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IRVINE

Executive Power and Electoral Institutions in the Andes

DISSERTATION

submitted in partial satisfaction of the requirements  
for the degree of

DOCTOR OF PHILOSOPHY

in Political Science

by

Katja Julia Siegert Newman

Dissertation Committee:  
Provost's Distinguished Associate Professor Diana Kapiszewski, Chair  
Chancellor's Professor of Law, Carrie Menkel-Meadow, Co-Chair  
Professor Emeritus Rein Taagepera

2017



## DEDICATION

This study is inspired by the patience, dedication, hope, and hard work of the hundreds of voters, electoral workers, politicians, and civic leaders I met and worked with throughout Latin America and the Caribbean over the past two decades. I am grateful to have had the opportunity to observe over a dozen elections in the region, thanks to efforts by the International Republican Institute and the Organization of American States. Improvements in election day procedures since transition to democracy are a testament to the inspiring principles of democracy. Still, many challenges remain, particularly the continued concentration of executive power. I hope to continue working toward the goal of free and fair elections, both at home and abroad.

&

To Sam,  
for being steadfast at my side every step of this journey.

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I also want to thank the many colleagues I worked with and learned from over the years. The annual conference of the Latin American Studies Association (LASA) provided stimulating discussion, a professional network, and a chance to polish and present my research. I appreciate the enormous research and generous sharing of data by Zach Elkins, James Melton, and Tom Ginsburg (aka "Melkinsburg"). Their contributions aided my early examination of constitutions, which evolved into this study. I thank Jodi Finkel, Jane Jaquette, and Pamela Starr for their

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## CURRICULUM VITAE

**KATJA S. NEWMAN**

**Department of Political Science, School of Social Sciences  
University of California, Irvine  
Phone: (310) 802-1746  
katjan@uci.edu**

### EDUCATION

- Ph.D.**            **University of California, Irvine**, Political Science, September 2017  
Dissertation topic – Executive Power and Electoral Institutions in the Andes
- M.A.**            **University of California, Irvine**, Political Science, December 2011
- M.A.**            **The George Washington University, Elliott School of International Affairs**, Comparative Politics and Foreign Policy, May 1997
- B.A.**            **Pepperdine University**, International Studies, April 1993

### ACADEMIC EMPLOYMENT

- Teaching Assistant, University of California, Irvine**, Fall 2008 to 2015  
Courses taught: Comparative Politics, Cuban Society and Revolution, Global Issues, Introduction to Law, Introduction to Gangs, Introduction to Political Science – Analysis, Transnational Gangs, and U.S. Intervention in Latin America.
- Research Assistant, Georgetown University**, Fall 2016  
Bibliographic searches and literature reviews on judicial politics in Latin America.
- Research Assistant, University of California, Irvine**, Summer 2011 and Summer 2010  
Creation of index for book on court behavior in Argentina and Brazil for Diana Kapiszewski, Ph.D. Data collection and analysis on Law and Informality project.
- Guest Lecturer, University of California, Irvine**, Winter 2009 and Spring 2009  
Guest lectured for two undergraduate classes: “Political Economy: Poverty and Inequality” and “Post-Apartheid Constitutionalism in South Africa.”

### ACADEMIC HONORS AND FELLOWSHIPS

- Affiliate, Center for the Study of Democracy (CSD), U.C. Irvine**, June 2008 – Present

**Summer Funding, CSD and Department of Political Science, U.C. Irvine, Summer 2009, 2010, 2011, 2013**

## **PAPERS AND PRESENTATIONS**

“Judicialization of Politics.” Chapter co-authored with Diana Kapiszewski in the *Oxford Handbook of Constitutional Law in Latin America* by Mendes and Gargarella, Eds. (commissioned).

“Constitutionalism with Adjectives.” Article co-authored with Diana Kapiszewski and Justin Koch, was presented at Comparative Politics Seminar at Columbia University (New York, March 8, 2017).

“Executive Power and Electoral Institutions in the Andes.” Presented at the International Congress of the Latin American Studies Association, April 29, 2017 in Lima, Peru, and May 27, 2016, New York.

“Constitutional Divide: Executive Power and Democratic Institutions in the Andes.” Presented at the International Congress of the Latin American Studies Association, May 29-June 1, 2013, Washington, DC.

“Constitutional Coups: When Presidents Change the Game.” Presented at the International Congress of the Latin American Studies Association, May 23-26, 2012, San Francisco, CA.

“Executive Power and Democratic Decline.” Presented at the Pacific Coast Council of Latin American Studies, October 29, 2011, California State University L.A.

“Constitutional Coups: Advancing Executive Power in Latin America.” Presented at the American Political Science Association Annual Meeting, September 1-4, 2011, Seattle, WA; Law and Society Association Annual Meeting, June 2-5, 2011, San Francisco, CA; and Midwest Political Science Association 69<sup>th</sup> Annual Conference, March 2011, Chicago, IL.

“Constitutional Coups: Grabbing Executive Power in Latin America.” Presented at the XXIX International Congress of the Latin American Studies Association, October 6-9, 2010, Toronto, Canada.

## **PROFESSIONAL EXPERIENCE**

**KSN Consulting, Inc.,** *Founder and President* (November 2001 – present)

Own and operate consulting firm that provides expertise to companies, non-profit organizations, and business associations building capacity in Latin America and the Caribbean.

**International Technology & Trade Associates, Inc. (ITTA), *Manager, Latin America Consulting Group*** (July 1999 - July 2001)

Managed ITTA's Latin America business and analysis services for multinational clients.

**Caribbean/Latin American Action (C/LAA), *Director, Agribusiness Programs*** (February 1998 - June 1999)

Directed programs to promote trade integration and private sector-generated growth.

**International Republican Institute (IRI), *Program Officer, Latin America*** (September 1993 - February 1998)

Conceptualized, managed, and evaluated USAID and NED-funded grant programs in Mexico, Venezuela, and South America (regional) with total budgets of over \$1,000,000. Coordinated and participated election observation missions in the region (see below).

## **PROFESSIONAL MEMBERSHIPS**

American Association of University Women

American Political Science Association

American Women for International Understanding

Inter-American Dialogue

Latin American Studies Association

Pacific Council on International Policy (Co-chaired the Western Hemisphere Members Committee)

## **LANGUAGE PROFICIENCY**

Spanish: fluent reading, speaking, and basic writing

German: basic reading, speaking, and writing

Danish: basic reading and speaking

## **INTERNATIONAL ELECTION OBSERVATIONS**

Participated in IRI and Organization of American States (OAS) election observation delegations and as a regional coordinator in: Bolivia (December 2005), Colombia (June 2014, October 2016), Ecuador (July 1996, October 2002, and November 2006), El Salvador (March 2004), Haiti (June 1995), Mexico (August 1994, July 1997, and July 2000), Nicaragua (February 1994 and October 1996), and Venezuela (November 1998).

## ABSTRACT OF THE DISSERTATION

Executive Power and Electoral Institutions in the Andes

By

Katja Newman

Doctor of Philosophy in Political Science

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Provost's Distinguished Associate Professor Diana Kapiszewski, Chair  
Chancellor's Professor of Law, Carrie Menkel-Meadow, Co-Chair

Latin America is experiencing the longest democratic period in its history, yet power is still heavily concentrated in the executive. In fact, presidents are exercising power to extend their terms and enhance control over elections, often through completely democratic means. This phenomenon challenges our understanding of the relationship between democracy and the rule of law. This dissertation combines institutional and agency approaches to ask why and when presidents gained *and exercised* power over elections, arguably the most critical component of democracy. I focus on Colombia, Ecuador, and Venezuela, three Andean countries that share certain historic and cultural contexts, yet vary greatly in their democratic development.

First, I conceptualize, measure, and analyze the transformation of executive power over elections in formal law, or “institutionalized executive power” (IEP), since transition to democracy (1979 – 2013). Colombia witnessed consistent decline in IEP, Ecuador’s trend was mixed, and Venezuela demonstrated an overall increase. Based on qualitative analysis of an original dataset, I argue that institutional factors are the key causal components explaining variation in formal executive powers over elections: configuration (government entities with

authority over electoral management, which can be centralized or decentralized); and constraints (restrictions on changing electoral law, which can be weak or strong).

The logical next question is how and when presidents *exercised* their powers. I developed a measure of “exercised executive power” (EEP) over elections and traced presidents’ actions over two decades (1993 – 2013). I found that EEP increased over time in all three countries. This was driven largely by political factors, but within the institutional context. I argue that presidents with strong mandates – particularly a majority in the legislature – most often exercised power over elections (and succeeded in their efforts) because of their ability to overcome institutional configuration and constraints.

Despite decades of democratization, weak institutions continue to facilitate actions of strong presidents, compromising democratic quality. However, insights from Colombia demonstrate that balance of power among government entities and legal safeguards can temper even the most popular presidents. These findings inform our theoretical understanding of processes that contribute to democratic strength or decline.



## CHAPTER 1 – INTRODUCTION

*Chapter Outline: I. Presidents and Elections in Latin America; II. Democracy and Executive Power in the Region; III. Examining the Role of Presidents in Elections; IV. Findings, Argument and Preview of Chapters*

*“Spare me, I beg you, the disgrace that awaits me if I continue to fill a role that can never be free of the charge of ambition. Believe me, a new leader is absolutely vital to the republic. The people wonder if I will ever cease to rule.... Fellow citizens, prove yourselves worthy of the free nation you represent by banishing the idea that I am necessary to the republic.”*

Speech by Simón Bolívar near the end of his rule (*Arana 2013, 430*).

### **I. Presidents and Elections in Latin America**

Latin America has an extensive history of strong presidents who seized power while espousing noble aims. Simón Bolívar, a particularly famous *caudillo* in the Andean region, fought to liberate his people from Spain in 1819, yet he and his successors for decades governed as dictators. The actions of strongmen, who often cite ongoing crises to justify their power, frequently trump institutions to protect freedoms and liberty. This is why the widespread transition to democracy by all but one country in Latin America in the 1980s was viewed with such optimism and drew unprecedented attention to advancing democratic theory. Many hoped that democratic government would temper executive ambitions, increase representation, and create political and economic stability. Countries across the region adopted the core ideals of electing leaders to power through free and fair elections and holding them accountable through constitutional restrictions on executive terms. While still flawed, democratic systems prevail nearly four decades later, in all but two countries in the region. Indeed, this is Latin America’s most sustained democratic moment in history.

As democracy becomes the “only game in town,” however, an alarming number of presidents continue to flaunt their powers by manipulating governments and electoral campaigns.

Presidents continue to wield significant power, both formally and informally, and use the executive office to their advantage. A common goal, not surprisingly, is to change the rules that control how power is gained – through elections. Latin America, and the Andean region in particular, is a frequent host to such play. This raises serious concerns regarding how and when the most powerful member of the team can change the rules of the game.

Since transition to democracy, in seven countries of the region, presidents led efforts to change the constitution to allow reelection, a move previously considered taboo after decades of dictatorship. Another seven allow non-consecutive reelection.<sup>1</sup> In Bolivia, Ecuador, and Venezuela, constitutional replacements (in 2009, 2008, and 1999, respectively) were interpreted such that presidents were permitted to serve a third term in office. Moreover, presidents in Nicaragua (2014), Ecuador (2015) and Venezuela (2009) led successful efforts to remove restrictions on reelection altogether, permitting unlimited terms for the president (which, of course, is also permitted in Cuba). Although voters enjoy increasingly improved ballot security and transparent election day procedures, and judicial systems are gradually addressing infractions, it is difficult for opposition members to overcome the advantage of incumbency, with disproportionate access to resources and media exposure exploited by sitting executives.

The democratic institutions that were established (or re-established) four decades ago do not always guarantee the balance of power among political actors needed to support democratic alternation in power and prevent executive abuse of electoral regimes. While some constitutions have parameters to ensure representation by multiple political parties in the institutions of electoral governance (IEGs),<sup>2</sup> others have been reformed such that management is dominated by the ruling party. Moreover, some presidents have led reforms that consolidate power over

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<sup>1</sup> See <http://www.as-coa.org/articles/explainer-presidential-reelection-latin-america>.

