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# An Institutional Fail-Safe? How the Gap in Judicial Independence Between High and Low Courts Explains the Reversal of Corruption Convictions of Former Heads of Government

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## ABSTRACT

When former heads of government are criminally convicted for corruption by the judiciary of the countries they once ruled, are these decisions definitive, or are they later reversed? This article examines the role of courts in overturning such convictions and theorizes that reversals are more likely when high courts are less independent than low courts, making them more prone to facilitating political accommodation. The study tests this *institutional fail-safe hypothesis* using a global dataset of all convictions of former heads of government between 1946 and 2022 and their potential reversals. The findings indicate that corruption convictions of former leaders are more vulnerable to overturns when the gap in judicial independence is greater, helping to protect political elites against the enforcement of anticorruption laws. This pattern is most pronounced in democracies, in proportional representation systems and after electoral turnovers—contexts that heighten incentives for elite accommodation. By identifying the institutional and political conditions under which conviction overturns are most likely, the article contributes to broader debates on the limits of criminal accountability and the mechanisms through which anticorruption efforts from within the legal system may be neutralized.

## PLAIN LANGUAGE SUMMARY

When former presidents, prime ministers and dictators are found guilty of corruption by the courts of the countries they once governed, do these convictions hold, or are they later reversed? This paper examines the role of courts in reversing such convictions. It argues that overturns are more likely when high courts are more influenced by political pressures than the lower courts, which are typically responsible for the corruption convictions in the first place. To explore this, the study uses a global dataset on all corruption convictions involving former leaders between 1946 and 2022, along with information on whether those convictions were later reversed. It finds that convictions are more likely to be overturned in countries where high courts are less independent than lower courts. This pattern is particularly strong in democracies; in countries that adopt proportional electoral systems; and after elections that results in a major shift in who holds power. In these situations, political elites have more incentives to make deals and protect each other. By showing the political and institutional conditions that make conviction reversals more likely, the article helps us understand the limits of criminal convictions to fight corruption and how these efforts may be neutralized.

## KEYWORDS

Corruption; convictions; reversals; judicial independence; courts



The criminal accountability of allegedly corrupt political leaders is on the rise worldwide, reaching even the highest-ranking officials of several countries. Over the last decades, former presidents, prime ministers, and dictators have been investigated, prosecuted and convicted by the judiciary of the countries they once governed under charges such as bribery, embezzlement, illegal campaign finance, money laundering and illicit enrichment, to cite a few. This is true in numerous third-wave democracies (Bahry & Kim, 2021), including well-documented cases in Eastern Europe (Popova & Post, 2018) and Latin America (González-Ocantos et al., 2023), for instance. Recent research, in fact, found that this phenomenon recently reached a truly unprecedented global scale: since the turn of the century, more than forty former heads of government have been criminally convicted for corruption by the courts of their own countries (Da Ros & Gehrke, 2024).

What is less known, however, is that many of these former leaders who have been convicted have later had their convictions overturned on appeal. Former presidents and prime ministers in nations as diverse as Brazil, Egypt, India, and Italy, among others, experienced this paradoxical process of having been investigated, prosecuted, convicted, and at times even jailed under corruption charges, only so that all such efforts were later thwarted in a single ruling by the high courts. This poses a set of important questions: when former heads of government are criminally convicted for corruption by the judiciary of the countries they once governed, what is the proportion of these decisions that are later upheld and overturned by the high courts? Do high courts rule differently when judging former leaders who have been convicted for corruption and those who have been convicted for other reasons? Lastly, what determines the decisions of the high courts to overturn the convictions?

In order to answer these questions, this article offers in-depth descriptive and inferential analyses of these reversals based on the original dataset *Heads of Government Convicted of Crimes* (HGCC), which documents whether and when criminal convictions involving former heads of government (presidents, prime ministers, and dictators) between 1946 and 2022 were upheld or reversed. Accordingly, while they do not constitute a majority of cases, the data reveals that a substantial portion of these convictions has been subsequently overturned, especially by the high courts. Moreover, such reversals occurred more frequently for convictions based on charges of corruption than for other offenses (e.g., political violence, human rights violations, coup d'état attempts).

Also, building on different theories of judicial independence, and considering the high courts' greater proximity to political elites than the low courts that were often responsible for the convictions, this article advances the hypothesis that high courts which are less politically independent than the low courts are more likely to reverse corruption convictions of former political leaders. This gap in judicial independence between the high and the low courts, in other words, contributes to such reversals by the high courts. In such cases, high courts may serve as an institutional safeguard for political elites—effectively neutralizing the accountability imposed by more autonomous lower courts and helping to accommodate elite interests. We call this dynamic the institutional fail-safe hypothesis. It is particularly pronounced in contexts where elites have stronger incentives to negotiate and maintain broad-based support, such as in democratic regimes, proportional representation systems and following electoral turnovers.

To test this hypothesis, this article takes advantage of the HGCC in conjunction with annual measures of judicial independence for both low and high courts in each country, as compiled by the Varieties of Democracy (V-DEM) Project (Coppedge et al., 2025). The findings suggest that there is a significantly higher probability of corruption convictions being overturned when the high courts are less independent vis-à-vis the other courts. Testing the mechanism of democratic accommodation, this article demonstrates that the marginal effect of the gap in judicial independence is strongest in democratic countries, rather than non-democratic ones. Also, the effect is more pronounced where the lower chamber is elected through a proportional representation system, instead of a majoritarian one. Lastly, the effect is more salient following electoral turnovers, both in the legislative and executive branches, periods characterized by heightened uncertainty



and greater incentives for elite compromise. Importantly, the relationship between the gap in judicial independence and the reversal of corruption conviction is not conditioned by differences in political ideology between the convicted head of government and the head of government in office at the time of conviction, reinforcing the interpretation that democratic accommodation, rather than ideological motivations, drives the observed pattern.

Overall, the results indicate that even when the most severe form of accountability is deployed, the room for reversal is not small and may be embedded into the institutional design as a fail-safe for political elites against anti-corruption policies, such as enhancing the independence of the lower courts, whose costs may be excessive. The gap in judicial independence between the highest and the other courts, in other words, seems to serve as an extra layer of protection to political elites, particularly in multiparty democratic regimes following episodes of significant electoral change.

This article is organized as follows. The next section reviews different theories of judicial independence that support the main hypothesis and introduces its testable implications. The two subsequent sections detail the dependent and the key explanatory variable, presenting descriptive analysis of conviction reversals involving former heads of government and of the gap in judicial independence between high and low courts, respectively. The following section presents and discusses the empirical tests of the institutional fail-safe hypothesis, followed by an exploration of the underlying mechanisms. The article concludes with a summary of the main findings and implications for future research.

## Theory and hypothesis

The reversal of corruption convictions of former leaders is a phenomenon fraught with paradoxes. The first one is empirical and arises from the data presented in this article. If the law is technical and objective as claimed by most of its agents, then identical cases should be decided identically. The resoluteness and impartiality expected of courts and judges in most democratic nations, in other words, should not subject the same case to contradictory rulings. Yet, as the data below reveals, an important portion of the convictions of former heads of government have been reversed over the years—mostly by the high courts and primarily on corruption cases.

The second paradox is theoretical and refers to the different expectations concerning the effects of judicial independence on the protection of political elites arising from distinct literatures. On the one hand, corruption scholars have placed significant emphasis on bolstering the independence of the judiciary as a way to curb corruption. Derived especially from the economics of crime literature, the logic behind this emphasis is straightforward: independent courts provide credible threats of punishment to potentially corrupt elites, thereby incentivizing them not to engage in corruption in the first place. Variants of this reasoning can be found, for instance, in various works by Rose-Ackerman (1999, 2007), while empirical support of the association between high levels of judicial independence and low levels of corruption can be found in quantitative analyses by Treisman (2000) and Mungiu-Pippidi (2015), among others.<sup>1</sup>

On the other hand, judicial politics scholars who proposed the so-called “insurance theory” to account for processes of judicial empowerment argue that independent courts have often first been established to protect political elites, and not to serve as deterrents to them. The reason for this lies in increasing political competition, where previously hegemonic elites bolster judicial independence to protect themselves from potential future rulers. Since in several countries the public prosecutors’ office is institutionally located within the executive branch, independent courts would help to protect outgoing political elites from potentially weaponized prosecutions against them once they are out of office. First developed to explain why courts acquire greater powers, such as judicial review, and independence from government (e.g., Ginsburg, 2003; Magalhães, 1999; Ramseyer, 1994; Vanberg, 2015), more recently this theory has been deployed to explain how independent courts can protect outgoing political elites from investigations and



prosecutions. Empirical findings consistent with this theory have been produced by Epperly (2013), who found that higher levels of judicial independence reduce the chances that former leaders are punished once they leave office. Also, Bahry and Kim (2021) found that increased court independence is associated with lower probabilities that former leaders are investigated for corruption in new democracies.

These contrasting visions on the role independent courts may play in either increasing or decreasing the chances that politicians will be punished or protected when they engage in allegedly illegal behavior offer an opportunity for further analysis. With reasonable theoretical arguments and relatively robust empirical evidence in support of both hypotheses, it is not the goal of this article to solve this puzzle definitively in favor of either. Rather, this article aims to introduce a third hypothesis that builds on the two previous ones and seeks simultaneously to nuance and complement the existing approaches. To that end, and motivated by the need to better understand the determinants of convictions reversals involving former heads of government, this article proposes calling it the *institutional fail-safe hypothesis* definitively.

Accordingly, an *institutional fail-safe* works as an extra layer of protection to political elites. The fail-safe is a redundant protection whose necessity may arise from the inherent risks built into the long-term effects of judicial independence as an insurance provision over time. For the most part, politicians have short time horizons. In effect, their decisions to empower the courts as a way to protect themselves may not incorporate the long-term consequences of such decisions. That is, once empowered, independent courts may over time become creatures with their own agendas and interests, potentially imposing costs on political elites, rather than necessarily protecting them. Independence, furthermore, does not mean impartiality: the former is a characteristic of institutions, whereas the latter is a behavioral trait of individuals. So, there are no guarantees that independent courts will have judges who will necessarily try cases fairly. Precisely because they are independent, judges may advance their own visions of the law, occasionally developing stricter stances toward corruption, committing overreach and coming into conflict with what political elites may perceive as the judges' and courts' expected roles. Recent literature on anticorruption sentencing has shown, in effect, that lower courts often display bias against politicians across the political spectrum when compared to other defendants, such as private sector actors (Trombini, 2023; Vilaça et al., 2025, Da Ros et al., 2024).

