**Can courts in non-democracies deter election fraud? De jure judicial independence, competition, and election integrity**

**Abstract**: Many modern non-democracies hold multiparty elections, while also adopting institutions of *de jure* judicial independence; yet there is debate over how non-democratic courts can affect election integrity. This paper argues that increases in *de jure* independence create incentives for opposition recourse to the courts, which in turn leads to reduced election fraud. However, this effect occurs only when competition—and the ruling party’s incentive to intervene—is low. These predictions are distinct from those of prior work, and is supported by data from 1009 election-year observations in 130 countries, lending support for its generalizability. Pre-processing techniques are used to reduce concerns about endogeneity and confounding. The results challenge the view that protest risk is the central deterrent to election manipulation, and also offer a framework for predicting when *de jure* reforms can translate to *de facto* independence.

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Courts often have opportunities to affect the integrity of elections, even in authoritarian or semi-democratic settings. At times, these opportunities can be dramatic, as when the Ukrainian Supreme Court ordered a re-run of a vote in the 2004 presidential election following mass protests. Courts can influence election outcomes in more mundane ways as well. In civil cases, courts can adjudicate claims of procedural unfairness, by registering or de-registering candidates for an election (Popova 2012; Bækken 2015); in criminal cases, they may apply fines or prison time to individuals caught engaging in illegal forms of electoral manipulation. For example, in June 2019 a Russian district court fined a member of a precinct election commission 40,000 rubles for the falsification of two ballots in favor of the ruling party, under pressure from the opposition.[[1]](#footnote-1) Taken together, decisions by courts up and down the judicial hierarchy may be able to enhance electoral integrity or diminish it, depending on whether they tend to rule for or against the interests of the ruling party.

Within the large literature on the role of democratic institutions—such as formally independent courts—in non-democratic contexts, the judiciary has increasingly become an object of study. A fruitful recent strand of research has challenged the conventional wisdom that independent courts are beneficial for democracy and democratization (Helmke and Rosenbluth 2009), by identifying a variety of benefits that ruling parties in authoritarian and hybrid regimes can reap from granting some measure of genuine independence to their court systems (Ginsburg and Moustafa 2008). These benefits include monitoring of citizens and ruling party agents, securing investment and property rights, and regime legitimation, among others. As a result, many non-democratic systems have adopted formal institutions of *de jure* judicial independence; yet we have conflicting theories of how such institutions affect another central institutional feature of modern non-democracies—manipulated multi-party elections. One view holds that more independent courts will reduce manipulation during competitive elections due to protest risk (Chernykh and Svolik 2015); another view finds that high competitiveness drives ruling parties to intervene to secure favorable outcomes in election cases (Popova 2012), implying favorable conditions for high manipulation.

This paper offers a new theory of judicial independence and election manipulation, offering novel predictions that are supported by cross-national data. It argues that non-democratic governments establish *de jure* independent courts in order to capture a variety of benefits, many of which have little to do with electoral competition directly. These reforms increase the likelihood of legal mobilization among opposition groups and parties, bringing more cases to the courts that allege pro-government electoral malfeasance (Dotan and Hofnung 2005; Aydın-Çakır 2014; McCann 1994). As a result, even if courts’ behavioral independence remains constant, the absolute number of unfavorable rulings for the government is liable to increase. Consequently, illegal election manipulation is likely to decrease following *de jure* reforms due to two complementary mechanisms. In some cases, the risk that adverse rulings may undermine the legitimacy of the ruling party (Berman, Shapiro, and Felter 2011; von Soest and Grauvogel 2017) may cause them to voluntarily engage in less manipulation. At the same time, increased risk of legal exposure for low-level election-manipulating agents makes it more difficult for the ruling party to rely on them to manufacture votes (Rundlett and Svolik 2016), even if overall victory seems likely, resulting in an involuntary reduction in manipulation.

Crucially, the size of this effect is responsive to strategic decisions by the ruling party to apply—or not to apply—informal pressure on the courts. When elections are uncompetitive and the ruling party believes itself secure, it can tolerate adverse rulings from the courts more readily. As competition increases, the ruling party faces stronger incentives to use the tools at its disposal to pressure judges to rule favorably (Popova 2012; VonDoepp 2009; Ellett 2013). As a result, reductions in election fraud following *de jure* reforms are most likely to occur in the most authoritarian settings, while having little impact in more open and competitive non-democracies.

Though this study relies on observational data, the results are robust to several different model specifications and pre-processing techniques that can mitigate concerns about selection effects and endogeneity. By weighting observations to better approximate unobserved counterfactuals, these techniques reduce the risk of mis-identifying the nature of the relationship between the variables. The analysis draws on data from 1009 election-year observations in 130 countries from 1945 to 2014, including a range of authoritarian regimes, hybrid regimes, and electoral (not liberal) democracies.

This article makes three main contributions. First, it offers a new theory of the relationship between judicial independence and election manipulation, a substantively important topic given the prevalence of electoral authoritarian regimes and *de jure* independent courts in non-democracies (Magaloni and Kricheli 2010; Levitsky and Way 2010; J. Staton, Reenock, and Holsinger 2020). This theory makes different predictions than protest-oriented views of courts and election fraud (Chernykh and Svolik 2015) and than Popova’s (2012) strategic pressure theory, as well as the standard principal-agent model of manipulation (Rundlett and Svolik 2016).. Second, prior work on this subject, while pathbreaking, has either been rooted in formal theory with little empirical testing, or based on detailed case studies. to my knowledge, this is the first cross-national empirical study of the effect of de jure judicial independence on election fraud and related abuses outside liberal democracies, lending greater confidence in the generalizability of the results.. Third, the results have implications not only for our understanding of the causes of election manipulation, but also the much-debated relationship between *de jure* and *de facto* judicial independence.

With regard to manipulation, The results of this study challenge the protest-oriented view of courts and election fraud (Chernykh and Svolik 2015), by showing that formally independent courts can reduce fraud when political competition (and thus protest risk) is low. Likewise, they challenge a standard principal-agent model of fraud (Rundlett and Svolik 2016), which holds that election-manipulating agents only face risks if their patron is defeated, and thus predicts that fraud diminishes as competitiveness increases. Instead, they lend credence to an alternative framework, in which agents fear legal risks even if their party wins, (von Soest and Grauvogel 2017). Notably, judicial reforms do not reduce the level of fraud when more dependent, specialized election courts exist that can shield agents from legal consequences and regimes from negative publicity. Lastly, they go beyond strategic pressure theory by showing how institutional reforms, in combination with opposition incentives to litigate, can lead to improved election quality in low-competition environments.

More broadly, by focusing on how increases in *de jure* independence affect outcomes in a single policy domain, this project offers a framework for thinking about the empirically tangled relationship between courts’ *de jure* and behavioral independence (Herron and Randazzo 2003; Melton and Ginsburg 2014). The scope conditions of this theory, focusing on non-government actors’ incentives to go to court and ruling parties’ shifting incentives to apply judicial pressure, offer predictions about the conditions under which other policy domains may permit *de jure* reforms to translate into improved behavioral independence in non-democracies, suggesting a way forward in studies of judicial independence.

**Judicial independence and electoral manipulation**

Judicial independence continues to be a somewhat contested concept, but at the core, it requires that courts be capable of acting as impartial decision-makers, resolving disputes without undue pressure from other political actors (Burbank and Friedman 2002; Linzer and Staton 2015). Researchers regularly draw a distinction between de jure judicial independence—“formal rules designed to insulate judges from undue pressure” (Ríos-Figueroa and Staton 2014, 106), and behavioral, de facto independence—the degree to which judges determine their rulings autonomously and have their decisions enforced, even when rulings are adverse to other political actors.

