Who Wants an Independent Court? Political Competition and Supreme Court Autonomy in the Argentine Provinces (1984–2008)

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Political competition should protect judicial autonomy. A host of studies produce evidence that is consistent with this expectation. The influence of political competition operates through two distinct mechanisms: fragmentation and turnover. Most empirical studies treat them as mutually reinforcing. We explain why each of these effects should be most clear when the other one is inactive: when power is concentrated only the expectation of turnover may protect judicial autonomy; when turnover seems unlikely only fragmentation should prevent interferences on the judiciary. We test these hypotheses using an original data set comprising all justices that served in the 24 provincial supreme courts in Argentina between 1984 and 2008. Results of a survival model with competing risks support our argument. The effect of fragmentation is discernible when turnover seems unlikely. The expectation of turnover restrains incumbents particularly when power is concentrated.

Judicial autonomy is a necessary condition for the rule of law. For this reason, theorists (Carrubba 2009; Cooter and Ginsburg 1996; Ferejohn 1999; Ferejohn, Rosenbluth et al. 2007; Knight and Epstein 1996; Krehbiel 2007; Landes and Posner 1975; McNollgast 2006; Stephenson 2003; Vanberg 2001, 2008),[1] students of American politics (Cameron 2002; Engel 2011; Figueiredo and Emerson 1996; Jennings Peretti 2002; Whittington 2003, 2005), and comparativists (Franck 2009; Ginsburg 2003; Helmke 2002; Iaryczower, Spiller et al. 2002; Ramseyer 1994; Ramseyer and Rasmusen 1997; Vanberg 2005) have tried to identify the specific attributes of democracy that foster or hinder the autonomy of courts. Among these attributes, political competition stands out. Theoretical and empirical analyses repeatedly find that intense political competition protects judicial autonomy. The specialized literature proposes two mechanisms through which political competition influences judicial autonomy: fragmentation and turnover. Political fragmentation refers to the fact that authority is divided among agents with different preferences. It prevents rulers from garnering enough political support to curtail the autonomy of judges. Turnover refers to the fact that members of different political parties rotate in the exercise of power. It debilitates the incentive to constrain judges. Courts that may rule against incumbents reduce the value of holding office but increase the value of being out of office. Thus when rulers expect to remain in the political game for a long time but cannot ascertain which position they will occupy at any particular moment, respecting the autonomy of courts may increase their expected payoff. This logic has led some

scholars to think of judicial autonomy as a form of political insurance that incumbents buy to reduce the cost of being out of office.

The case for political competition as a determinant of judicial autonomy is theoretically sound and consistent with the empirical evidence, but the mechanisms proposed to account for it are not equivalent nor do they reinforce each other. Yet the most influential studies of judicial politics in new democracies, particularly those about Latin American cases, treat them as equivalent and mutually reinforcing.[2] By doing so, they blur the distinction between the two dimensions of political competition and misrepresent their interaction. As a consequence, arguments about the influence of political competition on judicial autonomy may lead to erroneous conclusions.

In this article we argue that fragmentation and turnover are distinct mechanisms through which political competition may affect judicial autonomy. We also elaborate on the conditions under which each operates. We hypothesize that the effect of each mechanism should be most clear when the other one is dormant: when power is concentrated, only the expectation of turnover may protect judicial autonomy. Conversely, when turnover seems unlikely, only fragmentation should prevent interferences on the judiciary. If turnover is expected, the fragmentation of power should bring no additional protection to judges. If power is fragmented, the fact that some incumbents expect to be out of office in the next round of the political game does not entail an additional constraint on the sitting majority. We test these hypotheses using an original data set comprising all justices that served in the 24 provincial supreme courts in Argentina between 1984 and 2008.

Our discussion and empirical findings contribute to theory development in the subfield of judicial politics and seek to bring empirical studies into closer contact with theoretical insights. Since we focus on provinces and, considering that judicial autonomy is a significant component of democratic government, we are also able to contribute to a dynamic research agenda on democratization in Latin America at the subnational level of government. Finally, this article also refines our understanding of Argentine provincial judiciaries, which have been the object of several previous studies.

The remainder of the article is organized as follows. The second section defines and proposes an operationalization of judicial autonomy, and the third section discusses accounts of judicial politics in new democracies, considers the

different rationales underlying explanations based on either fragmentation or turnover as indicators of political competition, and explores their interaction. Next, we review the evolution of the stability of justices in provincial supreme courts and describe the statistical techniques, the hypotheses, the indicators, and the sample used in our analysis. We then present and discuss our results and conclude.

JUDICIAL AUTONOMY AND SUPREME COURT INSTABILITY

Judges are autonomous when they do not suffer incapacitating interferences to adjudicate cases. Our study deals with one dimension of judicial autonomy: the stability of judges in their offices. Judicial instability as a generalized and frequent phenomenon implies lack of autonomy. We define instability as the difference between the legally established and actually effective lengths of tenure attributable to external pressures. Those pressures aim, in general, at reducing the value that judges derive from staying in office. That may happen because by staying, they run the risk of incurring a cost, such as an impeachment, or losing a benefit, such as an advantageous pension scheme or a prestigious political position.[3] Thus defined, instability represents the ultimate interference on the autonomy of individual judges and the most eloquent, if crude, tool to impose constraints on the judiciary as a whole.