As a result, courts that may have been empowered in a first moment to protect elites from politicized prosecutions may eventually evolve over time to punish them. Consistent with the *institutional fail-safe hypothesis*, political elites may keep the higher courts more politically dependent to escape the sanctions eventually imposed by the more independent low courts. That is, low courts can be made more independent, whereas the higher courts may be kept more dependent and sensitive to political demands. Several professionalized judicial systems around the world, in effect, are organized like this, with lower courts often being closer to the legal profession and high courts often being closer to political elites.

This perspective is consistent with a long tradition in the judicial politics literature, in accordance to which “the Supreme Court is inevitably a part of the dominant alliance” (Dahl, 1957, p. 293). First developed to address why the Supreme Court of the United States adjudicates cases aligned with the preferences of political elites, ulterior analysis suggested that this pattern of behavior is actually common in the high courts—i.e., supreme courts and constitutional tribunals—of many other nations (e.g., Hilbink, 2007; Kapiszewski, 2012; Magalhães, 2003; Ramseyer, 2001). For that same reason, high courts are instrumental in helping to solve inter-elite conflict, particularly by advancing rulings that stabilize expectations and avoid the imposition of excessive costs on powerful actors (Staton et al., 2022).

While relatively common in judicial systems across the globe, the gap in judicial independence between the high and the low courts has only scarcely been explored as an institutional explanation for divergent rulings within the same court system. Yet, precisely because judicial independence may vary within each country across different levels of the judicial hierarchy, high and low



courts may exhibit patterns of decision-making that may also reflect such differences within a same, identical case. That is, low courts that are more independent from political elites may have fewer constraints to punish a given member of the political elite, whereas high courts that are less independent may later be more lenient towards that same individual. As a result, the high courts may potentially adopt an accommodating stance towards political elites when the comparatively more independent lower courts had first moved to sanction them.

Consistent with this fact that the high courts are often less independent than the lower courts from political principals, this study suggests that this gap in the levels of judicial independence of the high courts vis-à-vis the lower courts helps to explain why corruption convictions of former heads of government are overturned by the former. In short, the more politically dependent the high courts are in comparison to the lower courts that were often responsible for issuing the original convictions, the more likely high courts are to overturn those convictions. Importantly, the nature of the data used in this article favors such a test, since it captures two decisions, one by a low court and another by a high court, on a single, identical case. The charges and the empirical facts of the cases, in other words, change little, if at all, from the initial conviction to the overturn or maintenance of the previous decision. What fundamentally changes is the court examining the case—and, along with it, its respective level of independence from political actors.

Consequently, for the purposes of this article, the key hypothesis is that the gap in judicial independence between the high and the other courts impacts the likelihood of reversals. This implies that the proposed explanation does not revolve around the level of high court independence *per se*. That is the case because this study examines the judicial decision, by a higher court, to uphold or overturn a previous judicial decision, usually made by a lower court, that has already convicted a former political leader. As the second decision (whether to reverse the conviction) is dependent on the first decision (the conviction itself), this article seeks to capture whether divergences across decisions arise from gaps in judicial independence, particularly in corruption cases.

In this sense, we also argue that less independent high courts are more likely to reverse corruption convictions of former leaders because they are more prone to accommodate the interests of political elites in general within a democratic polity<sup>2</sup>, and not necessarily of political groupings aligned to specific ideologies. A few additional testable implications follow from this.

The first has to do with the impact of different political regimes. Accordingly, we expect that the gap in judicial independence will exert greater impact on the likelihood of conviction overturns in democratic regimes, rather than in non-democratic ones. That is so because in such regimes the less independent high courts may be more willing to accommodate the interests of members of the political elite in general, and not specifically members of the government or the opposition. This is different than in autocratic contexts, where less independent high courts may be less willing to defy incumbents and eventually free former leaders that the sitting government may have itself worked to convict through weaponized prosecutions in the first place.

The second testable implication concerns coalition governments and multiparty systems, which are characteristic of political environments shaped by proportional representation electoral systems (e.g., Lijphart, 1999). Accordingly, in contexts where elites compete but also rely on coalitions to govern, high courts face increased incentives to reverse corruption convictions of former leaders and facilitate elite settlements because the largest political parties and their respective leaders are seldom far from power. Even if they do not formally join the cabinet, large parties in multiparty contexts are often pivotal to allow for other coalitions to rule. This, in turn, may induce less independent high courts to cooperate with political elites in a way that more independent low courts may be unwilling to do, as they are far removed from political circles. The testable implication derived from this reasoning is that the effect of the gap in judicial independence on corruption overturns is amplified under the presence of proportional representation, given its well-documented association with coalition politics and multiparty dynamics.



The case of former Slovenian prime minister Janez Janša, of the right-wing Slovenian Democratic Party (*Slovenska demokratska stranka*, SDS), is illustrative. Janša served two non-consecutive terms (2004–2008; 2012–2013), each supported by majority coalitions comprised of at least four parties each. In 2013, shortly after being ousted through a parliamentary vote of no confidence, a district court convicted him on corruption charges related to a 2006 arms deal with the Finnish defense contractor Patria and sentenced him to two years in prison. After serving six months in prison, Janša was released from jail in late 2014 by Slovenia's Constitutional Court, which overturned his conviction in the following year, arguably due to the lack of evidence of his direct involvement in the scheme. The reversal took place during the government led by prime minister Miro Cerar, of the centrist Modern Centre Party (*Stranka modernega centra*, SMC); while Janša's SDS held the second largest share of parliamentary seats at that time, it did not take part in the cabinet. Free of charges, Janša returned to parliament in 2018, and eventually regained the premiership in 2020 with the support of a minority coalition comprising four parties, including both the SDS and the SMC.

The third testable implication of our argument centered on how less independent high courts serve to accommodate elite interests pertains to the uncertainty involved in periods of alternation in power whereby the high courts may work to stabilize expectations over government transitions, facilitating elite settlements. In this sense, reversals of corruption convictions can both serve as signals of elite accommodation or be the outcome of behind-the-scenes negotiations. Such bargains can involve tacit or explicit agreements to protect certain figures from punishment in exchange for political cooperation and eventually withdrawal from politics. In such cases, decisions by the less independent high courts that reverse convictions may help to reduce the costs of outgoing groups to concede power, facilitating the losers' consent. The testable implication derived from this reasoning is that the effect of the gap in judicial independence is more pronounced after periods of intense turnover in the legislative and executive branches than during periods of continuity.

The overturn of the conviction of former Nicaraguan president Arnoldo Alemán, of the right-wing Constitutionalist Liberal Party (*Partido Liberal Constitucionalista*, PLC), exemplifies this. He was elected to the country's top position in 1997 after defeating former president Daniel Ortega (1985–1990) of the leftist Sandinista National Liberation Front (*Frente Sandinista de Liberación Nacional*, FSLN). Once in power, as Alemán and Ortega steered the two major parties of the country's national assembly, they engaged in negotiations to share power and enact major reforms that packed several institutions, including the nation's supreme court, with loyalists. Arguably, one of the goals of the so-called "Alemán-Ortega pact" was to grant both leaders protection from the actions of potential new rulers against them. As consecutive terms were not allowed, Alemán left office in 2002 once his vice-president Enrique Bolaños (also of PLC) was elected president after having campaigned embracing an anticorruption platform. That same year, Alemán was prosecuted for money laundering, embezzlement and fraud involving approximately U.S.\$100 million. He was convicted by a district court in late 2003 to serve a 20-year sentence, but served most of his time in house arrest at his family's ranch until the supreme court eventually cleared him of all charges in early 2009. At that time, the president was no other than Daniel Ortega, who supported the supreme court's decision. Later that year, the supreme court would also remove presidential term limits, paving the way for Ortega's subsequent reelections (Aguilar Aguilar, 2023).

A further implication of our argument is that the reversal of the corruption conviction does not depend on the ideological alignment or mismatch between the incumbent at the moment of the conviction and that of the defendant. The gap in judicial independence increases the chances of reversals regardless of that alignment precisely because it helps to facilitate political accommodation in general rather than the political competition across ideological camps. Both our examples above illustrate this dynamic. Also, reversals may result from perceptions shared across the political elite and the less independent high courts, given their greater proximity, that the convictions handed down by the more independent low courts were excessively harsh or unjustified.



Through overturns by less independent high courts, in effect, political elites may achieve the same effects of presidential pardons, but without incurring themselves into the costs of handing down such reversals. The theoretical discussion and case-based empirical evidence presented in this section are complemented in the *Exploring the mechanisms* section by a quantitative assessment of the implications of the mechanisms of democratic accommodation and ideological competition.

Lastly, it is important to reassert that our argument holds only for the reversal of corruption convictions, and not for convictions based on other types of crimes. As such, less dependent high courts may be more willing to reverse such convictions because corruption itself may cut across different political parties and administrations. The high court's accommodative stance towards political elites in corruption convictions, in other words, may also derive from its aversion to the risk of becoming itself target of measures that could be imposed by coalescent elites that believe the judiciary as a whole has gone too far in punishing political corruption. That is so because justices in high courts do not care only about their ideological preferences, but also "about their posts, their jurisdiction, and potentially with compliance with their decisions" (Staton et al., 2022, p. 11). Less independent high courts, in other words, may accommodate the interests of political elites not to risk court-curbing measures being imposed against themselves.