Judicial independence is generally taken to be positive for democratic governance—though often with the caveat that it has the potential to confound majority rule (Helmke and Rosenbluth 2009). An independent judiciary can protect civil and political rights (Larkins 1996; Linz and Stepan 1996; Crabtree and Nelson 2017), can provide a focal point for citizen coordination (Weingast 1997), and help maintain the rule of law (Dahl 1957; Landes and Posner 1975). Independent judiciaries that have had time to establish their credibility can help prevent authoritarian backsliding in a crisis (Gibler and Randazzo 2011; Graham, Miller, and Strom 2017).

Recently, it has become clear that some measure of judicial independence can benefit ruling parties in non-democracies as well. Independent courts can serve as a mechanism for gathering information on citizen grievances, for monitoring social discontent (Ríos-Figueroa and Aguilar 2017) and excessive abuses by lower-level agents of the regime (Ginsburg 2008), for legitimating the regime through appeals to the rule of law (Moustafa, 2008; Whiting, 2017), for protecting investments (Moustafa 2008), for reducing uncertainty and the risk of internal conflict (Sievert 2018), for making post-election protest by opposition groups less likely (Eisenstadt 2003b), and for policing possible threats to the ruling party from other power centers in society (Ma 2017). As a result, many authoritarian regimes have adopted one or more of the formal institutions that preserve judicial autonomy (J. Staton, Reenock, and Holsinger 2020), such as selection and removal procedures that limit political pressure; crucially, regimes may adopt these reforms in order to capture the benefits listed above, which have little to do with liberalization or a desire to win elections.[[2]](#footnote-2)

Nevertheless, it is also clear that an independent judiciary can be a double-edged sword, creating “a uniquely independent institution with public access in the midst of an authoritarian state” (Ginsburg and Moustafa, 2008, p. 13), allowing for opposition actors to challenge—and sometimes defeat—the state. After all, authoritarian governments only reap the benefits of enhanced investment, greater legitimacy, and more control over agents if independent courts do in fact constrain arbitrary uses of state power. At the same time, it is well established that governments in non-democracies routinely use informal pressure techniques—such as threats, physical attacks, bribes, and social ties (Llanos et al. 2016; Solomon 2010; Ledeneva 2008)—to influence judges’ rulings in *particular* cases of high interest to the regime, while allowing courts to rule more independently on other topics (Taylor 2014; Popova 2012; Wang 2020; Moustafa 2003). In other words, it is possible for courts in non-democracies to be allowed to rule independently in non-sensitive domains, while facing pressure to fall in line in more sensitive cases. Moreover, it is possible for the same policy domain to be non-sensitive under some circumstances, but to become sensitive—and subject to pressure—as circumstances change.

The conduct of an election by the government and/or ruling party is one such policy domain. There is no shortage of tools with which ruling parties may bias the outcomes of elections in non-democracies (Schedler 2002; Norris 2015). These include techniques which are almost always against the law, such as ballot-stuffing or falsification (van Ham and Lindberg 2015), voter pressure (Frye, Reuter, and Szakonyi 2014), or intimidation (Asunka et al. 2017; Mares and Zhu 2015). Severe election manipulation is not limited to competitive races, but can occur in highly authoritarian states as a signal of dominance (Simpser 2013) or through a bandwagon effect by subordinates eager to be on the winning side (Rundlett and Svolik 2016).

Illegal forms of electoral malfeasance are regularly addressed by courts in response to complaints by citizens, candidates, or parties (Eisenstadt 2003a; Birch and Van Ham 2017). When cases of illegal electoral misdeeds come before courts in non-democracies—often through the work of election observers and opposition activists—there are multiple avenues through which judiciaries may exert influence. Judicial oversight of electoral disputes is widely implemented—whether by regular court, administrative court, or special electoral tribunal—even among new democracies (Orozco-Henriquez et al., 2010, pp. 86, 138-139). As redress, courts can order recounts or nullify contested election results (Chernykh 2014), but they may also apply criminal or administrative penalties for those who violate electoral law.[[3]](#footnote-3)

How might courts influence election integrity in non-democracies? Two mechanisms are contemplated in prior work. First, Chernykh and Svolik (2015) argue that more independent courts reveal more information about fraud, which raises the risk of post-election protest; fearing this, ruling parties perpetrate less fraud in competitive conditions. However, in some cases, information about election manipulation may actually reduce the risk of protest by signaling regime strength (Simpser 2011; Harvey and Mukherjee 2020), calling this proposed mechanism into question. If more independent courts reduce manipulation in low-competition settings, as is shown below, it further challenges the protest-oriented view, since empirical work has shown that electoral protest in non-democracies is more likely when competition is elevated (Beaulieu 2014; Trejo 2014; Simpser 2013).

Alternative explanations for the severity of election manipulation rely on principal-agent and coordination problems among low-level election-manipulating agents. The classic account holds that agents fear punishment if their patron loses the election, which causes manipulation to fall as competitiveness increases (Rundlett and Svolik 2016). However, this formalization overlooks the possibility that agents may face legal risks even if their patrons remain in office. To date there is no systematic study of judicial proceedings against individuals accused of violating electoral law; they are, however, well documented by journalists and election monitors. In Russia, for example, the ruling party found over 1,000 of its agents subject to judicial penalties after the 2016 election (Tikhonova 2016)—an outcome that is all the more remarkable given that Russia is a relatively low-competition electoral authoritarian regime, with relatively low de facto judicial independence (Linzer and Staton 2015). If courts can deter election manipulation in low-competition environments, however, it may be because principal-agent problems are intensified as agents bear greater risk of legal exposure—a point which existing theory overlooks.

**Theory: de jure independence, strategic pressure, and election manipulation**

As discussed above, creating the formal space for judicial independence in non-democracies includes risks as well as benefits for ruling parties. In particular, greater *de jure* independence increases opportunities for opposition-oriented actors to press their case in court, even when they believe they are unlikely to win. Opposition groups may take cases to court to raise publicity around an issue (Dotan and Hofnung 2005; McCann 1994), to protest against the authorities (Dor and Hofnung 2006), or to push the incumbent to make concessions between elections (Chernykh 2014). Such strategic litigation can be especially useful for imposing a cost on the regime when the policy domain is an issue—like election fraud, or corruption—which the government cannot defend on the merits (Aydın-Çakır 2014). For individual candidates, casting doubt on an election result in court can be a way of retaining political credibility for future races (Kerr and Wahman 2021). Furthermore, challenging an election result in the courts is an ‘in-system’ tactic that is likely to carry less personal risk to participants compared to participation in protest or civil disobedience. As a result, multiple actors can have incentives to take election-manipulation cases to court, even if they except the case to fail.