One might expect that judges who value their positions will only rule against incumbent majorities that are not large enough to remove them. Under these circumstances, judicial instability would never obtain: small incumbent majorities could not replace judges, and large majorities would not need to replace them. But judges who place a higher value on the content of their decisions than on the power and perks of their offices may rule against incumbents. Some of them defy large majorities and are removed.[4] In light of this possibility, it seems plausible that incumbents prefer to nominate political allies to replace judges with distant policy preferences before the latter have an opportunity to decide on sensitive cases. Therefore, political pressures that lead to the replacement of judges should not be seen as anomalous. This is why frequent early exits

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2. Important exceptions are Castagnola (2007) and Rebolledo and Rosenbluth (2010).

3. Threats of impeachment, trials by judicial councils, or nominations to coveted positions count as an unduly pressures insofar as they can be shown to be motivated by incumbent political goals. Our study follows this coding criterion.

4. This is in line with Helmke (2002): judges who are certain that they are going to be sacked may feel encouraged to defy executives and legislative majorities. This would result in a combination of autonomy with instability.

attributable to political causes may be interpreted as restrictions on judicial autonomy.[5]

THE ROOTS OF JUDICIAL AUTONOMY: THE CASE FOR POLITICAL COMPETITION

Governments derive a benefit from the existence of autonomous courts. It may consist in the utility derived from enacting credible policies (Landes and Posner 1975) or shifting blame to the judiciary from the adoption of controversial measures.[6] However, rulings unfavorable to incumbent governments entail reputation or policy costs. To avoid them, incumbents may try to reverse judicial decisions or punish courts. These reactions are also costly: new legislation entails transaction costs, and attacks on courts may involve electoral costs. Judicial autonomy obtains: (1) when its benefits outweigh the costs of unfavorable rulings or (2) when unfavorable rulings make net damage but retaliating on the courts is unfeasible or would make things worse (Vanberg 2008; Whittington 2003).

Among the factors that determine the net benefit of having autonomous judiciaries, the literature stresses two: public support for the courts (Clark 2009, 2011, Gibson and Caldeira 2009; Staton 2002; Vanberg 2005) and political competition (Engel 2011; Ferejohn, Rosenbluth et al. 2007; Hanssen 2004; McNollgast 2006; Ramseyer 1994; Rebolledo and Rosenbluth 2010; Stephenson 2003).

The case for the protective role of public support is straightforward: the electorate values an autonomous judiciary and punishes incumbents who infringe upon it. Alternatively, the public may object to some rulings and thus condone court-curbing behavior in the part of executives or legislatures (Clark 2009). The case for political competition is more complex and figures more prominently in studies of judicial politics in new democracies.

Two dimensions of political competition. As noted earlier, two aspects of political competition could affect judicial autonomy: fragmentation and turnover. Power is fragmented when laws entitle different agents to decide over an issue and those agents pursue different political goals. When divided government obtains, impeaching judges, packing courts, or replacing judges with others more closely aligned with the executive is less likely. For this reason, fragmentation should protect the stability of justices.[7]

Turnover refers to the fact that members of different political organizations rotate in the exercise of power. It may increase the value of having an autonomous, and thus a stable, judiciary. The logic is the following. Incumbents and oppositions differ in their preferences over policy. Policies that increase the utility of incumbents decrease the utility of oppositions. When there is no judicial autonomy, incumbents set policy at their ideal points. When there is judicial autonomy, only constitutionally valid policies are accepted. These may stand somewhat apart from the incumbent's ideal point. Incumbents increase their utility when they set policy freely. However, if turnover is frequent, the probability that they are out of office increases and so does the long-term utility attached to staying out of office. Under these conditions, to exchange a somewhat lower value to being in office for a higher value to being in the opposition increases expected utility in the long run. Judicial autonomy affects these values, and then it is more likely when turnover is frequent.[8]

These are two different mechanisms. In the case of fragmentation, judicial autonomy obtains because incumbents do not have enough power to curtail it. In the case of turnover, politicians find it more advantageous to grant autonomy to the judiciary even though they could do otherwise. These propositions, however, contradict the typical treatment of political competition in studies of judicial autonomy in new democracies.[9]

Most of these studies recognize the distinction between dimensions of political competition but mistakenly suggest

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5. Incumbents may want to fill courts with political allies for other reasons; for example, to reward their loyalty. But as long as courts are endowed with relevant powers, any additional inspiration for nominations should be consistent with and secondary to the requirement to fill judicial positions with individuals whose potential rulings are predictable and reliable. Nominations may be used as rewards, but they first must ensure safe decisions.

6. Not all of these interpretations are plausible as Stephenson (2003) and Ferejohn, Rosenbluth, and Shipan (2007) indicate. It seems nevertheless reasonable to postulate the existence of such a benefit.

7. For a persuasive defense of this position, see Ferejohn, Rosenbluth, and Shipan (2007).

8. This explanation summarizes Stephenson's model of judicial independence (2003). Ramseyer (1994) presents the seminal exposition of the turnover argument. Whittington (2003, 454) offers a compelling summary.

9. Like our study, most of this body of work focuses on Latin American countries and explores the roots of judicial autonomy (see Dargent 2009; Domingo 2000; Finkel 2001; Helmke 2008; Helmke and Staton 2009; Kapiszewski and Taylor 2008; Navia and Rios-Figueroa 2005; Pérez-Liñán, Ames et al. 2008; Pérez Liñán and Castagnola 2009; Rios-Figueroa 2006, 2007; Rios-Figueroa and Taylor 2006; Staton 2002, 2004, 2010; Taylor 2006). Kapiszewski and Taylor (2008) produced an excellent critical review of this literature. A significant portion of these studies discusses the causes and consequences of judicial instability in Argentina (see Bill Chavez 2004, 2007; Castagnola 2007; Dix 2004; Finkel 2004; Helmke 2002; Iaryczower, Spiller et al. 2002; Kapiszewski 2007; Llanos and Figueroa Schibber 2007; Scribner 2004). Part of this literature explores the manifestations of this problem at the provincial level of government (Beer 2006; Bill Chavez 2003; Ingram 2009).

