Disputed Elections in Presidential Democracies: Contexts of Electoral "Blackmail"

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This study examines the global phenomenon of postelection disputes within presidential democracies. By using an original data set of 164 presidential elections held from 1974 to 2012 in 31 democracies spanning the Americas, Africa, and Asia, two-stage regression modeling was conducted. Comparative case studies from Indonesia and Venezuela were used to explain why and how losers challenged election outcomes. The results showed that challenges occurred equally under conditions of low and high election quality and varying autonomy of election management bodies. However, the presence of constitutional rules and institutional adjudication mechanisms influenced their institutional or noninstitutional routes. Importantly, postelection disputes were not necessarily instigated by fraud. They were more likely to occur when runner-up parties had unfavorable negotiating positions within Congress and therefore resorted to blackmail of the new government to acquire short-term power enhancing benefits beyond the electoral arena in exchange for political stability.

Elections are defining moments in which the stability of democracies is tested. The behavior of losing candidates is key at this stage. If a losing candidate challenges an election outcome, this action portends political instability. Even within an established democracy like the United States, Al Gore's contestation of the presidential election in 2000 led to an unprecedented constitutional crisis for which American institutions were ill prepared (Posner 2004). In other democracies, contesting election outcomes could result in electoral apathy and lower voter turnout (Birch 2010; Simpser 2012). Moreover, considering that ethnic civil wars usually begin as postelectoral conflicts (Cederman, Gleditsch, and Hug 2013), such contests could also be catalysts for electoral violence. Given that challenging electoral results can potentially lead to a breakdown of the constitutional order and even of democracy itself, it is essential to understand the conditions under which losing candidates can contest elections.

The norm within democracies is for losing parties to simply accept defeat and await the next election.[1] However, democracy is a system that produces winners and losers (Przeworski 1991), and disputed election results are not anomalies within presidential democracies. Following the onset of the third wave democracy, 21.34% of presidential election results worldwide have been publicly rejected by runner-up parties.[2] Postelection disputes do not just occur in electoral authoritarian regimes but also in democratic states with free and fair elections. In fact, after cross-tabulating my own data on losers' rejection with data compiled by international missions of election monitoring on the quality of democratic elections, I found that runner-up parties rejected the outcomes of 12 out of 35 elections entailing medium and high levels of irregularities and flaws (34%) and 19 out of 131 elections entailing a minimal degree or absence of flaws (14.5%).[3] Given that "fraudulent elections are rarely witnessed in democracies"

1. From this point, every reference made to losing parties refers to the runner-up parties (the second place in the contest).

2. Author's own data derived from newspaper coding. Beaulieu (2014, 47) report a similar figure (19%) based on an analysis of 765 national elections (presidential and legislative) within developing countries.

3. Data are available for 166 elections held in presidential democracies. See the following discussion on the measurement of *Irregularities and Flaws* for sources on data of quality of elections. Similarly, Staffan Lindberg (2006, 150) noted that in the case of Africa's presidential elections, "even in the free and

(Hyde and Marinov 2014, 330), why then are we witnessing postelection disputes within democracies?

Comparative scholarship on election disputes offers two broad explanations for the puzzling phenomenon of non-compliance. The first explanation considers protest as a dual-purpose game in which the opposition aims to win elections but also (and critically in nondemocracies) signals lack of equality in the electoral process in the hopes that this will contribute to leveling the electoral playing field (Eisenstadt 2004; Mainwaring 2003; Schedler 2002, 2013). The second explanation focuses on informational asymmetries that may provide the incumbent with opportunities to commit fraud (Beaulieu 2014; Chernykh and Svolik 2015) and on institutional solutions to that problem such as the presence of third parties, for example, autonomous electoral management bodies (EMBs; Eisenstadt 2004; Hartlyn, McCoy, and Mustillo 2008; Lehoucq 2002; Rosas 2010) and electoral courts and observers (Hafner-Burton, Hyde, and Jablonski 2014; Hyde and Marinov 2014). Both of these strands of literature share the assumption that fraud is the main reason why losing parties legitimately reject elections results. While this assumption may be partially true, it does not account for the short-term goals of party elites, such as availing of any opportunity to negotiate concessions and benefits with the winning party, even when elections are free and fair.

Building on previous studies that have explained postelection disputes, which focus their findings on variables directly related to the context of the election, this article offers a complementary theory that traces the source of postelection disputes to the balance of power between leading political forces within Congress. I argue that losing parties within presidential democracies are not challenging election results to protest fraud, as in authoritarian regimes (Schedler 2013); rather, they do so to strengthen their ability to negotiate with the newly elected government. Losing political parties with an unfavorable negotiating position within Congress are most likely to implement this strategy. Negotiations for the runner-up party entail exchanging postelectoral stability for immediate benefits. Losing parties are particularly interested in negotiating power positions that can help them to secure their financial needs. For example, cabinet positions or parliamentary leadership at the commission level generate financial resources from government-derived rent-seeking activities.

This article contributes to the growing literature of postelection disputes in three ways. Within the literature, post-election disputes have been explained through a focus on long-term goals such as regime democratization and election reforms. By contrast, this article focuses on short-term motivations of runner-up candidates for garnering benefits, such as leadership positions in Congress and cabinet appointments. Second, the article explores some of the strategic and political reasons for challenges and avoids casting the opposition as always being unimpeachable. Studies of democracy too often portray the opposition as "good" and on the side of legitimacy and democracy, which is not always the case. Third, the article highlights the significant role of Congress as a dynamic site of power balancing and negotiation that has not been previously explored in relation to presidential election disputes.

I first review the main findings on election disputes. I subsequently develop a theory of electoral blackmail to identify political conditions entailing the greatest incentives for losing parties to challenge election results. Next, I discuss the research design and test my hypothesis using an original data set of all presidential elections held worldwide, between 1974 and 2012. This data set codes the behavior of runner-up candidates in 164 democratic presidential elections held within 31 democracies (19 in the Americas, 8 in Africa, and 4 in Asia). The coding was based on newspaper reports and academic sources.[4] Following this analysis, I present case studies of presidential elections held in Indonesia and Venezuela in 2009 and 1978, respectively, to demonstrate the association between the margin of seats in Congress and the presence of election challenges. In the final section, I summarize and discuss my main findings.