Strategic litigation of this sort is more likely when potential litigants observe favorable laws and constitutional provisions (Epp 1998), including a more *de jure* independent judiciary. For example, the expansion of *de jure* reforms in China (Peerenboom 2010) widened the political opportunity structure for rights-based legal mobilization there (Nesossi 2015). Similarly, the establishment of a *de jure* independent constitutional court in Egypt paved the way for opposition and civil society groups to challenge the government in court, often successfully (Moustafa 2003). Opposition-minded groups will be more likely to go to court when they perceive courts to be more independent and powerful, and more attainable allies than the executive (Schaaf 2021), a judgement which *de jure* reforms are likely to inform. In other words, a positive *de jure* reform is itself a theoretically significant driver of anti-regime legal mobilization, not just an easily observable proxy for more obscure judicial behavior.[[4]](#footnote-4)

An expansion in opposition legal mobilization is likely to lead to an increase in the number—if not the rate—of unfavorable decisions for the government, so long as judges have some incentive to rule against the ruling party. Judges may choose to do so because ruling against the government can build public trust in the judiciary (Kerr and Wahman 2021; Yadav and Mukherjee 2014), a political resource which judges may wish to cultivate (J. K. Staton 2010; Helmke 2010). Moreover, judges may rule against election-manipulation defendants due to their own ideas about democracy (Hilbink 2012) or due to a desire to build a reputation with non-state judicial audiences (Kureshi 2021). Finally, judges in non-democracies may feel confident in ruling against government agents in low-stakes election manipulation cases, as they can fulfill their regime-legitimation function only by occasionally handing small setbacks to the regime.

Taken together, then, increased legal mobilization by opposition actors should lead to an increase in anti-government rulings, so long as the government does not intervene to prevent them. As the consequences of negative rulings rise, intervention by the government become more likely (VonDoepp 2009; Ellett 2013). Since the cost of electoral defeat is steep in non-democracies—defeated leaders may find their assets or lives at risk (Svolik 2012; Epperly 2017)—ruling parties are more likely to take measures that undermine judicial independence in election-related cases when competition, and thus the downside risk of adverse rulings, is high (Popova 2012). Cross-national research supports the idea that courts’ behavioral independence declines as political competition increases outside liberal democracies (Aydin 2013; Wang 2020).[[5]](#footnote-5)

Whether election-related cases are sensitive and likely to draw pressure is thus context-dependent. If the costs of negative rulings are minor for the ruling party, courts can more often rule independently due to the increased space for contestation afforded by *de jure* reforms. However, as these costs increase, the ruling party’s incentive to apply pressure in that domain grows. This pressure can be informal and case-specific, thus securing a favorable outcome in one setting without reducing courts’ independence in other arenas, helping to preserve some benefits of judicial independence and to avoid provoking a public clash that might damage the government (Helmke 2010).

In the absence of pressure, more independent rulings by courts in election-manipulation cases can deter manipulation in two ways. First, ruling parties may seek to deny opposition groups the benefits of strategic litigation discussed above—greater visibility, an opportunity to attack the regime on an unpopular valence issue, etc.—by choosing to reduce the level of manipulation in the election. Ruling parties may be concerned that negative publicity may damage their popular legitimacy (Gerschewski 2013; Kailitz 2013), even if such damage falls short of mass protest. Election misconduct reduces legitimacy perceptions, which in turn leads to reduced cooperation with authorities (Berman et al. 2019; Moehler 2009). Ruling parties may wish to avoid damaging this source of positive citizen behavior, by choosing to pull back on manipulation in order to minimize strategic litigation by their opponents.

In addition, building on the work of Rundlett and Svolik (2016), legal risks are likely to figure into the calculations that low-level actors make about participating election manipulation. While that formal model assumes that election-manipulating agents run no risk of penalty if their patron wins the election, I argue that a higher risk of legal exposure may deter agents from engaging in manipulation even when incumbents retain office. Courts can hear charges against election officials for a variety of positive acts of election tampering, and can also hear cases against ordinary individuals for engaging in vote-buying or voter pressure, voter impersonation and multiple voting (Orozco-Henríquez, Ayoub, and Ellis 2010). And, as the foregoing discussion illustrates, courts in non-democracies can generate regime-sustaining benefits by ruling against ruling party agents at times—and regularly do so. The risk of being caught up in court proceedings can be expected to increase as opposition actors turn to more *de jure* independent courts, serving to deter some agents. This expectation is also consistent with the finding that harder-to-detect manipulation is concentrated in places where the opposition is more active (Harvey 2019). Following the logic of coordination problems in Rundlett and Svolik (2016), an increased risk of court proceedings that deters some agents from engaging in election manipulation can induce others to stand down as well; if some low-level actors choose not to participate in election fraud due to legal risk, a larger number may also shirk due to uncertainty around the success of the effort, leading to a larger-scale improvement in election integrity.

This mechanism is only likely to operate when courts’ rulings against government agents are authoritative; governments must enforce rulings against their own agents. Non-democratic governments enforce unfavorable rulings against their agents when the stakes for the regime are low, because courts’ various regime-sustaining functions depend “upon some measure of real judicial autonomy” (Ginsburg and Moustafa 2008, 8); if they did not, courts could not improve the regime’s legitimacy, resolve intra-elite disputes, or provide accurate information about citizen discontent. As a result, courts in non-democracies regularly rule in citizens’ favor when the stakes are low (Popova 2012). For example, Hendley (2017, 150) finds that in 2009 and 2011, Russia’s justice of the peace courts ruled in favor of the state only fifty percent of the time when it brought tax cases against citizens, and ruled in favor of citizens fully eighty percent of the time when they were the plaintiffs; Peerenboom (2002) finds similar results in China. Rulings against election-manipulating agents are likely to be enforced in at least some cases, as a result, so long as doing so in individual cases does not threaten the core interests of the regime (Murison 2013). Indeed, courts in Russia ruled in favor of forty-seven percent of plaintiffs who alleged improper behavior by election commissions (including fraud allegations) after the 1999 election (Solomon 2004).

The theoretical argument can be summarized as follows. Governments in authoritarian regimes and electoral democracies create more *de jure* independent courts in order to capture multiple benefits. Even when the chances of winning cases are low, opposition groups take advantage of this opening in the political opportunity structure to impose costs of the regime and to bolster their own organizational resources. Judges who enjoy greater formal protections are thus more likely to hear cases from the opposition, leading to an increase in the number—and possibly the rate—of negative rulings for the regime in the absence of informal pressure from the ruling party. In the domain of election manipulation, increased costs of strategic litigation to the regime and increased legal risk to election-manipulating agents, are both likely to lead to cleaner elections. When political competition is low, this lost manipulation is bearable to the regime. However, as electoral uncertainty increases, ruling parties will be more likely to bring their informal tools to bear on courts to secure favorable decisions in election cases. This pressure will reduce the effect of de jure independence on manipulation as competition increases.

**Hypothesis 1 (H1):** An increase in de jure judicial independence is associated with reduced election fraud when political competition is low, but not when it is high.

A further implication of the theory can be tested by exploiting the fact that non-democratic governments sometimes create special courts to ensure that politically sensitive cases are handled according to the ruling party’s wishes, while allowing mundane matters to proceed through the ordinary courts (Toharia 1975; Fraenkel 1941; Peerenboom 2002; Moustafa 2003; 2007). The theoretical mechanisms summarized above only operate if electoral cases are heard in the ordinary courts. If alleged perpetrators of election manipulation do not face consequences in the general courts, but rather in more pliant specialized courts, increases in *de jure* independence for the general courts should not lead to a more open legal opportunity structure for the opposition or to increased risk for agents.

**Hypothesis 2 (H2)**: The effect posited in H1 should only be observed in cases without specialized electoral courts. Finally, an alternative hypothesis can be drawn from insurance theory (Epperly 2017; 2019b) and strategic defection theory (Helmke 2002). In these frameworks of judicial independence—for distinct reasons—greater political competition in non-democracies is understood to result in higher levels of de facto judicial independence. Under insurance models of judicial independence, non-democratic governments promote judicial independence under competitive conditions, to insulate the courts from government pressure should the opposition come to power. In the strategic defection model, high court judges are more likely to rule against non-democratic governments that appear threatened, in order to gain favor with an incoming opposition government. In either framework, it might be expected that judges will rule moreautonomously in election related cases under conditions of greater competition, leading to reduced election manipulation.