that they operate simultaneously or are mutually reinforcing.[10] For example, fragmentation and turnover are identified as separate variants of one of the types of explanations that Beer (2006) considers in her study of judicial performance in the Mexican states. But in the interpretation of the empirical evidence, their effects are conflated. Beer writes:

> just as opposition parties were making important gains (. . .), a fragmented polity and a new electoral uncertainty converged, making leaders of the ruling Institutional Revolutionary Party (PRI) increasingly aware that they might need some kind of "insurance policy for the future." (2006, 47–48)

In the same vein, contrasting levels of judicial autonomy in the Argentine provinces of Mendoza and San Luis, Bill Chavez observes that "[u]nder divided government the executive cannot eliminate agencies that check its power. With rotation of the party in power the executive does not want to eliminate them" (2003, 424). A few pages before, however, the author had written:

> Where significant interparty competition does not exist and party discipline is high, the executive branch faces incentives to concentrate power and is able to do so. Monolithic party control allows the executive to push through legislation that strips control organs of their capacity to check executive power. Interparty competition, in contrast, provides incentives for politicians to develop a meaningful system of checks and balances (. . .). A ruling party that foresees its displacement needs the protection of control agencies when it becomes the opposition. (418)

These arguments acknowledge that the effects of fragmentation and turnover on judicial autonomy obey different logics but suggest that they are complementary. We argue that this frequent suggestion is misleading and compromises the ability to understand how and why political competition could protect judicial autonomy.

Interactions between fragmentation and turnover. The effects of fragmentation and turnover are mutually dependent and do not reinforce each other. The incentive to

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10. Departing from this trend, Popova (2010) and Aydin (2013) argue that political competition hinders judicial autonomy when democratic institutions are weak and produce evidence that is consistent with this tenet.

buy judicial insurance depends on the relative concentration of power: it is more urgent when the incumbent majority is large enough to replace sitting judges. When power is fragmented, incumbents do not restrain themselves, they are already restrained. We expect the effect of self-restraint to operate when external constraints do not exist or are weak. If this is correct, it cannot be the case that judiciaries gain autonomy because rotation in power reinforces the moderating effect of political fragmentation. That is, we expect the effect of turnover on judicial autonomy to be conditional on the level of fragmentation. When fragmentation is high enough, rotation is irrelevant. But when fragmentation is low, a higher expectation of turnover can trigger the insurance mechanism and increase judicial autonomy. Conversely, the protective effect of political fragmentation operates when rotation in office seems unlikely. Incumbents who do not assign a sufficiently high probability to being in the opposition would replace seating judges unless their lack of political support prevents them from doing so.

Table 1 presents the outcomes we expect to observe with each possible combination between the fragmentation of power and the expectation of turnover. Justices run the highest risk of being replaced for political motives when the situation is as in cell A: incumbents hold majorities large enough to replace sitting justices and rotation in office does not seem likely.

Moving from this cell in any direction reduces the risk of a political exit. If the case is as in cell B, incumbents do not expect to be replaced and have therefore no incentive to refrain from interfering on the judiciary. Yet fragmentation prevents them from doing so. As a consequence, the risk of

Table 1. Interactions between Fragmentation and Turnover

		Fragmentation of Power	
		Incumbent Majority	No Incumbent Majority
Expectation of turnover	High	A Turnover reduces the risk of political early exit	B Fragmentation reduces the risk of political early exit
	Low	C Majority increases the risk of political early exit	D Fragmentation reduces the risk of political early exit

a political exit is lower than in cell A. Moving towards cell C also entails a reduction in the risk of being forced out of the court. In this case, incumbents could interfere with the judiciary but, considering that they may well be out of office soon, they choose not to do so.

The movements from cells A to B and C represent the main effects of political competition on judicial autonomy. They are independent, and they are most clearly discernible when the other one is dormant. According to our discussion, a further move into cell D should add no extra reduction in the risk of a political exit. In contrast to a common contention in the literature, the effects do not reinforce each other. A case as in cell D is overdetermined. Incumbents cannot interfere on the judiciary and would probably choose not do so anyway. The combination of both circumstances produces no additional protection.

The insurance effect and time horizons. The insurance effect could be construed as a tit-for-tat equilibrium in a repeated prisoner's dilemma: incumbents forcefully replace judges only when forceful replacements took place before; otherwise, they do not. This is not the only possible outcome (Helmke and Rosenbluth 2009; Ramseyer 1994). Yet most empirical studies of judicial autonomy seldom discuss the possibility that rotation in office may lead to any other result.

The probability that the turnover effect takes place depends, as it happens with many models based on repeated games, on the rate at which players discount future pay-offs.[11] When players do not expect to participate in future rounds of the game, the incentive to accept lower pay-offs in the present decreases.

Volatile institutional settings lead players to discount future pay-offs more heavily. When electoral rules or party regulations change frequently, the set of players may change dramatically. Then, players cannot be certain to remain in the game and should maximize short-term benefits. As a consequence, under fragile institutions, shortened time horizons decrease the expected value of the insurance strategy, preventing the positive effects of the prospect of turnover on the autonomy of the courts described above (Aydin 2013; Popova 2013).[12] On the contrary, short time horizons could lead new incumbents to replace sitting justices with

members of their own party or faction, thus eroding judicial stability. Recognizing that the insurance effect depends on the rate at which political actors discount future pay-offs is crucial to interpret the dynamics of judicial politics in democracies with feeble institutions.