### **The dependent variable: Conviction reversals of former heads of government**

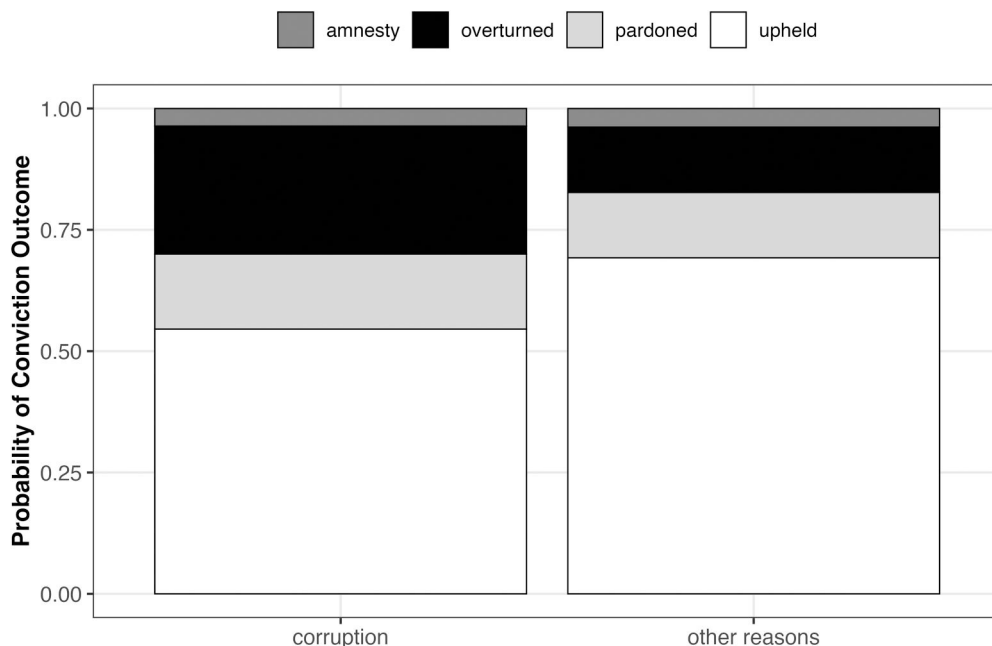
Given the objectives stated above, this article uses data from the HGCC database, which details the universe of criminal convictions of former heads of government (presidents, prime ministers and dictators) from 1946 to 2022. The convictions included in the database only cover those carried out by the civilian judiciary of the country previously governed by the respective former head of government. In other words, convictions handed down by international, foreign, military or temporary courts are not included in the dataset. The goal of this exclusion is to analyze the ordinary domestic dynamics of the judicial branch in relation to the country's former rulers. Additionally, the dataset details the types of crimes associated with the convictions (corruption, violation of human rights, political violence etc.), the sentences imposed, and whether the decisions were later reversed, including the method of reversal (overturn by the highest court, overturn by other appellate court, presidential pardon etc.).<sup>3</sup>

There are 148 cases of criminal convictions of former heads of government covered at the HGCC dataset. Among other findings, the data reveals an increase in criminal convictions of former heads of government, especially since the 1990s, with a notable increase in the last decade. These convictions, in turn, derived predominantly from charges of corruption, broadly understood, including crimes such as bribery, procurement fraud, embezzlement, illegal campaign financing, illicit enrichment, and money laundering. Likewise, although these convictions have grown worldwide, covering a range of politically and economically diverse countries, they have been especially frequent in Asia and Latin America in recent decades (Da Ros & Gehrke, 2024).

As stated earlier, this article uses the HGCC dataset to examine the universe of reversals of criminal convictions of former heads of government. It details the institutions that were responsible for the reversals (such as highest courts, encompassing supreme courts and constitutional tribunals; other appellate courts; or later presidents, through pardons etc.) and identifies which types of crimes gave rise to greater chances of reversal (whether corruption-related or other types of crimes). Additionally, this article tests the impact of the gap in judicial independence on the probability of reversal of convictions specifically in cases of corruption.

The results presented below suggest a few preliminary conclusions (Figure 1). First, most convictions are sustained over time. That is, reversals are less frequent than their opposite. At the same time, since a significant number of convictions occurred in the late 2010s, there remains the possibility of reversals in some of these cases, which could eventually lead to a more balanced





**Figure 1.** Reversals of criminal convictions of former heads of government by type of reversal and reason for conviction.

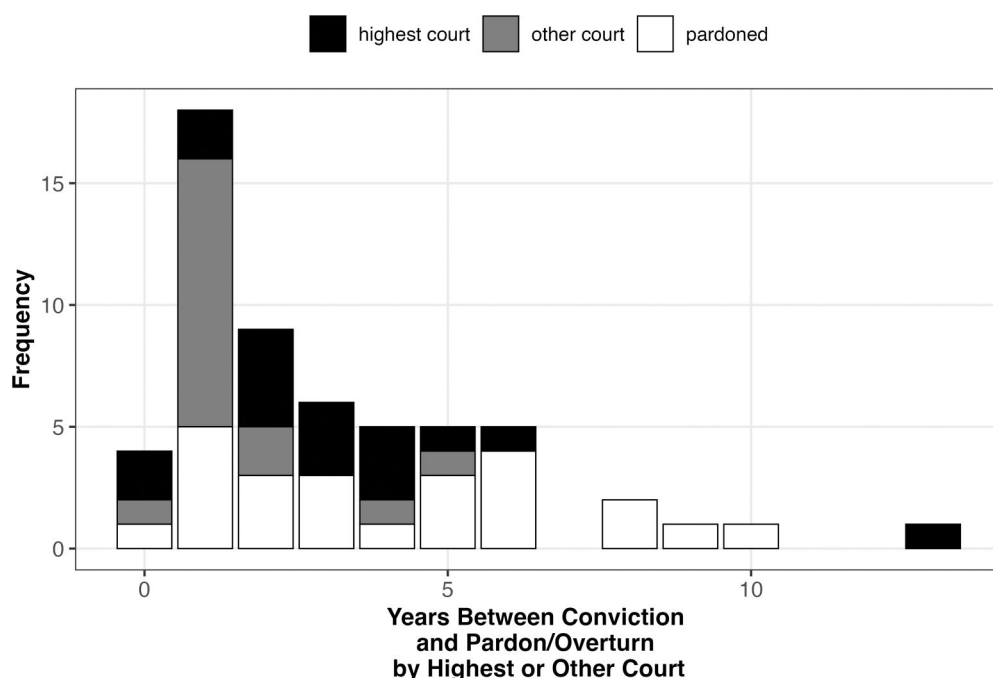
proportion of upheld versus reversed convictions over time. Given the data currently available, however, the prevailing trend is for convictions to be maintained, rather than reversed. Over time, of the 148 convictions documented in the dataset, 53 (36%) have been reversed by a court decision.

Second, judicial overturns are more frequent than other forms of conviction reversals, such as presidential pardons and amnesties. This finding leads to another conclusion: the greater frequency of judicial reversals than other forms of reversal is primarily due to the higher incidence of judicial reversals among corruption convictions, compared to convictions for other types of crimes. That is, corruption convictions are nearly twice as likely to be reversed by judicial decisions in comparison to reversals carried out through other means. In this sense, it is worth noting that the chances of any type of reversal for corruption crimes are also greater than the chances of a reversal for other types of crimes, and that this difference can be attributed, to a large extent, the higher incidence of judicial reversals among convictions for corruption, compared to the lower presence of judicial reversals of convictions for other types of crimes. In other words, reversals in corruption cases are more frequent than in other cases, especially due to the higher proportion of judicial reversals.

Regarding the time elapsed between the convictions and their reversals, on average, judicial overturns are faster than presidential pardons, which tend to take longer (Figure 2). As expected, among the cases in which convictions were overturned, the highest courts (i.e., supreme courts or constitutional tribunals) take longer than other judicial instances to reverse sentencing decisions.

On average, presidential pardons (mean = 3.9 years; median = 3 years) tended to be the longest forms of reversals. They are followed by judicial overturns carried out by the highest courts (mean = 3.66 years; median = 3 years) and amnesties (mean = 3, median = 3). In contrast, the quickest reversals were carried out by other appellate courts within the judiciary (mean = 1.7 years; median = 1 year). The fact that overturns by other appellate courts tend to be quicker than overturns by the highest courts is expected, as it often takes more time for cases to climb the various instances of the judiciary all the way up until the top courts. At the same time, it is important to notice that most cases of reversals of any kind (overturns by the highest court or by other courts, or presidential pardons) usually do not take too long to happen: more than 80% of





**Figure 2.** Reversals of criminal convictions of former heads of government, by type of reversal and time elapsed since conviction.

the reversals occurred within five years of the conviction. In cases where reversals took longer, they were typically the result of presidential pardons; though, on one occasion, an overturn by a highest court happened more than a decade after the conviction.

When considering only the convictions of former heads of government that were later reversed only by the judiciary (either by the high courts or by other appellate courts), the total comes to 32 cases that pertain to 30 different political leaders (there are two leaders with two conviction overturns in the dataset). There is a relatively higher proportion of overturns by supreme courts or constitutional tribunals (i.e., high courts) than those by other judicial instances (e.g., courts of appeal, courts of cassation) (Table 1).

As with the convictions, former political leaders who had their criminal convictions reversed by the judiciary of their respective countries are also from various continents. Reversals happened in five cases in Asia, nine cases in Latin America, nine cases in Europe, six cases in Africa and three cases in Oceania. Besides the variability across continents, there is also some variation in the types of political regimes where such reversals occurred. These include a few countries with a relatively long-standing liberal democratic tradition such as Costa Rica and Italy, a variety of third wave democracies such as Brazil and Croatia, and also a variety of electoral autocracies such as Pakistan and Egypt, to cite a few. Importantly, however, there are nearly no cases of full-fledged closed autocracies in the table below. While it is beyond the scope of this article to inquiry about the reasons for this absence, it can be speculated that closed autocracies seldom use the criminal justice system to repress their opponents. They may prefer resorting to outright violence or arbitrary arrests, a situation that often induces formers leaders to go to exile to avoid such fate. In either case, the dynamic of criminal convictions of former heads of government and their reversals by high or appellate courts seems unlikely in such contexts.