<sup>2</sup> Kapiszewski et al. (2014).

elections *using* democratic means. With a majority in Congress, or sufficient popular support to call for a referendum, executives can essentially employ formal, legal procedures to create new laws and government structures to their own benefit. For example, some laws proposed by democratically elected presidents and passed through the legislature effectively restrict political parties and constrain the media. This phenomenon may not come as a surprise in a region with an extensive history of dictatorships and with continued use of the presidential system of government, which critics fault for its inherent top-down concentration of power and resulting instability (see Chapter 2). Yet some countries experience significantly less executive overreach. Interestingly, while all presidents in Latin America enjoy substantial constitutional powers by the nature of presidentialism, some countries experience fewer challenges from strong presidents than others. In fact, some countries have even delayed or thwarted efforts by presidents to seize or increase power over elections. The use of democratic institutions and constitutions to consolidate power is a threat that is not yet fully understood. Why and when do the institutions of democracy work to keep presidents in check in some countries, but not in others? After nearly four decades of democratic practice, how do we understand what constitutes, changes, and checks presidential power?

This dissertation examines how and why some governments and leaders in Colombia, Ecuador and Venezuela are empowering executives while others are not, after transition to democracy. The goal is to gain a better understanding of what explains variation in executive power over elections, the most critical component of democracy, and discuss implications for electoral competition across emerging democracies. By doing so, it addresses a growing concern in the literature over a return to authoritarianism, or its milder version of electoral authoritarianism, in several countries worldwide. To date the literature does not fully chronicle

gradual, if calculated, manipulation of power (sometimes described as de-democratization). Leaders maintain a certain legitimacy by allowing democratic institutions, such as electoral entities and political parties, but these are dominated or restrained by the incumbent such that it is almost impossible for the opposition to prevail. I look specifically at how much power presidents have over elections and electoral management, arguably one of the most important components of democracy. I examine both formal powers – those awarded to presidents through statutes – as well as informal powers, or actions taken by presidents (which can also be formal). This dissertation tracks trends in level and exercise of power, and seeks explanations for variation over time and across three Andean countries, a sub-region with many shared historical, cultural, and political attributes. I define and conceptualize two dependent variables: Institutionalized Executive Power (IEP) and Exercised Executive Power (EEP). Then, I create an original data set of all laws affecting executive power over elections and score them. Next, through systematic search and dozens of in-country interviews, I record and analyze cases of exercised executive power over elections. Finally, I test hypotheses to identify factors correlated with level and change, and trace causal factors to explain how those factors work through case study analysis.

I find that formal executive powers over elections have undergone significant reforms over the last 30 years, with both increases and decreases in levels of executive power. Empirical findings show that Colombia has witnessed consistent decline in formal executive power over elections (since 1979), as well as the fewest episodes of exercised executive power over elections (since 1993). This contrasts with Venezuela and Ecuador, where the level of formal executive power increased or remained high, and recent presidents have actively pursued greater powers over elections. In fact, in all three countries, attempts by presidents to exercise power increased.

Yet interestingly, their pursuits were shaped by the strength and limits of democratic institutions. In brief, I argue that institutional factors, paired with individual presidents' political contexts, account for much of the variation in executive power across three Andean democracies and over time. Distribution of electoral authority across strong institutions and protections against changing the law can effectively reduce executive power over time, and even prevent some efforts by presidents to exercise their powers. This was true even of more popular presidents. Where the institutional structure is centralized and constraints are weak, presidents are more active and with a majority in Congress, achieve more consistent success. In addition, some presidents who command a majority in Congress, will agree to reduced powers in some areas in a strategic move to gain power in others. This dissertation demonstrates how presidents operate within the institutional environment, and they frequently employed democratic means to exercise their power. This has important implications for how the rule of law, or legitimate democratic practices, do not always support a balance of power in democracy (discussed in Chapter 7).

The next section examines the context of executive power and elections by describing the trajectory of democracy in the region, highlighting the important role of presidents, and then provides a brief history of Colombia, Ecuador, and Venezuela. Section three outlines the study's research approach. Finally, section four introduces key findings, my argument, and previews the remaining chapters.<sup>3</sup>

## **II. Democracy and Executive Power in the Region**

The first half of this section discusses the growing concern over democratic decline, or increasing authoritarianism, in Latin America and more broadly. The second half briefly

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<sup>3</sup> Implications of my findings, including contributions to the literature and proposed steps for continued research in the field, are provided in Chapter 7.

describes the historical context of the three Andean countries studied in this dissertation (case selection explained in Section 3).

### *Executive Power and Democratic Decline*

Despite new constitutions and decades of competitive elections for government positions, concentration of power in the executive continues post transition to democracy in Latin America. In a study of all new constitutions written during democratic periods (at least five years post-democratic transition) in Latin America since 1900, I found that ten out of 15 scored an overall increase in executive power. Six of those occurred within the last 20 years, and the majority of those polities are in the Andes (Newman 2012). This is not solely a regional phenomenon. Data on formal executive powers in constitutions (Melton, Elkins and Ginsburg 2011) reveal that nearly 50% of presidents and prime ministers in the world's emerging democracies (15 of 35 'third wave' countries) have gained stronger formal powers since transition. Another 15 maintained the same level, and only five countries have decreased powers accorded to the executive since transition to democracy. Countries that increased constitutionalized executive powers also experienced the most declines in democratic quality indicators, suggesting a possible link between enhanced presidential capacity and diminished democracy (Newman 2012).

In addition to formal powers, in many contexts there have been attempts (often successful) by the president to exercise more power. For example, President Ortega of Nicaragua, despite judicial opposition, violated the constitution to run for a third term. President Morales of Bolivia has since followed suit, breaking his promise not to run for a third term in 2014. In Honduras in 2009, President Zelaya sought to gain executive reelection by writing a new constitution, ultimately resulting in his ouster. In Venezuela, during his 14-year term,

President Chavez created new local offices to thwart opposition victories and ordered arrests of opposition leaders. His successor, President Maduro, has become a full-fledged dictator, dismissing the opposition-led legislature after illegitimately electing a Constituent Assembly in 2017. In Ecuador, the judiciary and the media came under attack repeatedly by President Correa since he took power in 2007. This suggests an increase in the *exercise* of executive power, not just formal changes via constitutional provisions.

Scholars are increasingly concerned about elevated levels of executive power, whether it is called “hyper-presidentialism” (Rose-Ackerman, Desierto, and Volosin 2011), “delegative democracy” (O’Donnell 1994), “competitive authoritarianism” (Levitsky and Way 2002), or “electoral authoritarianism” (Schedler 2006), yet we have not systematically measured executive power as it is exercised. Typically, executive power is narrowly assessed by tracing constitutional provisions for powers granted to the assembly versus those granted to the president for passing legislation, or by analyzing cabinet appointment and dismissal powers (Shugart and Carey 1992, Lijphart 1999). Measures of how presidents exercise power are often limited to assessments of their success in passing executive-led legislation or using vetoes (Tsebelis and Aleman 2005). Studies of executive power vis-à-vis the judicial branch are slowly emerging (Basabe-Serrano 2012, Kapiszewski and Taylor 2008), but often focus on single countries. Cross-national comparative analysis of executive power is scarce, particularly in developing democracies.

Moreover, we lack a clear understanding of the subsequent impact of laws, or essentially “how law becomes real” (Scheppelle quoted in Albert 2017). While it is relatively easy to count the number of bills introduced by a president and whether they passed in the legislature, the greater challenge is understanding how and when presidents used their constitutionally awarded

powers, *beyond* introducing laws, or sought to exercise other powers, and what the implications of their actions were. How do presidents influence the media before or during elections? What economic incentives do they introduce to sway electoral support? What direct democracy mechanisms do they employ and do they adhere to constitutional norms in doing so? While it is important to know what powers a president has and when he or she can use them (formal institutions), it is at least as important (if not more so) to explain how and when presidents threaten to or actually wield those powers, and when they assume and use powers they are *not* formally granted. By looking at Institutionalized Executive Power, I gain an understanding of the intent of the law and the powers officially afforded the president. By studying Exercised Executive Power, I not *only* capture executive actions, but whether their behavior is illegal or outside of institutional bounds.

In addition, “presidential power” is not a monolithic phenomenon in Latin American democracies – presidents can be very strong in some areas and very weak in others. The possibilities for executive exercise of power are endless, which warrants an initial look at a limited realm. Therefore, it makes sense to analyze presidential power within a particularly important sphere, the primary arena for accessing, or being removed from, the seat of power. Elections are considered by most scholars to be the fundamental core of democracy (Dahl 1971, Schumpeter 1942). While elections are insufficient to guarantee democracy, they are absolutely necessary. The electoral process is widely accepted as the essential legitimate means to gain and maintain power in a democracy, yet executive power in this specific realm has yet to be studied in detail.

Several factors support studying concentration of power over elections. Most simply, domination from above violates the balance that is the fundamental ideal of democracy’s



separation of powers (Dahl 1971). However, there are more practical and nuanced reasons. For one, when power and decision-making are continually concentrated at the top, a disproportionate amount of popular frustration and unrest may likewise focus there. This could help explain why, in many Andean countries, almost four decades after democratization, we still witness coups and incomplete presidential terms – leading to political and economic instability<sup>4</sup> – rather than deliberative democracy and negotiation among multiple representative branches. In addition, concentration of power at the top can become cumulative, initiating an endless cycle of incumbents with the upper hand (Corrales and Penfold 2014, Masci 2014, Roquie 1978). “Even though elections are not necessary to change or confirm the governors of a country, they are nonetheless employed almost everywhere, as a part of the complex efforts of governors in search of that popular consent needed to advance their aspirations to fully legitimate authority” (Rose 1978, 197). By identifying the causal forces behind strong executives and how and why they seek to impact democratic competition, I hope to gain a better understanding of why some Andean countries region remain politically unstable while others do not.

### *Descendants of Bolívar: Colombia, Ecuador, and Venezuela*<sup>5</sup>

The Andean region is named after the mountain range that runs from northwest South America down the Pacific Coast to Chile. The five countries<sup>6</sup> that comprise this sub-region share both magnificent and inhospitable terrain. Spain conquered the indigenous populations there beginning in the early 1500s and colonized the region until the early 1800s. The area’s modern

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<sup>4</sup> Indeed, in discussing competitive authoritarian regimes, Levitsky and Way note how “the coexistence of democratic rules and autocratic methods aimed at keeping incumbents in power creates an inherent source of instability” (2002, 59).

<sup>5</sup> Information for this sub-section is based on personal historical knowledge of the region as well as fact checks on various internet websites including Britannica.com, Constitutionnet.org, Localhistories.org, news.bbc.com, Studycountry.com, and Wikipedia.

<sup>6</sup> The Andes are widely understood to include Bolivia, Colombia, Ecuador, Peru, and Venezuela.

political history is owed partly to “liberator” Simón Bolívar, who fought to unite the region of “Gran Colombia” against Spanish rule. While he was successful in gaining independence in 1819, the region broke in to separate countries roughly within the departments established by Spain.

Venezuela gained full independence in 1830 and was subsequently ruled by military strongmen or *caudillos* until the mid-20<sup>th</sup> Century. The discovery of oil in the early 1900s fueled rapid development and urbanization, although poverty and inequality remained severe. In 1958, the country established democratic government through an agreement called the “Pact of Punto Fijo,” where the largest political parties agreed to share power (and wealth). This largely peaceful political arrangement, which essentially concentrated and alternated power among elites, held until economic crises in the 1980s fueled the *Caracazo* riots of 1989, then President Carlos Andres Perez was impeached in 1993, and subsequently confidence in the traditional political parties deteriorated. In 1998, former military officer and coup-leader Hugo Chavez appealed to frustrated and impoverished voters, and was elected as an outsider. He promoted a “Bolivarian Revolution” to reject imperialist and capitalist forces and promote socialist policies, while centralizing government control. After a referendum and election of a Constituent Assembly in 1999, Chavez and his supporters replaced the constitution of 1961. He ruled for 14 years, his popularity buoyed by aggressive rhetoric and massive public spending funded by high oil prices. After his death from cancer in 2012, his successor Nicolas Maduro continued to consolidate power and increasingly violated constitutional provisions. Increasing protests, violence, and economic ruin now challenge Venezuela’s government, which today by most standards is no longer considered democratic.