Effects of political competition on judicial autonomy. There are strong theoretical reasons to expect that levels of political competition affect the autonomy of courts; but the effect operates through different mechanisms. They point to different motivations of politicians and do not operate simultaneously. Turnover increases judicial autonomy when political fragmentation is low. Fragmentation prevents incumbents from forcing judges to abandon their positions, but its protective effect stands out when turnover seems unlikely. Our study of the Argentine provinces tests the explanatory power of these insights.

SUPREME COURT STABILITY IN THE ARGENTINE PROVINCES

Argentina is a federal republic with three levels of government: federal, provincial, and local. The 23 Argentine provinces and the city of Buenos Aires dictate their own constitutions and electoral rules. In all provinces, government is divided into three branches: a directly elected executive (governor), an elected legislature, and an appointed judiciary. Electoral and legislative rules as well as the composition of the judiciary vary significantly across provinces, but all provinces have a supreme court.[13]

Provincial supreme courts (PSCs) are the highest appellate court in each province. They are all entrusted with review powers and have exclusive jurisdiction in administrative matters and in conflicts between branches of government, including disputes between provincial and municipal governments or among municipal governments (Castagnola 2010). They can rule against provincial states in cases potentially onerous for incumbents and may suspend implementation of laws that they find unconstitutional. Consequently, governors seeking to avoid unfavorable rulings have strong reasons to limit the autonomy of these courts, for instance, by removing unpredictable justices.

According solely to legal provisions, in Argentina most PSC justices should remain in office for long periods.[14] Yet, in our sample of 446 justices who served in the 24 PSCs between 1984 and 2008, average tenure was 6.9 years, with

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11. Ramseyer's seminal contribution recognizes this: "rational politicians in competitive electoral markets do *not* necessarily maintain independent courts" (1994, 740, emphasis in the original).

12. According to a similar logic, in the context of transitions from authoritarian regimes departing incumbents may try to gain some protection by replacing sitting justices with friendly appointees (Ginsburg 2003).

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13. The denomination of these tribunals varies across provinces. For simplicity, we use the generic "supreme courts."

14. Throughout the period under study, justices were appointed with term limits only in Catamarca, Jujuy, La Rioja, Salta, and Tucumán.
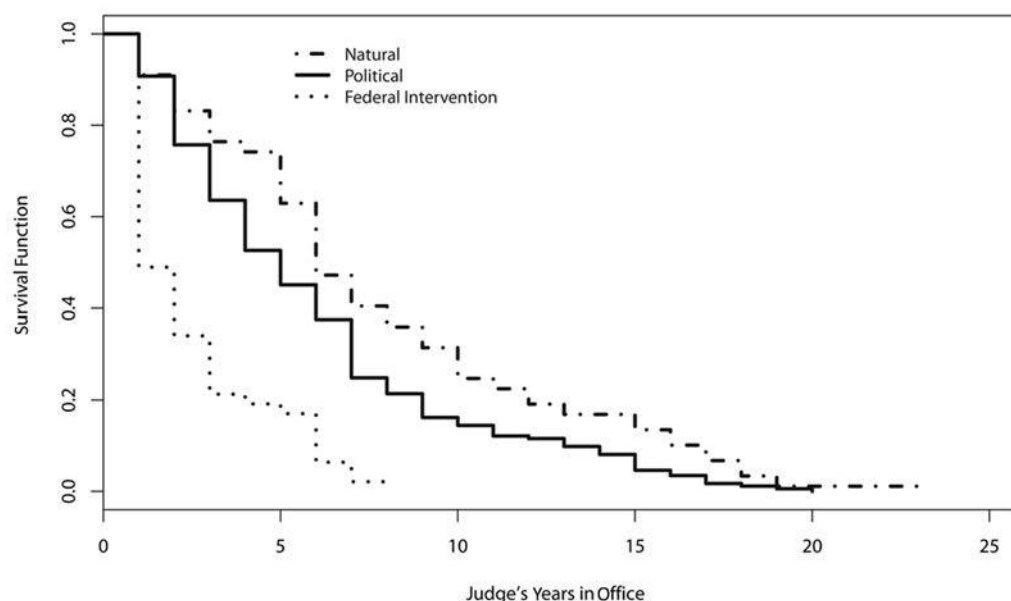
Figure 1. Judicial survival by risk. Kaplan-Meier estimates. The lines indicate the probability that a justice leaves the provincial supreme court in a particular year for each type of cause as time elapses.

a standard deviation of 5.5 years. Since all Argentine governors are elected for four-year terms and since most of them have been reelected, the typical PSC justice has been in office for a shorter term than the typical governor of her province.

Justices may exit courts for several reasons: they may die, fall ill, leave their position voluntarily to pursue other career interests or personal plans, be forcefully replaced, or induced to resign for political reasons. Given the purpose of our study, it is important to distinguish among these types of exit. Relying on press reports, official documents and interviews with provincial justices, local scholars, journalists, and public officials, we coded 321 out of the 333 exits that took place in the period under study. We considered a justice left office for "natural" reasons when she died in office, retired voluntarily, or completed her legally mandated term: 89 justices exited court for "natural" reasons. "Political" reasons to leave office include resignations under threats of impeachment or other kinds of pressure, retirement under regimes especially designed to induce resignation,[15] and resignations to take other political responsibilities. More than half of our recorded exits, 173, satisfy one of these political conditions. Finally, we coded a third type of exit: "federal intervention." The Argentine constitution authorizes the federal government to suspend provincial authorities when the provincial public order is

threatened. In every federal intervention that occurred between 1983 and 2008, both chief executives and all PSC justices were deposed. Federal interventions accounted for another 47 exits.