Lastly, in five of the cases in the table below the former heads of government returned to hold their respective positions after the convictions were reversed. These include the cases of Fatos Nano (Albania), Luiz Inácio Lula da Silva (Brazil), Silvio Berlusconi (Italy), Sher Bahadur Deuba



**Table 1.** Former heads of government whose criminal convictions were overturned by different types of courts.

	High court (Supreme Court or Constitutional Tribunal)	Other appellate courts
<b>Corruption</b>	<ul style="list-style-type: none"> <li>- Brazil, Luiz Inácio Lula da Silva</li> <li>- Bulgaria, Todor Zhivkov</li> <li>- Croatia, Ivo Sanader</li> <li>- Dominican Republic, Salvador Jorge Blanco</li> <li>- Guatemala, Efraín Ríos Montt</li> <li>- India, Indira Gandhi</li> <li>- Kyrgyzstan, Felix Kulov</li> <li>- Maldives, Abdulla Yameen</li> <li>- Nepal, Sher Bahadur Deuba</li> <li>- Nicaragua, José Arnoldo Alemán Lacayo</li> <li>- Paraguay, Juan Carlos Wasmosy</li> <li>- Pakistan, Nawaz Sharif</li> <li>- Slovenia, Janez Janša</li> <li>- Ukraine, Yulia Volodymyrivna Tymoshenko</li> </ul>	<ul style="list-style-type: none"> <li>- Albania, Fatos Nano</li> <li>- Bosnia and Herzegovina, Dragan Čović</li> <li>- Costa Rica, Miguel Angel Rodríguez</li> <li>- Egypt, Muhammad Hosni Mubarak</li> <li>- Egypt, Ahmed Nazif</li> <li>- Egypt, Atef Ebeid</li> <li>- India, P. V. Narasimha Rao</li> <li>- Italy, Silvio Berlusconi</li> <li>- Italy, Bettino Craxi</li> <li>- Maldives, Maumoon Abdul Gayoom</li> <li>- Paraguay, Luis Angel González Macchi</li> </ul>
<b>Other crimes</b>	<ul style="list-style-type: none"> <li>- Argentina, Carlos Menem</li> <li>- Guatemala, Efraín Ríos Montt</li> <li>- Egypt, Mohamed Morsi Isa al-Ayyat</li> <li>- Maldives, Mohamed Nasheed</li> </ul>	<ul style="list-style-type: none"> <li>- Egypt, Muhammad Hosni Mubarak</li> <li>- Italy, Silvio Berlusconi</li> <li>- South Africa, Pieter Willem Botha</li> </ul>

(Nepal), and Janez Janša (Slovenia). In all five instances, the convictions involved corruption charges. Of these, three reversals we carried out by decisions of supreme courts or constitutional courts, while two resulted from rulings by other judicial instances.

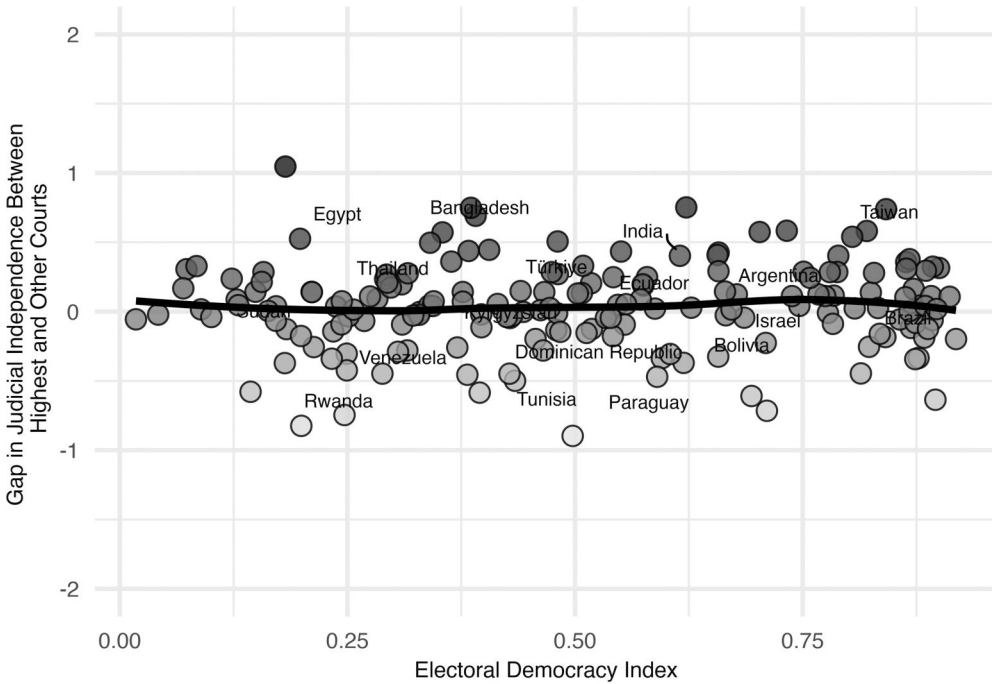
### The explanatory variable: Gap in judicial independence

As explained earlier, the explanatory variable for the hypothesis proposed in this article is the gap in judicial independence between the highest court (supreme court or constitutional tribunal) and the lower courts. Since this article examines decisions usually made by the former courts about an earlier decision made by the latter courts to convict a former head of government, it assesses whether divergences across such decisions may arise from different levels of judicial independence between them. Such gap in levels of judicial independence stems from the fact that the judiciary is not monolithic in its degree of proximity with political elites across the judicial hierarchy.

Accordingly, the explanatory variable was constructed by measuring the standardized difference between the judicial independence of the high court and that of other courts, using two variables developed by V-DEM (version 15). The “high court independence” refers to an index constructed based on experts’ answers to the following question: “When the high court in the judicial system is ruling in cases that are salient to the government, how often would you say that it makes decisions that merely reflect government wishes regardless of its sincere view of the legal record?” (Coppedge et al., 2025, p. 171). In turn, the “low court independence” refers to an index constructed based on the following question: “When judges not on the high court are ruling in cases that are salient to the government, how often would you say that their decisions merely reflect government wishes regardless of their sincere view of the legal record?” (ibid). The article combines both variables by taking the mean of five years preceding the conviction to isolate the effects that the conviction, as a salient judicial outcome, itself may have had on how experts assessed judicial independence in the country. Besides potential reverse causation and biased assessments, this approach helps minimize the impact of year-specific disturbances or unique events.

Analytically, lower and negative values in the gap in judicial independence mean that the high courts are more dependent than the lower courts, whereas higher and positive scores imply that the high courts are more independent than the lower courts. Despite being a key component in the construction of the variable, there is significant variation in the gap of judicial independence across countries, even those with similar levels of high court independence. For example, between 2000 and 2022, Bangladesh





**Figure 3.** Average gap in judicial independence between high courts and other courts (2000–2022) and average level of democracy over the same period. *Note:* The line represents the fitted values from a LOESS regression, a non-parametric method that estimates local trends without assuming a specific functional form.

exhibited a considerably larger gap in judicial independence compared to Dominican Republic, despite both countries having comparable levels of high court independence (see [Appendix A1](#)).

The gap, furthermore, does not seem associated to any specific type of political regime ([Figure 3](#)). The correlation between the gap in judicial independence and the electoral democracy index by V-DEM yields a coefficient of just 0.08 (and  $r^2 = 0.006$ ). Said it another way, there is no clear statistical link between a country's level of democracy and whether its high courts are more independent than its low courts. This is important because absolute levels of judicial independence often go hand-in-hand with levels of democracy—i.e., more democratic nations often have more independent courts than less democratic ones. That is, since this article unpacks the concept of judicial independence across courts of different levels of the judicial hierarchy, it should be highlighted that the gap in judicial independence between the high and the low courts does not seem to follow the same pattern of the more general measure of judicial independence in its association with the levels of democracy. This observation further justifies the decision to include the level of democracy as a control variable, as discussed below.

### Testing the institutional fail-safe hypothesis

Building on the theoretical framework and descriptive analyses presented earlier, this article investigates how the gap in judicial independence between high and low courts influences the likelihood that the former overturns a conviction. In line with longstanding research in judicial politics, the article proposes that high courts with less independence from their political principals vis-à-vis lower courts are more likely to reverse corruption convictions involving a former leader. Conversely, a large gap in judicial independence, therefore, signifies that higher courts are considerably more independent than lower courts, leading to an expectation that conviction reversals are less likely. Consequently, in countries with a larger gap, it is expected that conviction reversals



to be less frequent than in those that have a negative gap. This hypothesis adds nuance to the insurance theory, which, in some formulations, suggests that greater judicial independence provides stronger safeguards for political elites (e.g., Bahry & Kim, 2021; Epperly, 2013).

To systematically evaluate the impact of judicial independence gap on conviction outcomes, including reversals and pardons, this article estimates several regression models based on the following Equation (1):

$$Outcome_{i,c} = \alpha + \beta(\text{Gap in Judicial Independence})_{c,t-5:t-1} + \theta \text{Controls}_{c,t-5:t-1} + \varepsilon_{i,c}$$

where the outcome for a conviction  $i$  that happened at time  $t$  in country  $c$  is modelled as a function of the average gap in judicial independence in the five years preceding the conviction, along with other covariates measured over the same period. The coefficient  $\beta$  captures the impact of the gap in judicial independence on the likelihood of a court later overturns a corruption conviction. This approach serves two purposes. First, it helps mitigate the risk of reverse causation by ensuring that the variables are captured before the judicial decision that might itself influence institutional, political or economic conditions. Second, averaging over multiple years reduces the impact of short-term fluctuations or anomalies in any single year, which could otherwise bias the estimates.

All regressions include controls for the following key country-level characteristics: the population size, the level of GDP per capita, the level of electoral democracy and the level of high court independence.<sup>4</sup> Including these controls helps isolate the relationship between the main explanatory variable and the outcome of interest by accounting for alternative explanations grounded in theories of political modernization, variants of the insurance theory (Bahry & Kim, 2021; Epperly, 2013), and based on cross-national variation in levels of democracy, which prior research has shown to shape the political consequences of convictions (Gehrke & Yang, 2025). In addition, standard errors are clustered at the country level to account for potential intra-country correlation in the error terms. This adjustment addresses the possibility that shared institutional frameworks, policy environments, or political dynamics may lead to correlated outcomes within countries, thereby violating the assumption of independent errors. Clustering ensures more reliable statistical inference by correcting for downwardly biased standard errors.

The results presented below (Table 2) support the institutional fail-safe hypothesis that corruption convictions are substantially less likely to be reversed when the gap in judicial independence is large. On average, an increase in the gap of judicial independence by one standard deviation (0.357) leads to a decrease of about 14 percentage points in the probability of overturn (-0.397\*0.357 = -0.14), a substantial effect given that approximately 24.5% of the corruption convictions were overturned (column 1).

This means that when the gap in judicial independence is positive, i.e., higher courts are more independent than other courts, corruption convictions are substantially less likely to be reversed by a subsequent court decision. Conversely, convictions of former leader are substantially more likely to be overturned when the high courts exhibit greater dependence relative to lower courts. Figure 4 presents the estimated effect of the relationship between the key explanatory variable and the dependent variable, with all control variables set at their median values, based on the regression model in column 1 of Table 2. The figure illustrates that the estimated probability of overturning a corruption conviction is significantly higher in countries where the highest courts exhibit greater relative political dependence. Convictions in countries where the highest courts are more independent vis-à-vis lower courts are less likely to be reversed.