**Hypothesis 3**: An increase in de jure judicial independence is associated with increasingly large reductions in election manipulation as competitiveness increases.

It is important to be clear that these expectations refer to illegal manipulation—such as falsification, ballot stuffing, vote-buying, and intimidation—in which judges can find individuals criminally or administratively guilty of violating election law. These are a substantively important set of tools for election management in non-democracies (Calingaert 2006), which are frequently an object of study as a result (e.g. Rundlett and Svolik (2016)). Since vote-buying and voter pressure can be harder to observe than election fraud (Harvey 2019) and may exist in ethical and legal gray areas (Kramon 2016; Nichter 2018)—thus making them harder for courts to address—I focus here on election fraud specifically.[[6]](#footnote-6) Forms of electoral manipulation that *rely* on the law itself—such as structuring the electoral system to benefit ruling parties—though important, are likewise not considered here. Similarly, this theory is not expected to apply to cases where high courts are making the determination to annul an election after allegations of fraud—the extremely high stakes and visibility of such decisions are likely to lead judges to follow the logic of strategic defection (Helmke 2002). Lastly, due to the limited availability of tools for informally pressuring courts in liberal democracies, longer time horizons for rational politicians, and other features of liberal democracies, this theory is not expected to apply in such cases (Popova 2010).

**Data and methods**

These hypotheses are difficult to test using observational data due to likely endogeneity among political competition, judicial reforms, and electoral manipulation. For example, it could be that when governments are more willing to engage in reforms when they face reduced ability to commit fraud (for example, due to resource constraints). Strictly observational analysis of data would make it difficult to tease out the direction of the causal arrow between judicial reforms and election integrity. The research design described below seeks to more accurately determine the relationship between courts and election quality through pre-analysis balancing of control and treatment groups.

To test these propositions, I draw on Version 7.1 of the V-Dem project (Coppedge, Michael et al. 2017). Since the theory applies to cases that hold multiparty elections but are not liberal democracies, I exclude countries where the regime holds single-party elections or no elections at all, as well as liberal democracies at the time of the election. The latter criterion is operationalized by excluding country-years coded as “competitive” under the *competitiveness of participation* variable from Polity. Doing so excludes country-years where “ruling groups and coalitions regularly, voluntarily transfer central power to competing groups,” and “competition seldom involves coercion or disruption” (Marshall, Gurr, and Jaggers 2017). The resulting dataset contains electoral authoritarian regimes, hybrid regimes, and unconsolidated or electoral democracies. At the higher range of competitiveness, the dataset includes cases like post-Soviet Georgia, the Philippines in the 1990s and 2000s, and Venezuela in the 1990s. The low end of the range includes cases like post-war Portugal and post-Soviet Uzbekistan. Altogether, the dataset includes election years from 1944 to 2014, though most observations are from the post-Cold War period.[[7]](#footnote-7) The results are robust to an alternative coding of non-democracies, using the binary coding scheme developed by Cheibub et al (2010), provided in the appendix.

*Dependent variable and controls*

I measure illegal electoral manipulation using the variable *intentional voting irregularities* taken from V-Dem. This variable is a measure of vote fraud and related forms of manipulation, including multiple voting, ballot-stuffing, and falsification of results. As with other variables drawn from V-Dem, values for *voting irregularities* reflect the judgements of five or more expert coders.[[8]](#footnote-8) I use the measurement model output version of the variable, which aggregates the country experts’ ratings, takes disagreement and measurement error into account, and converts the ordinal scale responses from experts to an interval scale (Coppedge, Michael et al. 2017).

*Explanatory variables and controls*

Reforms that improve *de jure* independence are operationalized as a binary variable from V-Dem that captures a enhancements to courts’ ability to control the arbitrary use of state power, in the year prior to an election.[[9]](#footnote-9) To take a relatively recent example, several East European post-communist states undertook reforms to limit the influence of the elected government over judicial careers by transferring powers over appointment and dismissal from ministries of justice to more autonomous judicial councils (Coman 2014). Such pre-election reforms are not uncommon in non-democratic cases: a positive judicial reform is recorded prior to 165 of the 1009 election-year observations in the dataset.

Measures of *de jure* judicial independence are also available from the Comparative Constitutions Project (Elkins, Ginsburg, and Melton 2005). The CCP dataset benefits from clear rules that enable precise coding of changes to a country’s constitutional judicial institutions, and certain selection and removal procedures appear to be jointly associated with increased behavioral judicial independence in non-democracies (Melton and Ginsburg 2014). However, positive reforms to *de jure* independence are rare at the constitutional level—only thirteen are observed for the cases studied here, leading to a lack of common support across some mediator variables. As a result, the CCP measures are not used in the main analysis, but are used as robustness checks in the appendix.

Political competition is the second explanatory factor in the theory. Since the margin of victory in the election itself cannot be used as a measure of competition—it is an effect rather than a cause of the severity of manipulation in the election—I use three alternative measures meant to capture the degree to which incumbents face some uncertainty around election outcomes. All are lagged one year, so that they are not influenced by the results of the election-year, and do not contain information on election fairness overall. The first is drawn from the polyarchy index in V-Dem, and captures the degree to which the conditions for political competition are present; in raw form this variable is a multiplicative index of variables measuring freedom of association, freedom of expression, suffrage, the presence of elections for national executives, and the integrity of elections. To avoid spurious correlation with the dependent variable, I divide out this latter component; I call this variable *political openness*.

Next, I use a measure of *legislative oversight* of the executive, also from V-Dem, which codes the degree to which opposition parties in the legislature are able to exercise oversight against the wishes of the governing party (Coppedge, Michael et al. 2017). Consequently, it captures both the size and oppositional character of opposition parties in the legislature; a larger and/or more assertive opposition represents greater risk to the government compared to cases—common in legislatures in authoritarian and hybrid regimes—where parliamentary parties are regime allies or opposition in name only (Reuter and Robertson 2015). This is similar in its logic to the measure of *political constraint* used by Epperly (2017), which is the third measure I employ. This variable captures the number of executive and legislative veto points, legislative alignment with the executive, and party fractionalization within the legislature (Henisz 2002). Higher scores on this variable indicate greater degrees of constraint, such as when a unified opposition party in the legislature opposes the executive.

I also include control variables that may help account for the severity of electoral manipulation. A dummy variable is used to control for *executive* *elections*, which may lead to higher levels of manipulation (Simpser 2013). I also include logged *GDP per capita* as a measure of economic development (Simpser 2013). A binary measure of the ability of *international election monitors* to observe the election is also included, since observers may affect the reported quality of the election either by reducing the occurrence of electoral manipulation or exposing it (Hyde 2011; Roussias and Ruiz-Rufino 2018). In addition, I add a categorical measure of the nature of the electoral system, since majoritarian systems may be more likely to provoke fraud (Birch 2007).[[10]](#footnote-10) Lastly, I control for attacks on the judiciary—*court packing*, *judicial purges*, and *negative de jure reforms* that reduce the ability of the judiciary to constrain arbitrary state power in the year before the election. Each of these variables is taken from the V-Dem dataset. After pre-processing, discussed below, the data are analyzed using weighted OLS with country fixed effects.

