

Electing Political Delegates or Judicial Trustees? Professional Experience, Partisanship and Descriptive Representation in Judicial Elections

Amanda Driscoll
Department of Political Science
Florida State University

Michael J. Nelson*
Department of Political Science
Washington University in St. Louis

January 31, 2013

Abstract

When do voters select the “best” candidates to office and by what criteria is that ideal defined? The literature on judicial elections often prioritizes professional experience as a measure of candidate quality, and examines whether voters select the most experienced judicial candidates. We advance a theory of voter decision-making in which professional experience may be trumped by voters’ desires for identity-based representation. We examine the modern world’s first instance of direct, universal elections to fill a court with national jurisdiction, examining municipal level election returns from the 2011 Bolivian judicial elections. Contrary to extant research on high court elections, we find no evidence that voters selected candidates on the basis of professional qualifications but instead selected candidates with consideration for political and descriptive representation. Ultimately, this raises questions about the criteria by which an ideal judge is defined and the conditions under which elections are effective for obtaining this ideal.

*Prepared for the 2013 meeting of the Southern Political Science Association in Orlando, Florida. The authors would like to thank Matt Gabel, Andrew D. Martin, Keith Schnakenberg, Constanza Schibber, Alicia Uribe, Quintin H. Beazer, Chris Reenock and seminar participants at Florida State University for helpful comments. Nicolas Dumas, James Boyce and Casey Delehanty provided excellent research assistance. Data and code for replication purposes will be posted at <http://jedi.wustl.edu> upon publication.

A central question in any democracy is whether voters select the ‘best’ representative to public office. The qualities that define a ‘good’ legislative or executive representative is the subject of a vast scholarly literature, much of which underscores the multidimensionality of representation and representative quality (Pitkin 1976; Mansbridge 2003; Dovi 2008; Rehfeld 2009). Within the context of the direct election of judges, judicial quality is usually assessed based on candidates’ professional experience, and scholars question voters’ capacity to elect the most professionally experienced judges. Given the legal expertise that judicial office requires, critics doubt whether voters select the candidates who have sufficient technical knowledge and professional expertise (Geyh 2003). One scholar colorfully noted that “[a]sking citizens to elect their judges [is] like asking them to elect their nuclear physicists,” because voters lack enough information about candidates’ professional record to select the judges with the necessary experience that judicial office requires (Pozen 2008, 293).¹ The direct election of judges, critics also claim, politicizes the bench because judges will be elected as political representatives, rather than impartial judicial trustees.²

We challenge this unitary focus on judicial candidates’ professional experience as the sole basis by which voters’ decisions ought to be structured or judge ‘quality’ implicitly defined. A broad literature on political representation suggests that voters weigh a myriad of factors beyond professional experience—such as partisan affiliation and demographic characteristics—as they cast their ballots (Campbell et al. 1960; Jacobson 2009; Norris 2004). While professional experience is undoubtedly important in the judicial context, a vast scholarly literature highlights the influences of extralegal considerations in judicial decisionmaking (Segal and Spaeth 1993; Gordon and Huber 2007; Brace and Boyea 2008; Caldarone, Canes-Wrone, and Clark 2009). Moreover, Gibson (2012; Gibson and Caldeira 2011) shows that the public recognizes the importance of these influ-

¹Empirical work by political scientists has addressed these criticisms, demonstrating that voters differentiate among candidates based on their prior professional experience (Hall and Bonneau 2006; Bonneau and Hall 2009). As Hall (2009) describes, state supreme court elections in the United States are compelling and hotly contested (see also Kritzer 2011). In these contests, voters readily participate and weigh judicial candidates’ professional expertise as they cast their votes. In turn, elected judges are responsive to the voters’ preferences and held accountable if their decisions appear capricious (Brace and Boyea 2008; Hall 2009). This suggests that judicial elections require no trade-off between the election of professionally experienced jurists and the public’s ability to hold those judges into account. In other words, judicial elections may promise the best of both worlds.

²For overviews of this debate, see Tarr (2012) and Dubois (1980).

ences in judicial decision-making. If voters view judges as representatives and policymakers, they may prioritize other candidate characteristics, such as partisanship and demographic characteristics, when casting their ballots for high court judges.

We advance a theory of voter decision-making in which voters weigh judicial candidates' professional experience along side other identity based considerations. We posit that, like any other democratic contest, voters' evaluation of representative quality is a multidimensional consideration. Though previous research has considered judicial candidates' professional experience, partisanship and demographic characteristics, the present study is the first to consider all three at once. We examine the modern world's first instance of direct, universal elections to fill a national high court, considering the determinants of voters' decisions in the October 16, 2011 national judicial elections of the Plurinational Bolivian State. We draw upon municipal-level election returns, candidate characteristics and municipal-level census data to evaluate the effects of candidate experience, political and descriptive representation in judicial contests.

Our results demonstrate that partisan and demographic considerations inform voter decision-making, while increased levels of professional experience have no distinguishable effect on a candidate's vote share. Even when provided with information on candidates' professional merits and where all other information regarding candidates is extremely constrained, voters select judges whose political affiliation and demographic characteristics mirror their own. Our results suggest that voters select candidates who reflect their interests in politically meaningful ways, even when professional experience does not weigh heavily. Ultimately, this disparity challenges larger normative debates regarding the appropriate criteria by which an 'ideal' judge is defined and the efficacy of judicial elections for securing that ideal.³ After all, the Bolivian elections resulted in the most diverse and representative bench in Bolivian history, and thus holds the promise of a more legitimate high court (Gibson 2012; Scherer and Curry 2010).

We contribute to the literature on political representation and judicial institutions in two

³Importantly, we do not directly engage in the debate regarding the 'ideal' type of judge nor pass judgement on who is more or less fit for judicial office. These are normative debates that we do not, and cannot, decisively settle here. Instead we aim to disentangle scholars' evaluation of voters' decision-making capacity in judicial elections from these larger value-laden controversies.

ways. First, our analysis demonstrates that, though professional experience is an admirable quality for any elected official and one that may be of special concern for judges, it is one quality among many that voters may consider on election day. Second, the Bolivian judicial electoral process highlights the efficacy of electoral institutions for generating a representative bench and the importance of candidate selection institutions in achieving that objective. Scholars contend that the judiciary provides an important outlet for descriptive representation and increased minority presence on the bench increases judicial legitimacy among minorities (Scherer and Curry 2010). The Bolivian experience suggests that, when given the opportunity to do so, voters evaluate candidates based on shared partisan and socio-demographic characteristics in order to select representatives who reflect their political interests.

Empirically, our simultaneous examination of candidates' professional experience, partisanship, and demographic characteristics makes this the most comprehensive empirical analysis of the effects of candidate qualifications in high court elections to date. While previous research on judicial elections considers voter behavior in a variety of settings, these studies tend to explore these determinants of vote choice in a singular fashion.⁴ Given that gender, race, partisanship and professional experience may be correlated with one another as well as a candidate's vote share (which would happen if minority candidates are more likely to be affiliated with a particular party or professional career), it is important to examine all three factors simultaneously to ensure that the effects of one are not erroneously attributed to a different explanatory factor. Moreover, structural features of the Bolivian contest hold constant several confounding variables that complicate inference in other settings.

In what follows, we briefly review the circumstances around the adoption and implementation of the judicial elections in Bolivia. Next, we outline our theoretical motivations to substantiate our hypotheses pertaining to judge qualifications, political identity and descriptive representation.

⁴For example, while Bonneau and Hall (2009; Hall and Bonneau 2006) explore the effects of candidate qualifications and institutional characteristics on judicial candidate vote shares, their analysis does not account for the partisanship of the candidates or the voters. Whereas studies (Frederick and Streb 2008; Rock and Baum 2010) explore the effects of candidates' gender or partisanship on their electoral success, many empirical models do not account for the potentially confounding effects of candidate qualifications or partisan affiliation.

We then introduce our data and measurement strategy before turning to our empirical analysis.

The Bolivian Judicial Elections of 2011

The Plurinational Bolivian State is a constitutional democracy in the heart of South America. Much like the United States, the Bolivian constitution separates power across a directly elected president and a bicameral national assembly, with a formally independent judicial branch. For much of Bolivia's democratic history, scholars have characterized its political rule as "pacted," wherein party elites negotiated legislative coalitions to ensure the president a "workable" legislative delegation (Gamarra 1997). Under the traditional party system, judicial nominations were typically doled out amongst the major legislative parties in accordance with the proportion of seats they controlled in the National Congress. This system of judicial nominations by '*cuoteo*' (patronage-based quota) was standard practice and regarded by political insiders as a pragmatic way of ensuring all major political parties would be fairly represented on the national courts (Pérez Liñán et al. 2006, Mesa 2008; Pérez Liñán and Castagnola 2010).