The results remain robust across different subsamples, specifications and outcomes. This includes when excluding from the analysis convictions that were pardoned, a power that is typically held by the incumbent president, as discussed above (column 2). The gap in judicial independence is also a significant predictor of whether a conviction is overturned by the highest court (column 3), including when excluding convictions already reversed by a lower court (column 4). Additionally, the coefficient in column 5 indicates that the gap in judicial independence affects the





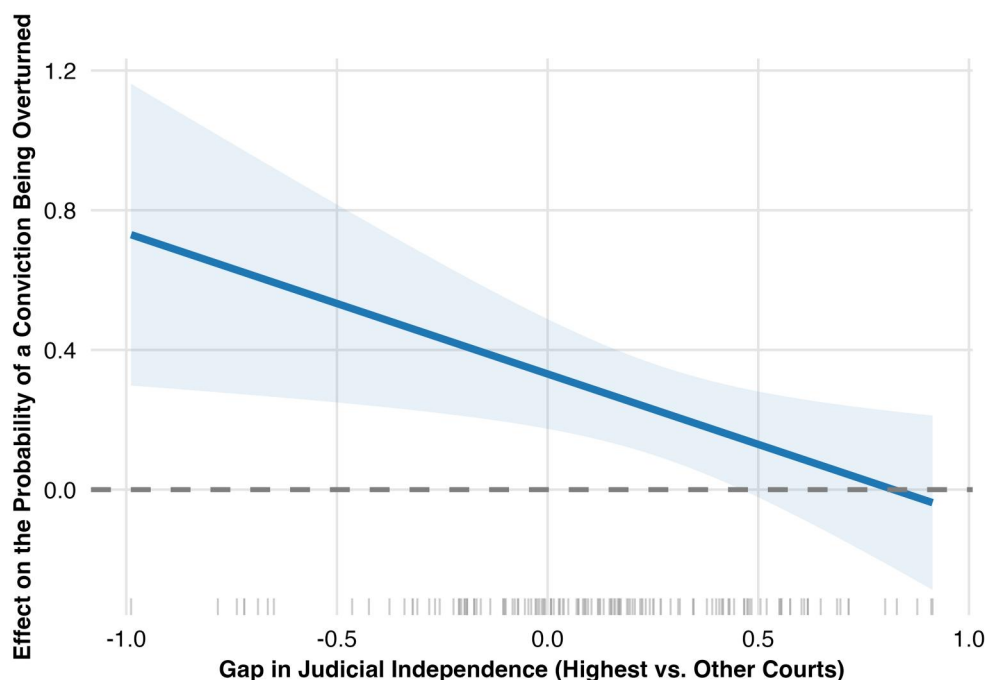
Table 2. Main regression analysis results.

	Dependent variable					
	Overtum	Overtum by highest court				Pardon
	(1)	(2)	(3)	(4)	(5)	(6)
Gap in judicial independence	-0.397** (0.165)	-0.530*** (0.140)	-0.230** (0.110)	-0.230** (0.138)	-0.167 (0.137)	-0.088 (0.131)
Constant	0.549 (0.350)	0.939** (0.385)	0.329 (0.225)	0.370 (0.279)	0.220 (0.278)	0.579* (0.349)
Mean of dependent variable	0.245	0.292	0.123	0.14	0.123	0.123
Observations	106	89	106	93	106	106
All convictions	X		X		X	X
Only convictions not pardoned		X				
Only convictions not overturned				X		
by lower courts						
Residual Std. error	0.422 (df = 100)	0.432 (df = 83)	0.326 (df = 100)	0.343 (df = 87)	0.326 (df = 100)	0.364 (df = 100)
F statistic	2.040* (df = 5; 100)	3.164** (df = 5; 83)	1.415 (df = 5; 100)	1.606 (df = 5; 87)	1.466 (df = 5; 100)	1.593 (df = 5; 100)

\* $p < 0.1$ ; \*\* $p < 0.05$ ; \*\*\* $p < 0.01$ .

Note: Regression models based on Equation 1. Robust standard errors, clustered at the country level, are reported in parentheses. Estimates for control variables are omitted for brevity; full results are provided in Appendix A2.





**Figure 4.** Impact of gap in judicial independence on the probability of overturn of corruption convictions of former heads of government. *Note:* The figure displays fitted values from a regression estimating the effect of the gap of judicial independence on the probability of overturning convictions based on Equation 1. All other control variables are held at their median values. The shaded blue areas represent 95% confidence intervals and the bars below the x-axis represent each case.

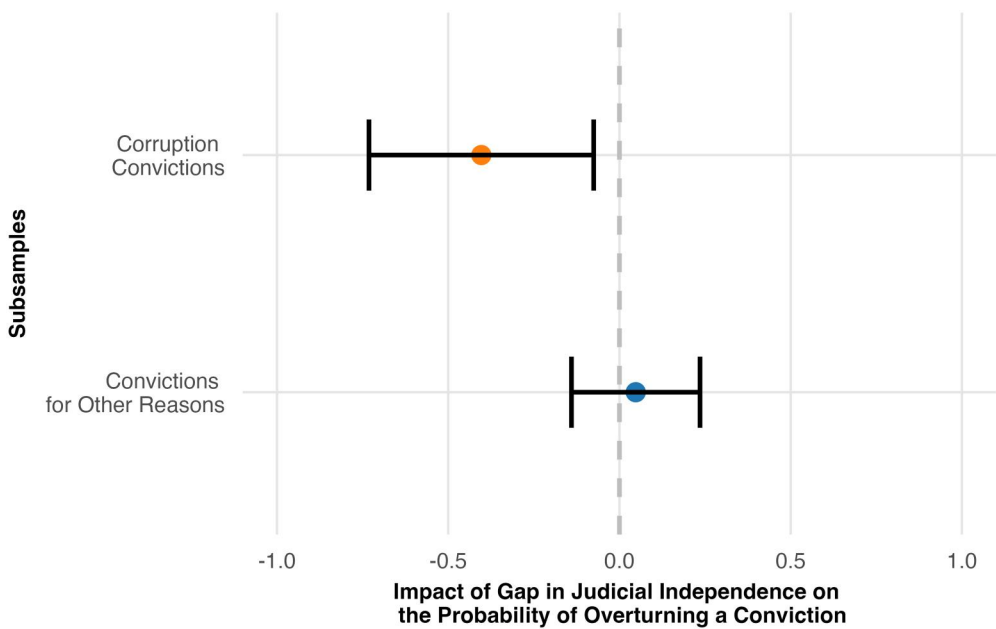
likelihood of a conviction being overturned by other courts, such as appellate courts, suggesting that the relationship extends beyond decisions made by the highest court alone. Furthermore, as additional validation for the scope of the hypothesis, the gap in judicial independence is not linked with convictions being reversed through a pardon, as these are likely driven by different mechanisms and are distinct from the mere anticipation of potential court decisions (column 6).<sup>5</sup>

The results are also consistent when using a logistic model instead of ordinary least squares regression (see Appendix A3). As an additional robustness check, the Dominican Republic is excluded from the regression due to its exceptional gap in judicial independence (-1.48) prior to conviction, which distinguishes it from other countries with corruption convictions. This exclusion mitigates its potential influence on the results, given the small sample size. The results remain consistent even after this adjustment (see Appendix A4).

Despite their magnitude and the robustness of the findings, it is important to note that the analyses are based on a limited number of cases of convictions of heads of government and their subsequent reversals, due to the inherent characteristics of the phenomenon. Additionally, as with most observational designs, it is not possible to rule out that unobserved confounders may influence both the explanatory variable—the gap in judicial independence—and the likelihood of an overturn. As such, the results should be interpreted with the appropriate caution.

Lastly, it should be noticed that this article does not attempt to explain the reversals of convictions of former heads of government in their totality and, as a result, does not offer a comprehensive account or test of all potential factors influencing such decisions. Instead, its specific objective is to assess whether variation in judicial independence across court levels systematically impacts the outcomes of corruption convictions. Consequently, the article acknowledges that other factors beyond the gap in judicial independence between the high and low courts may also contribute, including other characteristics of each country (e.g., civil society engagement), court





**Figure 5.** Impact of gap in judicial independence on the probability of reversing convictions of former heads of government by reason of conviction. *Note:* Regression models are based on Equation 1, with conviction reversal as the outcome variable. The first model includes all corruption convictions, while the second includes convictions for reason others than corruption. Error bars indicate 95% confidence intervals.

(e.g., judicial preferences), and case (e.g., specific legal grounds or evidence). To the extent that these do not jointly affect our dependent and explanatory variables, however, they need not be included in the analysis, as they do not yield omitted variable bias. Even so, as detailed above, the models include a set of relevant control variables to help mitigate such confounding concerns and to strengthen the plausibility of the proposed mechanisms. The contribution of this article is not to challenge existing theories, but to complement and refine them by drawing attention to an overlooked institutional condition.

So far, all inferential analyses have focused on corruption convictions. As discussed earlier, former heads of government are also convicted on charges unrelated to corruption. Does the influence of the gap in judicial independence on the outcome of that conviction differ when comparing corruption convictions to those for other reasons? By running separate regressions based on different reasons for conviction, the regression coefficients show that while the gap in judicial independence is associated with the reversal of corruption convictions, it does not have the same effect on convictions for other offenses (Figure 5). One possible explanation is that corruption cases often involve more complex evidence and different standards for establishing guilt, which makes it provide other courts with broader discretion to question the legitimacy of lower courts decisions and justify divergent rulings.

