. Voters make choices based on a number of issues in addition to the ways their representatives interact with their constitutional court. Additionally, elections don't come around every week, and to the extent that memories are short, public enforcement may break down. Also, there are costs associated with public backlashes that are not electoral. When elected officials actually care about how they are remembered, even if voters cannot directly affect their electoral or policy interests, they may be able to exercise a measure of control over their behavior. Finally, elections do not always work, and even when they do, elected officials have to believe that they will lose support in ways that matter in order to perceive significant costs associated with any decision. This is not to say that analyzing a large data set cannot teach us anything. It is to note that data restrictions may make small-n studies of public enforcement particularly useful.

Second, I have contended that information may be endogenous to inter-branch relations. Considering information as exogenous may be helpful when asking particular kinds of research questions, but that does not mean that information is actually exogenous. In fact, since framing issues is what good politicians do well, it should come as no surprise that they attempt to frame their legal conflicts, and in some cases, do so effectively. It is clear that both Ernesto Zedillo and Víctor Cervera tried to control the information surrounding their conflicts. Still, good politicians sometimes fail to spin issues successfully or, as the Zedillo case suggests, choose a frame that suits one conflict yet is ultimately ill suited for another. Future theoretical work might consider the constraints that institutions, like judicial review, place on politicians attempting to

develop a coherent message. Further, judges, like politicians have incentives to use the media if information really is important.<sup>53</sup> Future research also might consider the conditions under which judges themselves are likely enter public relations battles. Moreover, scholars might consider what happens when judges and politicians battle over how to frame a conflict? Are judges or politicians better able to shape a political conflict? While the research on political spin contained in this paper is only suggestive, the cases suggest a number of fruitful avenues of research.

TABLE 1. Public Support for the Supreme Court		
Opinion of Supreme Court in Yucatán controversy/Supreme Court national approval rating <sup>b</sup>	Percentage	
	Yucatán poll (May 2001)	National poll (December 2000)
Good, Very Good /Approve	52	50
Fair/Neither approve nor disapprove	14	21
Poor, Very Poor /Disapprove	17	7

Table 1. Comparison of support for Supreme Court in the Republic as a whole with its support in Yucatán. The table does not show percentages for “don’t know/no response” in the Yucatán poll; it does it show percentages for “no response” in the national poll.

<sup>a</sup> The question read, ““What is your opinion concerning how the Supreme Court of Justice behaved during the pre-electoral conflict en Yucatán.”

<sup>b</sup> National Approval: “What is your opinion regarding the Supreme Court?”

Sources: Reform, “Encuesta estatal sobre las elecciones para gobernador de Yucatán.” May 4-5, 2001. Reforma, “Monthly series.” December 2-3, 2000.



TABLE 2. Specific Public Support for Víctor Cervera Among Likely Voters			
Opinion regarding Víctor Cervera's behavior in Yucatán pre-electoral controversy <sup>c</sup>			
Opinion	Partisan identification <sup>d</sup>		
	Percentage		
	PRI	PAN	Independent
Good/Very good	73.5	12.0	42.4
Fair	11.0	13.5	10.6
Poor/Very poor	8.1	68.4	36.4
Don't know/No response	7.4	6.0	10.6
N=	136	133	66

Table 6.6. Distribution of responses among likely voters to question asking for respondent's opinion over the role of Víctor Cervera in the Yucatán pre-electoral controversy. Since less than 2% of respondents identified with the PRD, these observations are not reviewed here.

<sup>c</sup> The question read, "What is your opinion concerning how Víctor Cervera behaved during the pre-electoral conflict in Yucatán?"

<sup>d</sup> Party Identification: "In general, do you consider yourself priísta, panista or perredista? Very or somewhat?" Measure reported here collapses strong and weak identifiers.

Source: Reforma, "Encuesta estatal sobre las elecciones para gobernador de Yucatán." May 4-5, 2001.