Colombia's political history is more violent by comparison, but also demonstrates a strong commitment to democratic institutions and elections. The 19<sup>th</sup> century was marked by violence and civil wars, largely between the two strongest political parties, the liberals and the conservatives. After prolonged fighting between rival parties in the 1940s, so deadly it was called "La Violencia," liberal presidential candidate Jorge Gaitan was assassinated in 1948 and a conservative military dictatorship established in 1953. The dictator Rojas stepped down in 1957 after parties agreed to share power in what was called the "National Front." From 1958-1974 liberals and conservatives alternated power, an agreement established in a reform to the 1886 constitution and approved by referendum in 1957. While this ensured political stability, it also concentrated power in the elites and did not address inequality and continued poverty. In the 1960s, the country witnessed increased violence due to left-wing uprisings and formation of the guerilla movement FARC (Revolutionary Armed Forces of Colombia), and increased conflict in the 1970s from narco-traffickers and the emergence of paramilitaries. Like much of the region, Colombia then suffered a severe economic crisis in the 1980s. Violence culminated with an attack by the guerilla movement M-19 on the Supreme Court followed by assassinations of three presidential candidates in 1989. A watershed moment came when President Gaviria was elected in 1990, amid calls to elect a Constituent Assembly and rewrite the constitution. The new constitution of 1991 made significant reforms, including the establishment of a Constitutional Court, which has been very active and even ruled against sitting presidents. Since the 1990s, subsequent governments (both liberal and conservative) have worked to implement reforms and address ongoing conflict, with varying levels of success and political corruption (often involving drug money). Since 2002, violence has decreased significantly, the economy has steadily

improved, more political parties were represented, and a peace deal with the FARC was signed in 2016.

Ecuador also became an independent republic in 1830, and has long suffered conflicts due to political rivalry between the conservative government seat in the highlands (capitol city Quito) and industrial powers in the port city of Guayaquil. Decades of rival leaders, nationalism, and conservative dictators ensued until liberal President Eloy Alfaro emerged at the beginning of the 1900s. His reforms, however, did little to help the perpetually poor indigenous and working classes. Subsequent periods of democratic governance were interspersed with dictatorships and populist leaders, and economic development and decline depended on shifting income from natural resource prices and agriculture. The most recent dictatorship ended in 1979, when the government was turned over to an elected civilian to establish democracy. Several presidents from the left and right were subsequently elected in a relatively democratic manner, with constant ideological feuds regarding how best to industrialize, develop, and address demands from the land-strapped poor. After a severe economic crisis in the 1980s, in the mid-1990s a period of unprecedented presidential turnovers completely discredited traditional political parties and government institutions in the country. From 1995 – 2005, six presidents were removed and replaced by Congress or popular uprising. In 2006, leftist outsider Rafael Correa was elected on promises to re-establish the political order. He led a Constituent Assembly to rewrite the constitution in 2008 and successfully consolidated power, assisted by high oil prices, and remained in office until 2017.

Each country's history of colonialism, dictatorship, constitutional governments, transition to democracy, and populism, were marked by intermittent violence, development, and economic crises. Divergence in the countries' democratic paths since the beginning of the 21<sup>st</sup> Century

raises interesting questions as to why Venezuela (and to some extent Ecuador) turned to extreme outside leaders, who consolidated executive power, while Colombia – no stranger to strong leaders – continued a path toward institutional stability, despite violence and corrupt leaders.

### **III. Examining the Role of Presidents in Elections**

My study seeks to understand fluctuations in executive power, both formal and informal, looking specifically how presidents gain and exercise control over elections. This section describes my research questions, case selection, time period of study, electoral focus, literature, data gathering, and methodology.

#### *Research Questions*

This project looks first at formal, institutionalized executive power (or *de jure* power) and then at the actual exercise of that power (*de facto*) over elections. In chapters three and five I describe, measure, and score these dependent variables, or Institutionalized Executive Power (IEP) and Exercised Executive Power (EEP). Then, I seek to explain the variation witnessed (in chapters four and six). This study seeks to answer four research questions: 1. How much power do presidents have over elections and how does that power vary over time in any one country, and cross-nationally?; 2. Why do we observe cross-temporal and cross-national variation in formal presidential power over elections?; 3. How did presidents exercise their powers over elections and how did the way they did so vary over time and space?; and 4. What accounts for that variation?

#### *Case Selection*

Bold actions by recent presidents in the Andean region warrant a more comprehensive comparative analysis of the laws that define executive power there, how the level of power changes, and how and whether presidents comply with those laws. There is a lack of political science studies that focus on Andean countries, a missed opportunity for several reasons. First, the sub-region's shared history and close internal ties present an important opportunity to observe diffusion. Second, after transition to democracy, the sub-region experienced what some call a crisis of representation (Mainwaring, Bejarano and Pizarro Leongomez 2006, 6-7), meaning citizens were frustrated by political representatives' responsiveness and are becoming disillusioned with their governments. Third, this instability includes several rewritten constitutions and numerous electoral reforms, providing ample data and useful examples for understanding whether and how laws and institutions matter. Fourth, while some countries are witnessing diminished democracy scores and increased instability, others continue to improve on democratic indicators. Comparative findings on how political institutions change and how presidents play a role can have implications for understanding why the quality of democracy varies so greatly in these countries and could be applied to other countries witnessing crises.

Within the Andes, I identified three cases for study based on two primary considerations. The first was to select countries that provide a sample with the most potential institutional variation to explain. In previous research, I identified levels of executive power in new constitutions written post-democratic transition throughout Latin America (Newman 2012). I found the most significant increase in powers assigned to the president occurred in Venezuela, whereas the least occurred in Colombia. Given many other factors that were constant (mentioned below), these two countries are compelling outliers for further examination of the impact of executive power on electoral institutions specifically. In light of this variation, it made sense to

also select a ‘middle case’ to understand how the effects in the outliers translated to a more moderate case, one that also shared regional similarities. Ecuador had mixed variation in levels of executive power through many constitutional changes, providing an interesting case for study. It also has a shorter democratic history than Colombia and Venezuela, allowing me to analyze how electoral systems were adopted and adapted in that country compared to its close neighbors.

Second, these three distinct states share several cultural, geographical, and historical traits, including: medium-size (certainly in comparison to regional outliers such as Brazil vs. Dominica), presidential systems, significant marginalized sectors of the population, systemic economic challenges (including high poverty and heavy dependence on natural resources for income), and historic legacy (including colonialism, Catholicism, and political centralization). These broader factors certainly could affect executive power over elections, but likely in the same direction, accounting for sustained concentration in strong presidents. This makes the region a good candidate for comparative analysis, because I can seek to identify what accounts for variation in different level of power beyond these factors. Indeed, despite several broad similarities in history, regime structure, and culture, I observed significant variation in both Institutionalized Executive Power (IEP) and Exercised Executive Power (EEP), across countries and time. Since these countries share some broader factors such as history and culture, this allowed me to focus more narrowly on my hypothesized explanatory variables, for example, political context, institutional strength, and presidential mandate, to explain variation in IEP and EEP.

Finally, political conditions make these countries compelling. From 1978 – 2003, South America as a region experienced more ‘challenged’ presidencies than the rest of all presidential regimes in the world combined (Hochstetler and Edwards 2009) – meaning protests and

overthrow of the executive prior to the official end of the presidential term. Colombia, Ecuador, and Venezuela suffered notable political instability during the period of study (interrupted presidencies, coups, crisis of traditional political parties). In addition, institutional innovation in the sub-region is compelling – all three countries wrote new constitutions since 1990 and many have since made amendments. The “institutional trajectory” of these constitutional replacements and reforms yield “mixed normative results” (Elkins, Ginsburg, and Melton 2009) worth studying. As such, the political conditions in Colombia, Ecuador, and Venezuela provide ample cases for observation, comparison, and analysis.

### *Time Period*

The time frame selected for this study is the recent, post-authoritarian period, from transition to democracy (during the 1980s) through 2013. Of course, Colombia and Venezuela enjoyed earlier periods of democracy. Hence the start date for those two countries is set when transition toward truly open democracy occurred. Both had experienced closed or ‘pacted’ democracy,<sup>7</sup> but real changes occurred in the 1980s (see above). In Colombia, the 1980s represents a period when “National Front” democracy was coming to an end and reforms were passed to make elections more meaningfully competitive. This allowed an increasingly organic version of democracy to emerge, corresponding with other democratic transitions in the region. Likewise, Venezuela in the late 1980s witnessed a waning of two-party domination and the start of reforms to create a less manipulated democracy (and the end of the “Pact of Punto Fijo”). For Venezuela, this starting point also places it in a temporal match with the other countries and coincides with the global diffusion of democratic values after the fall of communism. This timeframe also provides a solid ten-year period during which the country transitioned from one

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<sup>7</sup> Where two established parties agreed to share or alternate power.



elected government to another (after 1999, Chavez ruled for 14 years). In Ecuador, transition to democracy occurred with the end of the dictatorship in 1979, hence the 1980s is a fitting start period for study there as well.

### *Electoral Focus*

As noted earlier, I chose to observe presidential power over elections because, among other reasons, the executive branch has significant impact politically and elections are the key to power in a democracy. This has normative and empirical implications. Normatively, the study provides insight on the legitimacy of democracy and its ideal of balance of power (discussed in Chapter 2), because the power of the executive branch over democratic procedures is assessed. In addition, empirically, this is an area of executive power that has not been measured in a systematic manner to date. I chose to look only at national elections (presidential, legislative, and referenda) for four reasons: they are events where the president can have a large impact; the president is less directly involved with lower level elections;<sup>8</sup> data are more accurate and readily accessible at the national level; and the number of national level elections are sufficient to create a sample of episodes for study.

### *Literature*

The next chapter discusses literature that informs the broader questions regarding institutional changes and executive power. Surprisingly, there is very a limited amount of work that addresses these two phenomena simultaneously, almost none of which looks at elections specifically. Briefly, there is literature on electoral institutions, which focuses on constitutions

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<sup>8</sup> Of course there are likely exceptions, such as mayoral elections for important cities. Future study on executive power could benefit from insights on local level elections as well.

and perhaps the electoral code, but that provides an incomplete picture because it does not address implementing legislation, decrees, resolutions, etc., as well as presidential behavior. Previous studies also focused on the election system as an independent variable (as impacting vote outcomes), rather than understanding how the system was shaped and by whom. Meanwhile, the literature on executive power focuses primarily on parliamentary systems and advanced democracies, and is rarely comparative. It also focuses heavily on executive power vis-à-vis the legislature, neglecting the importance of other entities such as institutions of electoral governance (IEGs) and the judiciary. My work seeks to address that void. Finally, I draw on the literature on stability and quality of democracy, and of democratic institutions more broadly, to inform my hypotheses and draw implications.

### *Data Gathering*

The majority of data collection, to identify laws comprising IEP and actions qualifying as EEP, was conducted through internet search and gathering of primary documents (laws, constitutions, decrees, electoral codes, etc.) and through systematic search of media reports (LAWR) as described in detail in Chapters 3 and 5. The process of evaluating the data is described briefly below and in depth in those Chapters as well. To supplement this research, I conducted in-country fieldwork as well as phone calls and email interviews with country experts. While significant evidence was gained from reading research that analyzes the countries under study, culling newspaper articles for evidence of events preceding the cases and public reactions, and identifying the key actors involved, a more intimate knowledge of the actors and the countries was warranted. I conducted two, two-week trips<sup>9</sup> to collect further data. Principal

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<sup>9</sup> Two additional trips were made in 2014 and 2016 to observe elections in Colombia under the auspices of the Organization of American States. These trips provided additional valuable insights on the functioning of the electoral regime in that country.

sources included interviews with local politicians, academics, electoral officials, government representatives, and members of civic organizations to identify and discuss details of the interactions between presidents and elections in key cases. This allowed me to gather data on the specific actions and political dynamics that link the correlated variables. Conducting interviews with in-country experts to trace the actual process of implementing reforms provided clues regarding what caused change in IEP and EEP, and if the correlations were simply coincidental, or if perhaps other factors were involved.

#### *Methodology – Descriptive and Explanatory Analysis*

This section provides a brief overview of the analytic process employed for this project. Detailed descriptions of the methodology and data collection are provided in each chapter where relevant, with supporting appendices. Initial analysis of the first dependent variable, IEP, involved a comprehensive mapping of the transformation of formal executive power in the region since democratic transition (data collection described in Appendix 3A). I collected electronic copies of all laws, constitutions, decrees, IEG resolutions, etc. pertaining to elections from online sources, government agencies, academics, and in-country libraries and listed them in chronological order (Tables provided in Appendices 3C, 3D, and 3E). I evaluated and described patterns and change in the volume of electoral law by country. Then, after developing a rubric for measuring IEP, I traced several indicators of potential executive power in four electoral categories (methodology provided in Appendix 3B), I reviewed each law, identified, and scored changes in level of IEP across time within countries. Levels of IEP are also described and compared across countries, with charts to illustrate trends (Chapters 3 and 4). Next, for the explanatory analysis, I traced independent variables to gauge their correlation with changes in

the level of Institutionalized Executive Power. In line with contemporary political science and sociology research, my approach sought answers that “combine social and institutional structure and context with individual agency and decision-making” (Bennett and Checkel 2015, 1). After identifying the key variables, I conducted qualitative analysis to identify how the variables worked to influence outcomes in Colombia and Ecuador. I traced and described interactions among institutions, players, and events to highlight important mechanisms that supported IEP outcomes.