Figure 1 illustrates the differences in survival rates by exit type for the whole sample. It shows that exposure to political pressures reduces the probability that a justice remains in her position to a larger extent than the prospect of a "natural" exit. A justice may start to feel the differential risk of a political exit after spending only two years in office. The risk of a political exit remains larger than the risk of a natural one even after a justice has held her position for 18 years, suggesting that even long-established justices are exposed to political risks. In line with our previous account, Figure 1 also shows that federal interventions precipitously reduce the rate at which justices survive in their positions.

The risk of a political exit is systematically related to the tenure of governors. Figure 2 shows it increases sharply as a governor completes her first term. Should she be reelected, another significant increase is registered in the first year of her second term. This evidence is consistent with the idea that governors replace seating justices early in their terms, to avoid potentially costly decisions.

Though informative, average survival rates for the entire sample could be misleading. Figure 3 shows that the probability that a justice holds on to her seat falls at noticeably different rhythms in different provinces: much more rapidly in, for example, La Rioja or Santiago del Estero than in Mendoza or Chaco.

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15. Some of them included maintaining their current wage levels or other equally attractive financial incentives.
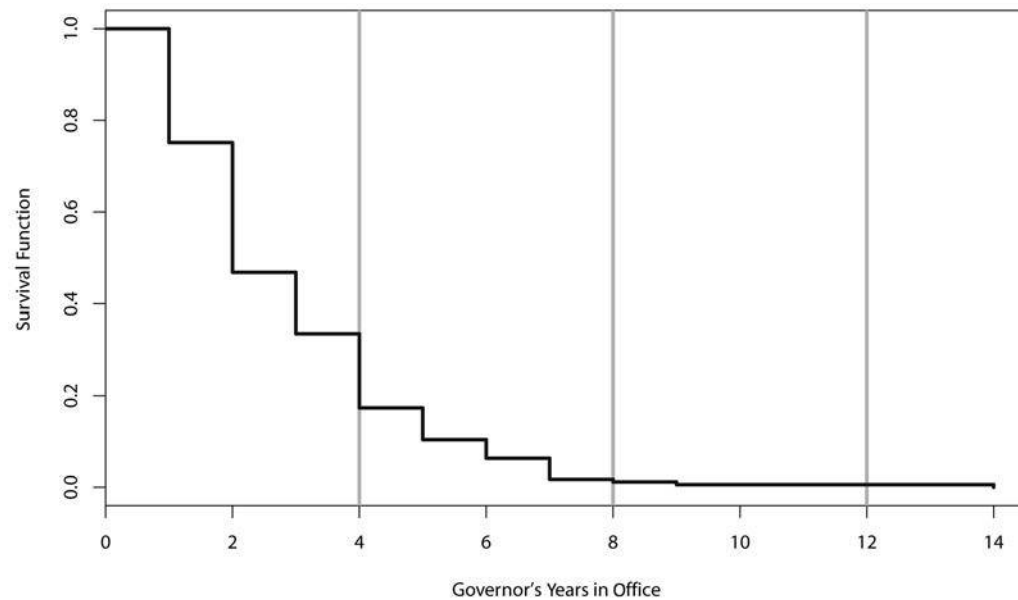
Figure 2. Electoral timing of judicial purges (political exits). Kaplan-Meier estimates. The line indicates the probability that a justice leaves the provincial supreme court for political reasons as the tenure of the incumbent governor progresses.

In the Argentine provinces, a PSC justice typically serves for far shorter periods than she would be expected to serve according to constitutional provisions. Our data show that much of the difference seems to reflect political considerations, particularly of incumbent governors. However, the risk of a political exit from court seems to vary significantly across provinces. To account for these average trends and cross provincial contrasts, we analyze the effects of the two dimensions of political competition on judicial stability.
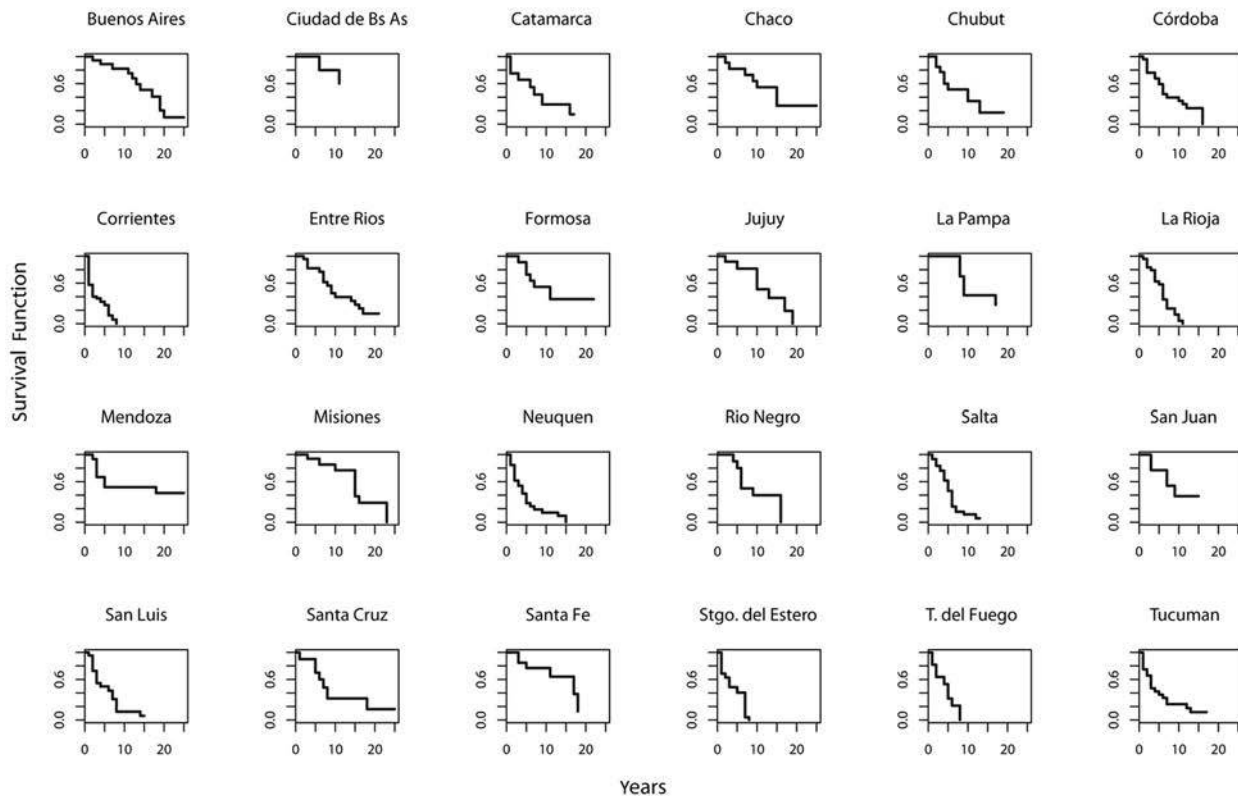