## Notes

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<sup>1</sup> On this subject generally, see Guillermo O'Donnell, "Horizontal Accountability in New Democracies," *Journal of Democracy*, 9 (July, 1998), 112-126.

<sup>2</sup> Pilar Domingo, "Judicial Independence: The Politics of the Supreme Court in Mexico." *Journal of Latin American Studies*, 32 (2000), 705-735; Gretchen Helmke, "The Logic of Strategic Defection: Court-Executive Relations in Argentina Under Dictatorship and Democracy," *American Political Science Review*, 96 (June 2002), 291-304; Matias Iaryczower, Pablo T. Spiller, and Mariano Tommasi, "Judicial Decision Making in Unstable Environments: Argentina 1938-1998," *American Journal of Political Science*, 46 (October 2002), 699-716.

<sup>3</sup> Georg Vanberg, "Establishing Judicial Independence in West Germany: The Impact of Opinion Leadership and the Separation of Powers," 33 (April 2000), 333-353; Georg Vanberg, "Legislative-Judicial Relations: A Game-Theoretic Approach to Constitutional Review," *American Journal of Political Science* 45 (April, 2001), 346-361.

<sup>4</sup> Vanberg 2001, p. 347.

<sup>5</sup> Arturo Vizcaino Zamora, Personal communication, June 10 2000, Mexico City. All but three instances of non-compliance investigated by the Supreme Court during the 1990s failed to end in the authority implementing the decision. Summary of data on non-compliance claims in amparo suits available from author upon request. Although there is considerable variance in the time authorities delay, all cases that were not dismissed by the Court ended in compliance.

<sup>6</sup> See James L. Gibson, Gregory A. Caldeira and Vanessa A. Baird, "On the Legitimacy of National High Courts," *American Political Science Review*. 92 (June, 1998), 343-58.

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<sup>7</sup> David Easton. *A Systems Analysis of Political Life*, (New York: Wiley, 1965).

<sup>8</sup> See James F. Spriggs, “The Supreme Court and Federal Administrative Agencies: A Resource-Based Theory and Analysis of Judicial Impact.” *American Journal of Political Science*. 40 (November, 1996), 1122-1151.

<sup>9</sup> See, Robert Stover and Don Brown, “Understanding Compliance and Noncompliance with the Law: The Contributions of Utility Theory,” *Social Science Quarterly*. 56 (1975), 363-375, John A. Clark and Kevin T. McGuire, “Congress, the Supreme Court, and the Flag,” *Political Research Quarterly*. 49 (1996): 771-781.

<sup>10</sup> See Randall L. Calvert, “Rationality, Identity, and Expression,” in Ira Katznelson and Helen Milner, eds., *Political Science: The State of the Discipline*, 3rd edition. (W.W. Norton and American Political Science Association, forthcoming 2002).

<sup>11</sup> Vanberg 2000, 341-348.

<sup>12</sup> See Clark and McGuire, 776, and Richard M. Johnson. *The Dynamics of Compliance: Supreme Court Decision-Making from a New Perspective*. (Evanston: Northwestern University Press, 1967).

<sup>13</sup> Thomas E. Nelson. and Donald R. Kinder, “Issue Frames and Group-Centrism in American Public Opinion,” *Journal of Politics*. 4 (November, 1996), 1055-78).

<sup>14</sup> Vanberg 2000, 344-345.

<sup>15</sup> On small n designs for testing multivariate theories, see Gary King, Robert Keohane, and Sidney Verba, *Designing Social Inquiry*, Princeton: Princeton University Press, 1994), pp. 140-141

<sup>16</sup> Isaac Katz, “The Crisis of the Mexican Banking System,” *Western Centre for Economic Research, Information Bulletin*, 41 (October, 1996), 1-8.