A similar approach was used to describe and analyze the second dependent variable, Exercised Executive Power. After conceptualizing EEP, I conducted a comprehensive search of print media to identify episodes, as well as interviews with country experts (see Appendix 5A). I offer a descriptive analysis of EEP cases (listed in Appendix 5C), and then evaluate them on several factors, such as how long the president’s action took and whether the presidents succeeded in their aims (Chapter 5, Section 3). Here again there were compelling reasons for making cross-national as well as over time comparisons of variation in EEP. This descriptive analysis highlighted transformation in how presidents wielded power over elections since democratic transition.

Then, to analyze variation in Exercised Executive Power, I once again traced independent variables to identify those that were most correlated with three outcomes of the dependent variable: frequency, initiation, and success of EEP attempts. This initial analysis highlighted potentially interesting patterns or outlier cases, but it could not explain *how* the independent variables took effect. I then conducted process tracing in a couple cases to investigate more closely the sequence of events, actors involved, and circumstances that connected the independent and dependent variables. The analytic method I employed could be described as

“theory-guided process tracing” (Falleti 2006) in that the narratives of cases are theoretically explicit, using institutional and agential approaches guide inquiry that informs and explains outcomes. I selected cases that best illustrate how the causal mechanisms work behind each variable. Through “explaining-outcome process-tracing” as specified by Beach and Pedersen (2013), I worked “backward from the outcome by sifting through the evidence in an attempt to uncover a plausible sufficient causal mechanism that produced the outcome. This is a bottom-up type of analysis, using empirical material as the basis for building a plausible explanation of causal mechanisms whereby X (or multiple Xs) produced the outcome” (20). It was an iterative process that stopped when I was “satisfied that the found explanation accounts for the most important aspects of the outcome” (21).

#### **IV. Findings, Argument, and Preview of Chapters**

Several prominent themes emerged from this study, which are described in detail over the next chapters. The first, is that electoral law is expanding. Each country witnessed ever-increasing complexity and detail comprising the institutions and regulations that govern the voting process.<sup>10</sup> The extent of these reforms presents certain challenges and some instability. When each new law is created, there is often a lag time until implementing regulations are issued (if at all). This presents opportunity for misunderstanding, confusion, or manipulation by political actors, government officials, and observers.

Second, I find that power is still considerably concentrated in the executive and that very active presidents continue to exercise that power. I found that “parchment” presidential powers over elections, or IEP, decreased over time in Colombia, it varied then decreased slightly in Ecuador (although the level remained the highest of the three), and it increased in Venezuela. In

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<sup>10</sup> To help frame a better understanding of this body of law, Chapter 3 offers an analysis of the institutions involved in electoral governance in each country prior to analyzing specific changes in the law.

contrast, the powers exercised by presidents, or EEP, increased over time in all three countries, with the fewest episodes occurring in Colombia. While there have been some significant reductions to executive power over elections over time (particularly in Colombia), there have also been significant increases. In fact, sometimes the same law included increases as well as decreases of executive power in different categories at the same time. For example, legislation or a new constitution might allow reelection, but also include accountability measures such as campaign spending limits and internal democracy measures such as primaries (although these are rarely strictly enforced).

Third, these variations raise concerns not only about institutional stability, but also about the motivation of actors in the process and impact of reforms. While democratic procedures are typically heeded in changing electoral law, meaning legislation or referenda were often employed to pass reforms, the outcome was often questionable, in the sense that the balance of power was compromised (further discussion in Chapter 2). For example, some new constitutions written by elected representatives espoused broad new rights and enhanced civic participation, yet they also included measures that empowered the president over other entities (such as the ability of the executive to dissolve Congress, call plebiscites, and oversee government appointments). In addition, presidents with majorities in the legislature have pushed legislation or regulations to restrict political parties and constrain the media. When challenged, they cite constitutional provisions that permit voters to recall such laws (however, such efforts are nearly impossible when the president controls Congress and the institutions of electoral governance).

Finally, presidents and their supporters have been persistent, patient, and strategic in making changes and exercising power. Sometimes when they are unsuccessful in a first attempt, they devise clever strategies to win their reforms later. The relationship between executives and

electoral institutions is constantly evolving, and warrants further tracking and analysis in a systematic and comparative manner.

I advance two related causal arguments that use both structural and agential logics to explain variation across time and countries. First, to clarify, level of IEP is read off existing laws and reflects how much potential power a president has (as a *result of* those laws and institutions). EEP is defined as actions presidents take to change or impact national election management, processes, or outcomes. Regarding the outcome – level of Institutionalized Executive Power (IEP) – I argue that two mechanisms of formal government structure influence presidents’ degree of power over elections. One is *institutional configuration*, or the way in which the authority to manage elections is structured. When institutional configuration is decentralized, meaning authority is shared across multiple independent entities, this increases the number of steps or veto players involved in efforts to change IEP. These entities can counter or collaborate with efforts to empower the president. The other factor is *institutional constraints*, or extent to which formal barriers exist to changing electoral law. When institutional constraints are strong, meaning there are strict protections to changing the existing electoral regime, there are more procedures or steps that can delay or block efforts to increase power over elections.<sup>11</sup> These factors are key to explaining change in IEP, but also impact Exercised Executive Power (EEP).

Agency-related causal factors – the political context, and specifically the presidents’ *mandate* and *majority* – go a long way in explaining EEP outcomes: frequency (total number of episodes); initiation (timing of episodes); and outcome (whether the president was successful). The president’s mandate is defined as his popularity (approval ratings), and majority is whether he controls the legislature. I argue that presidents with a majority in Congress are more likely to

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<sup>11</sup> Chapter 7 proposes a typology of institutional configuration and constraints, which could be used to classify electoral regimes along the spectrum of centralization and strength.

exercise executive power over elections, and their success or failure is conditioned by the institutional configuration and constraints that they face. Institutional and agential factors were much stronger than political and economic upheaval, which I also traced by looking at episodic occurrences or crises surrounding EEP episodes. This argument is explained in detail in Chapter 2. The remaining chapters proceed as follows.

In Chapter 2 I explore the literature that informs my research and present my argument. Despite the enormous role played by presidents in Latin America, there are few theories to explain how and when they are empowered in the electoral arena. Based on factors proposed in the literature and my own observations, I propose an approach to understanding their power and behavior based loosely on new institutionalism and agency theories. In Chapter 3, I conceptualize and measure the dependent variable Institutionalized Executive Power (IEP), and then trace it in Colombia, Ecuador, and Venezuela, providing description both by country and comparatively. Chapter 4 highlights the most important variations in IEP and traces possible explanatory variables to account for change, providing further evidence of the process through case studies and advances my argument (described above). Chapter 5 conceptualizes and measures the second dependent variable, Exercised Executive Power (EEP). Cases of EEP are identified over a 20-year period, described, and compared. In Chapter 6 I trace independent variables to explain variation in EEP and identify how they led to those outcomes through selected case studies. Finally, Chapter 7 offers conclusions, elaborates on the implications of my argument to account for change in executive power over elections, and suggests steps for further research.



## CHAPTER 2 – PRESIDENTS IN POST-TRANSITION DEMOCRACIES

*Chapter Outline: I. Introduction; II. The Context of Democratic Decline; III. Approaches to Studying Presidential Power; IV. Explaining Executive Power in the Electoral Arena: Institutions and Mandate*

### **I. Introduction**

Despite decades of democracy in Latin America, political power remains largely concentrated in the executive and many countries are witnessing democratic declines, or decreases in political and civic freedoms. Some previously-democratic governments are experiencing what scholars alternatively call “competitive authoritarianism,” “autocratization,” “electoral authoritarianism,” or “authoritarian constitutionalism.”<sup>12</sup> Political science literature offers theories on transition to democracy and its abrupt breakdown, but few account for the gradual weakening of democracy via the empowerment of executives and curbing of freedoms, and attention to electoral governance specifically is lacking. This phenomenon is particularly troubling as sometimes democratically elected presidents are employing democratic procedures (such as legislation and popular referenda) to gain and exercise more power. The very processes meant to bolster democratic government can also be used to diminish democratic quality by disrupting the balance of power. This chapter offers the background and theoretical context that frame my dissertation, and presents my argument for why executives hold and wield the power that they do over elections in some third wave Latin American democracies. It begins by discussing the broader issues that my research speaks to, then describes more specific literatures that inform my approach.

In section two, I discuss how democracy has been defined, studied, and how scholars have come to understand the derivative concept of the *quality* of democracy. I address the related

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<sup>12</sup> Levitsky and Way (2002), D’Anieri (2013), Schedler (2006), and Tushnet (2013).

issues of hybrid regimes, the rule of law, and electoral governance. These themes are highlighted in recent study of democratic decline, globally and in Latin America, and suggest taking a closer look at executive power, the concentration of which is a major component of rising authoritarianism.<sup>13</sup> In section three, I examine how scholars have studied executive power, i.e., the various lenses through which it can be analyzed. I discuss institutional and agential approaches the literature uses to understand the role of presidents in democracies, as well as emphases on *de jure* versus *de facto* power, and types of presidential accountability (meaning whether other state entities or voters can effectively challenge executive transgressions). In section four, I look at existing explanations for how executive power varies – *what constitutes, changes, and checks presidential power?* I discuss literature on the configuration of power and note increasing calls for executive accountability in light of electoral manipulation and an uneven playing field.

Finally, I present my argument to explain change in executive power over the most fundamental component of democracy, elections. The argument was developed through careful analysis of several independent variables and process tracing through case analysis. Existing literature lacks a comparative study of how Latin American countries allocate electoral powers to the president, nor is there particular focus on the actual behavior of the executive in the electoral realm specifically. *The present multi-country analysis adds to established theory on executive power, expanding the theoretical approach to include electoral institutions and analyzing presidential actions.* In brief, I argue that institutional configuration and constraints help to determine levels of, and change in, formal executive power over elections. These factors impact

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<sup>13</sup> Authoritarianism is generally understood as a “political system that concentrates power in the hands of a leader or a small elite that is not constitutionally responsible to the body of the people” (britannica.com).

executive exercise of power as well, but the political context – namely the presidents’ mandate (popularity and whether he has a majority) – condition their effect. The stronger a president’s mandate, the more likely he or she can overcome institutional factors, particularly with a majority in the legislature. This argument has important theoretical implications for understanding how democracy is impacted by strong leaders and whether institutions can support democratic accountability by keeping presidents in check (discussed further in Chapter 7).

## **II. The Context of Democratic Decline**

This section reviews the broader political science and comparative politics literatures that frame my research. Themes inherent in the study of democratic theory, including democratic transition, stability, consolidation, quality (and the rule of law), hybrid regimes, and electoral management, all relate to my research questions, i.e., why executives hold and wield the power that they do over elections in some third wave Latin American democracies. I discuss each broad field briefly here, as they evolved and as they relate to my work. Then, in section three, I consider fields of analysis that are more directly related to my study of executive power.

### *Democracy Defined*

Political scientists and practitioners share a normative conception that democratic regimes best serve the interests of citizens (Diamond 2008) and that this regime type benefits surrounding nations as well (Dixon 1994). As such, great effort has been made to define and evaluate democracy, but consensus remains elusive. Scholars generally agree that the true spirit of democracy requires more than just elections, as Schumpeter’s (1942) minimalist conceptualization offered. Indeed, the most repressive regimes employ elections. For elections to

be considered representative or fair, Dahl (1971) later specified additional necessary conditions for the rule by many, or polyarchy, such as balance of power and the possibility for participation, contestation, and opposition. More recently, renowned scholars including O'Donnell and Przeworski have advocated democracy's requirement of certain rights, freedoms, and the rule of law (Munck 2011, 338). Specifically, "of critical and broad relevance to the democratic political process [are]: the freedoms of expression, association, assembly, and access to information" (Munck 2016, 19). While I agree such qualifications are necessary for 'liberal' democracy, as largely espoused in Western culture, such considerations verge upon a derivative field of study, that of the *quality* of democracy.

For the purpose of this work, a democratic regime is defined as one "(a) that sponsors free and fair competitive elections for the legislature and executive; (b) that allows for inclusive adult citizenship; (c) that protects civil liberties and political rights; and (d) in which the elected governments really govern and the military is under civilian control" (Mainwaring, Brinks and Pérez-Liñán 2007: 123). The remainder of this section presents how scholars have come to understand democracy in the region and highlights important considerations regarding the role of the executive (which in this study refers to the president and his or her branch of government) in a democratic regime.