Figure 3. Kaplan-Meier estimates, by province. The line in the graph for each province indicates the probability that a justice leaves the provincial supreme court in a particular year as time elapses.

MODEL, VARIABLES, AND DATA

As previously noted, our study draws on an original data set comprising all PSCs justices who served in all Argentine provinces between 1984 and 2008. The unbalanced panel includes 433 justices, 321 of which left office before 2008. There is one observation for each justice in each year she is in office. Since we do not observe the exit of justices who held on to their positions until 2008, the sample is right-censored.

The dependent variable, *political exit*, is a dummy variable that adopts the value 1 when a justice leaves office under threats of impeachment or other kinds of political pressure. Otherwise, the value is 0.

We use a standard proportional hazard, discrete time model (Box-Steffensmeier and Jones 1997; Singer and Willett 1993). We modify the basic model to account for competing risks. As in Zorn and Van Winkle (2000), we assume stochastic independence among risks,[16] which amounts to estimating three independent duration models, "each time treating the observations exiting via the risk of interest as complete and the rest as [right] censored" (Gordon 2002, 204). For this reason, the discussion below focuses solely on the model related to political exits, which are the exits relevant for our argument. Results for other types of exits can be found in the online appendix.

The hazard probability for unit i experiencing a political exit is given by:

$$\lambda_{iPE} = \frac{e^{X_i \beta_{PE}}}{\sum_{k \in K} e^{X_i \beta_k}}$$

where K is the set of all possible exits (political exit, PE natural exit, federal intervention or staying in office), and staying in office is the baseline, and thus $\beta_{St.ayoffice} = 0$; $\lambda_{iPE}(t; X)$ represents the probability that justice i leaves the court for political reasons at year t (relative to staying in office one more year) and X_i represents a vector of covariates for justice i. In our basic model, the matrix of covariates X includes a parametric estimation of the baseline hazard (employing tenure length measured in years as well as square and cubic transformations of it),[17] a measure of fragmentation, a measure of expected turnover and their interaction.

To measure political fragmentation, we include a dummy variable (*fragmentation*) that adopts a value of 1 when the incumbent party delegation in the legislative chamber that confirms supreme court candidates is smaller than the proportion of votes required for confirmation. Otherwise, it is 0. Incumbent party sizes were obtained from the data set compiled by Giraudy and Lodola (2008). Appointment rules were calculated by coding all provincial constitutions (including their amendments and reforms) between 1983 and 2008. Gathering enough votes to confirm a new nominee represents the credibility of the threat of impeachment and the ability to confirm a replacement.[18] Therefore, fragmentation should reduce the risk that an individual justice leaves the court for political reasons in a particular year.

Expected turnover captures the effect of rotation in office. It is a dummy variable that adopts a value of 1 when there has been at least one party turnover in any of the previous two elections.[19] The variable reflects perceived probabilities that the incumbent party will have to transfer its place in office to an opposition party. The expectation of turnover should lead incumbents to refrain from interfering with courts and thus decrease the risk of political exit that justices face.

According to our argument, *expected turnover* should reduce the risk of a political exit when power is not fragmented. *Fragmentation* should protect judicial stability when turnover does not seem likely. To test the reciprocal dependence of these two effects, our model includes an interaction term. It is best interpreted as a dummy variable adopting a value of 1 only when the incumbent majority is not large enough to confirm a new justice and turnover

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16. Assuming stochastic independence may lead to bias (Fukumoto 2009; Gordon 2002). As we see no clear reason why an incumbent governor would choose to replace (or keep) a justice to avoid (or induce) a federal intervention or why natural exits may be systematically related to other motives of exit, we believe the assumption is granted.

17. A parametric estimation would provide an accurate model if the unconditional probability of survival varies over time. To check the robustness of our results, we produced two additional estimations. The first

is a nonparametric estimation which includes dummy variables for each year of tenure. Temporal controls (parametric or not) can improve inferences if the probability of surviving varies over time and result in unbiased estimates when temporal dependence arises solely from event dependence; yet they can bias estimates when temporal dependence arises from serially correlated error (Dafoe 2013). For this reason, we estimated a model without temporal controls. Our findings regarding the effect of fragmentation and turnover on judicial stability are robust to different specifications of the baseline hazard, although, as expected, the dummy variables for each year of tenure in the nonparametric estimation reduce our degrees of freedom and produce estimates with more uncertainty. We report results of the parametric estimation in the article and present all other results in the online appendix.