REJECTING ELECTION RESULTS

Given that postelection disputes are hardly ever successful in overturning election results, and that challenging parties have a lot to lose in terms of their reputations, it is surprising that they challenge election results at all. One group of scholars has explained postelections disputes as a dual-purpose game. The opposition participates in elections with the goal of eventually winning, but crucially, to renegotiate the rules of the game to improve its fairness (Eisenstadt 2004; Mainwaring 2003; Schedler 2002, 2013). In authoritarian regimes, losing parties challenge the results of an election and engage in postelection protests claiming electoral fraud, mainly to signal to the world the country's lack of democracy, with the hope that this may lead to liberalization of the regime (Beaulieu and

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fair elections, losing parties endorsed the results immediately in only 40% of the cases. . . . Losing parties use disputation of election results, thereby questioning the legitimacy of the process and of the winning candidate's access to executive office, all too often."

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4. The data set comprised 182 democratic presidential elections, but because of missing data, only 164 elections were analyzed.

Hyde 2009; Eisenstadt 2004; Howard and Roessler 2006; Levistky and Way 2002).

However, recent experience shows that while autonomous election management bodies may improve the fairness of the electoral process, they do not necessarily deter challenges to election results. Of the 40 challenged elections within presidential democracies, half corresponded to cases with a low degree of EMB autonomy and the other half to cases with a high degree of EMB autonomy.[5] Despite the presence of sound institutional structures for handling elections, politicians may still find excuses for complaining about electoral processes, even if they were fair, to advance their own agendas.

A second group of scholars has offered an institutional explanation. Election results are rejected in low-information environments where it is difficult to observe the true level of electoral manipulation (Beaulieu 2014; Chernykh and Svolik 2015). However, there can be institutional devices that help to ameliorate these informational asymmetries. Greater autonomy of electoral institutions increases trust in election outcomes (Chernykh and Svolik 2015; Eisenstadt 2004; Hartlyn et al. 2008; Lehoucq 2002; Rosas 2010). Similarly, international observers play a prominent role in improving the credibility of elections by providing information about the presence and impact of electoral misconduct (Donno 2013; Hafner-Burton et al. 2014; Hyde and Marinov 2014). This literature recognizes the "possible misrepresentations of reality that opposition parties offer" (Schedler 2013, 301), implying that it is possible that protests against fraud are fraudulent themselves. Therefore, the question of what motivates electoral protests within democratic regimes requires further exploration.

ELECTORAL BLACKMAIL WITHIN DEMOCRACIES

In this article, I focus on democratic regimes. This is because the logic of losers' noncompliance differs within nondemocratic regimes. As previously discussed, the main reason for participating in and contesting elections within authoritarian regimes—particularly those that are competitive—is to contribute to the regime's liberalization. This is a long-term goal. By contrast, within democracies, I argue that challenges to election results represent a negotiation tactic focused on short-term gains and extending beyond the electoral arena.

Here I simplify my study of the election of executives by focusing only on presidential elections. Within presidential regimes, the executive is popularly elected instead of being appointed through parliamentary negotiation. This means that any possible dispute over the executive's election focuses on the popular election itself rather than on a parliamentary negotiation. This is known as "identifiability" (Samuels and Shugart 2010).

Moreover, I assume that the actions of the losing party and the losing candidate belonging to that party are unitary.[6] It has been argued that parties cannot assume the alignment of interests between their executive branches (presidential candidates) and their legislative branches within presidential systems. Samuels and Shugart (2010, 3) have pointed out that "after a presidential election, intraparty accountability [over its presidential nominee] virtually ceases, because once in office parties cannot 'fire' their leaders as presidents." However, the losing candidate of a presidential election is not in the same independent position as the candidate who won the presidential election and may therefore have a greater incentive to align with the party. Party leaders can impose discipline over their losing candidate, as the party controls valuable resources to which the losing candidate may want to maintain access, for example, a subsequent nomination or the distribution of resources for future campaigns (Aldrich 1995).

My argument that disputing election results constitutes a negotiation tool builds on Przeworski's (1991) notion that electoral institutions induce political actors to think about the future rather than focus exclusively on present outcomes. However, I suggest that it is precisely because political parties think about their future that they decide to challenge present electoral outcomes to obtain short-term benefits that can help to improve their current position, with the aim of winning future elections. Seeking these short-term benefits represents a survival strategy for a weak party up to the next election. Before deciding to challenge election results, losers will consider the benefits and costs of doing so.

Once a party loses an election for the executive, it faces the dilemma of accepting or challenging the outcome. It makes this decision through a careful balancing of potential costs and benefits. Among the repertoire of potential benefits and motives for challenging election results, losing parties could be interested in addressing actual grievances regarding their particular elections (Beaulieu 2014; Schedler 2013). Nonetheless, elections within democracies, however imperfect, are fair in the sense that they reflect the actual vote of an individual (Simpser 2012). Moreover, losing forces may want to

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5. Data on EMB autonomy were obtained from V-Dem (Coppedge et al. 2016), and data on the rejection of election results were derived from my own newspaper coding.

6. This article's argument is about the strategy followed by the runner-up party (e.g., the second place) and not about what all the losers do. It is possible that the third place, and other parties, may join the postelectoral protest of the runner-up party. However, the focus of this article is on second place because they are the most visible actors in cases of postelectoral protest.

challenge an allegedly fraudulent election outcome to declare it invalid and call for a new one. However, this generally does not happen within democracies.[7] Rather, my theory of electoral blackmail contends that in exchange for conceding defeat, losing political forces aim to obtain short-term benefits such as coordinating decisions within Congress (Aldrich 1995; Cox and McCubbins 1994; Shepsle and Weingast 1994), cabinet appointments (Katz and Mair 1995; Strøm 1990), parliamentary leadership positions (Ambardi 2008), and passing key legislation (Strøm 1990). These benefits help to increase losing parties' chances of success in future elections, while increasing their share of power immediately after losing an election.

Evidently, challenging election results entails several costs. In the case of formal legal challenges, for example, parties need to develop and train legal teams so that they acquire the expertise to present a case before the appropriate authorities (Vickery 2011). This is not a trivial matter. Wrongly filing a case could result in an additional and highly visible failure for the losing party. For example, after Ghana's Justice Nabarese showed that 70% of electoral disputes were wrongly filed, these cases were consequently dismissed (Ghana News Agency 2012). Also, most of the systems designed to solve postelection disputes place the burden of proof on the losers. They need to provide complete and irrefutable legal evidence that certain irregularities occurred (Bickerstaff 2009). For protests in the media or in the streets, challenging election results takes a toll on the reputation of the challenging party, which may be perceived as a sore loser or as jeopardizing democratic stability, especially if the dispute lacks credibility or is unreasonable. A last consideration is that in the event that parties opt for popular protest, there are economic costs to solving collective action problems and mobilizing constituents to take to the streets (McCarthy and Zald 1977).