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<sup>17</sup> Michael W. Mackey, “Informe de Michael W. Mackey en la evaluación integral de las operaciones y funciones del Fondo Bancario de Protección al Ahorro, FOBAPROA y la calidad de supervisión de los programas del FOBAPROA de 1995 a 1998 (Julio de 1999).” *Gaceta Parlamentaria, Cámara de Diputados*,

<sup>18</sup> Ley de Instituciones de Crédito, Título Sexto, Artículo 117.

<sup>19</sup> Andres Oppenheimer, “Banker tells of huge PRI donations: Fugitive says \$25 million campaign gift ‘normal’ in Mexico,” *Miami Herald*, 29 May 1999, 16A.

<sup>20</sup> Ley de Protección al Ahorro Bancario, Artículo 7, transitorio. On the SHCP response, see Comunicado de prensa 71/99, Secretaría de Hacienda y Crédito Público, Unidad de Comunicación Social.

<sup>21</sup> Semanario Judicial de la Federación y su Gaceta Tomo: XII, Agosto de 2000, Tesis: P./J. 87/2000 Página: 980.

<sup>22</sup> Comunicado de prensa 0007/2000, Comisión Nacional Bancaria y de Valores.

<sup>23</sup> Article 90, Código Electoral del Estado de Yucatán (CEEY).

<sup>24</sup> Juicio de Revisión Constitucional, SUP-JRC-440/2000 and SUP-JRC-445/2000 Acumulados (113).

<sup>25</sup> Luis A. Boffil Gómez, “Legisladores del PRI pretenden prolongar los poderes en Yucatán,” 17 November 2000. *La Jornada*. Internet edition.

<sup>26</sup> Luis A. Boffil Gómez, “El Congreso de Yucatán desafía a tribunal federal,” *La Jornada*, Internet edition, 18 November 2000.

<sup>27</sup> Luis A. Boffil Gómez, “Reinstala el Congreso de Yucatán a consejeros invalidados por el Trife,” *La Jornada*. Internet edition, 5 January 2001.

<sup>28</sup> Acuerdo 13/2001, Sala Superior 14 March 2001.

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<sup>29</sup> Gustavo Castillo Garcia, “Invalida la Suprema Corte el *superconsejo* electoral yucateco,” *La Jornada*, Internet edition, 8 April 2001.

<sup>30</sup> Luis A. Boffil Gómez , “Descarta Cervera un nuevo desacato; la fecha de comicios, inamovible: Creel,” *La Jornada*, Internet edition, 10 April 2001.

<sup>31</sup> On addressing uncertainty in qualitative studies, see King, Keohane, and Verba, 31-32.

<sup>32</sup> Providing a comprehensive list of citations is beyond the scope of this article. A search for articles on Fobaproa during 2000 at La Jornada’s web site under “Fobaproa” generated 1305 hits. A similar search under “Gobernador Cervera” during 2001 generated 587 hits. Even a search under “Myrna Hoyos” generated 75. In contrast, a search under “Anatocismo” or “Capitalización de intereses,” terms used by the press to describe another politically salient Supreme Court decision, generated at most 29 hits during the time the case was covered. For a list of front-page articles on the cases, please contact the author.

<sup>33</sup> See Andrea Becerril, “El expediente, nuevo motivo de enojo para priístas,” *La Jornada*, 25 August, 2000.

<sup>34</sup> Personal communication with Alfredo Rodriguez y Pacheco, president of the PAN State Executive Committee on June 26, 2001 and Efraín Poot, a political anthropologist in Mérida on June 27, 2001.

<sup>35</sup> These data are still not ideal. If I am going to compare measures of specific support I would like to compare national support for the Court’s Zedillo decision with state support for the Court’s Cervera decision. Unfortunately, data restrictions obviate such a comparison. Still, the results I do have suggest that the Court was more or less equally supported in both cases.

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<sup>36</sup> Gibson, Caldeira and Baird, 355.