18. We measure *fragmentation* at the time incumbents decide whether to replace justices or not. Expectations about the size of the incumbent majority in future rounds of the game are also important. The current size of the incumbent majority is an informative proxy of this expectation.

19. We recoded the variable for elections taking place in 1983. It takes a value of 1 if a party different from the new incumbent occupied the provincial executive in the 1973–76 period and 0 otherwise.

seems likely,[20] as in cell D of Table 1. Because we hypothesize that this combination of circumstances does not reduce the risk of a political exit more than the presence of each of its components, the coefficient for this interaction should not be negative.

We also run a second model with additional controls. It includes an institutional variable, *term limits*, which is a dummy that adopts a value of 1 every year that a fixed term or age-cap rule is in place in a province and 0 otherwise. Data for this variable were obtained from authors' coding of provincial constitutions and laws.[21] A second dummy variable measures *party factionalism*. It adopts a value of 1 when elections for executive or legislative provincial offices are held using a double simultaneous vote rule[22] and 0 otherwise. The adoption of this rule is usually interpreted as a means to prevent splits in highly factionalized parties (Calvo and Micozzi 2005). We expect intraparty divisions to reduce the risk of political exits. Party factionalism reduces the cohesiveness of legislative majorities and thus should compromise the ability of incumbent governors to impose costly decisions, for example the decision to replace seating justices. *Ideological affinity* between incumbents and justices may also affect judicial stability. Newly elected governors should be more inclined to replace justices whom they have not appointed, even those inherited from administrations of the same political party. We thus include a control that codes as 1 the years in which a new governor, regardless of her party affiliation, takes office. We expect this variable to increase the risk of political exits. Using the natural logarithm of the size of the provincial *population*, we approximate a measure of social complexity as well as of the level of urbanization and modernization of the provincial polity. We hypothesize that in simpler, less urbanized environments, in which typically civil society is less robust and organized along traditional lines, provincial executives will face more feeble constraints or pay lower reputational costs to remove justices. Therefore the probability of a justice leaving office for political reasons will increase in smaller provinces. Data

for this variable were obtained from the National Institute of Statistics (INDEC).[23]

RESULTS

Table 2 presents the main results of our study. As is usual in survival studies with competing risks, we adopt a multinomial logistic procedure to estimate models for each exit option (Maeda 2010; Zorn and Winkle 2000). Here, we report and analyze results for political exits. For the independent variables, a negative (positive) coefficient indicates that it reduces (increases) the probability of a political exit relative to the baseline category, staying in office. The basic model includes the parametric estimation of the baseline hazard, the indicators of fragmentation, expected turnover, and their interaction. The complete model adds controls.

The signs of the coefficients confirm our expectations: both fragmentation and turnover reduce the risk of a political exit from the court and the simultaneous presence of both effects brings no additional protection. Yet, in our model covariates are not linearly linked to the probability of a political exit (Brambor, Clark et al. 2006). Testing the conditional effects of *fragmentation* and *turnover* requires that coefficients for each of these variables are added to the coefficient of their interaction. For these two reasons, an interpretation based on the simple reading of coefficients would be misleading. To avoid this problem, Figure 4 presents results of simulations showing the predicted probability of a political exit, conditioned on the relevant sets of independent variables. From the simulations, we obtain the mean associated predicted probability of exit and simulation-based confidence intervals.

Panels in Figure 4 compare the evolution of the risk of a political exit as the tenure of a justice progresses. The dashed line in Panels I and III represents the mean associated predicted probability of a political exit when turnover is not expected and power is not fragmented. Though it decreases over time, it remains quite high over the whole period. As Table 1 posits, under these circumstances the risk of a political exit is maximum.

The solid line in Panel I shows that fragmentation significantly reduces the probability of a political exit when incumbents do not expect to be replaced; yet we see in Panel II that if incumbents believe they might be voted out, the fact that power is fragmented reduces the risk of a political exit no further. When both effects are present, their independent efficacy is not discernible.

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20. This interpretation prevents some of the problems that arise when using and interpreting interactions of continuous variables in MLE estimations (Ai and Norton 2003).

21. It is not apparent that term limits would reduce the risk of political exits. Term limits may actually induce governors to strategically replace justices who are close to completing their term thus getting a fresh start for friendly court members.

22. Under double simultaneous vote rules, voters select a list of candidates, also known in Spanish as a *sublema*, that competes under an umbrella denomination or *lema*. Votes are pooled within *lemas* and assigned in each of them to the *sublema* with the most votes.