Since the close of the 20th century, the traditional party system on which this pacted democracy hinged showed signs of deterioration. Efforts to revitalize Bolivian democracy through expanded political participation and decentralized rule have been immensely successful, though traditional elites have struggled to maintain their political relevancy when faced with compelling newcomers, institutional gridlock and violent political protests (Boulding 2010). Capitalizing on the electoral potency of a long-marginalized indigenous majority,⁵ mestizo President Evo Morales Ayma and his Movimiento al Socialismo (Movement to Socialism, or MAS) party have enjoyed repeated and sweeping electoral victories, most recently securing two-thirds control in the National Assembly (Alpert et al. 2010; Centellas 2009). In early 2007, a MAS lead constitutional assembly set out to redraft the Bolivian constitution, and with its ratification Bolivia was re-founded as the "Plurinational" Bolivian state in explicit recognition of Bolivia's diverse cultural and ethnic heritage.

⁵More than 60% of Bolivians self-identify as indigenous or mestizo from one of more than 30 indigenous communities who claim Bolivia as their ancestral home, many of whom have long been marginalized from national political decision-making (Klein 2011).

The judicial system was targeted as an object of reform in the drafting of the new constitution. Construed by MAS leaders as a ‘bastion of colonialism,’ proposed changes were justified due to widespread distrust and dissatisfaction with national judicial institutions. Political tensions over judicial nominations and the *cuoteo* system reached a dramatic apex in 2007,⁶ and all but two party delegations to the constitutional assembly called for major institutional reforms in the area of judicial selection (Pérez Liñán and Castagnola 2010; [REDACTED], Forthcoming). The direct election of judges emerged as an opportunity to both ‘democratize’ and de-politicize the judicial nomination process ([REDACTED], Forthcoming).

On October 16th, 2011, Bolivian voters selected 56 judges to four national courts.⁷ Voting was compulsory, and each voter cast a single vote for a single candidate in each court. The allocation of seats in the Constitutional Tribunal—the focus of this analysis—was based on candidates’ national vote totals, with the top seven national vote getters claiming their seats on the Constitutional Tribunal (Driscoll and Nelson 2012). The judges elected in these contests were sworn into office in early January 2012 and serve as the highest constitutional authorities of the Bolivian political system. With these elections, Bolivia joined a handful of countries who employ judicial elections to select judicial authorities and became the first country to use judicial elections to elect judges to courts with national jurisdiction.⁸

⁶The attempted impeachment of four constitutional magistrates sparked a Congressional brawl, institutional gridlock and a massive media showdown. The magistrates resigned in protest, leaving the Constitutional Court inquorate and the political controversy at a tense impasse ([REDACTED] Forthcoming).

⁷This included the Bolivian Supreme Court (Tribunal Supremo de Justicia), the Plurinational Constitutional Court (Tribunal Constitucional Plurinacional), the Bolivian Agricultural Court (Tribunal Agroambiental), and the Bolivian Judicial Council (Consejo de Magistratura).

⁸Most judges in the United States are elected at the state, not national, level (Morrison 2007). Judicial elections are uncommon elsewhere and elected judges are typically confined to limited and local constituencies (Shugerman 2010, 1064 n. 3). Some Swiss cantons directly elect their judges, and commercial and labor court judges in France are directly elected (Croley 1995; Kessler 2010). Rwandan voters elect judges on *gacaca* courts, who mediate truth and reconciliation hearings stemming from the 1994 genocide (Kromer 2005). Peruvian *jueces de paz* (justices of the peace) selected via direct election to serve two-year unremunerated terms in their local communities (Peruvian National Assembly 2005). Until recently, Japan was the only country to utilize judicial elections at the national level: judges of the Japanese Supreme Court stand for periodic retention elections. However, judicial nomination practices, term length and ballot structure combine to make judicial dismissal by popular vote highly unlikely. No Japanese judge has ever lost a retention vote (Law 2009; Ramseyer and Rasmusen 2001).

Professional Experience, Partisanship and Representation on High Courts

Any candidate for political office brings with her a portfolio of characteristics, such as her formal qualifications, ideological proclivities, and unique life experiences. In any democratic electoral contest where voters select among candidates, voters may weigh these considerations, though the importance to which voters ascribe any particular characteristic may vary across voters.

Extant literature suggests that there may be some intrinsic value in electing representatives that “look” like their constituents (Pitkin 1967). Thus, in order to assess the possibility that voters use judicial elections to select descriptive representatives, we need to assess characteristics of both the slate of candidates and the electorate. To this end, in addition to analyzing the direct effects of candidate characteristics, we also examine the conditional effect that candidate characteristics have on voters who more or less ‘reflect’ the candidate in terms of demography or partisan affiliation.

Professional Experience

While a candidate’s formal qualifications, such as their level of education and past political experience, matter in many electoral contests (Abramowitz 1988; Carson, Engstrom, and Roberts 2007; Jacobson 2009; Van Dunk 1997), they have been a special concern for elections to judicial office. In a legalistic view of adjudication, judges rely on their knowledge of the law and precedent to apply legal precedent or doctrine to a new factual circumstance (Levi 1948). Without formal training in the law, judges will be unable to perform their role in the political system.

A concern for professional and academic experience is further seen in the typical requirements for candidates to appear on the judicial ballot. While ballot access in executive or legislative contests may be contingent upon an individual meeting certain age or residency requirements, judicial elections in the U.S. typically require candidates to have achieved some baseline level of academic achievement or professional experience before they may formally present their candidacies (Reddick, Nelson, and Caufield 2009).

These ballot access regulations ensure all judicial candidates have requisite skills and training and block individuals who lack the necessary experience to perform the judge’s role. In light of

the highly technical nature of a judge's job, scholars have considered a candidate's professional experience as a proxy for the efficient settling of cases and neutral application of legal principals, and question whether voters are sufficiently informed to gauge professional experience of judicial candidates and weigh their respective merits (Geyh 2003).

This concern for voters' evaluation of candidates' professional record is prominently featured in scholarly debates. In the most comprehensive empirical analysis of judicial elections to date, Bonneau and Hall (2009; Hall and Bonneau 2006) find that, as a challenger's professional experience increases the vote share of the incumbent declines.⁹ This finding has put to rest criticisms regarding the ability of judicial elections for selecting highly qualified jurists.

In addition, the circumstances surrounding the adoption of judicial elections in Bolivia suggest that candidates' academic and professional records should affect candidate vote shares. Indeed, the meritocratic selection of judges was an oft-cited motivation for adopting judicial elections in the 2009 Bolivian Constitution. Advocates of the direct election of judges construed the previous system of nominating judges was a highly politicized process, largely the result of back-room deals struck by party leadership and political elites (Mesa 2008; Pérez-Liñán and Castangnola 2010). The direct election of judges via universal suffrage, official government documentation claims, is the best way to ensure that judges are selected on the basis of their merits and legal expertise, as opposed to their political connections (Órgano Electoral Plurinacional 2011*b*).

The concern for meritocratic selection is reflected in the procedural rules that govern candidate selection and election administration in the Bolivian electoral process. The rules imposed had the dual objective of guaranteeing sufficient candidate expertise while encouraging voters to prioritize meritocracy when casting their votes. The Bolivian Constitution of 2009 imposes age and minimal educational requirements for all candidates: they must be at least 30 years old and have at least eight years of professional experience. Further, all nominees are subject to approval by the

⁹The effects of professional experience in lower court elections in the United States has been less robust, however. While Dubois (1984) finds that prior judicial experience was related to an increase in the number of votes that California trial court judges received between 1976 and 1980, Streb and Frederick (2009) find no relationship between a challenger's prior judicial experience and either the incumbent's vote share or her probability of achieving electoral success. Additionally, Bonneau (2005) finds no relationship with the prior professional experience of a challenger and the probability that she defeats the incumbent.

National Assembly; the Assembly must vet and approve all candidates by a two-thirds majority before judicial aspirants can appear on the ballot.

To avoid the overt politicization of the judicial electoral contests, the constitution prohibits all party affiliations and campaigning in the judicial elections, on penalty of candidate disqualification (Bolivian Constitution, Art. 181, section 9). Not only were candidates prohibited from campaigning, but no campaigns were permitted on any candidates' behalf. Moreover, the government sought to ensure that the elections would remain apolitical by regulating media coverage of the judicial candidates and prohibiting interviews that might construe favor or confer any candidate free publicity.