*Pre-processing and the selection model*

Using standard regression analysis to understand the relationship between judicial independence, courts, and electoral manipulation runs the risk of producing biased results due to endogeneity and confounding, as discussed above. Instead, I use pre-processing methods that weight observations to balance treatment and control groups along a set of covariates, making treatment conditionally independent of those variables. This allows researchers to better identify casual relationships (Rosenbaum and Rubin 1985; Hirano, Imbens, and Ridder 2003; Ho et al. 2007), however, they can also increasebias if the selection model is mis-specified (Arceneaux, Gerber, and Green 2006). To reduce this risk, I make use of techniques that do not require iterative checking of the change in balance produced by different selection models (Imai and Ratkovic 2014; Hainmueller 2012)—thus avoiding cherry-picking—and by including measures of theoretically important predictors of the treatment in the models.

The primary method of pre-processing and analysis presented here is the use of entropy balancing, which weights control observations such that the weighted means of covariates match across treatment and control groups, while minimizing the distance between the individual weights and the default expectation of equal weighting (Hainmueller 2012); this method has been shown to be doubly-robust to misspecifications of either the selection or outcome models (Zhao and Percival 2016). As an alternative pre-processing technique, discussed in the appendix, I also weight observations using covariate balancing propensity scores (Imai and Ratkovic 2014), with similar results.

To balance treatment and control groups, it is important to correctly specify the covariates of the treatment variable. This is especially important in this setting, where the incumbent government has at least some control over selection into treatment—increasing *de jure* judicial independence—and over the integrity of its elections. First, I balance on the binary variable *transitional election*, which records whether the upcoming election is part of shift toward multiparty elections. This is an important step, since some positive reforms may occur as part of a broader regime change, while others may be adopted by authoritarian governments seeking to gain legitimation and other benefits. In particular, it is possible that at a moment of regime transition, an insurance logic will incentivize outgoing ruling parties to permit the creation of more formally dependent courts (Magalhães 1999), at the same time as their manipulative capacity declines. Balancing on *transitional election* helps control for this possible source of confounding.

In addition, I also balance on variables that capture sources of judicial independence. All variables described below lag one year behind any pre-election judicial reform. These are the age of the regime in years (Boix, Miller, and Rosato 2013) since younger democracies may be more prone to changes in judicial independence (Helmke and Rosenbluth 2009), the level of economic development (Helmke and Rosenbluth 2009), the openness of the media environment (J. K. Staton 2010) and of the political system (Ramseyer 1994), the degree of concentration of power in the executive, and the extent of horizontal competition between the executive and the legislature (Helmke 2012; Randazzo, Gibler, and Reid 2016; Epperly 2019b). I also include measures of *high-court independence* and *low-court independence* from V-Dem, as well as the *latent judicial independence* measure developed by Linzer and Staton (Linzer and Staton 2015). This allows the models to capture the estimated effect of a positive de jure reform, independent of the pre-reform level of de facto independence.

The pre-processing step also includes the relevant measure of political competition for each regression model, lagged by two years. Crucially, this helps reduce the risk of confounding based on competitiveness as a common cause of judicial reform and election fraud. By including these variables in the pre-processing phase, the treatment variable is made conditionally independent of political factors that might incline a government to empower its courts and also influence election manipulation, such as rising levels of political openness. Balance statistics are provided in the appendix.

Two other potential confounders are considered in the appendix, due to high missingness; both sets of models support the main findings. First is the pre-election legislative seat-share of the governing party (Cruz, Keefer, and Scartascini 2017), as governing parties with a slimmer majority may increase the formal independence of the judiciary as an insurance policy should they enter the minority (Epperly 2019a), or seek to intensify their control over the courts to forestall losing power (Aydin 2013; Popova 2010). Similarly, more dominant parties are likely able to deliver higher levels of manipulation (Simpser 2013; Rundlett and Svolik 2016), though competitiveness has also been associated severe manipulation (Lehoucq 2003). Second, it could be that governments that are already ineffective at generating election manipulation are more likely to positively reform their judiciaries, leading to a spurious correlation between de jure reforms and reduced manipulation. To account for this, I add a lagged measure of manipulation to the selection model.

|  |  |
| --- | --- |
| **Variable** | **Source** |
| Duration of constitutional regime | Boix et al., (2013) |
| Transitional election | Kelley (2012) |
| Opposition autonomy | V-Dem (Coppedge, Michael et al. 2017) |
| GDP per capita (log) | V-Dem |
| Urbanization | V-Dem |
| Alternative information index | V-Dem |
| Executive respect for the constitution | V-Dem |
| Legislative constraints on the executive | V-Dem |
| High-court independence | V-Dem |
| Low-court independence | V-Dem |
| Latent Judicial Independence | Linzer and Staton (2015) |
| Average years of education, age > 15 years | Clio Infra[[11]](#footnote-11) |
| Political openness, legislative oversight, political constraint | V-Dem, (Henisz 2002) |
| Pre-election government seat-share in legislature (in appendix) | Cruz et al (2017) |
| Election fraud in prior election (in appendix) | V-Dem |

Table 1: Variables used in pre-processing stage (all variables except pre-election seat-share and prior election fraud lagged by two years)

**Results**

The results of these models are presented in Table 1 and Figure 1. As Figure 1 shows, an improvement in de jure judicial independence is associated with a reduction in intentional voting irregularities only at low levels of political competition across all three measures; when competition is more robust, the effect of judicial independence is not statistically significant. This is supportive of Hypothesis 1; Hypothesis 3, which predicts a negative slope for the marginal effects due to an insurance logic or strategic defection, is not supported.

The size of the effect of a positive judicial reform is substantively large, even at modestly low levels of competitiveness. Using figures from Model 2 and holding opposition oversightconstant at its first quartile—representing a typical more authoritarian case—a positive judicial reform results in a marginal decrease in *intentional voting irregularities* of -0.63—which amounts to roughly twelve percent of the overall range of the *voting irregularities* variable. A comparison with the marginal effect of *opposition oversight* using the same modelshows the substantive significance of such a shift. Holding judicial reform constant at zero, an increase from the first quartile to the mean of *oversight* results in a smaller reduction in fraud: -0.21. That a positive judicial reform in the year before an election can have an effect size that is three times larger than that of a major shift in political competition (as measured by the size and assertiveness of the parliamentary opposition) is notable given the prevalence of competitiveness as a predictor of electoral fraud in earlier research (Lehoucq 2003).