### Exploring the mechanisms: Democratic accommodation or ideological competition?

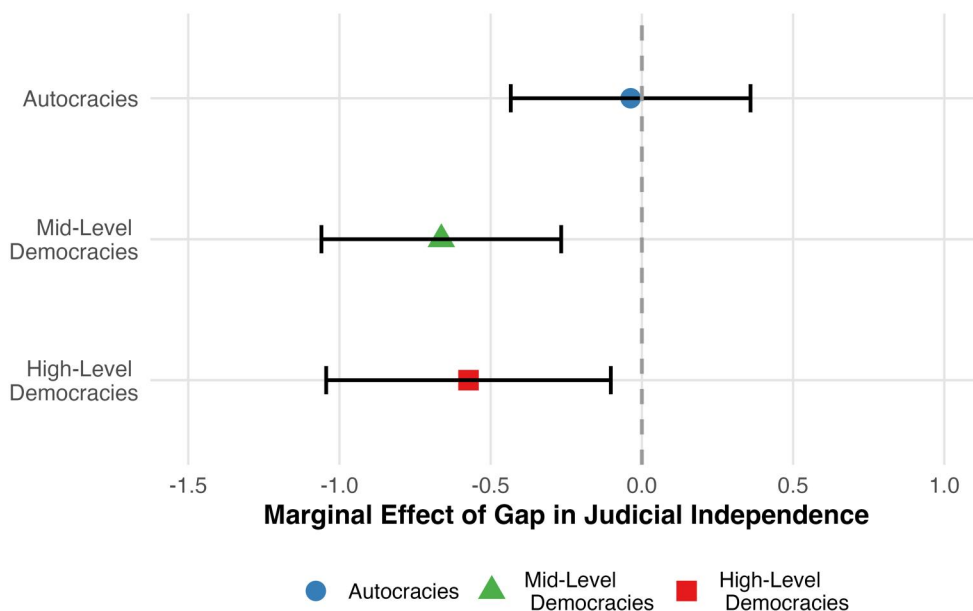
To better understand the processes underlying the observed relationship between the gap in judicial independence and conviction reversals, this section investigates two potential mechanisms. The first, consistent with the *institutional fail-safe hypothesis*, centers on political accommodation in democracies. The second tests an alternative explanation rooted in political competition across the ideological spectrum. While the main analysis demonstrates that reversals are more likely when high courts are more politically dependent than lower courts, the goal here is to identify



the specific institutional and political conditions mediating the relationship, and to assess whether it is better explained by patterns of political accommodation or by cross-ideological political competition.

To assess the democratic accommodation mechanism, the analysis focuses on three key dimensions: two structural, related to regime type and electoral system, and the third contextual, related to political turnover. In democracies, regular alternation in power fosters an environment of elite protection from overly harsh measures that may alter the costs that enable the losers' consent. Likewise, political systems based on proportional representation, marked by fragmented party systems and coalition governance, generate stronger incentives for elite bargaining and compromise. These two institutional conditions may enable political accommodation through the judiciary, particularly when high courts reverse corruption convictions that could destabilize governing coalitions and elite agreements or expectations about the limits of anticorruption efforts.

To evaluate these two institutional dimensions, the analysis tests whether the marginal effect of the gap in judicial independence on conviction overturns varies by the country's regime type and electoral system. The results provide support for the democratic accommodation mechanism. With respect to regime type, the relationship between the gap in judicial independence and conviction reversals is conditioned on a country's level of democracy. In autocracies—defined as countries with an electoral democracy index below 0.5—there is no meaningful association between the gap in judicial independence and overturns (Figure 6). This likely reflects the fact that judicial decisions in these contexts are already tightly aligned with regime interests, leaving little room for variation based on institutional autonomy across court levels. By contrast, in mid-level and high-level democracies—where electoral competition is institutionalized and power alternates more regularly—the relationship between the gap in judicial independence and overturns is negative and statistically significant. In these settings, lower courts may act with greater



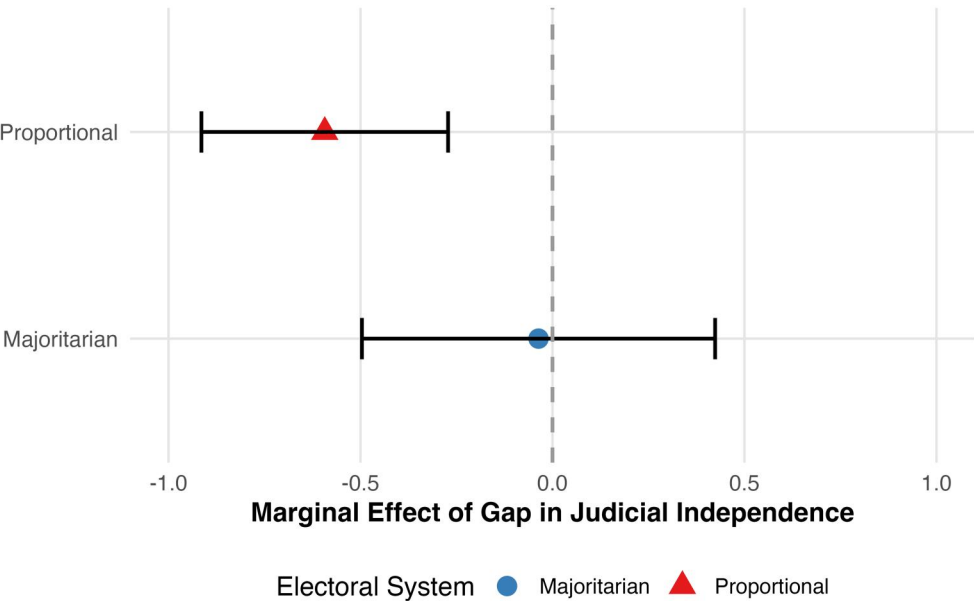
**Figure 6.** Marginal effects of gap in judicial independence on probability of overturn by level of democracy. *Note:* The coefficients displayed here are based on a regression model that includes controls from Equation 1 but replaces the continuous democracy score with categorical indicators for regime type and their respective interactions with the gap in judicial independence. This specification allows for an assessment of whether the effect of the judicial independence gap differs qualitatively across regime types. Autocracies are defined as countries with a score below 0.5 on VDem's electoral democracy index, mid-level democracies have scores between 0.5 and 0.75, and high-level democracies have scores above 0.75 in the years prior to the conviction. Similarly to other analyses, the outcome variable is the likelihood of overturn. Error bars represent 95% confidence intervals.



autonomy in prosecuting corruption, while less independent high courts are better positioned to accommodate elite interests by reversing convictions that could destabilize governing coalitions or upset informal political settlements. These findings suggest that elite accommodation through the judiciary is not merely a function of political pressure but is conditioned by broader regime-level incentives.

Beyond regimes type, the article tests the impact of different electoral systems. Focusing on the electoral system in place prior to the conviction offers a more stable and exogenous measure of institutional incentives than outcomes such as the presence of multiparty coalitions or the level of fragmentation of the party system. These outcomes are more vulnerable to short-term political fluctuations and may themselves be shaped by electoral calculations and post-election bargaining—processes that could be influenced by conviction and its reversal. The analysis reveals a clear pattern: in countries with proportional representation systems—where coalition governments and fragmented party systems create stronger incentives for elite coordination—politically dependent high courts are more likely to reverse corruption convictions (Figure 7).<sup>6</sup> In contrast, in majoritarian systems—where executive power tends to be more concentrated and incentives for broad-based elite bargaining are weaker—the association between the gap in judicial independence and overturns is negligible. This suggests that the influence of disparities in independence across the judicial hierarchy is most pronounced in institutional settings that intensify the incentives for political accommodation.

To further assess whether reversals of corruption convictions reflect political accommodation, the analysis incorporates two additional tests focused on electoral turnover. Also as discussed in *Theory and hypothesis* section, periods of government transition often create heightened uncertainty and increase the incentives for elites to forge new political agreements and restructure governing coalitions. In such contexts, new governing coalitions may turn to politically dependent



**Figure 7.** Marginal effects of gap in judicial independence on probability of overturn by electoral system. *Note:* The regression model includes, in addition to the variables in Equation 1, an interaction term between the gap in judicial independence and a variable indicating a country's electoral system in the election preceding the conviction, along with the main effects of each variable. Mixed electoral systems and other less common electoral systems are categorized within the broader category of proportional systems. The outcome variable captures whether a conviction was overturned. Error bars indicate 95% confidence intervals.

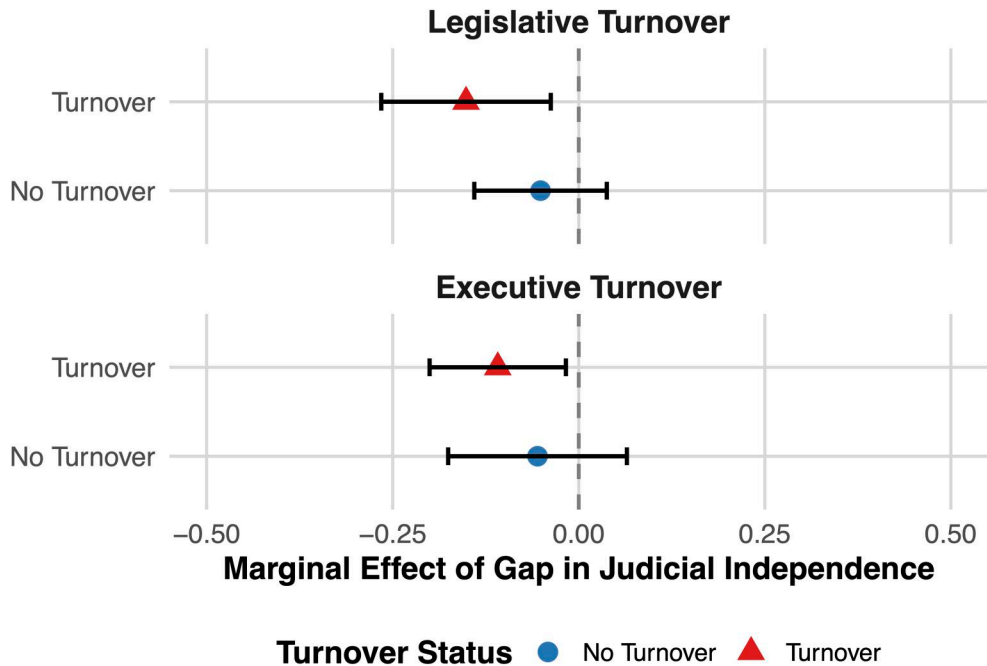


courts to help stabilize alliances, with the reversal of convictions against aligned or strategically important former leaders serving as a tool of broader elite compromise.

To empirically evaluate this logic, the analysis examines the conditions that influence the timing of conviction reversals by restructuring the dataset to use the conviction-year as the unit of analysis, rather than the conviction itself. The resulting censored panel includes all years following a conviction until a final decision—such as a pardon or overturn—is recorded.<sup>7</sup> Unlike previous models, which assess whether a conviction is ever overturned, this approach estimates the likelihood that a reversal occurs in a given year, offering a more precise understanding of *when* reversals are most likely to take place.