To ensure that voters had information about the candidates, the national electoral court (the Órgano Electoral Plurinacional, or OEP) distributed extensive, standardized guides documenting each candidate's formal experience and qualifications, their birthdate, their indigenous status and department of origin (Órgano Electoral Plurinacional 2011*c*). The purpose of the guide was to ensure that voters "could chose and vote in an informed and conscientious manner," while selecting the candidates on the basis of their merits rather than partisan or political connections (Órgano Electoral Plurinacional 2011*e*). Figure 1 shows an example of a candidate profile.¹⁰

[Figure 1 about here]

Coupling prior research on voters' decisions in the U.S. states with the procedural regulations that sought to assure meritocratic evaluations of candidates in Bolivia, we hypothesize the following:

H1: Candidates with more professional experience will be rewarded with higher vote shares.

¹⁰The state sanctioned voter guide was distributed universally and nationally by mail and door to door via the national youth corps (Órgano Electoral Plurinacional 2011*d*), and candidates' biographical information and professional qualifications were disseminated on television and radio via standardized informational campaigns. This state-led campaign aimed at publicizing candidate merits, explaining the electoral processes and encouraging citizen participation and lasted from September 1 until October 15, one day prior to the elections.

Party Affiliation

Proponents of judicial elections have argued that, given the prominent role of ideology in judicial decision-making (Nagel 1961; Segal and Spaeth 1993; Tate and Sittiwong 1989), judicial elections provide voters with an opportunity to place representatives on the bench who share their policy views. As a result, just as “the strength and direction of party identification are facts of central importance in accounting for attitude and behavior” in presidential elections (Campbell et al. 1960, 121), partisanship may shape citizens’ voting decisions in judicial elections as well.

The 2011 Bolivian elections were formally nonpartisan: candidate partisan affiliation was not listed on the ballot or voter information guide, and candidates were prohibited from publicizing any political affiliation. Proponents of these types of restrictions contend that the prohibition of partisanship and campaigning would ensure the process would remain apolitical and allow voters to make well-informed, unbiased decisions based on candidates’ professional merits (Schaffner, Streb, and Wright 2001; Shugerman 2012; REDACTED, forthcoming). Advertising a candidate’s partisanship, they feared, would politicize the process and detract from the meritocratic evaluation of the candidates.

Despite the formal prohibition on partisanship and campaigning, some candidates were singled-out for their direct affiliations with the majority party (the MAS party) as party organizers, legislative aides or legal advisors (Página Siete 2011a). While party labels were absent in the materials supplied by the government, the national press and political opposition publicized the identity of government affiliates (Página Siete 2011b).¹¹ Indeed, the simple publicity and name recognition this type of coverage provided may be enough to increase the vote share of these known government affiliates (Baum 1987; Jacobson 2009; Krebs 1998). Thus:

H2: Candidates who were publicly identified as government affiliates will garner higher vote shares.

¹¹The national legislature, which the government party controlled by a two-thirds margin, pre-selected of the candidates in a process the opposition loudly characterized as politicized and illegitimate. Though efforts were made to ensure transparency and meritocratic candidate evaluations, insiders lamented a lack of professionally experienced candidates (La Razón 2011; Página Siete 2011b) and the that the process prioritized ethnic identification over professional experience (Página Siete 2011b).

However, research indicates that, even in contests that are ostensibly nonpartisan, partisanship plays an important role in structuring electoral vote choice. Indeed, even when party affiliation is absent from the ballot, it may still affect the calculus of many voters (Rock and Baum 2010; Baum 1987). Moreover, Rock and Baum (2010) show that, as voters gain more information about candidates, the level of partisan voting increases, even in nonpartisan elections.

This scenario also characterizes the Bolivian experience. In light of the fact that the political opposition publicized the identities of MAS party affiliates in an otherwise nonpartisan race, it seems reasonable to expect that partisanship may structure vote choice in the Bolivian election. Beyond any direct effect of a candidate's party affiliation, we anticipate that government affiliates should be particularly successful in areas where like-minded voters are known to be concentrated. Put simply, if most voters in a given area favor the majority party, then majority party candidates should be especially successful in those districts. To this end, we also expect a conditional effect between a candidate's publicized governmental affiliation and the historical success of the government party in the district.

H3: A candidate's publicized affiliation with the government party (MAS) should result in a greater vote shares in districts that are known governmental strongholds.

Demographic Characteristics

A candidate's race or gender may also affect the share of the vote she receives on election day. Baum (2003) notes that candidate gender and ethnicity may play a role in the outcomes of judicial elections, and voters cite gender as an important factor in their decision-making calculus (Hojnacki and Baum 1992). In a comprehensive study of female candidates' success in intermediate appellate court elections, Frederick and Streb (2008) find that female candidates fare no worse than a similarly-situated male candidate and may even receive a boost at the polls.¹² Likewise, Dubois's (1984) study of California trial court elections reveals a statistically significant

¹²Empirical evidence on this point is mixed. Though most studies compare elective and appointive methods of judicial selection as opposed to voter decision-making in elective systems, a variety of studies (Hurwitz and Lanier 2003, 2008; Alozie 1996, but see Bratton and Spill 2002) find no systematic evidence that links judicial elections and bench diversity. Neither Hall (2001) nor Reid (2004a, 2004b) find any systematic evidence that demographic characteristics help or hinder candidates.

relationship between a candidate's gender and the number of votes she receives; in Dubois's study, however, female candidates are rewarded in primary elections but punished in run-off elections.

Moreover, a consideration for judicial diversity weighed heavily in the Bolivian debates to justify the adoption of judicial elections. Also, the direct election of judges in Bolivia was described as the "democratization" of the Bolivian judiciary, and the adoption of judicial elections coincided with the larger transformation of the Bolivian national identity toward increased representation for local and indigenous interests.¹³ To this end, the candidate pre-selection process conferred overt priority to indigenous decent while a gender quota ensured parity among the candidates. Given this widely publicized priority of promoting diversity in the judicial elections process along with previous research on the effects of demographic characteristics on the candidates' vote shares, we anticipate that women and indigenous minorities will benefit from their demographic characteristics on election day. Formally stated:

H4: Women and indigenous candidates will garner higher vote shares.

Beyond the direct effect of demography, our interest in descriptive representation leads us to expect a conditional relationship between the concentration of women or minorities in a district and the success of a female or minority candidate in that district. If descriptive representation weighs heavily in the minds of voters as they cast their ballots in judicial contests, then we should expect that indigenous candidates should receive a boost in districts with a high proportion of indigenous voters. There is some support for this theory in the existing literature on judicial elections; examining minority success at the polls, Lovrich, Sheldon, and Wassman (1988) find that support for black candidates declines heavily as the geographic concentration of a district becomes increasingly white.

Whereas gender and ethnicity differ as interest-based identities (Krook and O'Brien 2010), scholars approach the political representation of women differently. In light of women's historical exclusion from politics and the public sphere, scholars consider the extent to which women have

¹³Since the turn to the 21st century, democratic participation and electoral enfranchisement has expanded rapidly, as has the influence of the country's long marginalized indigenous majority.

successfully “broken the glass ceiling” (Palmer and Simon 2008; Nechemias 1987). Scholars argue that, over time, the successes of female candidates can break down voters’ stereotypes and thereby contribute to the success of future female candidates (Oxley and Fox 2004; Fox and Oxley 2003). Further, demographic realities imply that women should be roughly 50% of the population in most electoral districts. Thus:

H5: Indigenous candidates will receive in higher vote shares in districts where indigenous populations are concentrated.

H6: Female candidates will win in higher vote shares in districts where women have previously been elected to municipal office (mayor).

Data and Measurement

Our data come from official election returns released by the Bolivian government which were published on the website of the Bolivian Electoral Court (Órgano Electoral Plurinacional). For the purposes of this analysis, we consider voter behavior in the Constitutional Court contest given its position at the apex of the Bolivian constitutional system. The unit of analysis is the candidate-municipality; there is one observation for each candidate in each municipal district in the country.¹⁴

The outcome variable in our analysis is the percentage of the valid votes received by each candidate in the race. Because the outcome variable is continuous along the 0-100 interval, we estimate a hierarchical linear model.¹⁵ To account for the fact that the vote shares are grouped by candidate, the model includes random intercepts for each candidate.¹⁶ The model was estimated using `lmer` in R.

¹⁴While survey data on individual voters would be ideal, such data does not exist for the recent Bolivian elections. Instead we opt for municipal level vote returns—the most disaggregated data available.