The runner-up party could use other bargaining tools to incentivize the winner to engage in negotiations with it, such as threatening to be a recalcitrant opposition. However, the period of time from the moment when the electoral authority announces the results of the presidential election to the moment when the newly elected government is sworn in represents a golden opportunity for the runner-up party. If it claims fraud hard enough, this can leave an indissoluble stain on the record of a government that has not taken office yet. It is better to pressure a newly elected government that has not achieved its full capacity in order to extract some short-term benefits in the postelectoral period than to wait until the gov-

ernment takes office and starts securing more power. If, on the other hand, the runner-up party simply threatens to be a recalcitrant opposition, then it is risking that the newly elected government once in office disregards the demands of the losing party. If the runner-up party is going to use a blackmail strategy at all, it is when the elected government has not taken office yet.

Under what conditions, then, is this negotiation strategy feasible? I maintain that for presidential democracies, losing political parties with an unfavorable negotiating position within Congress will opt to dispute election outcomes to strengthen their own ability to negotiate with the new government. If these negotiations occur, Congress could become involved, as it has the power within most presidential systems to approve and allocate budgets and authorize the appointment of high-level officials, judges, and diplomats. However, not all political parties are likely to benefit from this sort of blackmail strategy entailing concession of defeat only in exchange for certain benefits. Political parties constituting a majority within Congress are already well positioned to negotiate with the winner, because of the size of their legislative caucus, and will not incur the economic and reputational costs of challenging electoral results. From the institutional viewpoint, a party with a large share of seats in Congress is more likely to get what it wants through legislative negotiations than a party with a smaller share of seats. Given their lack of numerical strength, smaller parties need other sources of power, including electoral blackmail, to obtain leverage during congressional negotiations. The losing party will only be willing to bear the costs of strategically challenging an election result, with the aim of acquiring leverage in negotiations with the winner, if it is in an unfavorable position from which to negotiate within Congress. Thus, parties with a smaller share of seats in Congress are more likely to protest election results as a tool for acquiring leverage in negotiating short-term benefits (hypothesis 1).

Why do winners want to engage in negotiation at all? Specifically, do they have incentives to negotiate with a runner-up candidate with a weak negotiating position? The runner-up party, even if it has a weak negotiation capacity in Congress, can engage in several strategies that can affect the newly elected government's ability to govern and negatively affect its legitimacy. In Congress, for instance, they could filibuster any initiative proposed by the government, or (as happened during the 2006 presidential conflict in Mexico) they could take over the congressional tribune in an attempt to avoid the winner taking the oath of office, preventing them from initiating their mandate with all the formalities that are necessary. Outside of Congress, they can organize mass demonstrations against the newly elected government, and these demonstrations can

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7. Within the subset of democratic presidential elections, only one, Panama's presidential election of 1989, has been declared null and void by the electoral justice authorities.

affect the daily life of citizens. They can generate uncertainty about the fairness of the electoral process, raising doubts among the electorate of why they should obey a "spurious" government. It is clear that even if a runner-up party does not have the capacity to block the passing of government bills in Congress, it can still create a governability crisis for a new government in the postelectoral period.

Once a political party has taken the decision of challenging election results, the next decision it faces is choosing what strategy it will follow: whether to litigate in court, protest in the streets, or pursue both options. The strategies followed by political parties to challenge election results can also shed light on the motivations to do so. We would expect that independent authorities that adjudicate election results will probably rule in favor of the plaintiff, at least partially, if widespread irregularities occurred during the election. However, if it is true that, in democracies, losing parties reject election results as a negotiation strategy (meaning that losing parties are pursuing political ends rather than rejecting elections to legally redress election flaws), then we should expect that the presence of more autonomous institutions decreases the level of postelection litigation. If there is a purely political case with no solid evidence of irregularities in the elections, and the dispute reaches an autonomous and professional adjudicating body, then the case will likely be dismissed due to a lack of merit.[8] Therefore, greater autonomy in electoral justice institutions should be negatively associated with the degree of litigation, or at least show a null relationship (hypothesis 2).

Also, some features of institutional design might influence the choice of different strategies for challenging election results. If the constitution of a given country had an explicit mechanism for solving election disputes (e.g., who is the authority in charge of solving the dispute and under what claims a legal challenge will proceed), this would make it easier for political parties presenting a lawsuit against election results. Another alternative—or complementary—noninstitutional strategy entails protest and mobilization. The associated repertoire of actions includes street protests, occupation of public buildings, blocking main avenues, and calling for strikes and massive demonstrations. Machado, Scartascini, and Tommasi (2011) have argued that higher institutional strength is associated with a lower propensity to protest. They argue that when institutions are strong, conflict is more likely to be processed through institutional means, but when there is an environment of weak institutions, the payoff of protest increases. In democracies, while protest can complement legal measures, it is less likely to occur in the presence of autonomous electoral adjudicating institutions (hypothesis 3).

Finally, when losing political forces decide to escalate their contention of election results and take to the streets, they must consider whether any social structure exists to facilitate mobilization of their supporters. Political leaders need social networks to mobilize their supporters and promote collective action. Here political parties have an advantage given that they are themselves social networks that were previously mobilized for campaigns and canvassing (Trejo 2014). A previous history of protest could be an indicator of ease of mobilizing party supporters in the context of a postelection dispute. We can therefore expect politicians to use contentious political means of protest to challenge election results when a structure of social mobilization exists (hypothesis 4).

STATISTICAL ANALYSIS

To test the above hypotheses, I conducted a cross-country comparison of all democratic presidential elections, held between 1974 (which marks the onset of third wave democracy; (Huntington 1991) and 2012.[9] This includes presidential elections in 19 countries in the Americas, 8 countries in Africa, and 4 countries in Asia.[10] My unit of analysis is country-year elections. Cheibub, Gandhi, and Vreeland (2010) have defined presidential democracies as countries where: the executive and the legislature are popularly elected; more than one party competes, and there is alternation in government; and survival of the executive does not depend on the assembly. I excluded presidential elections held in nonpresidential democracies, as defined by Cheibub et al. (2010), as well as those held in countries with less than 3.14 million inhabitants.[11]

Measures

I coded the study's dependent variables in four ways. A dummy variable, *Intention to Challenge*, identified whether a losing candidate or a party official publicly announced his or her refusal to accept the results of the election within three days of its occurrence. Its value was 1 if the loser announced his or her refusal to accept the election results, publicized an intention to take legal recourse, or proclaimed himself or herself as the winner. Its value was 0 if the candidate or a party representative conceded defeat. A second dummy variable,

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8. Similarly, Chernykh and Svolik (2015) argue that third party actors, such as electoral courts, improve self-enforced compliance with election outcomes because, on the one hand, they deter the incumbent from manipulating elections and, on the other hand, third party actors' endorsement of the election results deters the opposition from protesting.