### *Democratic Transition*

By the definition cited above, Latin America was fully engaged in the "third wave" of democratization in the mid-1980s and early 1990s. This phenomenon, as described by Huntington in 1991, began with the shift from authoritarian rule starting in Southern Europe and then in Latin America between 1974 and 1990. Despite the region's history of repressive

colonialism and brutal dictatorships, at the end of the 20<sup>th</sup> Century every country except Cuba was characterized by multi-party political systems, with civil and political liberties, increasingly free elections, and burgeoning civil societies. An early bias assumed a continued improvement of democracy (O'Donnell and Schmitter 1986, 2013). Yet concerns about concentration of power from the top-down remain valid – specifically, the dilemma of strong presidents in the continuing context of weak states. In many countries, the institutional parameters of democracy exist, but the intended checks and balances do not always function. This concern spurred more extensive study after transition to democracy, to focus on the stability, consolidation, and eventually the quality of democracy in the new regimes that appeared in the wake of the third wave.

#### *Democratic Stability, Consolidation and Quality*

Initial optimism regarding transition from authoritarian rule to democracy in the 1980s was quickly eclipsed. Scholars voiced concerns about the stability of the new regimes during the 1990s, and whether they would fall to dictatorship again. Early important work on democratic stability cited problems with specific institutional choices. For example, presidential systems were thought to be inherently less stable than parliamentary regimes, especially in multi-party contexts (Mainwaring 1993), because majoritarian electoral systems provided less incentive for consensus and coalition-building, and there is no option for peaceful removal of the executive (Linz and Stepan 1996, Linz and Valenzuela 1994).

Once it became clear that countries were remaining democratic, debate went on to address whether democracy would continue to improve, and when it was truly ‘consolidated.’ This led closer examination of potential flaws. O'Donnell famously called Latin American

democracies 'delegative,' which meant they were enduring but not consolidated (1994, 56). He identified how democracy in much of the region meant that in voting, citizens were unwittingly choosing to whom they would hand all government power, with little opportunity for subsequent input or accountability. O'Donnell's concern was that once in power, presidents ruled as they saw fit, essentially acting above the law. He also highlighted the importance of balance of power among executive, legislative, and judicial institutions, arguing that democracy requires both horizontal and vertical accountability. By horizontal, he alludes to the ability of independent institutions (such as courts, electoral entities, ombudsman, etc.) to restrain executive overreach. Vertical accountability is control imposed from below, i.e., citizens' ability to restrain leaders. He laments that Latin American democracies typically suffer from a lack of horizontal accountability. While presidents are elected and can be overthrown by voters (or sometimes street protests), they generally enjoy significant power over the legislative and judicial branches and can dominate officials such as the attorney general and ombudsman.

This discussion directed deeper assessment of the quality of democracy, and specifically, whether governments were properly applying the rule of law to ensure that liberal principles benefitted all citizens. The rule of law is another popular and contested concept (see Carothers 1998 and Tamanaha 2004), which is increasingly recognized as essential to democracy.<sup>14</sup> O'Donnell commented that Latin America has "some of the world's oldest (and least effective) constitutions," yet there is a gap "between formal rules and what most people most of the time actually do" (116). Scholars argue that while many countries implemented basic democratic procedures such as elections, not all democracies adhered to liberal constitutional ideals nor did benefits reach citizens at all levels (O'Donnell 2001, Zakaria 1997). This violates the idea that

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<sup>14</sup> As opposed to the rule *by law*, which implies that rules are strictly or literally applied, meaning an autocratic leader could be acting in a perfectly *legal* manner when he or she implements authoritarian provisions of a constitution or other statute (see Tamanaha 2004, 3).

“democracy is about the value of equality, in the sense that every person who lives under a government has the same claim to freedom and thus should have his or her preference weighted equally...democracy is not only about elections but also about *how* elected leaders make decisions” (Munck 2016, 11-12). Thus, certain ‘liberal’ characteristics, such as guarantees of freedoms and liberty, and equal application of the law, are now widely understood as underpinning democracy.

### *Democratic Decline and Hybrids*

In the early 20<sup>th</sup> century, several third wave democracies received decreased scores on commonly used democracy indicators such as civil and political liberties. Scholars began to witness and contend that in some regimes democracy was not only found lacking, but was in fact worsening. According to Puddington (2010), the third wave of democratization stalled in 2005 and since then democracy has diminished in more states than in which it has improved. This “democratic decline” was so severe in some countries that they were no longer deemed to qualify for the title democracy. The phenomenon spawned literature on “hybrid” regimes – those that are neither democracies nor fully authoritarian (Collier and Levitsky 1997, Diamond 2002). These regimes were alternatively labeled “competitive authoritarian” regimes or “electoral authoritarianism,” because they continued to hold elections, but power was centralized in the executive and the political playing field was uneven (Levitsky and Way 2002, Schedler 2006).<sup>15</sup> Venezuela (under President Chavez) earned this distinction, and some would argue Bolivia (under Morales), Ecuador (under Correa), and Nicaragua (under Ortega) qualify as well.

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<sup>15</sup> “Competitive authoritarian regimes are civilian regimes in which formal democratic institutions exist and are widely viewed as the primary means of gaining power, but in which incumbents' abuse of the state places them at a significant advantage vis-a-vis their opponents. Such regimes are competitive in that opposition parties use democratic institutions to contest seriously for power, but they are not democratic because the playing field is heavily skewed in favor of incumbents. Competition is thus real but unfair” (Levitsky and Way 2010, 5).

Explanations vary as to why we witness this decline. Many studies of hybrid regimes focus on institutional factors such as weak political parties, inefficient electoral systems, and constitutional design as contributing to hybridity. Levitsky and Way (2010) argue that close links to the West helped encourage democratization. In contrast, where ties to the West were weak, “regime outcomes hinged on the character of state and ruling party organizations. Where incumbents possessed developed and cohesive coercive party structures, they could thwart opposition challenges, and competitive authoritarian regimes survived” (59-60). Other scholars single out the role of political leaders in the context of failing traditional political parties to understand democratic recession. Research on this topic in the Andean region highlighted a “crisis of representation” (Collier and Handlin 2009, Mainwaring et al. 2006). Citizens feel disconnected from government in part because of weak institutions, and some charismatic leaders seek to fill that gap by offering bold solutions, such as constitutional reforms, plebiscites, and nationalist rhetoric. These studies highlight the role of the president within faltering democracies.

In addition, growing literature has labeled certain leaders as populist, many of whom criticize elites, use direct democracy to circumvent elected leaders and appeal directly to the people, and cite outside forces or economic conditions to justify remaining in power (Barczak 2001, de la Torre 1997, Dugas 2003, Nyenhuis 2016, Selçuk 2016, Weyland 2013). As such these leaders employ a “*form of identity politics*” that can be seen as a threat to ‘liberal’ democracy (Muller 2016, 3). In observing populist presidents in the Andes, Weyland declares “The recent suffocation of political pluralism in a whole group of countries is without precedent. For the first time in decades, democracy in Latin America is facing a sustained, coordinated threat” (2013, 19). Much study was inspired by important actors such as Russia’s Putin,



Venezuela's Chavez, and Turkey's Erdogan, who arguably played a major role in leading their countries toward authoritarianism (Brewer-Carías 2010, Fish 2005, Corrales and Penfold 2011, Mainwaring 2012, Selçuk 2016). In these regimes, key political leaders violate democratic rules and manipulate institutions, despite the regular conduct of elections. Indeed, "Elections contribute to the legitimacy of democrats and autocrats alike, and tactics to ensure the victory of incumbents are numerous and proliferating" (D'Anieri 2013, 1). Schedler argues that unlike full authoritarian regimes, where leaders *repress* institutions, the key to electoral authoritarianism is for incumbents to *manipulate* once-autonomous institutions that could threaten executive authority (2002, 76-78). Leaders maintain a certain legitimacy by allowing democratic institutions, such as electoral entities and political parties, but these are dominated or restrained by the incumbent such that it is impossible for the opposition to prevail. Again, this literature emphasized how presidents can impact democratic government.

While scholars increasingly recognize the characteristics of hybrids and backsliding phenomena (Brownlee 2007, Eisenstadt and LeVan 2013), we understand less about the process of gradual de-democratization (Tilly 2007) or "autocratization" (D'Anieri 2013) than we do about the path of democratization. Indeed, much of the extant scholarship focused on explanations for the abrupt *breakdown* of democracy.<sup>16</sup> Political scientists have well-developed theories that credit agency (Linz and Stepan 1978), elite polarization (Valenzuela 1976), institutions (Stepan and Skach 1993, Linz and Valenzuela 1994), macro-structural variables (Lipset 1959, Inglehart and Welzel 2005), as well as a combination of factors (O'Donnell and Schmitter 1986). However, we have not developed theories to explain slow democratic decay, i.e., slow change or reversal "unassociated with crisis" (Elkins, Ginsburg and Melton 2009, 4).

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<sup>16</sup> Related work on democratic breakdown examines failed democratic leaders. For example, see research on failed or "interrupted presidencies" (Hochstetler 2011, Kim and Bahry 2008, and Valenzuela 2004).

The discipline recognizes gradual de-democratization, but cannot fully explain why it is happening. Adding to the confusion, this trend often occurs within democratic procedures (i.e., reform legislation, new constitutions, popular elections, etc.). Elected leaders are effectively concentrating power using legal means, the very means intended to protect from authoritarianism. In addition, while some reforms appear to empower citizens, the main structure still concentrates power in the executive (Gargarella 2013, 174). Recent studies seek to chronicle, describe, and explain how this happens – rather than a “sudden” coup of authoritarians, we witness gradual, calculated, manipulation of power. One component is abuse of institutions at the very essence of democracy: elections.

### *Electoral Governance*

A limited but advancing field in the democracy literature assesses the governance and control (and manipulation) of elections (Birch 2011, Elklit and Svensson 1997, Elklit and Reynolds 2002, Hartlyn et al. 2008, Mozaffar and Schedler 2002, Pastor 1999, and Simpser 2013). Brownlee (2007) highlights the fact that multiparty elections do not guarantee democracy because “institutions of authoritarian rule are more influential than the presence or absence of elections” (30). Although voters across Latin America enjoy improving conditions of security and accuracy, it often appeared that the same elites were winning and that political power remains concentrated at the top (Gargarella 2013). Most studies, however, focus on the impact the quality of elections has on democracy, or the legitimacy and perceptions thereof (Hartlyn et al. 2008, Elklit and Reynolds 2002).<sup>17</sup> This approach highlights elections as an independent variable. It does not address why election management is designed and functions as it does. To the extent studies consider executive power, they tend to do so broadly, primarily to note

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<sup>17</sup> With a couple exceptions, most works focus on a single country.

executive relationship vis-à-vis the legislature. In one exception, Simpser observes that leaders manipulate elections not just for immediate victory, but to ensure long-term survival (2013, 3, 16). His study helps direct focus on motivation of leaders and how they can impact the electoral realm. In sum, there is substantial opportunity for increased empirical study in the relatively limited field of electoral governance.

Finally, recent democratic “backsliding” coincides with a significant institutional trend: constitutional revisions and replacements (not to mention increase in volume of electoral law, discussed later), many of which allow executive reelection. Since 1990, all five Andean<sup>18</sup> countries have re-written their constitutions (some more than once). Leaders in several other countries, including Argentina, Brazil, Chile, Honduras, and Nicaragua, have proposed to do so as well, or at least sought significant amendments. One of the most common recent changes is to allow presidential re-election – originally shunned in the post-transition period due to a history of dictators in the region. Additional constitutional enhancements to executive power in Latin America include the establishment of executive-led committees to appoint judges (including electoral), executive powers to call for plebiscites, and greater state control over the economy (Newman 2011). This trend amounts to enhanced executive powers in a region already known for hyper-presidential systems. It also creates tensions, as the constitutions promise enhanced citizen engagement, but the executive still dominates those mechanisms (Gargarella 2013). This imbalance warrants a closer look at the role of the executive in the region. The next section offers a foundational conception of power and relates it to the study of presidents in democracies.

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<sup>18</sup> Chapter one discusses a tendency in the political science literature to classify the Andes (Bolivia, Colombia, Ecuador, Peru, and Venezuela) as a sub-region of Latin America. This is largely due to their geographical proximity along the Andean mountain range, and their shared independence from Spain under Simon Bolivar’s leadership.