¹⁵In our Supplementary Information Appendix we present the results of an outcome variable which is subject to a logistic transformation which has the effect of “unbounding” this interval variable. Our substantive findings do not change.

¹⁶Adding random intercepts for district does not change our result and explains very little variance in the dependent variable.

Notably, our data present a series of modeling challenges: vote shares are bounded between 0 and 100, they have a hierarchical structure, and vote shares within a district must sum to 100, meaning they are compositional in nature. The modeling approach we employ here emphasizes the hierarchical nature of the data. Traditional approaches for compositional data would allow covariates to vary by electoral district and require the outcome variable to be transformed from the 0-100 interval to an interval which is unbounded; from here, multiple equations are estimated using Seemingly Unrelated Regression (SUR) or a similar technique. Because our hypotheses imply variance at both the district and candidate level, these alternative approaches are unsuitable for our modeling task. Hierarchical linear regression allows us to include the necessary covariates, as well as the interactions between candidate and district level covariates. In the Supporting Information, we show that our results are robust to variable transformation to accommodate the bounded nature of the dependent variable.

We rely on the official voter guide and the ballot as the source for information on candidate characteristics, shown above in Figure 1. Figure 2 shows an portion of the ballot. Candidate ballot position was randomly assigned, but candidates alternated by gender. The ballot also contains the same photograph and number that was listed on the candidate profiles.

[Figure 2 about here]

The candidate pre-selection process and constitutional requirements for candidates ensured that every candidate who appeared on the ballot had a baseline level of experience; our approach investigates the effects of experience above these baseline qualifications. Following the literature on legislative (Jacobson 2009) and judicial (Bonneau and Hall 2009) elections, our measure of formal qualifications assesses whether the candidate has *Prior Judicial Experience*.¹⁷

On the whole, the judicial candidates had little prior judicial experience. The vast majority of candidates were lawyers; some had worked as trial attorneys while others served as legal counsel for high court judges, legislative committees, or in the ministry of justice. Other candidates were

¹⁷To assess the robustness of our results to an alternative measure, we reestimated the model using a measure of candidate qualifications based on the *Number of Claimed Qualifications* listed on the candidate profiles. These models are reported in the Supporting Information Appendix, and do not substantively change our results.

former bureaucrats in the ministry of justice, or in the prosecutor's or Attorney General's office. Indeed, only two candidates had previous experience on a national court, another candidate had served on the high court of his department, and a fourth candidate had served as a local court judge.

Because the Bolivian elections were formally nonpartisan, candidates' party affiliations were absent from both the ballot and the official voter guide. However, the political opposition and the national media openly publicized the identities of the candidates' who were known affiliates of the ruling (MAS) party. Using these periodicals, we compiled a list of MAS-affiliated candidates (Página Siete 2011a). Of the 28 candidates who sought election to the Constitutional Court, this process identified four female candidates and eight male candidates who were *Government Affiliates*.

The constitution required that 50% of all candidates appearing on the ballot be women and that at least one candidate for each office be of indigenous origin. In practice, every other candidate listed on the ballot was female, seven of which were listed to be of indigenous decent in their candidate profiles. The information in the voter guide also allowed us to include an indicator variable for *Female* candidates.

Based on the photograph that appeared in the candidate's profile as well as the official ballot, we assess candidates that appeared to be *Overtly Indigenous*. Research assistants coded candidates as indigenous or nonindigenous based on their photograph. Formally, we coded a candidate as *Overtly Indigenous* if both coders were in agreement. In practice, the coders agreed 100% of the time. In the Supporting Information Appendix we discuss the measurement and substantive significance of this measure in more detail and include models based on candidates *Self-identified Indigenous* status. Exemplary profiles of each type are pictured in Figure 3.

[Figure 3 about here]

While the direct effect of each of these variables has important theoretical implications, an interest in descriptive representation leads us to examine the conditional relationship of these characteristics. To explore the possibility of partisan voting, we collected the percentage of the municipality that voted for the MAS candidate for mayor in the most recent (2010) mayoral elections

(Órgano Electoral Plurinacional 2010). This variable ranged from 1.4% to 100%, with the modal values approximating 50%. Taking this as a measure of *Government Stronghold*, we interact this measure with *Government Affiliate* to explore the extent to which candidates who were affiliated with the government were advantaged in governmental strongholds. Second, from the 2001 Bolivian census we collected municipal level data on the *Percent Indigenous*, which was the percent of the municipal population who self-identified as of indigenous decent.¹⁸ This variable ranged from 1.5% to 100%, with a mean of 71% and a median of 87%.¹⁹ Finally, we also assess the possibility that female candidates were advantaged in particular municipalities. The literature on the success of female candidates in legislative elections suggests that, when it comes to female representatives, descriptive representation may depend on the area's history of electing female candidates rather than the sex of the voter (Nechemias 1987; Fox and Oxley 2003; Oxley and Fox 2004). To this end, we relied on the 2010 Mayoral election returns to determine whether the municipality has a *Female Mayor*.²⁰ A table of district-level variables, as well as a correlation matrix which characterizes cross-district heterogeneity, is available in Tables 7 and 8 of the Supporting Information Appendix.

Finally, we include a control for *Ballot Position* based on the order in which the candidates appeared on the ballot. Studies have shown that candidates who appear at the top of the list of candidates tend to receive more votes than candidates who appear at the bottom of the list (Meredith and Salant 2011; Ho and Imai 2011). If a candidate's ballot position is correlated with his personal characteristics (which could happen, for example, if candidates with better formal qualifications appeared at the top of the ballot), then one may erroneously attribute importance to a candidate characteristic that is merely the result of a candidate's ballot position. This variable controls for

¹⁸The 2001 census is the most recent survey for which data is available. A total of 11 municipalities (out of a total of 334) could not be matched across the electoral and census data. We suspect this is due to redrawing of electoral districts (Enlared 2010), though the geographic distribution of these data appear to be random. We have replaced the census data in these districts with the values of the districts' geographic neighbor.

¹⁹Because the MAS party is often supported by indigenous Bolivians, readers may be concerned about the correlation between the concentration of indigenous population and the MAS supporters. The two variables are only correlated at 0.40.

²⁰To assess the possibility that the percentage of woman in the municipality affects vote share, we estimated models substituting *Percent Female* for *Female Mayor*. In no instance was the marginal effect—or any of the constituent terms—statistically significant.

the possibility that voters simply voted for candidates at the top of the ballot, irrespective of any alternative concerns.

Candidates in the Bolivian judicial elections were randomly assigned their ballot positions, and the number for the voter information guide corresponded with the candidate's ballot position (Órgano Electoral Plurinacional 2011a). To ensure that neither gender received an advantage in ballot position, male and female candidates received alternating placement on the ballot.

Finally, it is worth noting that we ran similar models controlling for a variety of other district characteristics including *Wealth*, *Percent Rural*, and *Percent Illiterate*. Additionally, to control for the possibility that regional divisions might influence candidates' vote shares (Alpert, Centellas and Singer 2010; Centellas 2009), we also estimated a model with a dichotomous variable for each of the districts located in the eastern half of the country. In all cases, our results are robust to specification. Additional models are presented in the Supporting Information Appendix.

Voter Information, Incumbency and Candidate Entry

Beyond the lack of campaigns and the attempt to standardize citizens' levels of information about judicial candidates, the structure of the Bolivian elections hold constant several other factors that might otherwise confound this type of empirical analysis.

Scholars document how variation in candidates' campaigns impact voters' information and subsequent vote choice (Geer 2006; Alvarez 1997). The information available to Bolivian citizens about the candidates was standardized by the government; Bolivian candidates were not permitted to raise any funds, they were banned from declaring party affiliations, the independent media was censored, and all campaigns for or against the candidates were prohibited. The strictly controlled informational environment implies we need not worry about voters having asymmetric information about one group of candidates that could confound the analysis.

Likewise, many studies must account for the potentially confounding effects of incumbency and nonrandom candidate entry. The influence of candidate incumbency is well documented in the elections literature (Mayhew 1974; Fiorina 1977; Erikson 1971; Hayama 1992), and problems of nonrandom candidate entry can further confound empirical analyses. Candidates are less likely

to seek reelection when electoral conditions are appear unfavorable, and minority candidates' decisions to enter a race may be correlated with the likelihood that they will win (Fox and Lawless 2004; Fulton et al. 2006; Maestas et al. 2006). However, because the Bolivian elections were the first of their kind in the country, there was only one candidate who had previously served on the Constitutional Tribunal and the ballot contained no designation to indicate that this candidate was an incumbent.²¹ This fact, combined with the fact that no candidate had previously sought election as a judge lessens the need to worry about the potentially confounding effects of an incumbency advantage. Likewise, the presence of quotas for women and minority candidates ensured that enough candidates appeared on the ballot to mitigate the issue of nonrandom candidate entry.