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9. I consulted the IFES Election Guide, which lists all presidential elections held worldwide between 1974 and 2012.

10. See app. B for a full list of countries and years included.

11. This was an arbitrary threshold taking the irrational number π as reference for excluding small states.

Legal Challenge, identified whether legal petitions were filed before the respective adjudicating electoral authorities. The third dummy variable, *Protest*, identified whether any act of protest (e.g., street protest, civil disobedience, occupation of public buildings, or use of violence), aimed at challenging election results had occurred. Given my interest in the strategic choices of party leaders, and following Beaulieu's (2014) coding of opposition protest, I only included cases in which party leaders were instrumental in initiating and leading mass demonstrations. The fourth variable, *Both*, entailed a combination of legal and noninstitutional challenges.[12] Appendix A (apps. A–E are available online) presents the descriptive statistics of all the variables used in the analysis.

To test the hypothesis that having a smaller share of seats in Congress was more likely to generate challenges to presidential election results, I measured the *loser's share of seats* in Congress. This is the percentage of seats obtained by the second-place party in the presidential election.[13] In general, presidential and congressional elections were held concurrently, but in cases where they were not, I considered the most recent congressional elections or those that occurred within a month of the presidential elections.[14]

To test the hypothesis for the second stage concerning decreased litigation levels with the presence of more autonomous electoral adjudicating institutions, I used a data set for de jure autonomy of institutions adjudicating election disputes. This index, ranging from 0 to 9, focuses on rules formulated to insulate authorities from political pressures. These include fixed-term tenure, multilateral appointment procedures, mandatory minimum qualifications, budgetary autonomy, removal procedures, and multiple-member governing bodies. Information sources for this data set were national constitutions, secondary legislation such as electoral statutes or laws regulating the judicial branch, and their respective amendments, year by year, to capture changes over time. I also included a dummy for an explicit procedure specified within the constitution for solving presidential election disputes, to assess whether this legal provision incentivized legal challenges.[15] A final test was performed to assess whether the presence of a social mobilization structure facilitated protest. For this test,

I used the number of antigovernment demonstrations that occurred during the year before the presidential elections took place.[16]

The first and most obvious of the study's control variables was the *margin of victory* in the presidential election. Narrower margins of victory could provide an incentive for challenging an election result. This variable was constructed by subtracting the percentage of the runner-up candidate's votes from that of the winner.[17] Also, it is reasonable to expect that learning the rules of the democratic game requires time, so the *age of democracy* matters. Political parties must learn that submitting themselves to democratic procedures and complying with election results is to their advantage (Przeworski 1991). We should therefore expect challenges to election results to be less frequent in older democracies than in younger ones. To control for this variable, I calculated the number of years of democratic experience of each country, commencing from 1945, based on Cheibub et al.'s (2010) coding.[18]

Although democratic elections are expected to be free and fair this is not necessarily the case. Irregularities and flaws can provide legitimate reasons for challenging election outcomes. To control for the presence of *irregularities and flaws*, I used a dichotomous measure for distinguishing between elections with minor or no irregularities (assigned the value 0) and elections with medium and high levels of irregularities (assigned the value 1). To make this distinction, I used the *as2* variable from the "quality of elections" data set (Kelly and Kiril 2010). This is an overall measure of election quality that includes preelection political conditions, explicit cheating on election day, and overall preelection and postelection administrative capacity.[19] In cases of elections for which the *as2* variable was missing, I used two variables obtained from the "national elections across democracy and autocracy" data set (Hyde and Marinov 2012). These were allegations made by

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12. Data were obtained from the following newspapers: *El País*, *ABC*, *New York Times*, and *The Guardian*. The coding rules and informational excerpts, along with sources, are displayed in app. E.

13. For most of the elections (124 cases), the congressional delegation of the runner-up party was smaller than that of the elected president's party; for three elections, they were the same size, and for 39 elections, the losing delegation was larger than that of the president.

14. Data were extracted from Nohlen (2005), Nohlen, Grotz, and Hartmann 2001, and Nohlen, Krennerich, and Thibaut (1999) Data Handbooks.

15. Data from Hernández-Huerta (2017).

16. This was the *Antigovernment Demonstrations* variable in the Cross-National Time-Series Data Archive (Banks and Kenneth 2017). The argument I am testing here is that street protests are more likely when the runner-up party has social networks to mobilize their supporters and promote collective action. However, there are no indicators of when these specific parties previously engaged in actions of protest against the government; therefore, I used as a proxy the number of antigovernment demonstrations that occurred during the year before the presidential elections took place, regardless of who initiated them. This indicator may reflect the average level of protests in a given country-year, and therefore it could give us an idea of how easily political parties can mobilize their supporters onto the streets in an election year.

17. See Nohlen (2005) and Nohlen et al.'s (1999, 2001) Data Handbooks.

18. My count started from 1945 because many comparative studies on democratization take this year as a starting point.

19. For a more detailed discussion of this variable, see the section on the *sa1* and *sa2* variables in the DIEM codebook: https://sites.duke.edu/kelley/files/2011/05/CodeBookDIEM.pdf.

Western monitors of significant vote-fraud, and the raising of significant concerns that the proceedings would not be free and fair prior to an election.

I considered the *mechanism for electing the president* as an additional control variable. One of the disadvantages of the plurality method is that it can result in the election of the least preferred candidate according to the Condorcet loser criterion—as happened in 1970 for Allende's election in Chile, which polarized the social environment, ultimately ending in a coup (Colomer 2001). Therefore, applying the plurality method can affect the acceptability of election results. I built a categorical variable with four values for methods for electing presidents: 1 = plurality of popular vote, 2 = second round, 3 = second round entailing congressional selection of candidates with the most votes, and 4 = election by an electoral college.

Additionally, it is possible that runner-up candidates' behavior during past elections may influence the behavior of losing candidates in the present election by setting a precedent (Schedler 2013). If losing candidates in a given country frequently challenge election results, this behavior may become normalized, thereby lowering the reputational costs of noncompliance with election results. Therefore, I also included the dummy variable, *previous challenge*, as a control for capturing whether the results of either of the two previous presidential elections had been rejected.