<sup>37</sup> The data I use were obtained from surveys conducted by the newspaper *Reforma*. Information on the sampling design can be obtained at [www.reforma.com/encuestas](http://www.reforma.com/encuestas) or by contacting the author.

<sup>38</sup> Ernesto Zedillo Ponce de León, "Inaugural address, December 1, 1994.

<sup>39</sup> See Jeffrey Weldon, "Political Sources of *Presidencialismo* in Mexico," in Scott Mainwaring and Matthew Soberg Shugard, eds. *Presidentialism and Democracy in Latin America*, (Cambridge: Cambridge University Press, 1998); Luis Rubio, "Coping with Political Change." in Susan Kaufman Purcell and Luis Rubio, eds, *Mexico Under Zedillo*, (México: CIDAC, 1998).

<sup>40</sup> Fabiola Guarneros, Francisco Arroyo y Jorge Teherán, "Se cansó la gente del PRI, dice EZ a gobernadores," *El Universal*. Internet edition, 4 July 2000.

<sup>41</sup> Reported in Francisco Arroyo, "'A la basura,' malos lideres del tricolor," *El Universal*. Internet edition, 9 July 2000. It should be noted that the PRI was clearly divided over how to deal with Zedillo. See, Juan Arvizu Arrija, "Demanda Zedillo civilidad política," *El Universal*. Internet edition, 26 July 2000.

<sup>42</sup> This request was denied by the Honor Committee of the CEN. See Francisco Arroyo, "Rechaza Comisión de Honor expulsar a Zedillo y Salinas," *El Universal*. Internet edition, 3 August 2000.

<sup>43</sup> Mario Torres, "Hoy vivimos una normidad democrática," *El Universal*, Internet edition, 13 July 2000.

<sup>44</sup> See [http://zedillo.presidencia.gob.mx/pages/f\\_arch\\_comun.html](http://zedillo.presidencia.gob.mx/pages/f_arch_comun.html).

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<sup>45</sup> Joseph L. Klesner, “The 1998 Mexican State Elections: Post-Election Report,” *Western Hemisphere Election Studies*. Volume XVII, Study 1, (Center for Strategic and International Studies, 1998). Recent state electoral results can be found at <http://www.pan.org.mx>.

<sup>46</sup> Under a variety of multivariate specifications, the difference between PRI, PAN and PRD identifiers is consistently statistically significant. Insofar as I am not attempting to test a theory about support for Cervera, I do not present the results here. They are available upon request.

<sup>47</sup> Data provided by *Reforma* to author is derived from the same series used to generate national support for Supreme Court cited in text above.

<sup>48</sup> Daniel C. Levy and Kathleen Bruhn, *Mexico: The Struggle for Democratic Development*. (University of California Press, 2001), 137.

<sup>49</sup> It is likely that Zedillo’s argument was intended for public consumption, rather than to convince fellow priístas. First, he is issuing press releases and giving speeches, rather than simply holding a meeting of national leaders, something he did in order to help convince party leaders to respect the election. Second, it is unlikely that Zedillo would have had to convince most priístas that withholding the information was a good plan – withholding the information was a public good from a priísta perspective.

<sup>50</sup> Comunicado Presidencial 2371.

<sup>51</sup> Luis A. Boffil Gómez, “En Yucatan, 11 gobernadores priístas dan su respaldo a Cervera Pacheco,” *La Jornada*, Internet edition, 8 January 2001.

<sup>52</sup> For a recent example of work on Yucatecan identity see, Allison Greene, “Cablevision(nation) in Rural Yucatán: Performing Modernity and *Mexicandiad* in the

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Early 1990s,”in Joseph, Gilbert, Anne Rubenstein, and Eric Zolov, eds, *Fragments of a Golden Age: The Politics of Culture in Mexico since 1940*. (Duke University Press, 2001).

<sup>53</sup> For one example of this, see Richard Davis, *Decisions and Images: The Supreme Court and the Press*. (Prentice-Hall, 1994).