Results

[Table 1 about here]

Table 1 shows the results of the hierarchical linear model. We hypothesized that more professionally experienced candidates would be rewarded with higher vote share, as voters in other judicial elections have been reported to do. The model provides no evidence that voters differentiated among candidates on the basis of professional qualifications. Examining first the effects of *Prior Judicial Experience*, the estimated coefficient is not statistically significant.

In contrast, we do find support for our hypotheses that political party and demographic characteristics structured candidate vote shares. To better understand the effects of these characteristics on the candidates' expected vote shares, Figure 4 plots the marginal effects of *Government Affiliation* and *Overtly Indigenous* across the range of demographic characteristics present in the Bolivian municipalities.

[Figure 4 about here]

The top panel of Figure 4 shows the effects of a candidate's affiliation with the MAS party

²¹The only judicial candidate in this race who had previous experience serving as a constitutional authority was previously named as an interrim magistrate by President Morales in February 2010. Unlike federal judicial nomination processes in the United States, this designation of national judicial officials was neither legislatively contentious nor was the process highly publicized.

on her received vote share. Again, candidate partisanship was not present on the ballot or the voter guide which citizens received though the national press publicized the identities of candidates with previous MAS affiliation. The graph indicates that, in most districts, MAS candidates did not receive any benefit or penalty at the polls. However, in those districts in which the MAS-affiliated mayoral candidate received a supermajority of the vote in 2010, a MAS-affiliated candidate would expect to receive a slight increase in vote share. Similarly, in those most heavily concentrated MAS municipalities, a MAS-affiliated judicial candidate received about a 2% boost in vote share in 2011. While these effects may seem small, one must remember that 28 candidates appeared on the ballot, so effects that may be small in a two- or three-candidate race are meaningful with so many candidates on the ballot. Had the third place winner and Morales' appointee, Ligia Velásquez Castaños's vote share been reduced by 2% in all of the MAS strongholds, her national vote total would have been reduced by nearly one half, dropping her to 13th place in the overall race.

To examine the effect of indigenous status on a candidate's expected vote share, we look first at the coefficient for *Percent Indigenous* in Table 1. Since this coefficient is a constituent term to an interaction, the value shown in Table 1 is the effect of a one-percent change in the population of the district who self-identify as indigenous on the vote share of a candidate who is not indigenous. While the effect size is small, the model results indicate that, as the concentration of indigenous residents in a municipality increases, a non indigenous candidate's vote share declines.

The second panel of Figure 4 shows the effect of being *Overtly Indigenous* on a candidate's vote share. Here, the model's results show that, for districts where the indigenous population is more or less evenly balanced with the nonindigenous Bolivian population, indigenous candidates are neither advantaged nor disadvantaged at the polls. However, as the concentration of indigenous citizens exceeds 60%, overtly indigenous candidates received a noted boost at the polls. This effect is substantively important. An easily identifiable indigenous candidate competing in a municipality that is 60% indigenous can expect to receive about a 3% increase in vote share; as the concentration of indigenous residents increases to 100%, the effect of being an indigenous candidate approaches a 8% increase in vote share.

Macario Cortez Chavez, the candidate pictured on the right in Figure 3, provides an example of the substantive importance of this effect. Chavez, who was the second candidate listed on the ballot, auto-identifies as indigenous but lack of traditional indigenous garb meant that was not classified by our coders as appearing to be *Overtly Indigenous*. Though his candidacy fared quite well, his national vote total placed him in eighth place over all and about 16,000 votes shy of winning a seat on the Tribunal. Our results suggest that, had he overtly advertised his indigenous identity and received a 3% increase in vote share in all the districts with 60% or more indigenous population, he would have secured a place on the court, coming in fourth place nationwide.

We next turn to the effects of candidate gender on vote share according to the percentage of the municipality that is female. Because both the variable for *Female Candidate* and *Female Mayor* are both dichotomous, a graph of the marginal effect is not shown in Figure 4. Moreover, neither constituent term nor their interaction is statistically significant. In other words, the model provides no evidence that women received either an advantage or a disadvantage at the polls.

Finally, the effect of *Ballot Position* deserves mention. The estimated coefficient is negative and indicates that each additional *Ballot Position* corresponds with a decrease, on average, of a quarter percentage point. The model suggests that, all else held constant, the last candidate on the ballot is expected to have 7% less vote share than the first candidate listed on the ballot. This is a huge effect, especially considering the very large number of candidates and the fact that candidate ordering was random.

Discussion

At the heart of the debate over political representation in democracies is a desire to ensure that any given selection system can select the “right” kind of delegates. Because the traditional view of judges paints the picture of independent, detached jurists, scholars have been concerned with the ability of voters to elect those candidates who bring the most professional experience to judicial office. Extant research demonstrates that the direct election of judges has implied no trade-off: voters choose candidates with the professional experience while still granting the public

the opportunity to exercise political control. Judicial elections, it would seem, are a mechanism whereby the candidates with the most extensive professional experience are chosen whilst still being held into account by the public.

Our analysis of the Bolivian experience calls this logic into question and raises new questions of its own. These results suggest that voters did not reward candidates with additional levels of professional experience despite governmental assurances that electing judges would lead to the meritocratic election of candidates. Bolivian voters were provided standardized information about candidate qualifications via the government-led voter education campaigns, and substantial resources were invested to ensure a depoliticized, meritocratic selection of judges via universal suffrage. There is little evidence to suggest that these efforts were efficacious. This is a novel finding for the literature on high court elections (Hall and Bonneau 2009; but see Streb and Fredrick 2009).

Instead, Bolivian voters prioritized candidates with similar demographic traits or political leanings. Though the question of professional experience in judicial contests has been the primary focus in extant research, the Bolivian case reminds us that professional experience is just one quality among many that may (or ought to) shape voters' decisions. Moreover, in light of the widespread acknowledgement that judges are policy makers who are motivated by extralegal concerns, electing judges that 'reflect' ones' interest seems the definition of a well informed vote.

What other factors might explain the divergence between voters' decision-making across the Bolivian and U.S. cases? Whereas the vast majority of research on judicial elections considers races within the United States, our inferences with regards to vote choice are inherently case specific. Though research documents noted commonalities in the judicial election adoption processes (REDACTED, Forthcoming), the United States and Bolivia stand today at opposite ends of the spectrum with respect to electoral volatility and party system consolidation. At a minimum, our research suggests that voters look beyond judicial candidates' professional experience when given the opportunity to select judges that share their personal characteristics. Though future research is necessary, this may imply a conditional relationship or scope condition to previous

claims about the importance of judicial candidates' professional experience (Hall and Bonneau 2006; Bonneau and Hall 2009).

A second difference between the two contexts is U.S. voters' exposure to intense, politically-charged judicial campaigns (Hall and Bonneau 2009; Gibson 2009). Research in the U.S. documents that voters appear to weigh professional experience in contests with high profile campaigning (Hall and Bonneau 2009), though fail to distinguish amongst candidates' professional records in lower-ticket races (Streb and Frederick 2009). It seems possible (and perhaps paradoxical) that restricting campaigns to avoid politicization may unintentionally undermine voters' abilities to weigh candidates' professional experience. This may a lesson for would-be reformers: if voters' meritocratic evaluation of candidates is a central objective of judicial elections, then electoral practices that enhance deliberation and public debate of legal policy may be helpful in fulfilling that objective. Though politicizing, campaigns—even overtly negative ones—may serve an informational role in educating voters regarding candidates' previous professional experience while having no negative effects on the legitimacy of the court (Gibson 2012).

Our results in this regard are speculative and additional work is imperative to substantiate this claim. Future work should examine how the amount and availability of information influences vote choice in judicial elections more broadly. How voters receive and process information about candidates from formal sources of information, political campaigns, social networks or heuristics is critical for understanding vote choice in any election, but plays a special role in the context of judicial electoral contests given the premium scholars often place on certain candidate qualities.