|  |  |  |  |
| --- | --- | --- | --- |
|  | | | |
|  | *Dependent variable:* | | |
|  |  | | |
|  | Intentional voting irregularities | | |
|  | (1) | (2) | (3) |
|  | | | |
| Positive judicial reform | -0.90\*\*\* | -0.46\*\*\* | -0.54\*\*\* |
|  | (0.11) | (0.08) | (0.09) |
|  |  |  |  |
| Political openness | -0.97\*\*\* |  |  |
|  | (0.15) |  |  |
|  |  |  |  |
| Opposition oversight |  | -0.33\*\*\* |  |
|  |  | (0.03) |  |
|  |  |  |  |
| Political constraints |  |  | -0.37\*\* |
|  |  |  | (0.17) |
|  |  |  |  |
| Executive election | -0.06 | -0.07 | -0.08 |
|  | (0.07) | (0.07) | (0.07) |
|  |  |  |  |
| Proportional electoral system | -0.01 | 0.003 | -0.04 |
|  | (0.08) | (0.09) | (0.08) |
|  |  |  |  |
| Mixed electoral system | -0.02 | -0.09 | -0.08 |
|  | (0.10) | (0.10) | (0.10) |
|  |  |  |  |
| Log GDP per capita (lagged) | -0.19\*\*\* | -0.22\*\*\* | -0.30\*\*\* |
|  | (0.07) | (0.07) | (0.07) |
|  |  |  |  |
| International monitors | -0.22\*\*\* | -0.23\*\*\* | -0.23\*\*\* |
|  | (0.05) | (0.05) | (0.05) |
|  |  |  |  |
| Negative reform | -0.12 | -0.07 | -0.07 |
|  | (0.11) | (0.11) | (0.11) |
|  |  |  |  |
| Judicial purges | -0.18\*\*\* | -0.15\*\*\* | -0.26\*\*\* |
|  | (0.05) | (0.05) | (0.05) |
|  |  |  |  |
| Court packing | -0.15\*\* | -0.13\* | -0.15\*\* |
|  | (0.06) | (0.07) | (0.06) |
|  |  |  |  |
| Positive reform : Political openness | 1.24\*\*\* |  |  |
|  | (0.19) |  |  |
|  |  |  |  |
| Positive reform: Opposition oversight |  | 0.22\*\*\* |  |
|  |  | (0.05) |  |
|  |  |  |  |
| Positive reform : Political constraints |  |  | 0.75\*\*\* |
|  |  |  | (0.22) |
| Country fixed effects | Yes | Yes | Yes |
|  |  |  |  |
| Constant | 3.87\*\*\* | 3.97\*\*\* | 4.46\*\*\* |
|  | (0.57) | (0.58) | (0.58) |
|  |  |  |  |
|  | | | |
| Observations | 771 | 724 | 771 |
| R2 | 0.87 | 0.88 | 0.86 |
| Adjusted R2 | 0.84 | 0.86 | 0.83 |
|  | | | |
| *Note:* | \*p<0.1; \*\*p<0.05; \*\*\*p<0.01 | | |

|  |  |
| --- | --- |
|  |  |

Table 2: Weighted OLS models of election fraud (entropy balanced weights). All variables 1-year lagged, except *executive election*, *proportional electoral system*, *mixed electoral system*, and *international observers*

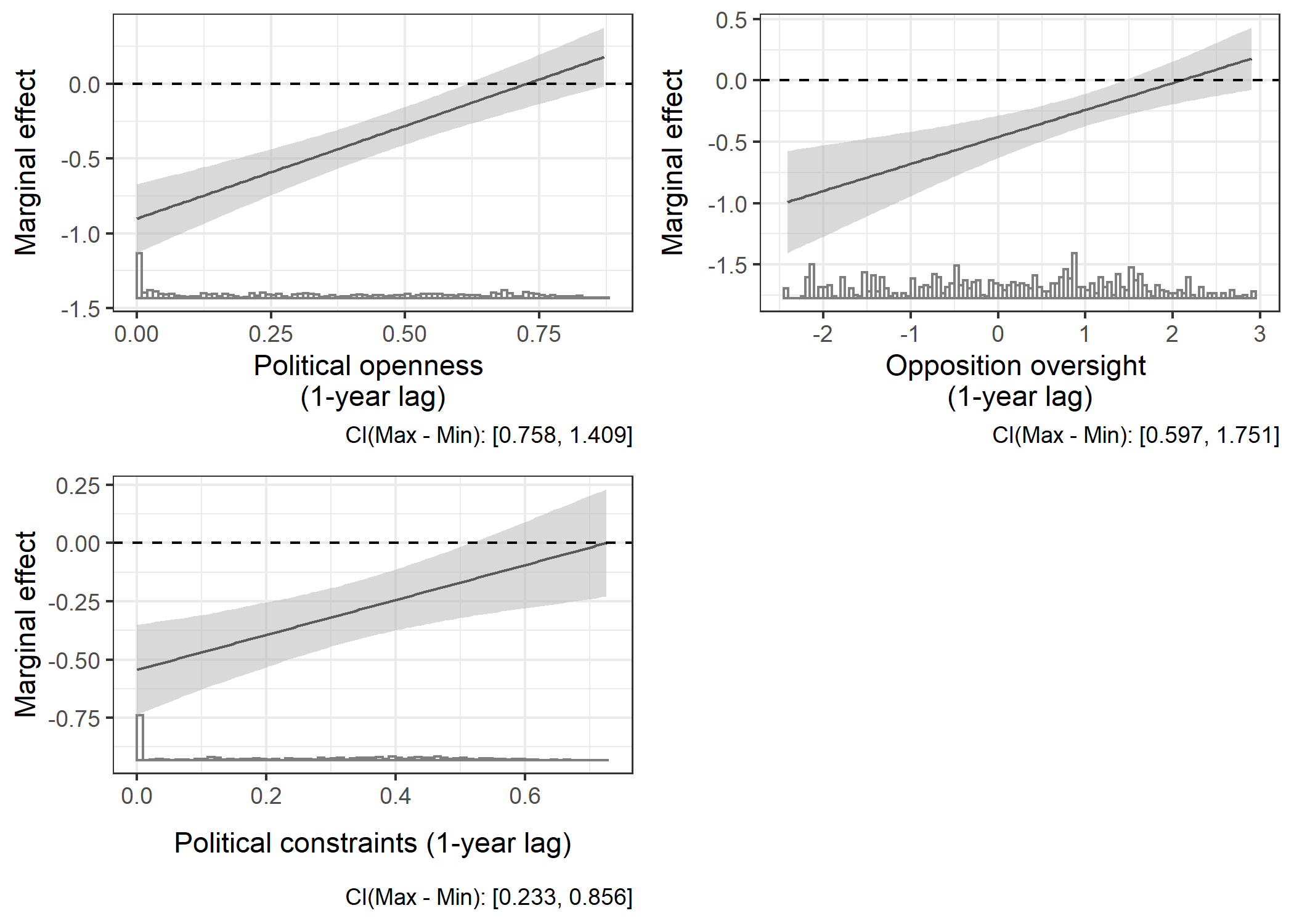


Figure 1: Marginal effects of a positive judicial reform on intentional voting irregularities. Shaded areas represent 95% confidence intervals.

Moreover, the models meet important tests of viability that have been identified in recent methodological work on interaction effects. Confidence intervals have been adjusted in Figure 1 to account for the greater false-positive rate that can occur when testing for significance multiple times (Esarey and Sumner 2017), and the results are statistically significant using both the ‘crosses zero’ heuristic and the ‘compare extremes’ heuristic for interpreting marginal effects (Pepinsky 2018).[[12]](#footnote-12) In the appendix, I also demonstrate that the procedures advocated by Hainmueller et al (2019) for checking the appropriateness of a linear multiplicative interaction model are satisfied in this case.

Hypothesis 2 predicts that the relationships illustrated in Figure 1 will not occur in cases where there are specialized electoral courts. To test this, I replace the interaction terms in Models 1 through 3 with a three-way interaction, adding an indicator for the presence of an electoral court. Due to space constraints, Figure 2 presents these results; the full regression table is available in the appendix. In the figure, the left panels represent cases without electoral courts, while the right panels represent those that do. In all three models, there is a reduction in manipulation in cases after judicial reforms (dashed lines) where the general courts handle electoral issues and when competition is low (supporting H1). In settings with specialized electoral courts, there is no such reduction (supporting H2).