As with the main specifications, this analysis is subject to several limitations, including potential omitted variable bias, measurement error, and reverse causation. To address concerns about reverse causation, and consistent with the main analysis, the levels of the gap in judicial independence and high court independence are fixed based on their values in the years preceding the conviction. Other explanatory variables are allowed to vary over time and measured with a one-year lag. These include indicators of legislative and executive turnover: Legislative turnover captures instances in which the incumbent party or coalition lost its majority or plurality in the legislature and was replaced by a different coalition or party. Executive turnover refers to elections resulting in a change in both leadership and partisan control—when a new prime minister or president, from a different party, coalition, or as an independent, replaces the previous administration.<sup>8</sup> Similarly to the analysis of electoral systems above, the regression models include an interaction between the gap of judicial independence and turnover and are estimated separately for legislative and executive turnover.

The results in Figure 8 indicate that the gap in judicial independence is significantly associated with the likelihood of conviction overturns, particularly during periods of legislative and executive



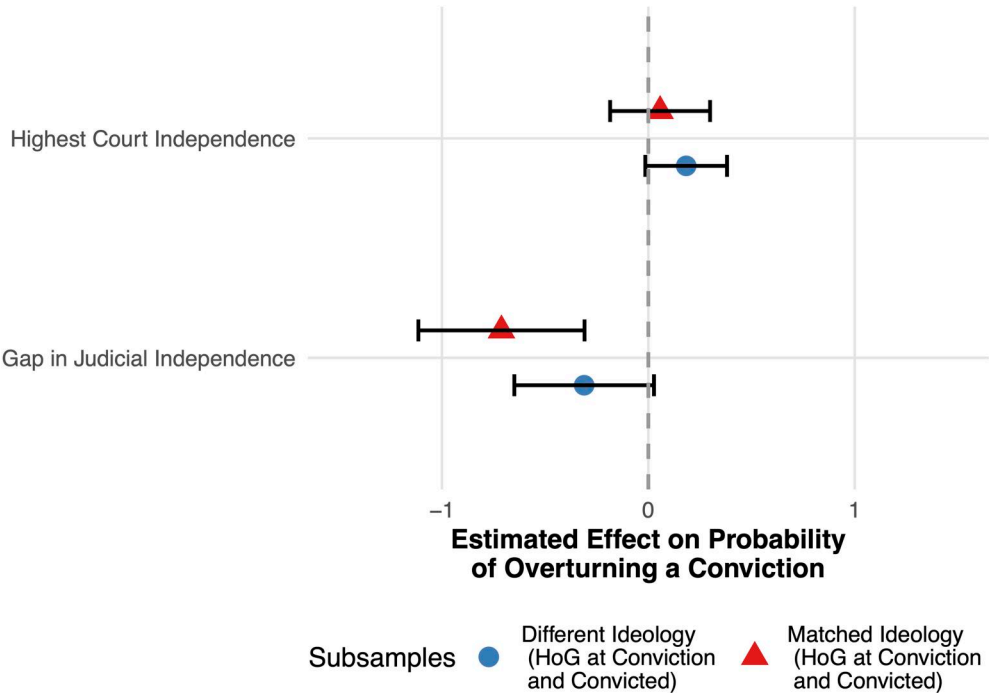
**Figure 8.** Marginal effects of gap in judicial independence on probability of overturn by legislative and executive turnover. *Note:* The regression models, estimated separately for legislative and executive turnover, include, in addition to the variables in Equation 1, an interaction term between the gap in judicial independence and a variable indicating whether the last legislative and executive elections resulted in a turnover or not, along with the main effects of these variables. As in most models, the outcome variable captures whether a conviction was overturned. Error bars indicate 95% confidence intervals.



turnover. Specifically, a one-point increase in the gap of judicial independence is associated with a 15-percentage points reduction in the probability that a conviction is overturned following a legislative turnover, and an 11-percentage points reduction in years following an executive turnover.<sup>9</sup> In contrast, the gap has little to no effect in contexts of political continuity, suggesting that conviction reversals are more likely to be driven by shifts in political power and the dynamics of accommodation, consistent with the hypothesis.

To further investigate whether the relationship between the gap in judicial independence and the overturn or pardon of a conviction is influenced by political competition among elites from different sides of the ideological spectrum, the study leverages a recent and comprehensive coding of heads of government’s ideology by Herre (2023).<sup>10</sup> Leaders are classified as left-wing, centrist, right-wing, or non-ideological. This enables assessing whether the relationship between the gap and the overturn or pardon of convictions is driven by politicized motivations, particularly when they involve heads of government from opposing ends of the ideological spectrum. To explore this, the model contains an additional indicator that captures the ideological alignment between the convicted head of government and the sitting head of government at the time of the conviction.

Figure 9 presents the estimates from two separate regressions: one for cases in which the convicted and sitting heads of government were on the same side of the ideological spectrum, and another for cases in which they were on different sides. The estimates for both the gap in judicial independence and the high court independence variable are presented. In both subsamples, the gap in judicial independence is negatively associated with the probability of overturning a conviction. This association is statistically significant at the 95% confidence level for one group and at the 90% confidence level for the other, suggesting that the main findings of this article are not driven by these ideological differences.



**Figure 9.** Impact of gap in judicial independence on the probability of reversing convictions of former heads of government by ideological alignment. *Note:* Regression models are estimated separately for each subsample (heads of government from different ideological camps and those with matched ideology following Equation 1, with conviction reversal as the outcome variable). Error bars indicate 95% confidence intervals.



Moreover, the results in [Figure 9](#) indicate that a higher level of independence in the highest court is associated with a greater likelihood of overturning a conviction against a head of government from a different ideological background. While these results align with expectations based on the insurance theory, the association is marginally insignificant and does not reach conventional levels of statistical confidence (for complete results, see [Appendix A5](#)). Together, these results suggest that in high-profile cases, courts may act in ways consistent with both the insurance theory and our institutional fail-safe hypothesis, offering a nuanced perspective on their behavior. One limitation of this exercise is that it does not account for ideological alignments over time, including those instances where heads of government with same ideologies were in government but did not issue pardons or the elites exerted influence so that the courts overturned convictions. A more comprehensive understanding of the dynamics at play would require accounting for the trajectory of ideological shifts—which are likely to be largely endogenous and thus add further complexity to the analysis—as well as their potential influence on judicial decisions, including in cases where no conviction or reversal occurred.

Taken together, these findings suggest that conviction reversals are not random events but are systematically shaped by institutional arrangements and specific political incentives—particularly those that enable broad-based political accommodation—allowing elites to manage and mitigate the risks associated with anticorruption efforts. In these contexts, the complexity and contestability of corruption cases may provide dependent high courts with greater discretion to justify reversals.

## Discussion

Overall, the results support the *institutional fail-safe hypothesis* advanced in this article, adding nuance to some versions of the insurance theory (Bahry & Kim, 2021; Epperly, 2013). That is, supreme courts and constitutional tribunals with lower levels of independence compared to other instances of the judiciary are more likely to reverse criminal convictions for corruption involving former heads of government. The results, in other words, indicate that the high courts often behave as instances of accommodation between political and judicial elites.

In addition to shedding light on the gap in judicial independence that has been infrequently explored as an institutional factor influencing divergent rulings within the same court system, these findings have significant implications for debates on the obstacles to anti-corruption policies and the institutional mechanisms in place to prevent their potential overreach. While judicial independence may generally offer increased protection for political elites against undue prosecution, the results presented in this article indicate that having less independent high courts contributes to the reversal of judicial punishment against high-profile politicians. In doing so, this research also complements studies on the role of political accommodation performed by court decisions, suggesting how close and mutually dependent relationships between high courts and political elites may impact the reversal of corruption convictions—and clarifying the institutional and political conditions under which this dynamic is most likely to occur. More broadly, the dynamic portrayed in this article also contributes to elucidate how increases in the criminal accountability of political elites (e.g., Da Ros & Gehrke, 2024; Gehrke & Yang, 2025; González-Ocantos et al., 2023; Helmke et al., 2019; Popova & Post, 2018) may be softened by the high courts.

Beyond the causes of these important dynamics between courts and elites, the broader consequences of the phenomenon also deserve attention from scholars, particularly as corruption convictions and their reversals become more frequent. When courts intervene to reverse convictions, they may not only shield political elites and mitigate conflict, but they also risk contributing to public perceptions of judicial bias. Recent work by Barbabela (2025) and Barbabela et al. (2022) shows that court performance and inconsistencies in judicial decisions in high-profile cases can diminish public trust and shape citizens' attitudes toward corruption control. If courts appear to serve political interests rather than uphold the rule of law, public skepticism of both the judiciary



and political elites may grow, reinforcing a negative feedback loop that erodes the perceived legitimacy of democratic institutions.

## Notes

1. Importantly, as Treisman (2007) later complemented his analysis with new data, he did not find a statistically significant association between these two variables. Also, one of the few authors to advance a nuanced, non-linear relationship between judicial independence and corruption was Ríos-Figueroa (2012), who suggested that overly independent courts may themselves become corrupt.
2. The authors thank an anonymous reviewer for suggestions that helped delimit the main argument and motivated the incorporation of the three testable implications discussed in the *Theory and hypothesis* section and examined in the *Exploring the mechanisms* section.
3. For the purposes of this article, we considered only leaders who were still alive when the reversal of their respective convictions took place. This rules out only one case, that of Jean Bédel-Bokassa of the Central African Republic, whose 1987 conviction for murder was pardoned in 2010, 14 years after his decease. Importantly, the inclusion of this case in the analysis does not significantly affect any of our results.
4. All control variables follow the same approach as the explanatory variable, using the mean value of the five years preceding the conviction. Population size and GDP per capita are included in their logarithmic form to reduce skewness.
5. For detailed regression results based on all these estimations presented in Table 2, refer to table in Appendix A2.
6. To account for possible changes in the electoral system, the analysis uses the system in place during the election immediately preceding each conviction whose reversal is analyzed. This approach helps mitigate concerns about reverse causation by treating the electoral system as a pre-existing institutional condition rather than a consequence of judicial outcomes. The classification of proportional representation systems combines mixed systems and other electoral rules, based on the variable *v2elparallel* from the V-Dem project.
7. Cases in which convictions are upheld are right-censored either ten years after the conviction or in 2022, the final year covered by the dataset—whichever comes first.
8. These indicators are constructed using the variables *v2eltrig* and *v2elturnhog* from the V-Dem Project, respectively.
9. The negative marginal effect of the judicial independence gap in settings with legislative turnover remains robust when executive turnover is included in the main specification.
10. The dataset is updated to cover the period beyond 2020 using publicly available sources.