### III. Approaches to Studying Presidential Power

Extant theory does not explain executive power over elections specifically, therefore this section reviews scholarship that examines executive power more generally.<sup>19</sup> First, I discuss the broad, overall approaches – institutional and behavioral – that political scientists use to understand and assess the level of executive power. Second, I discuss more specific arguments scholars employ to explain changes in both *de jure* (or formal, institutional) and *de facto* (or actual behavior) executive power.<sup>20</sup>

#### *Institutional, Agential, and Structural Approaches to Explaining Executive Power*

Development of theories about presidential power is temporally in line with the broader movement in political science from traditional legalism, to behavioralism in the 1950s and 1960s, to new institutionalism, finally resulting in some acknowledgment of the value of combined approaches – studying laws, rules, norms *as well as* agency in the form of individual actor behavior.

Initial theories of presidential power relied heavily on study of legal documents, attributing laws as the sole basis of power (see Edwards and Wayne 2010 for a comprehensive history). This emphasis resulted largely because literature concentrated on the United States' unique experience with the world's first modern presidents and its constitutional rules that were revered and difficult to change. Neustadt broke new ground in 1960 by arguing the president himself, and his personal skills to persuade, rather than laws, formed the basis of executive

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<sup>19</sup> Power can be defined as “the ability to achieve a desired outcome, even against resistance (Weber 1980: 28)” (cited in Poguntke and Webb 2005, 7). Power, particularly in relation to politics, often carries a negative connotation of inherent corruption (Buono de Mesquita and Smith 2011). According to Dahl, “However wise and worthy the members of a ruling elite entrusted with the power to govern a state may be when they first take power, in a few years or a few generations they are likely to abuse it” (1998, 74).

<sup>20</sup> I address the conceptualization of executive power separately in Chapters 3 and 5 where it relates to my study.

power (Mayer 2001). In line with this more behaviorally-oriented approach toward looking at what constitutes executive power, scholars expanded their research to consider more informal factors to explain presidential power such as the media, public opinion, leadership style, and legislative strategies (Edwards 1976).

At the end of the 20<sup>th</sup> century, the pendulum swung back to theories with greater institutional emphasis, with renewed focus on formal executive powers (Mayer 1999, Moe 1993, Moe and Howell 1999). Theoretical approaches from game theory and economics-based analysis drove increased examination of concrete, institutional factors such as laws, procedural rules, and financial incentives that constitute presidential power. These studies continued to focus largely on the U.S. and other industrialized economies, but exceptions emerged. For example, Figueiredo and Limongi (2000) studied Brazilian presidents' success in introducing legislation based on internal party rules and centralized organization of the legislature. Others credited prevailing institutional preferences for presidentialism to account for executive power (Linz and Valenzuela 1994, Stepan and Skach 1993).

Gradually, scholars increasingly acknowledged that while it is important to examine institutional arrangements, those rules and institutions are in fact created by political actors. Further, it is often the case that presidents change, stretch, or abuse institutional norms. One example is executive use of enhanced veto powers. Increasingly common in Latin America are constitutional provisions allowing presidents to provide substantive input when vetoing legislation. Use of these provisions was found to impact policy outcomes, leading to "a much more active president than hitherto portrayed by the institutional literature on separation of powers" (Tsebelis and Aleman 2005, 391). Even when constitutional provisions are intended to diffuse executive power, for example in the increasingly popular "premier-presidentialism"

executive-legislature structural hybrid, this does not create an ideal balance, but “tends to promote party presidentialization” (Samuels and Shugart 2010, 257). Hence it is important to consider both agency of political actors as well as impact of formal rules to explain executive power.

Finally, over the decades scholars have accounted for presidential power in Latin America using broad, structural theories. Historically high level of executive power (i.e., dictators, *caudillos*, strongmen) were described within a regional, historical context and seen as an Ibero-American trend. Studies focus on macrostructural factors, suggesting overarching cultural characteristics characterize presidents’ role in government. The phenomenon of powerful leaders was attributed to factors such as history (legacy of colonialism and formal, centralized government) and religion (top-down hierarchy and paternalism of Catholicism) (Almond and Verba 1963, Putnam 1993, Wiarda 2001), as well as formal civil legal procedures (versus common law, as described in Shapiro 1981). Newer work also credits historical and geographical legacy of Spanish and Portuguese rule to explain elite economic structures that enable particularly powerful presidents to persist in the region (Mahoney 2010). Gargarella (2013) notes this trend continues: despite the fact that many Latin American countries adopted new, progressive constitutions that expand social and economic rights and increase mechanisms for citizen participation, the basic structures still concentrate power in the executive. This constitutional design permits vertical accountability, but hinders horizontal accountability as presidents enjoy greater power than other institutions. These approaches are useful in understanding the broad context of continued acceptance of strong leaders, but perhaps less so the variation over time or unique actions of individual actors.

In sum, these approaches represent how scholars have thought about studying presidential power and help shape our understanding of executives in a broader context. While these theories are useful to describe overall phenomena relating to executive power, they do not always account for cross-national variation, changes over time, or actions unique to individual actors. The next section explores ways the literature has sought to account for such changes. To understand why power might vary, I describe recent scholarship that specifically seeks to explain changing levels of formal, institutional executive power (*de jure*), as well as informal behavior of the president or whether rules were effectively applied (*de facto*), or both.

#### *Formal (De Jure) Executive Power*

Recent scholars of constitutional design advance a “power balance” explanation for why presidents are awarded *de jure* capabilities. They look specifically at “parchment” or constitutional configurations of executive powers (Corrales 2009, Elkins, Ginsburg, and Melton 2009, Frye 1997, Negretto 2009). These studies highlight certain factors as contributing to the power balance within a country’s founding document. For example, Corrales (2016b) and Geddes (1990, 1996) emphasize power asymmetries among political institutions in explaining levels of constitutional power. This approach is based on earlier work that argues if the balance of political forces is known at the time of establishing power and is unequal, it is more likely institutions will emerge and be balanced in favor of the stronger power (Geddes 1990, Przeworski 1991). Bejarano and Segura (2013) argue dynamics within the assembly that drafted the constitution (balance of power, voting procedures, timing, etc.) were critical to explaining the level of executive power that was established. Ginsburg, Elkins, and Blount (2013) discuss a related explanation that institutional “self-dealing” could account for constitutional outcomes,

arguing executives are more likely to push for, and win, broader powers than legislators, who often struggle to reach consensus.

While the prior arguments focus on strength of executive support, others consider opposing forces. Some argue that when presidents face weak political opposition, this facilitates their ability to increase or exercise greater power. The post-democratic transition period was marked by severe political instability caused by weak institutions such as failing party systems and party fragmentation (Mainwaring and Shugart 1997, Mainwaring 1999). Studies show that authoritarian regimes survive better in the “absence of a political alternative” (Bunce and Wolchik 2010, 49), while the overthrow of autocrats requires significant momentum by the opposition (Thompson and Kuntz 2004). These explanations focused on the interaction of domestic actors to account for formal institutional power configurations.

Related to the power balance argument is the notion that very popular presidents are motivated to increase their powers (or, more specifically, their duration in power). Corrales (2016a) finds that presidents with unprecedented popularity used their mandate to reduce term limits and seek multiple terms in office. Ginsburg et al. (2011) notes how presidents who perceive they have wide support often seek to revise the law to evade term limits (but are not always successful). In a separate work, Corrales demonstrates how Chavez used his dominance of Venezuela's legislative bodies and control of the Supreme Court (which he appointed due to his dominance of the legislature) to enact laws empowering executive branch (2016a, 79-82). Related literature suggests ‘populist’ leaders<sup>21</sup> gain power by using anti-establishment rhetoric to discredit existing political structures. Recent work by Fao (2017) finds that declining confidence

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<sup>21</sup> Populism, a political phenomenon common to the region in various forms, is another highly contested concept in the political science literature. At a minimum, “the common core of both classical and contemporary populist movements – [involves] a charismatic bond between political leaders and mass followers” (Coniff 2012, x).



in democracy and frustration with politics also fueled the populist phenomenon worldwide.<sup>22</sup> He argues citizens look to powerful, outsider, anti-system candidates and support their bold moves to fix current problems.

Other scholars in the institutional camp suggest constitutional powers derive from exogenous influences or *diffusion* (Brinks and Coppedge 2006, Elkins and Simmons 2004, Weyland 2005). This is the “process in which new ideas, institutions, policies, models, or repertoires of behavior spread from their point of origin to new sites – for example, from one enterprise, governing unit, or nongovernmental organization to others . . . [it] implies coincidence of time and geography with respect to new ways of doing things” (Bunce et. al 2010, 34). An example is when constitution designers borrow ideas from each other, also known as ‘transplants,’ which often corresponds with ideological ‘waves’ such as those following revolutions during liberal Enlightenment or democratization (Bridges 2008, Go 2003, Elster 1995, Osiatynski 2003, Tushnet 2012: 220-221). Research reveals Andean countries experienced significant demonstration effects among close neighboring countries (Mainwaring, Bejarano, and Pizarro Leongomez 2006: Chapter 1). For example, in a wave of new constitutions in Venezuela (1999), Ecuador (1998), and Bolivia (2009), each country added similar provisions for greater social, economic, and environmental rights. Constitution writers likely follow recent political developments in the region, and citizens likely demand similar rights, resulting in comparable changes. Much like democratization spread in a ‘wave,’ so too could other forms or aspects of government, such as level of presidential power.

Indeed, Gargarella notes how many of the region’s constitutions written in the 1990s were “drafted with the intent of reducing or moderating presidential power. In most cases, however, this initial promise was unfortunately either not kept or broken. Worse still, many of

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<sup>22</sup> Some might argue U.S. president Trump and French president Macron represent the latest examples.

these new constitutions were written, fundamentally if not exclusively, with the ‘urgent’ objective of authorizing the immediate re-election of a sitting president.” Although many clauses were introduced to empower civil society, “the old solid, and further reinforced, presidentialist structure has an even greater edge over newer, participatory institutions that are subject to regulation by the authorities already in power” (Gargarella 2016, 153). This contradiction, apparent in multiple countries, calls for more comprehensive empirical evidence to demonstrate how constitutions were subsequently implemented – or possibly abused – by presidents.

### *Informal (De Facto) Executive Power*

Scholars have also sought to explain *de facto* executive power. I highlight three approaches that could help our understanding of executive power over elections more specifically. The theories identify factors that create an environment where presidents are likely to be empowered or act forcefully. One asserts that economic crises encourage use of executive power. Another suggests a weak judiciary is a facilitating factor in continued executive dominance. Finally, the use of populist style of leadership is considered to account for, or at least explain the motivation of, active presidents.

First, an ongoing argument in the literature considers domestic instability following economic crises as a trigger for increased exercise of executive power. Leaders feel justified in enacting extreme measures in the name of saving the economy and keeping the ‘masses’ from uprising. Indeed, some authors have suggested that developing countries require strong, centralized government to quiet discontent and steer unpopular policies geared toward economic growth, citing Singapore or other ‘Asian tigers’ as successful examples (Alesina et al. 1992, Bhagwati 1966, Heilbroner 1963). In O’Donnell’s study of post-transition “delegative”

democracies in Latin America, he describes the continuance of top-down executive power to address “severity of the socioeconomic problems that newly installed democratic governments inherit” (1994, 55). Frustration with the challenges of democratic governance in the face of economic instability encourages leaders to take strong action to improve the economy. However, this theory does not necessarily mean that economic success leads to non-delegative democracy. Luna and Vergara (2016) argue that presidents exercise their strength in times of prosperity as well. “In many places Latin America’s recent economic boom has done the reverse of what O’Donnell expected: It has fostered rather than crushed the delegative dynamics that he decried” (160). In sum, while economic factors potentially contribute to strong executive actions, presidents in some countries continue to exercise great powers – or expand them – after economic recovery.

Another factor that scholars have suggested may contribute to augmented presidential exercise of power is a weak or dependent judicial branch that is unable to counter the executive.<sup>23</sup> In the ideal conception of democracy, as envisioned by Dahl (1971) and others, three branches of government balance each other’s influence so one does not dominate over the other. When members of the high court were appointed by a sitting president and are beholden to that president for re-appointment or resources, judges may be less likely to oppose laws that favor the president (see Basabe-Serrano 2012). Historically in Latin America, the judicial branch was weak vis-à-vis the executive and “courts traditionally have shied away from ruling assertively” (Kapiszewski 2012, 6). While this is changing, strengthening of the judiciary varies by country (Sieder, Schjolden, and Angell 2005). Much study is dedicated to Colombia’s

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<sup>23</sup> This conception is somewhat unique to the U.S., which established judicial review to check whether legislation from the other branches complies with the constitution.

constitutional court, where the practice of judicial review has provided a check on the president and legislature (Mayka 2016, Merhof 2015, Revelo-Rebolledo 2008, Uprimny 2003).