At the same time, our analysis raises more fundamental questions about judicial elections and representation on high courts. We suggest that Bolivian voters' choices were shaped by partisanship and considerations for descriptive representation. In districts with high concentrations of government party affiliates or indigenous voters, candidates who appeared to share characteristics with the electorate received an appreciable boost in vote share. It would seem that Bolivian voters wanted to see a bench populated with judges who looked like them, but their desires had not been

heeded under the previous legislative appointment system.²² Not only is the current Constitutional Tribunal the most diverse in Bolivian history, but it is the most diverse constitutional court in all of the western hemisphere. Indeed, these results indicate that, even in the absence of partisanship and overt campaigning, voters had enough information to select a candidates that represented their interests in politically meaningful ways. As such, the stated objective of “democratizing justice” by introducing judicial elections in Bolivia was not only achieved, it was a resounding success.

More generally, our findings suggest that those who advocate for a more diverse representative institutions to focus their attention on candidate recruitment and selection. While the United States lacks the quotas used in the Bolivian elections to ensure that voters had the opportunity to select female and minority candidates, our results in this regard are clear: when given the opportunity to do so, voters select representatives who ‘mirror’ themselves (Pitkin 1976; Krook 2009). Our empirical results, combined with Frederick and Streb’s (2008; Streb and Frederick 2009) suggest that any shortcoming of judicial elections to place women and minority candidates on the bench originates not from the judicial selection process, but by the pool of candidates available in the first place. This finding is consequential not only to students of judicial elections but to the community of scholars invested in elections, vote choice and democratic representation more generally.

Future work should look beyond the ballot box to assess how the implementation of national-level judicial elections impacts the behavior of national jurists, the legitimacy of the judiciary, and the development of national constitutional law. Extant research has shown that judicial elections increase the legitimacy of U.S. state judiciaries, though particular aspects of campaigns activity have differential effects (Gibson 2009; Gibson et al. 2011, Gibson 2012). If the Bolivian elections bolster institutional legitimacy it would be a marked change from the past, where national judicial institutions lacked the confidence of a majority of the public. Also, a broad body of literature in the United States has consistently shown that the electoral process has wide-reaching effects on the choices justices make, particularly with respect to their willingness to respond to public opinion

²²The success of indigenous candidates in the Bolivia judicial races marks an unprecedented level of indigenous representation in the country’s national judiciary. By way of example, though a wide majority of Bolivians are of indigenous decent, the first indigenous national jurist was appointed in 2007 by mestizo president Evo Morales (BolPress 2007).

(Hall 1987; Brace and Boyea 2008; Caldarone, Canes-Wrone, and Clark 2009; Gordon and Huber 2007; Huber and Gordon 2004). Future research on the Bolivian courts should take this research as a point of departure to determine how the adoption of judicial elections in Bolivia has affected the responsiveness of the Bolivian courts to public opinion and what change the direct election of judges might induce in terms of judicial behavior.

References

- Abramowitz, Alan I. 1988. "Explaining Senate Election Outcomes." *American Political Science Review* 82:385–403.
- Alozie, Nicholas O. 1996. "Selection Methods and the Recruitment of Women to State Courts of Last Resort." *Social Science Quarterly* 77:110–126.
- Alpert, Alexandra, Miguel Centellas and Matthew M. Singer. 2010. "The 2009 Presidential and Legislative Elections in Bolivia." *Electoral Studies* 29.
- Alvarez, R. Michael. 1997. *Information and Elections*. Ann Arbor: University of Michigan Press.
- Baum, Lawrence. 1987. "Explaining the Vote in Judicial Elections: The 1984 Ohio Supreme Court Elections." *Western Political Quarterly* 40:361–371.
- Baum, Lawrence. 2003. "Judicial Elections and Judicial Independence: The Voter's Perspective." *Ohio State Law Journal* 64:13–41.
- Benesh, Sara C. 2006. "Understanding Public Confidence in American Courts." *Journal of Politics* 68(3):697–707.
- Bolivian Constitution. 2009. "Bolivian Constitution." Title III, Articles 192, 199 & 199.
- BolPress. 2007. "Vientos de cambio llevaron al Poder Judicial a un aymara." *BolPress* p. <http://www.bolpress.com/art.php?Cod=2007072803>.
- Bonneau, Chris W. 2005. "Electoral Verdicts: Incumbent Defeats in State Supreme Court Elections." *American Politics Research* 33:818–841.
- Bonneau, Chris W. and Melinda Gann Hall. 2009. *In Defense of Judicial Elections*. Routledge.
- Boulding, Carew E. 2010. "NGO's and Political Participation in Weak Democracies: Subnational Evidence on Protest and Voter Turnout from Bolivia." *Journal of Politics* 72(2):456–468.

- Brace, Paul and Brent D. Boyea. 2008. "State Public Opinion, the Death Penalty, and the Practice of Electing Judges." *American Journal of Political Science* 52(2):360–372.
- Bratton, Kathleen A. and Rorie Spill. 2002. "Existing Diversity and Judicial Selection: The Role of the Appointment Method in Establishing Gender Diversity in State Supreme Courts." *Social Science Quarterly* 30:115–142.
- Caldarone, Richard P., Brandice Canes-Wrone and Tom S. Clark. 2009. "Nonpartisan Elections and Democratic Accountability: An Analysis of State Supreme Court Abortion Decisions." *Journal of Politics* 71(2):560–573.
- Campbell, Angus, Philip E. Converse, Warren E. Miller and Donald E. Stokes. 1960. *The American Voter*. New York: Wiley.
- Cann, Damon M. and Jeff Yates. 2008. "Homegrown Institutional Legitimacy Assessing Citizens' Diffuse Support for State Courts." *American Politics Research* 36(2):297–329.
- Carson, Jamie L., Erik J. Engstrom and Jason M. Roberts. 2007. "Candidate Quality, the Personal Vote and the Incumbency Advantage in Congress." *American Political Science Review* 101:289–303.
- Centellas, Miguel. 2009. "Electoral Reform, Regional Cleavages and Party System Stability in Bolivia." *Journal of Politics in Latin America* 1(2):115–131.
- Croley, Steven P. 1995. "The Majoritarian Difficulty: Elective Judiciaries and the Rule of Law." *University of Chicago Law Review* 62:689–794.
- Dovi, Suzanne. 2008. *The Good Representative*. New York, NY: Wiley-Blackwell.
- Driscoll, Amanda and Michael J. Nelson. 2012. "The 2011 Judicial Elections in Bolivia." *Electoral Studies* 31(3):628–632.
- Dubois, Philip L. 1980. *From Ballot To Bench: Judicial Elections and the Quest for Accountability*. University of Texas.

- Dubois, Philip L. 1984. "Voting Cues in Nonpartisan Trial Court Elections: A Multivariate Assessment." *Law & Society Review* 18(3):395–436.
- Enlared con Federación de Asociaciones Municipales de Bolivia. 2010. "En abril nacen diez nuevos municipios." *El Diario* .
- Erikson, Robert S. 1971. "The Advantage of Incumbency in Congressional Elections." *Polity* 3:395–405.
- Fiorina, Morris P. 1977. *Congress: Keystone of the Washington Establishment*. New Haven: Yale University Press.
- Fox, Richard L. and Jennifer L. Lawless. 2004. "Entering the arena? Gender and the Decision to Run for Office." *American Journal of Political Science* 48(2):264–280.
- Fox, Richard L. and Zoe M. Oxley. 2003. "Gender Stereotyping in State Executive Elections: Candidate Selection and Success." *Journal of Politics* 65(3):833–850.
- Frederick, Brian and Matthew J. Streb. 2008. "Women Running for Judge: The Impact of Sex on Candidate Success in State Intermediate Appellate Court Elections." *Social Science Quarterly* 89:937–954.
- Fulton, Sarah A., Cherie D. Maestas, L. Sandy Maisel and Walter J. Stone. 2006. "The Sense of a Woman: Gender, Ambition and the Decision to Run for Congress." *Political Research Quarterly* 59(2):235–248.
- Geer, John G. 2006. *In Defense of Negativity: Attack Ads in Presidential Campaigns*. Univerisity of Chicago Press.
- Geyh, Charles Gardner. 2003. "Why Judicial Elections Stink." *Ohio State Law Journal* 64:43–79.
- Gibson, James L. 2009. "'New Style' Judicial Campaigns and the Legitimacy of State High Courts." *Journal of Politics* 71(4):1285–1304.