The opposition could conceivably claim that fraud occurred, and therefore reject election results, if they lost the election (Beaulieu 2014). Conversely, a victory of the opposition could decrease the likelihood of rejecting election results. Therefore, the occurrence of *opposition victory* in the election was also included as a dummy variable.[20] A final control variable was the EMB's degree of autonomy, as this factor is known to affect the behavior of losing parties (Eisenstadt 2004; Lehoucq 2002).[21]

Anderson et al. (2005) suggest that the *electoral system* in which legislative seats are distributed plays a key role in the acceptability of election results. They argue that, in proportional representation systems, losers are more prone to accepting election results because even losers get a share of power in Congress, whereas in winner-takes-all systems the spoils of power are more concentrated.[22] To test this feature of the electoral system, I included a categorical variable that identifies the electoral system: 1 = Congress is elected by plurality rule;

2 = elected by proportional representation; 3 = with a mixed system.[23] The reference group in the analysis is plurality.

For the second stage models, in which losers decided and formed a strategy to reject election results, I included *Polity IV*, a quality of democracy variable, as this could influence the decision on whether to respect the rules of the game and choose the institutional route to reject election results or, alternatively, to choose a noninstitutional rejection strategy.

Methods and results

Following the logic of my argument, I adopted a two-stage process for the empirical analysis. During the first stage, I modeled the losers' initial decision to reject election results. After that decision is taken, I model the use of various rejection tactics: legal challenge, protest, or both.

The sequential character of postelection disputes, in which losers first decide whether to reject the election results (selection equation) and then choose a rejection tactic (outcome equation), could lead to biased estimators of the second stage if not modeled properly. If the error terms of the initial decision are correlated with errors during the subsequent stage, then the estimation of the rejection tactic would be biased (Guo and Fraser 2010; Heckman 1979). In this case, simply including cases (30 out of 160 elections) in which losers decided to reject election outcomes to estimate rejection tactics could potentially lead to an estimation bias. To address this problem, I ran a Heckman probit model that reflected the self-selection process during the first stage and also assumed that the probability of a loser's announcement of the rejection of election results could be correlated with his or her consequent selection of a rejection tactic. However, the correlation of error terms for the selection and election outcome was effectively zero, indicating that the outcome of the equation was uncontaminated by selection bias.

In 38 out of 178 presidential elections (21.34%), the losing party issued an initial public statement rejecting the results of the election. Several of the factors (described in the previous section) influenced this initial decision. I initially used binary logit regressions with robust standard errors clustered by country to estimate this initial decision. However, fitting an ordinary logistic regression model with standard errors for the clustered data would treat the correlation among challenges to election results for the same country as a nuisance (Rabe-Hesketh and Skrondal 2012). Challenges to presidential election results, or their absence, within a given country cannot be considered independent events. Different observations over time within the same country must somehow be correlated, and it is necessary to control for this. To relax the

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20. Data were extracted from V-DEM's variable *election executive turnover* (Coppedge et al. 2016).

21. Data were extracted from V-DEM's *EMB autonomy* variable (Coppedge et al. 2016).

22. Anderson et al. (2005)'s argument is about voters who support the losing side, and their attitudes toward the new government and the fairness of the electoral process, not about the strategies followed by parties and candidates per se.

23. Data from Bormann and Golder (2013).

assumption of conditional independence among observations for the same country, I also included a random specific intercept for each country (random effects logistic regression models). These models fitted subject-specific probabilities for individual countries, providing a subject-specific random intercept for each unit, while enabling covariates to remain fixed (Rabe-Hesketh and Skrondal 2012).

Table 1 shows estimates of these regressions (logit regressions with robust standard errors clustered by country and random effects logistic regression models). My initial estimate entailed baseline models (1.1 and 1.2) that only included political variables directly related to the election. I then estimated additional models (1.3 and 1.4) that included institutional variables for considering the strength of the electoral authorities (institutions of electoral justice and EMBs). The final estimate entailed a full model that also considered the institutional mechanism for electing the president and the electoral system for electing the Congress.

Table 1. Regressions for Intention to Challenge Election Results

	Political		Institutional		Full	
	Model 1.1	Model 1.2	Model 1.3	Model 1.4	Model 1.5	Model 1.6
Loser's seats (%)	−.0496***	−.0523**	−.0391**	−.0423*	−.0542***	−.0544**
	(.0162)	(.0224)	(.0168)	(.0230)	(.0180)	(.0255)
Previous challenge	1.102**	.793	1.027**	.824	.675	.667
	(.492)	(.620)	(.496)	(.656)	(.465)	(.662)
Margin of victory	−.0708***	−.0796***	−.0773***	−.0821***	−.0852***	−.0855***
	(.0256)	(.0270)	(.0274)	(.0281)	(.0276)	(.0307)
Age of democracy	−.0399**	−.0475**	−.0240	−.0279	−.0186	−.0187
	(.0164)	(.0210)	(.0194)	(.0216)	(.0219)	(.0214)
Irregularities and flaws	.748	.647	.304	.258	.315	.313
	(.610)	(.604)	(.680)	(.624)	(.769)	(.642)
Opposition victory	−1.012**	−1.187**	−.918*	−1.028*	−.800	−.807
	(.485)	(.581)	(.522)	(.582)	(.583)	(.628)
Index electoral justice			.147	.154	.150	.150
			(.0935)	(.117)	(.0981)	(.120)
EMB's autonomy			−.737**	−.759**	−.739**	−.740**
			(.298)	(.356)	(.323)	(.369)
Electoral system (Plurality rule is the omitted group):						
Proportional representation					−1.439***	−1.448*
					(.453)	(.750)
Mixed					−1.221	−1.227
					(.854)	(.970)
Mechanism for electing the president (Plurality is the omitted group):						
Second round					−.505	−.507
					(.656)	(.654)
Second round Congress					−.514	−.517
					(.799)	(.921)
Electoral college					.148	.145
					(.684)	(1.517)
Constant	1.920**	2.283*	2.726**	3.020*	4.446***	4.471**
	(.953)	(1.233)	(1.205)	(1.558)	(1.284)	(1.956)
Prob > χ^2	.0001	.0094	.0001	.0067	.0000	.0355
Pseudo R^2	.187		.230		.283	

Note. EMB = electoral management body. N = 161. Standard errors in parentheses.
* $p < .10$.
** $p < .05$.
*** $p < .01$.