Finally, authors have identified popular leaders as having and using significant power because of their broad appeal to majorities and popular promises to rescue societies from corruption and conflict. Several countries in the region are currently witnessing a return of what many call “populist” presidents (Barr 2009, Chevigny 2003, Weyland 1999). Levitsky and Loxton (2013) argue that competitive authoritarian regimes occur because personalistic outsiders, or populists, gain power by mobilizing mass supporters using anti-establishment appeals (along with facilitating conditions including weak institutions and the failure of political party systems). They assert that populist leadership can drive weak democracies toward competitive authoritarianism because outsider politicians lack experience with representative democracy and their focus is anti-establishment. Hence, once they gain majority support they work to topple elites and confront remaining institutions of horizontal accountability that are essential to democracy (O’Donnell 1993 and 1999, Schedler 1999). Executives’ resulting control over the state skews the political playing field against opponents. As Levitsky and Way note, “Where formal institutions are regularly enforced and minimally stable, the causal power of institutional design may be considerable. In much of the developing world, however, formal institutions are weak. Rather than constraining political elites, they are routinely circumvented and manipulated by them; rather than structuring the political game and determining winners and losers, they are repeatedly restructured by the winners at the expense of the losers. In such cases, the independent causal power of formal institutions is limited” (2010, 81). This dynamic presents a strong argument for combining institutional and agency approaches to understanding the dynamics of executive power, particularly in Latin America.

In sum, increasing literature is addressing de facto executive power, in addition to providing explanations for legal (formal) powers. Studies attribute various factors to explain why presidents exercise their powers, including economic crises, lack of opposition or repercussions from the judiciary, and taking advantage of popularity in the face of weak institutions. The next section presents my argument, which discounts political and economic crises, emphasizing rather the causal role of institutional and agential factors.

#### **IV. Explaining Executive Power in the Electoral Arena: Institutions and Mandate**

This section introduces my argument and relates it to extant theory. I am concerned about the power that executives are granted, or that they take, and the power that they wield, over the most fundamental component of democracies: elections. To test whether and how presidents in fact consolidated power over elections, I conceptualized and measured two specific types of power, that which is formally granted (Institutionalized Executive Power, or IEP) and that which presidents actually use (Exercised Executive Power, or EEP). My conceptualization is described more fully in Chapters 3 and 5, where I discuss previous measurement strategies (that focus primarily on formal rules establishing the president's relationship with the legislature or the cabinet) and explain how mine captures executive power over electoral regimes more specifically and effectively (how it is exercised).

To explain how IEP and EEP vary, I drew on the existing approaches that seemed most promising to explain this phenomenon in my country cases. Because scholars have yet to develop a theory to explain power over elections specifically, I adapted a combination of institutional and agency approaches. I find that on their own, the arguments described above did not fully explain variation in either institutional or exercised electoral powers of Latin American

presidents. For example, macro-structural factors, such as conservative culture and colonial history, could explain strong presidents as a general phenomenon, but do not account for why there is variation over time and between countries in the degree to which they sought to control elections (which I find). Likewise, economic crises could explain why politicians and citizens believe powerful presidents were temporarily warranted and generally supported their strong authority or actions, yet I also find that presidents were empowered and exercised their powers during times of relative prosperity or calm. Also, episodic crises were not necessarily tied to specific instances of increased or decreased executive power over elections. Finally, the diffusion argument could perhaps account for a ‘contagion effect’ of increasingly active presidents, but not why some countries increased formal powers and others did not, and whether or not they succeeded in their efforts.

I advance two related causal arguments that use both structural and agential logics to explain variation across time and countries. Regarding Institutionalized Executive Power (IEP), I argue that two aspects of formal government function can impinge on presidents’ accumulation or loss of power over elections. One involves how authority over electoral entities is structured. I call this *institutional configuration*, or the number of government entities involved in election management that can counter or collaborate with the president and his supporters. This authority can be centralized (meaning top-down control over few entities) or decentralized (meaning many independent entities share control). The other is *institutional constraints*, or extent to which formal barriers exist to changing electoral law, which can be strong (meaning strict limits, protections, or procedures) or weak (meaning less). These are key to explain change in IEP, but also impact Exercised Executive Power (EEP).

With regard to IEP, when institutional configuration is centralized, meaning there are fewer independent electoral management entities, presidents are more likely to gain or maintain greater powers over elections. This is because authority is structured top-down, and presidents and their supporters face fewer entities inclined to protect their interests or that are likely to block one branch from gaining more power than another. Second, where institutional constraints are strong, presidents are less likely to gain greater formal powers over elections. This is because there are more legal barriers to changing electoral law, such as constitutional protection of electoral law or prohibition of changing laws immediately before elections. These constraints introduce processes and veto players that create barriers that complicate and restrain actions to empower the president.

For example, in Colombia, the need to contend with multiple institutions of electoral governance and overcome constitutional protections delayed and prevented efforts to achieve change in reelection policy. Constitutional protection of electoral laws (strong institutional constraints) trigger a complicated process to change those laws, creating opportunity for debate, compromise, and opposition. These steps can delay and even thwart efforts to empower presidents, and facilitate opportunities for the opposition to block the executive and his supporters. In contrast, institutional barriers were weaker in Ecuador and Venezuela. The fact that laws are not protected with constitutional status there opened the possibility for presidents and their supporters to make changes that empower the president. In addition, electoral entities were either too centralized (fewer) or easily dominated, which facilitated approval of policies to empower the president.

These institutional factors also worked to restrain exercised executive power (EEP). Countries with decentralized institutional configuration and strong institutional constraints

witnessed fewer episodes of EEP or presidents' exercise of power. In addition, in countries with an inhospitable institutional context, presidents have less success in their EEP outcomes. That said, institutions are not always respected. Sometimes presidents and their supporters can overcome restrictions, evade institutional barriers, or simply violate the rules. Therefore, a second, agency-related causal factor involves the political context, specifically the presidents' *mandate* and *majority*. The president's mandate is defined as his approval rating levels and majority is whether he commands a majority in the legislature. A president's ability or failure to overcome institutional configuration and constraints is conditioned by his political support. Having a majority in Congress is a significant contributing factor to overcoming institutional barriers. I argue that presidents with a strong popular mandate, and particularly those with a majority in Congress, are more likely to exercise executive power, and they have a better chance of succeeding in their goals. Having a congressional majority facilitates debate that is friendly to the president's objectives and increases the likelihood of approval of policies he favors, and that favor him. This likelihood of presidents' success is even greater when they also face a favorable institutional environment, meaning centralized institutions and weak constraints. These factors are, in fact, interwoven. In an inhospitable institutional context, presidents with strong mandate and majority are more successful in exercising power. However, they will likely be delayed and are sometimes forced to make compromises. This is why both institutional conditions and agency factors are necessary to explain executive behavior and the outcomes of their actions.

Interestingly, having a majority was a stronger factor than presidential popularity in explaining EEP initiation and success. This means that institutions still play an important role, as popularity alone does not facilitate leaders' actions. Popular presidents often made threats, sought plebiscites, or violated electoral rules, but more successful EEP outcomes occurred when



they had a majority in congress. This has important implications for the relationship between executive power and democratic institution. These dynamics are illustrated and further elaborated in the chapters that follow.

### *Implications*

My study contributes to the theories discussed previously. First, in line with historical, cultural, and diffusion arguments, I also find that presidents continue to seek to gain and exercise power. Next, in line with institutional arguments that posit that presidential systems tend to concentrate power in the executive, I take the next step to demonstrate how specific arrangements can facilitate (or inhibit) executive power and action. The Colombian constitution of 1991 and was designed to decentralize power among multiple entities and these independent entities led or moderated reforms to the electoral regime, facilitating steady reduction of executive power and actions (or blocked efforts to increase/centralize power). I argue that this institutional configuration, along with strong constraints, worked to temper and reduce executive abuse of power. Meanwhile, the absence of these factors helped facilitate increased and high levels of executive power over elections in Ecuador and Venezuela (that has ultimately resulted in severe crises and conflicts in those countries). This argument supports the trend in “comparative research on political institutions [which has] begun to turn from issues of formal institutional design to issues of institutional strength. Rather than assuming a tight fit between formal rules and political behavior, these studies examine how variation in the stability and/or enforcement of formal rules shapes actors’ expectations and behavior” (Levitsky and Murillo 2009, 115). In that light, I argue that executive mandate can facilitate presidential actions and

success, but variation on institutional factors are important in tempering, delaying, or blocking that success.

My argument also speaks to O'Donnell's concerns over horizontal accountability and delegative democracy. Horizontal accountability refers to the legal guarantees, application of the rule of law, and equality under the institutional framework (O'Donnell 1998, 113). I see decentralized institutional configuration and strong constraints as enhancing horizontal accountability and helping promote balance of power. Horizontal accountability "depends on the existence of state agencies that are legally empowered - and factually willing and able - to take actions ranging from routine oversight to criminal sanctions or impeachment in relation to possibly unlawful actions or omissions by other agents or agencies of the state" (117). This balance of power is still largely lacking in Ecuador and Venezuela. To a certain extent, governments are subject to vertical accountability, as voters exercise their power to elect leaders.<sup>24</sup> However, that accountability, too, has been chipped away by powerful leaders continuing to assume power, using their majorities to set up compliant electoral institutions, and concentrating authority in the executive. In contrast, Colombia's institutional configuration and constraints, while complicated and still corruptible, worked to provide some protection against presidential aims for more power, even when they were popular. Only with a majority did presidents consistently have success, suggesting that while popularity is helpful, they still must largely work within the government's legislative framework. The role of institutions is key.

My work has important implications for democracy, specifically the balance of power between the executive and other institutions. When popular presidents use their public appeal and legislative mandate to overpower other institutions or overcome institutional constraints, it

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<sup>24</sup> Even vertical accountability is on the decline with the demise of traditional representation by political parties (Luna and Vergara 2016).

often disadvantages the opposition and diminishes important checks and balances. In some EEP cases, in particular in Ecuador and Venezuela, presidents resorted to bribing legislators, others made impossible promises to voters, others simply broke the rules – knowing the likelihood of effective repercussions was slim (particularly if they enjoy a majority). In Colombia, more steps were required to change electoral law and independent institutions were established to create legislative debate and provide judicial checks, which resulted in extensive deliberations between legislators, judges, state council, IEGs, the executive, and in some cases compromises were reached (i.e., agreeing not to run for reelection or implementing laws that restrict the incumbents' campaigning), or the president was ultimately denied additional power.

In sum, my work contributes a more comprehensive empirical understanding of how and when presidents gained and exercised power over a specific realm of democracy, and a theoretical understanding of why they were able (or not) to do so. It highlights an important flaw in Latin American democracy, that executives remain disproportionately powerful, and reinforces the argument that particular institutional arrangements are required to balance their ambitions. Perhaps of greatest concern is evidence that efforts to increase or exercise power can occur through democratic procedures or alongside claims to empower citizens, but the effect enhances control by the executive. While these findings are not surprising for a region of historical hyper-presidentialism, where dictators commonly seized power in the name of citizens' interests, it is particularly troubling that this dynamic would extend to the electoral realm. However, the case of Colombia is a promising example of how the trend of powerful presidents can be countered through strong institutional constraints and decentralized institutional configuration. These implications are discussed further in Chapter 7.

## **CHAPTER 3 – INSTITUTIONALIZED EXECUTIVE POWER (IEP): PRESIDENTS IN CHANGING ELECTORAL REGIMES**

*Chapter Outline: I. Introduction – The Changing Role of Presidents in Electoral Regimes; II. Institutionalized Executive Power: Methodology; III. Colombia; IV. Venezuela; V. Ecuador; VI. Conclusion*

### **I. Introduction – The Changing Role of Presidents in Electoral Regimes**

Since they transitioned to democracy through the 1980s, Latin American countries have used increasingly transparent procedures on voting day to elect political leaders and safeguard from a return to authoritarianism. Theoretically, one would not expect to see increases in executive power over the management of voting processes in a democratic context. This chapter tests that proposition by asking how much power is assigned to presidents over the electoral regime and how that level of power has changed over time. The type and level of executive power are important factors in understanding the quality of democracy, and analysis of that power (this chapter), how and why it changes (chapter 4), and how that power is wielded (chapters 5 and 6), requires first a thorough review of existing legal structures. This section offers a comparative description of institutionalized executive power (IEP), followed by details for each country in the remaining sections.