- Gibson, James L. 2012. *Electing Judges: The Surprising Effects of Campaigning on Judicial Legitimacy*. Chicago Studies in American Politics University of Chicago Press.
- Gibson, James L. and Gregory A. Caldeira. 2011. "Has Legal Realism Damaged the Legitimacy of the U.S. Supreme Court." *Law & Society Review* 45(1):195–219.
- Gibson, James L., Jeffrey A. Gottfried, Michael X. Delli Carpini and Kathleen Hall Jamieson. 2011. "The Effects of Judicial Campaign Activity on the Legitimacy of Courts: A Survey-Based Experiment." *Political Research Quarterly* 64(3):545–558.
- Gisbert, Carlos D. Mesa. 2008. *Presidencia Sitiada: Memorias de mi Gobierno*. Fundación Comunidad.
- Gordon, Sanford C. and Gregory A. Huber. 2007. "The Effect of Electoral Competitiveness on Incumbent Behavior." *Quarterly Journal of Political Science* 2:107–138.
- Hall, Melinda Gann. 1987. "Constituent Influence in State Supreme Courts: Conceptual Notes and a Case Study." *Journal of Politics* 49(4):1117–24.
- Hall, Melinda Gann. 2001. "State Supreme Courts in American Democracy: Probing the Myths of Judicial Reform." *American Political Science Review* 95:315–30.
- Hall, Melinda Gann. 2009. "The Controversy Over Electing Judges and Advocacy in Political Science." *Justice System Journal* 30(2):283–291.
- Hall, Melinda Gann and Chris W. Bonneau. 2006. "Does Quality Matter? Challengers in State Supreme Court Elections." *American Journal of Political Science* 50:20–33.
- Hamilton, A., J. Madison and J. Jay. 2005. *The Federalist Papers*. Hackett Publishing Company Incorporated.
- Hayama, A. 1992. "Incumbency Advantage in Japanese Elections." *Electoral Studies* 11:46–57.

- Ho, Daniel E. and Kosuke Imai. 2008. "Estimating Causal Effects of Ballot Order from a Randomized Natural Experiment: California Alphabet Lottery, 1978-2002." *Public Opinion Quarterly* 72:216–240.
- Hojnacki, Marie and Lawrence Baum. 1992. "Choosing Judicial Candidates: How Voters Explain their Decisions." *Judicature* 75(6):300–309.
- Huber, Gregory A. and Sanford C. Gordon. 2004. "Accountability and Coercion: Is Justice Blind when It Runs for Office?" *American Journal of Political Science* 48(2):247–263.
- Hurwitz, Mark S. and Drew Lanier. 2003. "Explaining Judicial Diversity: The Differential Ability of Women and Minorities to Attain Seats on State Supreme and Appellate Courts." *State Politics & Policy Quarterly* 3:329–352.
- Hurwitz, Mark S. and Drew Noble Lanier. 2008. "Diversity in State and Federal Appellate Courts: Change and Continuity Across 20 Years." *Justice System Journal* 29:47–70.
- Jacobson, Gary C. 2009. *The Politics of Congressional Elections*. 7th ed. Pearson Longman.
- Kessler, Amalia D. 2010. "Marginalization and Myth: The Corporatist Roots of France's Forgotten Elective Judiciary." *American Journal of Comparative Law* 58:679–720.
- Klein, Herbert S. 2011. *A Concise History of Bolivia*. 2nd ed. Cambridge University Press.
- Kritzer, Herbert. 2011. "Competitiveness in State Supreme Court Elections, 1946-2009." *Journal of Empirical Legal Studies* 8:237–259.
- Kromer, Sarel Kandell. 2005. "The Rawandan Reconciliation." *Washington Post* Oct. 16:B02.
- Krook, Mona Lena. 2009. *Quotas for Women in Politics: Gender and Candidate Selection Reform Worldwide*. OUP USA.
- Krook, Mona Lena and Diana Z. O'Brien. 2010. "The Politics of Group Representation: Quotas for Women and Minorities Worldwide." *Comparative Politics* 42(3):253–272.

- La Razón. 2011. "El registro ampliado aún no tiene inscritos." *La Razón* June 23, 2011.
- La Red. 2007. "Evo acusó de corrupto la Justicia Boliviana." *La Red*.
- Law, David S. 2009. "The Anatomy of a Conservative Court: Judicial Review in Japan." *Texas Law Review* 87:1545–1594.
- Levi, Edward H. 1948. *An Introduction to Legal Reasoning*. University of Chicago Press.
- Lovrich, Jr., Nicholas P., Charles H. Sheldon and Erik Wasmann. 1988. "The Racial Factor in Nonpartisan Judicial Elections: A Research Note." *Western Political Quarterly* 41(4):807–816.
- Maestas, Cherie D., Sarah Fulton, L. Sandy Maisel and Walter J. Stone. 2006. "When to Risk It? Institutions, Ambitions and the Decisions to Run for U.S. House." *American Political Science Review* 100(2):195–208.
- Mansbridge, Jane. 2003. "Rethinking Representation." *American Political Science Review* 97(4):515–528.
- Mayhew, David R. 1974. "Congressional Elections: The Case of the Vanishing Marginals." *Polity* 6:295–317.
- Meredith, Marc and Yuval Salant. 2012. "On the Causes and Consequences of Ballot Order-Effects." *Political Behavior* Forthcoming.
- Miranda, Boris. 2011. "76% del eje troncal se declara no informado para sufragar." Oct. 2.
- Morrison, Alan B. 2007. "Judges and Politics: What to Do and Not to Do About Some Inevitable Problems." *Justice System Journal* 28:293–300.
- Nagel, Stuart S. 1961. "Political Party Affiliation and Judges' Decisions." *American Political Science Review* 55:843–850.
- Nechemias, Carol. 1987. "Changes in the Election of Women to U.S. State Legislative Seats." *Legislative Studies Quarterly* 12(1):125–142.

- Norris, Pippa. 2004. *Electoral Engineering: Voting Rules and Political Behavior*. Cambridge, UK: Cambridge University Press.
- Órgano Electoral Plurinacional. 2010. Acta de Computo Nacional Elecciones Departamentales, Municipales y Regional, 2010. Technical report Órgano Electoral Plurinacional and the ACE Project La Paz, Bolivia: .
- Órgano Electoral Plurinacional. 2011a. Acta de la Reunion extraordinaria del Tribunal Supremo Electoral para el sorteo de ubicación de las y los candidatos en la franja correspondiente de la papeleta de sufragio. Technical Report ACTA TSE-SC-001 Órgano Electoral Plurinacional La Paz, Bolivia: .
- Órgano Electoral Plurinacional. 2011b. Estamos Construyendo una Democracia Intercultural: Elección de Autoridades del Órgano Judicial y Tribunal Constitucional Plurinacional. Technical report Órgano Electoral Plurinacional La Paz, Bolivia: .
- Órgano Electoral Plurinacional. 2011c. Requisitos Técnicos para la Difusión de Méritos. Technical report Órgano Electoral Plurinacional La Paz, Bolivia: .
- Órgano Electoral Plurinacional. 2011d. “Tribunal Supremo Electoral intensifica socialización del proceso para elecciones judiciales.” *Acompañamiento, Observación & Supervisión Servicio Intercultural de Fortalecimiento Democrático – SIFDE* .
- Órgano Electoral Plurinacional. 2011e. “Voter Information Guide: 2011 Bolivian Elections.”.
- Oxley, Zoe M. and Richard L. Fox. 2004. “Women in Executive Office: Variation Across American States.” *Political Research Quarterly* 57(1):113–120.
- Página Siete. 2011a. “30 candidatos son afines al MAS y 36 son empleados.” *Página Siete* July 15, 2011:Online edition.
- Página Siete. 2011b. “Profesionales no se postularán a las elecciones judiciales.” *Página Siete* June 8, 2011.

- Palmer, Barbara and Dennis Simon. 2008. *Breaking the Political Glass Ceiling: Women and Congressional Elections*. 2nd ed. Routledge.
- Peréz-Liñán, Anibal and Andrea Castagnola. 2010. Bolivia: The Rise (and Fall) of Judicial Review. In *Courts in Latin America*, ed. Gretchen Helmke and Julio Rios-Figueroa. Cambridge University Press.
- Peréz-Liñán, Anibal, Barry Ames and Mitchell A. Seligson. 2006. "Strategy, Careers, and Judicial Decisions: Lessons from the Bolivian Courts." *Journal of Politics* 68:284–296.
- Peruvian National Assembly. 2005. *Ley Que Regula la Elección de los Jueces de Paz*. Technical report Peruvian National Assembly.
- Pitkin, Hannah F. 1967. *The Concept of Representation*. Berkeley, CA: University of California Press.
- Pozen, David. 2008. "The Irony of Judicial Elections." *Columbia Law Review* 108:265.
- Ramseyer, J. Mark and Eric B. Rasmusen. 2001. "Why are Japanese Judges So Conservative in Politically Charged Cases?" *American Political Science Review* 95:331–344.
- Reddick, Malia, Michael J. Nelson and Rachel P. Caufield. 2009. "Racial and Gender Diversity on State Courts." *The Judge's Journal* 48:28–32.
- Rehfeld, Andrew. 2009. "Representation Rethought: on Trustees, Delegates, and Gyroscopes in the Study of Political Representation and Democracy." *American Political Science Review* 103(2):214–230.
- Reid, Traci V. 2004a. "Assessing the Impact of a Candidate's Sex in Judicial Campaigns and Elections in North Carolina." *Justice System Journal* 25:183–207.
- Reid, Traci V. 2004b. "The Competitiveness of Female Candidates in Judicial Elections: An Analysis of the North Carolina Trial Court Races." *Albany Law Review* 67:829–42.