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23. Since INDEC only provides population data until 2002, we projected the population size for subsequent years.
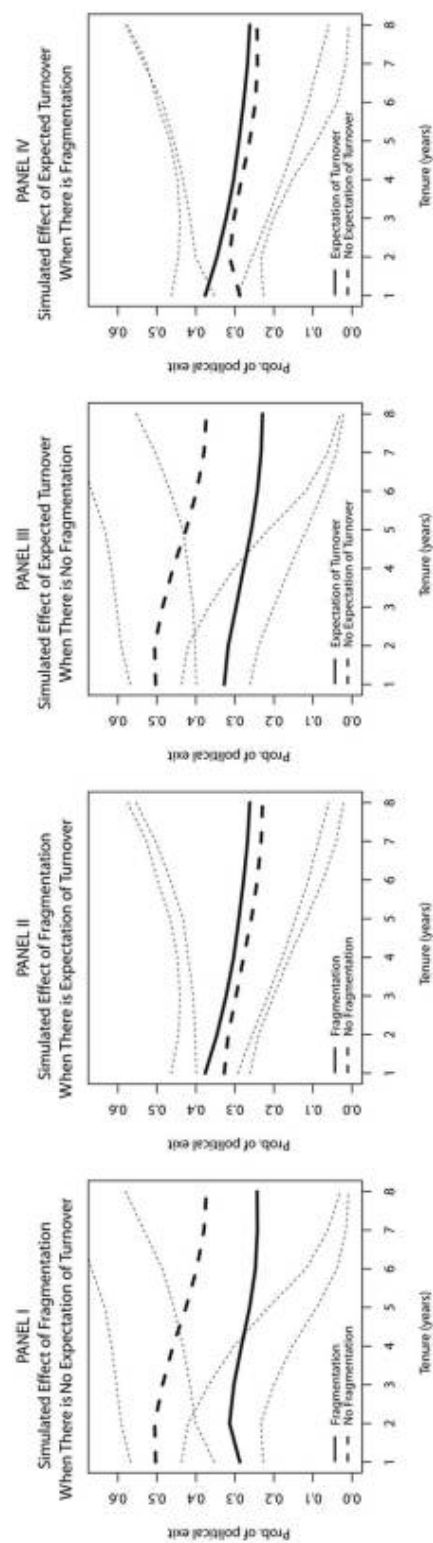
Figure 4. Predicted probabilities of political exit. The solid and dashed lines simulate the probability that a justice leaves the provincial supreme court for political reasons as time elapses, according to different dimensions of political competition. The dotted lines indicate confidence intervals.

Table 2. Multinomial Logit Results for Political Exits

	Basic Model	Complete Model
(Intercept)	1.097	3.927
	(0.100)	(0.003)
Tenure length	−0.195	−0.169
	(0.062)	(0.080)
Tenure length^2	0.016	0.016
	(0.009)	(0.010)
Tenure length^3	−0.001	−0.001
	(0.000)	(0.000)
Fragmentation	−0.776	−0.893
	(0.111)	(0.112)
Expected turnover	−0.882	−0.876
	(0.062)	(0.066)
Fragmentation * Expected turnover	0.690	0.752
	(0.055)	(0.057)
Term limits		0.692
		(0.152)
Population		−0.211
		(0.013)
Ideological affinity		0.131
		(0.111)
Party factionalism		−0.503
		(0.111)

Note—Standard errors in parentheses.

A comparison between Panels III and IV leads us to similar conclusions: the expectation of turnover sharply reduces the risk of a political exit when power is concentrated but it does not bring any extra protection when power is fragmented.

These simulated results support our main theoretical contention: political competition protects judicial stability through two different mechanisms. They are independent, they are more clearly discernible when they operate alone, and they do not reinforce each other.

As Table 2 shows, the introduction of controls does not alter much the signs, magnitude or precision of our estimates.[24] The simulated probabilities of exit for this case can be found in the online appendix. As we expected, the existence of term limits seems to lead incumbents to buy time forcing the resignation of justices inherited from previous administrations. The coefficient for ideological affinity (first year in office of a new governor) achieves the expected pos-

itive sign, suggesting an increase of the risk of political exit. However, the estimation is imprecise.[25] Proximate measures of party factionalism and a more complex social environment appear to reduce the risk of political exits. Consideration of these alternative relevant determinants does not debilitate the influence of any of the two central dimensions of political competition, thus providing additional support to our inferences.

CONCLUSIONS

Our study of the Argentine provincial supreme courts shows, in accordance with the specialized literature, that political competition reduces judicial instability. In order to better understand this relationship, a distinction should be made between the turnover and the fragmentation dimensions of political competition. We argue there are strong theoretical reasons and provide empirical evidence that, in contrast with conventional wisdom, their effects are conditional and do not reinforce each other. Our results show that when power is concentrated only the expectation of turnover may protect judicial autonomy, and, conversely, when turnover seems unlikely, only fragmentation should prevent interferences on the judiciary.

These findings should be of particular importance for analyses of judicial politics that rely on case studies or small-N cross-sectional comparisons; especially when those studies contrast large, long-lived incumbent majorities with smaller majorities that expect to be replaced soon. The promise of in-depth, small-N designs seems to lay, instead, in the specification of the complex interaction of factors that seems to lead to more autonomous courts.

Our findings suggest at least two potentially fruitful areas for further exploration of the effect of political competition on judicial autonomy. First, improvements could be made in the measurement of both expectations of rotation in power and political fragmentation. Court autonomy seems to require that political actors share either power or time. Shared power is fragmented power. Shared time is rotation in office. Several formal and informal arrangements to share decisions relevant to the autonomy of courts may exist besides the existence or inexistence of an incumbent majority large enough to nominate a new judge. An extensive survey of these arrangements would significantly contribute to our understanding of this phenomenon. By the same token, the expectation of turnover may be

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24. Different estimations of the baseline hazard are shown in the online appendix. Robustness to these alternative strategies reassures us about our results.

25. One interpretation for this lack of precision is that incumbent governors concentrate their decisions to replace justices not only in their first year in office, but in their second and, in case they are reelected, also in their fifth.

influenced by several factors besides some experience of turnover in the relatively near past. More generally, a more complete survey of power sharing mechanisms and of the sources of expectations of stability in office will help us chart more accurately the sort of political environment that stable courts seem to require.

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