The coefficients for *loser's seats* (%) were statistically significant and negative for all of the models, suggesting that larger parties in Congress had fewer incentives to reject election results if they lost the presidential election. Thus, the results of the models offered empirical support for my first hypothesis regarding the importance of losing parties' share of seats in Congress in shaping their postelectoral strategies. Losing political parties with weak negotiating positions within Congress would be more likely to protest election results as a negation strategy that enables them to acquire leverage during negotiations with the new government, thereby obtaining short-term benefits.

It has been argued that a country with a previous history of postelection protest is more likely to experience contestation of the current election's results (Hyde and Marinov 2014). However, using random effects and in the full model the statistical effect of the *previous challenge* variable disappeared.

As expected, the variable for the *margin of victory* in the presidential election itself showed that smaller margins of victory increase the likelihood of challenging the outcome of election results in all models. Another variable that was statistically significant in all of the models in which it featured was that for the *EMB's autonomy*. The greater the autonomy of EMBs, the less likely it is that postelection disputes will occur. This finding is in line with a body of literature that suggests that once parties delegate the electoral function to autonomous electoral bodies, election-related conflicts generally cease, because the credibility of the electoral process increases (Eisenstadt 2004; Lehoucq 2002) and in the quality of electoral processes improves (Hartlyn et al. 2008).

While the existence of a *mechanism for electing the president* could confer more legitimacy to an election result, it does not increase the likelihood of losers accepting the election outcome. The literature in the social choice tradition has examined the effects of various voting methods. Shugart and Taagapera (1994) have argued that one of the advantages of the majority run-off over the plurality rule is that the former prevents the winner from being narrowly endorsed. The results of this study showed that a system entailing a second round does not have an advantage over plurality rule in terms of the acceptance of election results by the losing forces. Finally, the election of Congress by a system of proportional representation, as opposed to plurality rule, decreases the likelihood of having postelection disputes in the presidential election. This is in line with Anderson et al.'s (2005) argument that supporters of losers are more critical of election results and of democracy, but proportional representation systems attenuate this situation.

Up to now, this discussion has only focused on the sign of the estimated coefficients. Because interpretation of the logit coefficients, reported in table 1, is not straightforward, figure 1 uses estimates from model 1.6, showing that the probability that a runner-up party will reject an election outcome decreases with an increased share of congressional seats. To estimate these effects, all other variables were set at their means. When the losing party in the presidential election had, for instance, 20% of seats in Congress, the probability that it would challenge the election results was 25%. Similarly, when the runner-up party in a presidential election obtained 40% of the seats in Congress, the probability that the election outcome would be rejected decreased to 19%, and when it had 60% of seats, the probability decreased to 6.5%. Overall, the probability of rejection of election results was much greater with a decrease in the *loser's share of seats* in Congress.

Thus far, I have only discussed conditions that could result in rejection of an election outcome by a runner-up candidate. I next consider the rejection strategy chosen by the runner-up party. The available options at this point are to lodge a legal complaint before the authority responsible for adjudicating election results, engage in noninstitutional protests, or pursue both options. In 29 out of the 38 elections in which the runner-up party announced its decision to reject the election outcome, it engaged in some kind of legal action to reverse the election outcome. In 21 cases, it initiated some sort of protest or popular mobilization opposing the election results. It engaged in both tactics in only 16 cases. To study the determinants of each course of action, I ran separate logistic regressions for each dependent variable (table 2).
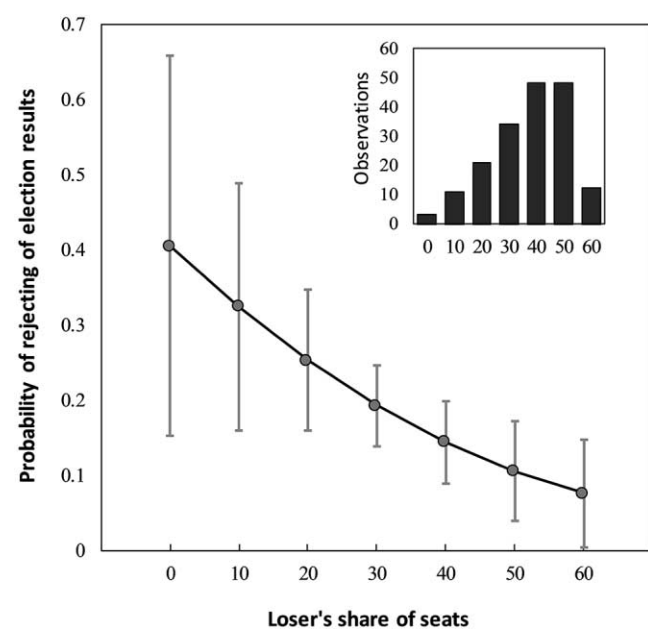

Figure 1. Point estimates and 95% confidence intervals of the marginal effects of the loser's share of seats in Congress on the probability of its rejection of election results, based on results reported in table 1. Bars in the top corner represent histogram of loser's share of seats.

Table 2. Heckman Selection Models

	Legal Challenge		Protest		Both	
	Model 2.1	Model 2.2	Model 2.3	Model 2.4	Model 2.5	Model 2.6
Second stage, strategy:						
Index electoral justice	−.332	−.0445	−.571*	−.321**	−.549*	−.308**
	(.269)	(.136)	(.309)	(.144)	(.299)	(.135)
Legal mechanism	3.715**	1.842***	3.104	1.624	3.651	2.285**
	(1.669)	(.655)	(2.021)	(1.160)	(2.287)	(.985)
Irregularities and flaws	−2.243	−.159	.290	.237	−1.305	−.322
	(1.943)	(.357)	(1.137)	(.714)	(1.429)	(.686)
Protest	.857*	.422*	.538	.349	.660	.384
	(.458)	(.216)	(.463)	(.228)	(.586)	(.247)
Polity IV	−.147	.171**	−.105	−.0126	−.217	.0977
	(.237)	(.0729)	(.209)	(.184)	(.181)	(.192)
Constant	1.828	−2.846***	.883	.398	.750	−1.010
	(1.785)	(.781)	(1.838)	(2.465)	(1.197)	(1.985)
ρ		1***		−.297		−.417
Corr(εit, vit) atanh ρ (est.)		11.94		−.307		−.444
LR test of indep.		308.54		.12		.41
$[p > \chi^2]$		[.000]		[.728]		[.519]
First stage, intention to challenge:						
Loser's seats (%)		−.0184**		−.0218**		−.0218**
		(.0088)		(.0101)		(.0098)
Previous challenge		.361		.458		.486
		(.292)		(.372)		(.296)
Margin of victory		−.0471***		−.0439***		−.0447***
		(.0134)		(.0151)		(.0141)
Age of democracy		−.0059		−.0111		−.0094
		(.0080)		(.0105)		(.0105)
Irregularities and flaws		.280		.242		.246
		(.357)		(.393)		(.371)
Opposition victory		−.691**		−.516*		−.503*
		(.278)		(.287)		(.291)
Index electoral justice		.0664		.0699		.0706
		(.0578)		(.0564)		(.0551)
EMB's autonomy		−.469***		−.434**		−.440**
		(.166)		(.174)		(.171)
Constant		1.591**		1.568**		1.534**
		(.710)		(.708)		(.686)
N (Censored N)	30	160 (133)	30	160 (133)	30	160 (133)
Prob > χ^2	.1051	.0267	.0747	.1293	.3931	.2548
Pseudo R^2	.2473		.2829		.2957	