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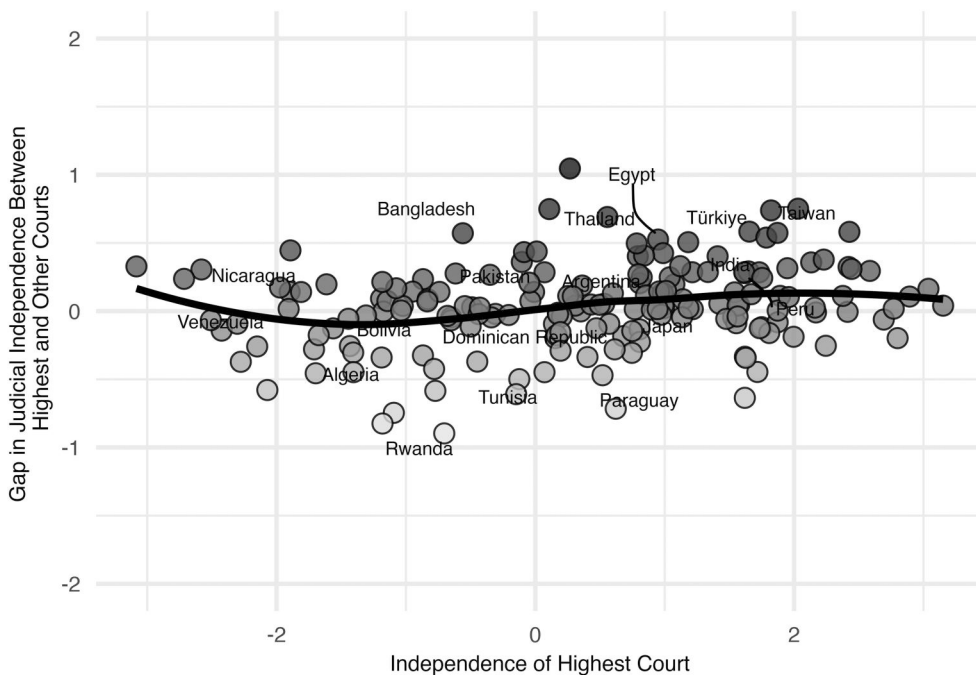
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## Appendix



**Appendix A1:** Average gap in judicial independence between high courts and other courts, and average level of independence of the highest court (2000–2022).

*Note:* The line represents the fitted values from a LOESS regression, a non-parametric method that estimates local trends without assuming a specific functional form.



**Appendix A2.** Main regressions including coefficients for all controls.

	Dependent variable:					
	Overture	Overture by Highest Court				Pardon
	(1)	(2)	(3)	(4)	(5)	(6)
Gap in Judicial Independence	-0.397** (0.165)	-0.530*** (0.140)	-0.230** (0.110)	-0.298** (0.138)	-0.167 (0.137)	-0.088 (0.131)
High Court Independence	0.158* (0.088)	0.231*** (0.086)	0.035 (0.057)	0.051 (0.069)	0.124* (0.071)	0.117** (0.056)
Electoral Democracy Index	-0.517 (0.503)	-0.692 (0.510)	-0.022 (0.254)	-0.049 (0.331)	-0.495 (0.458)	-0.155 (0.317)
Population Size	0.011 (0.034)	0.002 (0.036)	-0.001 (0.023)	-0.001 (0.029)	0.013 (0.022)	-0.018 (0.029)
GDP per capita	-0.043 (0.062)	-0.103 (0.068)	-0.059 (0.040)	-0.063 (0.047)	0.016 (0.041)	-0.080 (0.065)
Constant	0.549 (0.350)	0.939** (0.385)	0.329 (0.225)	0.370 (0.279)	0.220 (0.278)	0.579* (0.349)
Mean of Dependent Variable	0.245	0.292	0.123	0.14	0.123	0.123
Observations	106	89	106	93	106	106
All Convictions	X		X		X	X
Only Convictions Not Pardoned						
Only Convictions Not Overtured						
by Lower Courts				X		
Residual Std. Error	0.422 (df = 100)	0.432 (df = 83)	0.326 (df = 100)	0.343 (df = 87)	0.326 (df = 100)	0.364 (df = 100)
F Statistic	2.040* (df = 5; 100)	3.164** (df = 5; 83)	1.415 (df = 5; 100)	1.606 (df = 5; 87)	1.466 (df = 5; 100)	1.593 (df = 5; 100)

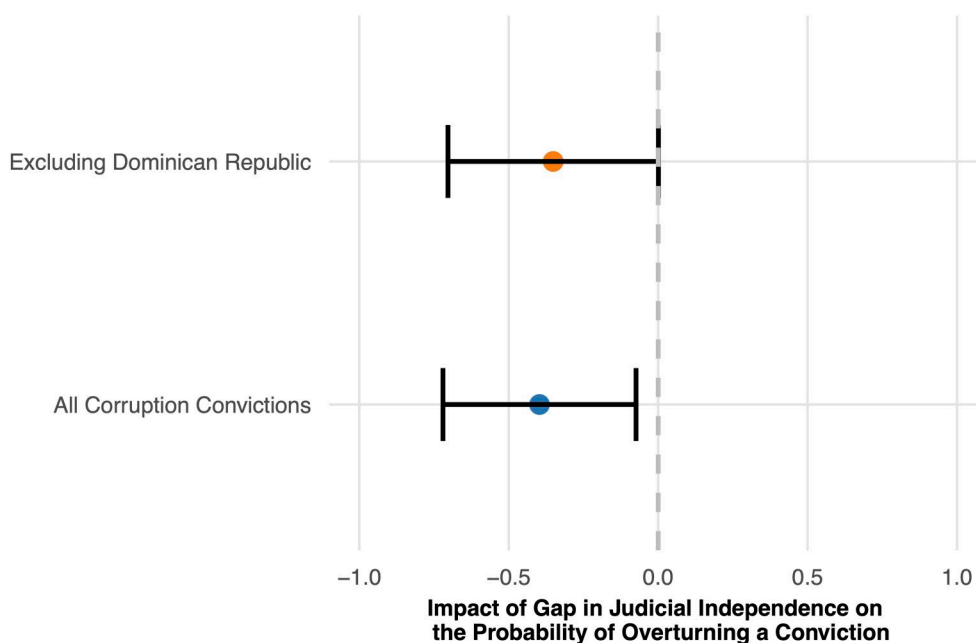
Note: Regression models based on Equation 1. Robust standard errors, clustered at the country level, are reported in parentheses. The regression models incorporate population size and GDP per capita in logarithmic form. \*p < 0.1; \*\*p < 0.05; \*\*\*p < 0.01.



**Appendix A3.** Logistic regression results with country-level clustered standard errors.

	<i>Dependent variable:</i>					
	Overturn		Overturn by Highest Court		Overturn by Other Court	Pardon
	(1)	(2)	(3)	(4)	(5)	(6)
Gap in Judicial Independence	-2.254** (0.959)	-2.890*** (0.899)	-1.781** (0.793)	-2.255** (0.982)	-2.101 (1.364)	-0.733 (0.891)
Constant	0.409 (1.964)	2.526 (2.127)	-0.581 (2.152)	-0.356 (2.390)	-1.443 (2.626)	1.311 (2.554)
Mean of Dependent Variable	0.245	0.292	0.123	0.14	0.123	0.123
Observations	106	89	106	93	106	106
All Convictions	X		X		X	X
Only Convictions Not Pardoned		X				
Only Convictions Not Overturned by Lower Courts				X		
Log Likelihood	-54.057	-46.252	-36.363	-34.063	-35.246	-42.498
Akaike Inf. Crit.	120.114	104.504	84.726	80.125	82.491	96.997

Note: Regression models based on Equation 1. Robust standard errors, clustered at the country level, are reported in parentheses. The regression models incorporate population size and GDP per capita in logarithmic form. Estimates for control variables are omitted for brevity. \* $p < 0.1$ ; \*\* $p < 0.05$ ; \*\*\* $p < 0.01$ .

**Appendix A4:** comparison of regression coefficients for the key explanatory variable: Including vs. excluding the Dominican Republic.

Note: Regression models are based on Equation 1, with conviction reversal as the outcome variable. The first regression includes all corruption convictions, while the second excludes convictions that took place in the Dominican Republic. Error bars indicate 95% confidence intervals.



**Appendix A5.** Regressions that include variable for matched ideology between convicted head of government and head of government at the time of conviction.

	Dependent variable:					
	Overturn		Overturn by Highest Court		Overturn by Other Court	Pardon
	(1)	(2)	(3)	(4)	(5)	(6)
Gap in Judicial Independence	-0.432** (0.181)	-0.604*** (0.167)	-0.245** (0.120)	-0.311** (0.147)	-0.188 (0.143)	-0.103 (0.137)
Matched Ideology	-0.102 (0.089)	-0.170* (0.101)	-0.039 (0.073)	-0.041 (0.083)	-0.063 (0.068)	-0.048 (0.083)
(HoG at Conviction and Convicted)	0.592* (0.345)	1.032*** (0.360)	0.345 (0.222)	0.382 (0.274)	0.247 (0.268)	0.599* (0.353)
Constant	0.245 (0.345)	0.292 (0.360)	0.123 (0.222)	0.14 (0.274)	0.123 (0.268)	0.123 (0.353)
Mean of Dependent Variable	106	89	106	93	106	106
Observations	X	X	X	X	X	X
All Convictions						
Only Convictions Not Pardoned						
Only Convictions Not Overturned						
by Lower Courts						
Residual Std. Error	0.421 (df = 99)	0.426 (df = 82)	0.327 (df = 99)	0.344 (df = 86)	0.326 (df = 99)	0.365 (df = 99)
F Statistic	1.949* (df = 6; 99)	3.232*** (df = 6; 82)	1.231 (df = 6; 99)	1.380 (df = 6; 86)	1.373 (df = 6; 99)	1.389 (df = 6; 99)

Note: Regression models based on Equation 1. Robust standard errors, clustered at the country level, are reported in parentheses. The regression models incorporate population size and GDP per capita in logarithmic form. Estimates for control variables are omitted for brevity. \*p < 0.1; \*\*p < 0.05; \*\*\*p < 0.01.