- Rock, Emily and Lawrence Baum. 2010. "The Impact of High-Visibility Contests for U.S. State Court Judgeships: Partisan Voting in Nonpartisan Elections." *State Politics & Policy Quarterly* 10:368–396.
- Schaffner, Brian F., Matthew Streb and Gerald Wright. 2001. "Teams without Uniforms: The Nonpartisan Ballot in State and Local Elections." *Political Research Quarterly* 54:7–30.
- Scherer, Nancy and Brett Curry. 2010. "Does Descriptive Race Representation Enhance Institutional Legitimacy? The Case of the U.S. Courts." *Journal of Politics* 72(1):90–104.
- Segal, Jeffrey A. and Harold J. Spaeth. 1993. *The Supreme Court and the Attitudinal Model*. Cambridge University Press.
- Streb, Matthew J. 2007. "Partisan Involvement in Partisan and Nonpartisan Trial Court Elections." In *Running for Judge: The Rising Political, Financial, and Legal Stakes of Judicial Elections*. ed. Matthew J. Streb. New York: New York University Press.
- Streb, Matthew J. 2011. "How Judicial Elections Are Like Other Elections and What that Means for the Rule of Law." *What's Law Got to Do With It? What Judges Do, Why they do it, and What's at Stake* ed. Charles Gardner Geyh. Stanford University Press:195–222.
- Streb, Matthew J. and Brian Frederick. 2009. "Conditions for Competition in Low-Information Elections: The Case of Intermediate Appellate Courts." *Political Research Quarterly* 62:665–684.
- Tarr, G. Alan. 2012. *Without Fear or Favor Judicial Independence and Judicial Accountability in the States*. Stanford University Press.
- Tate, C. Neal and Panu Sittiwong. 1989. "Decision Making in the Canadian Supreme Court: Extending the Personal Attributes Model Across Nations." *Journal of Politics* 51:900–916.
- Van Dunk, Emily. 1997. "Challenger Quality in State Legislative Elections." *Political Research Quarterly* 50:793–807.

	Estimate	S.E.	z-Statistic
Professional Qualifications			
Prior Judicial Experience	-0.69	1.09	-0.64
Political Representation			
Government Affiliate	0.63	0.83	0.75
Government Stronghold	-0.01	0.00	-2.31
Government Affiliate \times Government Stronghold	0.02	0.00	3.70
Descriptive Representation			
Overtly Indigenous	-2.92	1.23	-2.37
Percent Indigenous	-0.02	0.00	-8.18
Overtly Indigenous \times Percent Indigenous	0.10	0.01	18.55
Female Candidate	0.25	0.81	0.31
Female Mayor	-0.22	0.38	-0.59
Female Candidate \times Female Mayor	-0.59	0.53	-1.10
Controls			
Ballot Position	-0.29	0.05	-6.27
Intercept	8.12	1.02	7.94
Log-likelihood	-26303		
BIC	58735		
Standard Deviation (Candidate)	1.89		
Residual Standard Deviation	5.31		
N	9464		

Table 1: Hierarchical linear model estimates of candidates' vote share at the municipal level with random effects coefficients for each candidate.

49



DATOS PERSONALES

Nombres y apellidos: Carmen Silvana Sandoval Landivar

Lugar y fecha de nacimiento: Santa Cruz de la Sierra, 17 de agosto de 1960.

Franja en la que postula: Tribunal Constitucional Plurinacional.

MÉRITOS

Formación académica: licenciada en Ciencias Jurídicas y Abogada con estudios en la UAGRM y UMSA. Diplomado en Derecho Notarial, UDABOL y en Justicia Constitucional, UDS

Máster en DIP por la Facultad de Derecho de la Universidad Complutense de Madrid.

Producción intelectual: Extradición por delitos de lesa humanidad.

Experiencia profesional: Es docente de la Maestría de Derecho Notarial y Registral de la Escuela Militar de Ingeniería y de la Carrera de Relaciones Internacionales, Facultad de Ciencias Jurídicas, Políticas y Relaciones Internacionales de la Universidad Autónoma Gabriel René Moreno; así como del Instituto de la Judicatura del Poder Judicial.

Como primera diplomática cruceña de carrera, se ha desempeñado como diplomática de carrera en el Ministerio de Relaciones Exteriores y Culto de Bolivia y ha representado al país en eventos internacionales y en diversas funciones diplomáticas. Ha sido consultora y asesora de diferentes instituciones gubernamentales, de voluntariado y grupos indígenas en temas de género y derechos humanos.

Actualmente se desempeña como docente de la UAGRM, la EMI (maestría) y Notaria de Fe Pública. Ha recibido diversas condecoraciones y distinciones por su labor profesional.

Figure 1: Example Candidate Profile. The profile includes information on the candidate's date and location of birth, their picture, and their academic, intellectual, and professional experience. The number of the profile (#49) corresponds with the candidate's ballot position, and was randomly pre-assigned by the OEP.



Figure 2: Portion of Bolivian Constitutional Court ballot. Candidate ordering is random, but alternates by gender. The ballot also includes a picture of the candidate, as well as a number for each candidate that corresponds with the number present on the voting guide sent to voters by the election officials.



Figure 3: Comparison of candidate profiles for candidates who were classified as *Overtly Indigenous* as opposed to *Self-identified Indigenous* (though not overtly indigenous in appearance). Both of the candidates listed above self-identified as indigenous in the candidate profile, though only the candidate on the left was coded as appearing to be so.

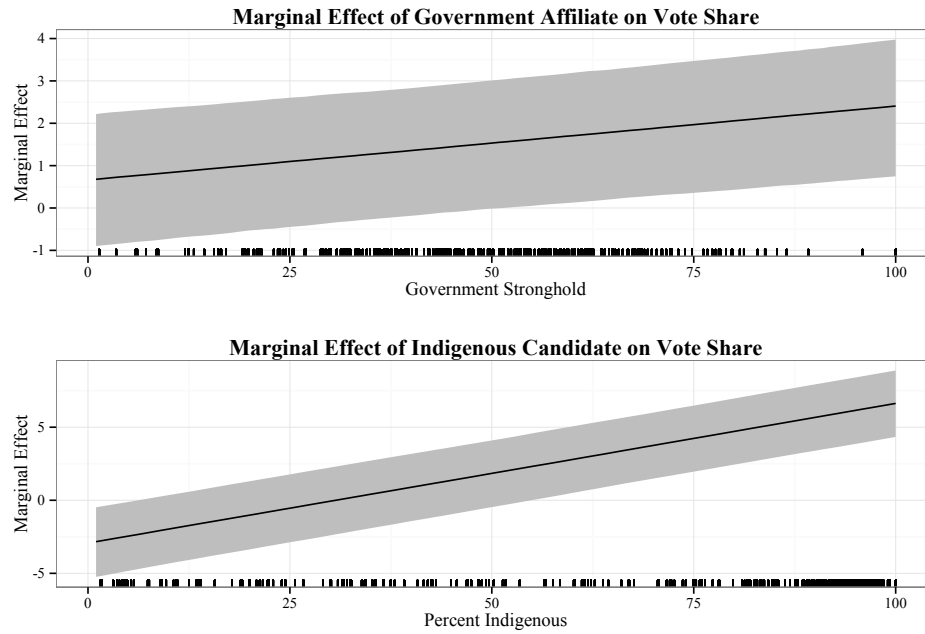


Figure 4: Marginal Effects of candidate characteristics on the candidate's vote share in the 2011 Bolivian judicial elections. The gray bands are confidence intervals at the $p < .05$ level using two-tailed tests. The rug shows the distribution of *Government Stronghold* and *Percent Indigenous* in the data.