Note. Pooled logit with clustered standard errors by country (2.1, 2.3, and 2.5). Heckman probit (2.2, 2.4, and 2.6). In the LR test of independence equations, the null hypothesis is that $\rho = 0$ ($p > \chi^2$). EMB = electoral management body; LR = likelihood ratio. Standard errors in parentheses.
* $p < .10$.
** $p < .05$.
*** $p < .01$.

Models 2.1, 2.3, and 2.5 only included cases in which the runner-up party announced its intention to reject the election outcome. Consequently, the sample size was significantly reduced in comparison with that of the earlier models. However, as previously discussed, this procedure could result in biased estimates of the various rejection tactics. Therefore, Heckman probit models were used for models 2.2, 2.4, and 2.6 to address the problem of possible self-selection bias.

The results presented in table 2 show that using a Heckman selection model was an inappropriate strategy for the noninstitutional protest and for a mixed course of action, while it is superior to competing specifications for the legal challenge. The Heckman model assumes that the estimated errors in the selection equation and those in the outcome equation are correlated (Guo and Fraser 2010; Heckman 1979). In models 2.4 and 2.6, the likelihood ratio test of independence ($H_0 : \rho = 0$) revealed that ρ was effectively 0, indicating that the outcome equations were not contaminated by selection bias; for model 2.2, ρ was no different from 0, suggesting the convenience of using a Heckman model.

Models 2.1 and 2.2 revealed the determinants of a legal challenge to election results. One of the findings of these regressions was that the degree of de jure independence of the institutions responsible for adjudicating election disputes did not affect the likelihood of a legal complaint being lodged. However, if the constitution for a given country-year included an explicit *legal mechanism* on how to proceed in the event of an election dispute, then it was more likely that a losing candidate would choose the legal route and complain about the election outcome. Only 67.72% of constitutions, by country-year, included such a rule. The existence of clear rules on procedures to be followed for disputing an election could be an incentive for choosing the legal route. Further, a previous history of protests against the government during the year preceding an election appeared to increase litigation levels. The positive and statistically significant coefficient of *Polity IV* suggests that democratic countries are more likely to challenge election results through an institutional route. *Irregularities and flaws* in the election did not seem to affect legal challenges.

Models 2.3 and 2.4 supported the view that a greater degree of autonomy of the institutions responsible for adjudicating election disputes contributed to demobilization of protests in the streets. This finding on the determinants of protest accords with Eisenstadt's (2004) finding that as the autonomy of electoral courts increased during Mexican municipal elections, political parties moved their protests from the streets to the courts. The other variables did not seem to affect noninstitutional protests. Of 178 presidential elections held in democratic regimes, some type of noninstitutional protest occurred in only 20 cases (11.2% of the total). Models 2.5 and 2.6 suggest

that whereas de jure autonomy of the institutions adjudicating election disputes decreased the likelihood of a joint course of action, the existence of an explicit constitutional rule makes this more likely.

COMPARATIVE CASE STUDIES

I have so far provided evidence of a robust relationship existing between the distribution of seats within the legislature and postelection challenges in presidential elections. I now compare case studies that reveal the causal mechanism linking these variables. Gerring (2007) has recommended choosing cases for intensive study that simultaneously add leverage to the research question and are representative of a larger class of cases. I decided to implement crucial or least-likely case approach—wherein all dimensions except the variable of interest predict that a certain outcome will not be achieved and yet it is—representing a strong test of a theory.

The presidential elections in Indonesia and Venezuela held in 2009 and 1978, respectively, provide useful case studies as they allow controlling for key variables, namely, the *margin of victory* and *irregularities and flaws* that could affect the probability of rejection of election results, while the share of *loser's seats* in the legislature leads to an otherwise unexpected outcome. The Indonesian election illustrates a case where runner-up candidate lost by a margin of 34%, and international electoral monitoring missions agreed that the election was generally free and fair. Given these conditions, compliance would have been the most plausible outcome. However, the runner-up party had an unfavorable negotiating position within Congress. It therefore decided to protest the election results to negotiate with the new government over benefits in exchange for acquiescence. On the other hand, the Venezuelan election was decided by a narrow margin, and irregularities during the election were documented. However, the losing party, had a slight advantage of seats in a bipartisan Congress. In this context, although rejection of election results was likely, runner-up party conceded defeat because of its position of power within Congress.

Indonesia 2009

Presidential elections were held in Indonesia on July 8, 2009. Megawati Sukarnoputri, the leader of the opposition party, Indonesian Democratic Party of Struggle (PDIP), lost the election by a margin of 34.01%. Independent polling institutes conducted and published their own quick counts, and their figures turned out to be very close to the results announced by the Electoral Commission (Schmidt 2010). Overall, the election fulfilled most of the criteria for a free and fair election and was widely regarded as a genuine reflection of the political preferences of the people (Tomsa 2010). Despite the wide

margin of victory and the quality of the election, Megawati rejected President Yudhoyono's reelection. The PDIP challenged the results of the election through the constitutional court, alleging widespread irregularities including the exclusion of millions of people from the voter rolls. Both Megawati and Kalla, the candidate in third place, focused their allegations of fraud on a defective list of voters (Sukma 2010).

After the results of the election were challenged, negotiations took place between the runner-up and winning parties. Although Yudhoyono's Demokrat Party emerged as the largest within Congress, with 26.42% of the seats, it failed to achieve a plurality. Megawati's PDIP obtained 16.78% of the seats. Given this distribution of power within Congress, intense negotiations for positions of parliamentary leadership began. Cabinet positions and parliamentary leadership at the commission level were critical for the parties, because these are strategic positions through which parties can advance their political interests. Despite his landslide reelection, President Yudhoyono invited the opposition to join his government (Slater and Simmons 2013). However, offering cabinet positions to members of the opposition proved costly for the president as it generated uneasiness and even open conflict within his party (Honna 2012).