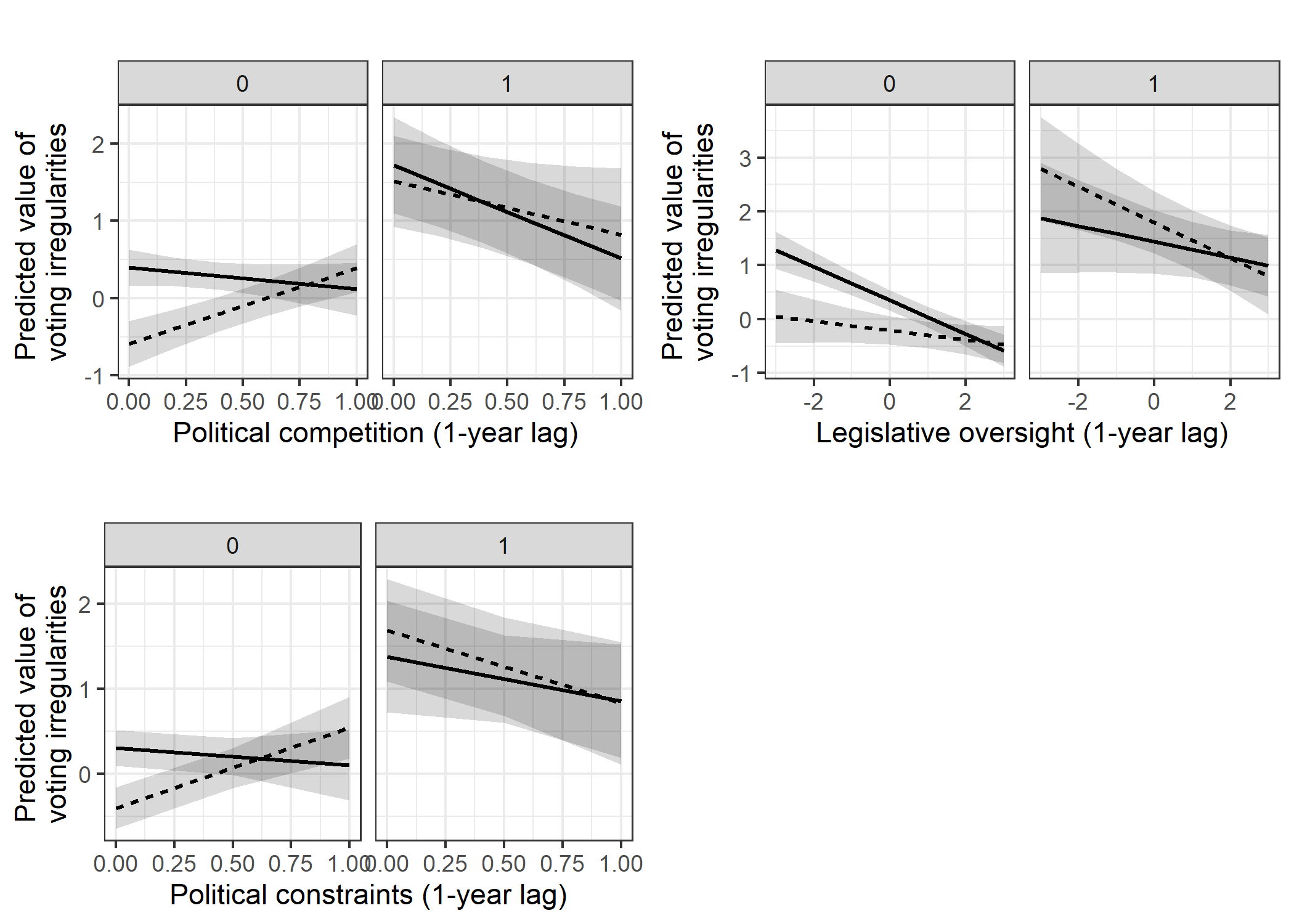


Figure 2: Marginal effects of judicial reform on intentional voting irregularities. Dashed lines indicate pre-election judicial reform; solid lines represent no reform. Panels marked ‘0’ indicate no electoral court, panels marked ‘1’ represent cases with electoral courts.

**Discussion**

Greater de jure judicial independence appears to improve election integrity in the ‘toughest’ cases, where competition is most limited. The results shown here are consistent with the theory that *de jure* reform creates greater opportunities for legal mobilization, resulting in reduced election manipulation when the ruling party has limited incentives to intervene; an effect which declines as competitiveness compels ruling parties to apply strategic pressure to protect their election-manipulation efforts.

How confident can we be in this result, given the tangled relationship between election fraud, competition, and the courts? There are both theoretical and model-based reasons to be confident that the level of pre-reform competition is not a confounder for the results here. First, prior work does not show that competition is associated with greater de jure independence in non-democracies (J. Staton, Reenock, and Holsinger 2020; Epperly 2019b).[[13]](#footnote-13) Second, balancing on pre-reform level of competition and transitional elections helps control for the possibility of such an effect. Additional robustness checks in the appendix show that the results are robust to different sampling frames and selection models. Finally, country fixed-effects are included in all three models, helping reduce the risk of omitted variable bias. Within the limits of observational data on interconnected political processes, the results of this research design provide strong evidence that greater de jure independence can reduce electoral fraud substantially in low-competition settings, but have no effect in more competitive ones.

While this theory specifically concerns election manipulation, it offers insights for the broader debate on the relationship between courts’ *de jure* and *de facto* independence. Studies in that literature often rely on general measures of *de facto* independence, like Linzer and Staton’s (2015) measure of latent judicial independence, as a dependent variable. This approach can obscure the fact that courts may be permitted to rule independently on the economic issues captured by some indicators in LJI (for example), but come under pressure in more sensitive political cases captured by other indicators. Such patterns may help explain the mixed findings in the literature.

This model offers a framework for moving this debate forward, by predicting which policy domains will allow for *de facto* independence to grow out of *de jure* reforms. In order for *de jure* reforms to be effective, as this article shows, three scope conditions must be met: A) there must be actors with incentive to go to court against the state, even if the odds of winning are low, B) judges must have an incentive to rule against the government at times, and C) the ruling party’s incentive to intervene must be low. All three of these conditions are met in the current case when competitiveness is low; as competitiveness increases, the third condition begins to fail.

While it is beyond the scope of this project to test other domains, some possibilities can be sketched. Scope condition A is likely to fail when actors harmed by state have separate interests they wish to protect, and so avoid antagonizing the ruling party by seeking redress in the courts. Firms in states where industrial ownership is highly consolidated may offer an example of this behavior. By contrast, when ownership is diverse, firms may see little downside in seeking legal remedies. In this case, the effect of *de jure* independence would hinge on judges’ incentives to rule on the merits in this domain—likely a feature of judicial ideology and audiences—and on the government’s incentives to intervene. While competitiveness is a marker of the latter’s incentives in electoral cases, it may not be relevant in other domains. For example, in economic domains courts could come under pressure due to fragmentation *within* the ruling elite (Bolkvadze 2019), rather than outside it, or if economic interests outside the regime are relatively powerful (Ma 2017). This does not mean that variables like LJI should not be used in empirical work; rather, that for the specific question of how *de jure* reforms translate into behavioral independence, more specific measures are needed.