In the aftermath of the election, Prabowo, the vice-presidential candidate of the runner-up party, arranged a one-on-one meeting with Yudhoyono, the president elect, during which Prabowo's appointment as minister of agriculture was agreed upon. The subject of this meeting was soon leaked to the press. As Lane (2009) noted: "It was after these meetings that Prabowo finally held a press conference to congratulate Yudhoyono on his reelection, after holding out from doing this while claiming the election was undemocratic." The PDIP was also offered cabinet positions, which it declined to maintain the party's reputation of being opposed to Yudhoyono. Instead, the PDIP sought to obtain the support of Yudhoyono's Demokrat Party for the election of Megawati's husband, Taufiq Kiemas, as speaker of the peoples' consultative assembly (Lane 2009). These successful postelectoral negotiations strengthened PDIP, which would not otherwise have received the congressional presidency position. Parliamentary leadership positions are often distributed proportionally according to a party's strength (Ambardi 2008). However, in this case, the PDIP benefited from postelectoral negotiations.

On August 12, 2009, the Indonesian constitutional court dismissed an application for a presidential election revote filed by the two losing candidates, Megawati Sukarnoputri and Jusuf Kalla. The court declared that the plaintiffs had failed to substantiate allegations of vote-rigging and voter-list inaccuracies. After the constitutional court gave its final ruling, Megawati met with protesters in central Jakarta, urging them not to "riot"

following the verdict (Braddock 2009), because by this time the appointment of her husband as president of the assembly had already been promised.

Venezuela 1978

On December 3, 1978, a presidential election took place in Venezuela. Given a narrow margin of victory of just 3.3% between the two leading parties in the election, the losing party's rejection of the election results would not have been surprising. There was also evidence of irregularities committed by both sides. However, the runner-up candidate, Piñerúa, and his party, Democratic Action (AD), conceded defeat right after the election results were announced. The international press celebrated the peaceful transition of power through the ballot box. The elected president also celebrated the exemplary civic behavior of Venezuelan citizens. However, the victory of Social Christian Party (COPEI) was unexpected, as the incumbent president, Carlos Andrés Pérez, had been highly popular before the election. This popularity can be explained by his government's high levels of public spending, financed by a 400% hike in oil prices implemented at the beginning of his administration (Carrascal 1978).

Despite these unexpected circumstances, immediately after the results of the presidential and congressional elections were announced, Gonzalo Barrios and Alejandro Izaguirre, the president and secretary-general of AD, respectively, accepted their defeat and declared their party as the opposition, specifying the conditions of their support for the new government. This was an ultimatum rather than a negotiation, as AD held a plurality of seats (44% as opposed to COPEI's 42%) within Congress. Thus, they knew they had the power to obstruct the new president. Conceding defeat becomes easier for a party when it has the power to impose certain conditions on a new president. In this case, these conditions entailed the parliamentary appointment of members of the supreme court of justice, the attorney general, and the general auditing office, as well as agreements to pass legislation in key areas of government (Silva and Sonntag 1979). Given its majority position within Congress, it was not necessary for AD to challenge the results of the presidential election to improve the party's negotiating position. As Penniman (1980, 223) observed: "Prior to the inauguration, a great deal of speculation had circulated that, because the COPEI was a minority in Congress, the new president would seek some kind of arrangement with Acción Democrática." The underlying logic was that the minority president, rather than the party that had lost the presidential election but had a plurality of seats in Congress would want to negotiate. Thus: "If AD controlled a majority by itself, . . . it could at least threaten to stalemate the president or legislate without him; as it has actually done in the past" (Coppedge 1994, 68) During

the course of 1979, AD did in fact exploit its majority position within Congress, boycotting for a 3-week period and delaying the passing of practically all legislation until the end of the year (Coppedge 1994).

CONCLUSION

This article has aimed to shed light on the reasons why losing political parties within democracies decide to reject election results. Postelection disputes do not only happen in electoral authoritarian states, but also within democratic regimes. From the onset of third wave democracy, runner-up parties have publicly rejected 21% of the presidential election results, regardless of the degree of freedom and fairness of elections.

I have argued that challenges to election results within democracies represent a negotiating tactic extending beyond the electoral arena. Losing parties with an unfavorable negotiating position within Congress are more likely to use electoral blackmail as a tool to acquire leverage during negotiations. Losers exchange postelectoral stability for short-term benefits that they would have not obtained without resorting to blackmail. Whereas political parties with strong positions within Congress have other means of obtaining these benefits, electoral blackmail is the negotiation strategy of weak parties.

The postelectoral setting represents a golden opportunity to blackmail the winner with threats of rejecting the electoral outcome to obtain some benefits. However, a losing party will only resort to blackmail if this offers it an opportunity to improve its ability to negotiate with the winner. This course of action depends on the relative power position of the losing party within Congress. I have shown that with a decrease in the percentage of seats held by the runner-up party in Congress, the probability of its rejection of the election result increases. The case of the Venezuelan election in 1978 illustrates that it is more likely for the runner-up party to concede defeat when it has a plurality within Congress. By contrast, a party with fewer congressional seats compared to those of the winner of the presidential election could be tempted to use postelection disputes as a mean of putting pressure on the winner, thereby extracting short-term benefits. The blackmail entails exchanging postelection stability for benefits such as leadership positions within Congress, other high-level appointments for copartisans, and passing of legislation.

The presence of electoral malpractice, small victory margins, lack of autonomy of EMBs, and the incumbent's victory are evidently important variables in explaining postelection disputes, as they are associated with decreased costs for rejecting election results. However, an analytical focus on these variables, in isolation, would miss an important underlying element of election disputes: the quest of the weak for more. My argument shifts the traditional focus of postelectoral political stability away from institutions and focuses on the congressional balance of power among competing forces.

The main findings of the second stage analysis are that the presence of an explicit institutional mechanism for challenging election results increases the likelihood of rejection using institutional means, while de jure autonomy of institutions adjudicating election disputes will deter street protests. Therefore, strengthening institutions in charge of electoral justice and establishing clear constitutional rules on how to proceed in case of disagreement with the election results are a good investment if the goal is to achieve peace in a postelectoral scenario.

Electoral authorities and international institutions that monitor electoral processes should not simply focus analytically on how to prevent election fraud or on the design of solid electoral institutions. They should also systematically consider the political landscape, including the parties' distribution of power within Congress. Despite the existence of sound institutional structures for implementing elections, politicians may still find excuses for complaining about the electoral process to advance their own agendas.

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