These findings also have implications for existing theories of electoral malfeasance. Chernykh and Svolik (2015) argue in their formal model that independent courts can deter manipulation when political competition is high, by exposing information about fraud and thus increasing the risk of protest. These results do not lend support to that proposed causal mechanism, however, for two reasons. First, the effect of a positive de jure reform is independent of alternative sources of information, a measure of which is included in the pre-processing phase. Second, they show that courts reduce the likelihood of fraud in settings of low partisan contestation and low political openness—settings where protest is also unlikely. Models presented in the appendix confirm that, if anything, judicial reforms make post-election protest *less* likely when fraud is high. As a result, the observed effect of positive judicial reforms on fraud is unlikely to be mediated by protest risk.

As an alternative to protest-risk theories of electoral manipulation, principal-agent theories highlight the risks faced by low-level agents who do the work of tampering with elections. The negative relationship between formal judicial independence and electoral manipulation in uncompetitive settings suggests that agents may have consequences to fear even if their patron remains in office. Agents fearful of punishment may refuse to engage in electoral manipulation even if their political patrons would benefit (Rundlett and Svolik 2016). By increasing the risk that individual election-manipulating agents will be exposed and punished—even following a ruling party victory—a more independent judiciary may worsen the principal-agent problem and make it harder to ruling parties to recruit willing agents. Support for H2 also bolsters this interpretation; dependent special courts shield agents from risk, but should do little to reduce protest risk since opposition groups can still use the electoral courts to publicize their claims, even if such courts are not fully independent (Chernykh and Svolik 2015). This understanding of agent risk is a theoretically significant advancement on the model developed by Rundlett and Svolik (2016), who assume that leaders will protect their agents if elected. Broadly speaking, it may help explain why seemingly strong ruling parties sometimes fail to deliver adequate election manipulation and how opposition groups try to raise the cost of manipulation for low-level actors, and indicates that policy reforms can improve election integrity even in uncompetitive areas.

Other tests of the implications of this framework are provided in the appendix. Inter-temporal effects within cases show that improvements in election quality fade in subsequent elections, in keeping with the prediction that increased competition will yield increased pressure on courts. In turn, the risk of a regime breakdown is most acute in the year after reform—suggestive of democratization by incumbent miscalculation (Treisman 2020).

**Conclusion**

Recent research has articulated many benefits that non-democratic regimes can generate from granting their courts a degree of independence. To accomplish this, non-democracies have adopted many of the same *de jure* institutions of judicial independence found in democracies, just as many non-democracies have adopted the institutions of multiparty elections. Nevertheless, there are varying predictions about the effect of judicial independence on election manipulation in non-democracies. This paper sets out a new theory of this relationship, which argues that by increasing the opportunities for legal mobilization by opposition actors, *de jure* reforms can lead to reduced election fraud in non-competitive settings; this effect is attenuated as competition increases and governments face stronger incentives to pressure the courts. Support for these predictions is found using a large cross-national sample and pre-processing techniques to improve causal inference. The findings are contrary to the predictions of protest-oriented models of election fraud (Chernykh and Svolik 2015) and the standard principal-agent model (Rundlett and Svolik 2016), and go beyond the predictions of strategic pressure theory (Popova 2012).

These results improve our understanding of illegal election manipulation, by implying that election-manipulating agents can face risks even if their patrons win the election and remain in power, and that these risks can be exacerbated by *de jure* institutions of judicial independence and associated mobilization by opposition groups. They indicate that the risk of mass protest may be overemphasized as a deterrent to manipulation, relative to more broad-based explanations like the modified principal-agent model and ruling parties’ fear that manipulating elections may induce low-level reductions in regime legitimacy. Substantively, the results have implications for non-democracies and democracies at risk of backsliding alike. For non-democracies, they show that *de jure* reforms that make investigation and prosecution more likely can generate real improvements in election quality. For democracies at risk of backsliding, this finding highlights the importance of judicial independence in sustaining election integrity.

Finally, the scope conditions of this model may provide insights for future research on the connections between *de jure* and *de facto* judicial independence in non-democracies. This model predicts that the effect of *de jure* reforms on judicial behavior is jointly contingent on the existence of constituencies with an incentive to turn to the courts (even when the odds of prevailing are low) and on low incentives for the government to apply selective pressure on the courts. The effect of *de jure* institutions on judicial behavior is thus likely to vary according to the issue domain as well as the surrounding context. This suggests that future research on this question may benefit from focusing on issue domains, legal constituencies, and ruling-party incentives rather than on general concepts and measures of *de facto* independence.

What, then, is the effect of these *de jure* changes on the level of *de facto* independence in such countries? The evidence is mixed. Several studies have found no effect of increased *de jure* independence on behavioral independence (Larkins 1996; Herron and Randazzo 2003; Smithey and Ishiyama 2002; Helmke and Rosenbluth 2009), including recent large-n cross-national work (J. Staton, Reenock, and Holsinger 2020), while others have found a positive relationship (Hayo and Voigt 2007; 2019; Melton and Ginsburg 2014). In most of these studies, *de facto* judicial independence has been conceptualized as a general phenomenon—applying to the court system as a whole without regard to policy area—and measured as such. Most recent studies, for example, rely on the measure of latent judicial independence (LJI) developed by Linzer and Staton (2015), which estimates general *de facto* independence.

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1. While opposition parties argued that this fine was inappropriate for the actual scale of the attempted manipulation, in which 130 pre-filled ballots were discovered, it is a not insignificant amount of money in a region where the average monthly income is less than 30,000 rubles (see <http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/ru/statistics/wages/> (Rus). [↑](#footnote-ref-1)
2. Indeed, recent cross-national work shows no relationship between political competition and the improvements in *de jure* independence (J. Staton, Reenock, and Holsinger 2020; Epperly 2019b). [↑](#footnote-ref-2)
3. Administrative penalties generally include fines, the loss of public position, or the right to stand as a candidate for office (Orozco-Henriquez et al., 2010, pp. 40-50). [↑](#footnote-ref-3)
4. International courts can also widen the space for legal mobilization and hold non-democratic governments accountable (Alter, Gathii, and Helfer 2016). However, since the causes of state willingness to be party to, and follow the rulings of, international courts differ from the domestic incentives discussed here, the effect of international courts is left to future research. [↑](#footnote-ref-4)
5. It should be noted that Epperly (2016), in another large study, finds the opposite relationship using different measures. [↑](#footnote-ref-5)
6. Vote-buying and intimidation are discussed in the appendix, with similar (though, as predicted, weaker) results. [↑](#footnote-ref-6)
7. For example, of the 1009 observations in the dataset, 636 observations are from 1990 or later. [↑](#footnote-ref-7)
8. For clarity, I multiply the variable by -1, so that higher values indicate more severe manipulation. [↑](#footnote-ref-8)
9. Specifically, this variable takes on a value of 1 when the V-Dem variable ‘v2jureform\_ord’ takes on a value of 2 (indicating a positive reform), and zero otherwise. Examples of reform given in the V-Dem codebook include the creation of new forms of judicial review, new rules that increase access to the courts, or new judicial remedies (Coppedge, et al. 2017); this suggests that events coded as treatments will be relatively significant reforms (to the exclusion of small-scale changes like incremental increases in judicial salaries or terms of office). [↑](#footnote-ref-9)
10. I code all presidential elections as majoritarian. [↑](#footnote-ref-10)
11. <http://www.clio-infra.eu/> [↑](#footnote-ref-11)
12. Plots and adjusted confidence intervals were implemented using the interplot package in R (Solt, Hu, and Kenkel 2019). [↑](#footnote-ref-12)
13. Ginsburg and Vertseeg (2014) find that competition does make it more likely that states will adopt de jure constitutional review, but this is distinct from formal institutions that insulate judges from political pressure. [↑](#footnote-ref-13)