While scholars worry about Latin American presidents being too powerful, to my knowledge, we do not have a precise understanding of the level of formal, institutionalized powers accorded the president over the electoral process over time and across countries. To fully understand the trajectory of electoral management, I provide a comprehensive description of the body of electoral law in Colombia, Ecuador, and Venezuela and measure how much power is formally granted to the president over elections. IEP is defined as actions a president is empowered to take to influence the electoral process – powers that are ascribed to him or her via

the constitution and its amendments, electoral laws, and judicial rulings. Measurement of this variable occurs in two ways. First, I examine and describe each country's institutions of electoral governance (IEG) and assess how the president is involved in the appointment of their managers. Then, I conceptualize Institutionalized Executive Power (IEP) and trace it by analyzing every statute (constitution, amendment, law, regulation, decree, etc.) that affects presidential power over the electoral regime. "Regime" is a fitting term because I am concerned with the top-down power structure that directs elections.<sup>25</sup> Four different categories of executive power were assessed, and within each category I score individual indicators (a total of 20) for level of executive power. First, an aggregate score for powers the president possesses at the start date of each electoral phase will be tallied for a baseline index of IEP. Second, I consider *instances* of change in IEP, i.e., every addition, removal, reform, or amendment that changes the level of possible executive influence over elections.

Understanding the nature of electoral regimes in post-transition democracies required analysis of comprehensive, complex, and changing electoral statutes. Since transition to democracy, the volume of electoral law in Colombia, Ecuador, and Venezuela has expanded and become increasingly detailed, reflecting each country's path through democratic consolidation and its distinct political challenges. For this study, more than 200 legal documents pertaining to electoral governance and procedures were reviewed. The increase in laws over time was gradual but steady from 1979 – 2013 in Colombia and Ecuador, with marked increase after 2009 in Venezuela. This proliferation pertains both to the number of individual laws and to the length and detail of each statute. The resulting electoral regimes are cumbersome and complicated, leading to problems of tracking, implementation, monitoring, and even some contradictions. For

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<sup>25</sup> I use the term "regime" because my study researches the role of the executive in the *governance* of elections. Therefore, the term "electoral system" would be too broad, as I do not address vote counting, ballot format, etc.

example, the Organization of American States reported that in the Colombian electoral regime, “the scattering of organs, commissions, and coordination mechanisms results in a less than efficient use of the resources allotted to the electoral process, an absence of clarity in the electoral hierarchical structure, and the possible duplication of efforts to monitor the complexities of the electoral process” (OAS, 2011: 12). In Ecuador, a seasoned electoral expert commented that no two elections he recalls have utilized the same rules (Interview with Verdesoto 7/30/2015). In addition, in both Ecuador and Venezuela, increasingly detailed rules and potential penalties affecting the media, political parties, and civic groups have effectively intimidated and led to the dissolution of many non-governmental institutions. The impact of formal laws is real.

Given the complexity of electoral regimes and competing political interests, it is challenging to understand the intent of each new law – whether it was written to address emerging issues and safeguard democratic elections, or if political actors manipulated it to gain advantage. The reality is often a mixture of both. Many laws contain necessary reforms as well as adjustments that might favor one player versus another. At the beginning of the period of study, which is from 1979 – 2013, electoral regimes in all three countries under study were specifically designed to support democratic competition and distribute power among separate ruling political parties (1886 Constitution of Colombia, 1978 Constitution of Ecuador, 1961 Constitution of Venezuela). The resulting features of institutional design were meant to balance power, promote pluralism, and prevent the reoccurrence of dictatorship. For example, empirical evidence in this chapter describes rules requiring representation of more than one party in appointments to government entities as well as formulas that assure seats are assigned to more than one party in the legislature.

Sometimes, however, the institutional design had unintended effects. In Colombia, a history of extreme violence and corruption triggered concerted demands for a system to establish peace and fairness in the 1991 constitution (Interview Mancera 11/24/2015). The resulting electoral regime has multiple veto players designed to keep institutions in check (Decreto 2241 de 1986 – Código Electoral). While well-intended, the myriad regulations and institutions has become a burdensome legal labyrinth (OAS 2011). Also, while it intended to avoid authoritarianism by dividing power among political parties, it effectively concentrated power among elites in the two most powerful parties, to the detriment of independent actors (Conaghan Espinal 1990, Interview with Garcia Sanchez 11/27/ 2015, Sarabia Better 2003, Molina and Perez 1998). Meanwhile, Venezuela evolved from using a relatively simple and streamlined body of electoral law, to its current system with cumbersome regulations detailing dozens of minute rules and penalties (Ley Orgánica de Procesos Electorales 2009). While the new laws are reportedly meant to protect democracy, the paranoid, punitive nature of this legal density offers those in control an opportunity to fault the opposition on any number of minor violations, essentially causing ‘death by a thousand cuts’ (see Corrales and Penfold 2011 for examples). Finally, constant changes to Ecuador’s body of law did not result in significant changes to formal executive power levels, but the latest system (2009 Ley Organica Electoral, Código de la Democracia) allows a president with majority support to dominate the electoral regime and directly regulate laws more easily, according to civil society representatives previously involved with the government (Interviews with Camacho and Rosero, 8/5/2015).

The sheer proliferation of electoral law in the region presents both an analytical challenge and has practical implications. None of the countries have a complete, comprehensive, coherent

repository of all electoral law.<sup>26</sup> Meanwhile, cumbersome and complicated laws can be difficult to follow and create potential for overlap or conflict among institutions. Finally, after some laws are passed, often the required implementing regulations lag, or lack interpretation by other institutions, causing further confusion and contradiction. This lag opens a possibility for manipulation by political interests. To address this, leaders sometimes create new provisions – or even entirely new constitutions – rather than reform or regulate existing law. This chapter carefully traces these formal changes as they pertain to the role assigned to presidents with regard to elections, illustrating the index of tools executives can ultimately use to exercise power over elections, or provisions that intend to prevent them from doing so.

The chapter is structured as follows: section two describes how I conceptualize Institutionalized Executive Power (IEP) over the electoral regime and the methodology behind measuring it, in three presidential democracies since transition to democracy in the late 1970s. Sections three, four, and five present descriptive and comparative analysis of changes in level of IEP over time in each country. The conclusion in section six sets the stage for the next chapter, which explores possible explanations for variation in IEP.

## **II. Institutionalized Executive Power: Methodology**

Despite the region's history of hyper-presidentialism, the specific role of the executive in the structure and function of democratic electoral systems is understudied by political scientists. When executive power is examined, the focus is predominantly on presidents' relationships vis-à-vis the law-making process, but lacking in other areas of governance. The extant scholarship

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<sup>26</sup> I do not expect all countries to have a perfect log of every law relevant to their elections, but such a resource would certainly be useful for scholars and practitioners alike. In fact, the countries in this study do have useful, albeit incomplete, online access to most of their electoral laws. However, there were many details that required additional research into reforms, amendments, decrees, etc.



conceptualizes executive power by focusing predominantly on formal, constitutional design and laws that structure the relationship between the president and the legislature. Emphasis is focused largely on configuration of formal power, noting how it is designed in the constitution and weighing its potential strength in the law-making process. Probably the most oft-cited work describing executive power in the region conceptualizes executive powers as it pertains to the presidents' influence over the legislative agenda (Shugart and Carey 1992). Others evaluate executive power based on appointment powers and cabinet strength (Lijphart 1999), as well as control over the legislative agenda and ability to use veto powers (Tsebelis and Aleman 2005).

As a first step toward understanding when and why executives gain power in the *electoral* realm, this chapter traces changes in national electoral law<sup>27</sup> in three Latin American presidential systems since transition to democracy: Colombia, Ecuador, and Venezuela.<sup>28</sup> Again, IEP is defined as actions a president is empowered to take to influence the electoral process – powers that are ascribed to him or her via the constitution and its amendments, electoral laws, and judicial rulings. I evaluated, in total, over 200 individual legal documents including codes, constitutions, decrees, legislation, and resolutions that comprise the electoral regime in each country since the late 1970s. These were identified through a comprehensive online data search (described in Appendix 3A).<sup>29</sup> Reading those statutes, I first outlined the institutions involved in elections, noting the laws and institutional hierarchy established to manage electoral processes. This description is provided in a table at the beginning of each country section. Then, I carefully

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<sup>27</sup> When I refer to a country's electoral law, I include all rules guiding elections and structuring the electoral system, which can include the code, constitution, constitutional amendments, decrees, statutes, resolutions, etc. I essentially adopt Black's generic definition of law meaning "a body of rules or action or conduct prescribed by controlling authority, and having binding legal force" (1990, 795).

<sup>28</sup> Case selection discussed in Chapter 1, section three.

<sup>29</sup> There are additional laws, resolutions, etc. that impact elections at sub-national levels that are not included in the analysis because they are not relevant to the parameters of this study. I focus on executive power over national elections (presidential, legislative, and nation-wide referenda).

tracked every change that affects executive power over national elections and measured their level of power (described below and in Appendix 3B).

The start date of 1979 was appropriate for all three countries.<sup>30</sup> In Colombia it represents a period of transition to more democratic government, and allows evaluation of watershed changes implemented with the 1986 electoral code and the new constitution in 1991.<sup>31</sup> In Venezuela, the 1980s also represent the period when ‘pacted’ democracy was ending and elections became more meaningfully competitive. This allowed a more organic version of democracy to emerge, corresponding with other democratic transitions in the region. Correspondingly, Ecuador’s transition from dictatorship and a new constitution occurred in 1978.

Four different categories of executive power were assessed, three of which are election-specific, and one (the first) captured a more abstract level of control: 1. Amount of time an executive can wield power over elections (i.e., number and length of term); 2. Executive power over election administration; 3. Executive power over election legislation (whether the executive can introduce electoral law); and 4. Executive power during election campaigns and over candidate nominations. Within each category I score individual indicators of executive power. These indicators capture different aspects of presidential power across government spheres (including elections), like length of term, reelection, and immunity from impeachment, as well as more concrete, election-specific aspects that directly impact elections, like campaign rules or ability to appoint members to the institutions of electoral governance (IEGs). This comprehensive approach facilitates over-time and cross-national comparison. Chapter 4 offers some discussion of the importance of some powers over others. Categories roughly trace the

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<sup>30</sup> Again, discussed in Chapter 1, section three.

<sup>31</sup> The 1886 constitution with most recent amendments preceding 1991 and the latest electoral law preceding the 1986 code serve as baseline measures for comparison.

election process, starting with pre-electoral or legal elements and ending with campaign or election day issues. A score ranging between zero and one is assigned for each parameter for each individual piece of law under analysis – higher for more executive power, lower for less. A full explanation of what these indicators capture, the scoring scheme, and methodology are provided in Appendix 3B. The data collection process is described in Appendix 3A. Table 3.1 (below) lists the indicators and scoring rubric.<sup>32</sup> In sections three, four, and five, a separate table for each country has an additional column containing the data (text or description of the relevant law or legislation), and score (Tables 3.3, 3.5, and 3.7). Complete timelines listing all election-related legal documents are provided in Appendices 3C, 3D, and 3E.

<b>TABLE 3.1 INDICATORS OF IEP</b>	
<i><b>Category 1 (Abstract):</b> Amount of time Executive can wield power over elections<sup>33</sup></i>	
<b>Indicator</b>	<b>Score</b>
1. Number of presidential terms	No reelection – 0 Non-consecutive terms – .25 Two consecutive terms – .75 Unlimited terms – 1
2. Length of presidential terms	Four years or less – 0 Five years – .5 Six or more – 1
3. Presidential term susceptible to impeachment/recall	Yes, can be removed – 0 No – 1
<i><b>Category 2 (Election specific):</b> Executive power over election administration</i>	
1. Ability to appoint governing members of primary institution of electoral governance (IEG)	No – 0 No, but appointed by the legislature and presidents are elected concurrently so their party likely has majority – .5 Yes, with legislative oversight and approval or appoints partially – .75 Yes, no approval needed – 1

<sup>32</sup> A country might have more than one score on any parameter if the relevant law/constitution changed during the period of study (see Tables 3.3, 3.5, and 3.7).

<sup>33</sup> Category 1 accounts for possible increase in the power of any one president, but not of the office itself.

2. Ability to appoint governing members of secondary IEG	Same as above
3. Ability to appoint judges to primary electoral court	Same as above
3a. Ability to appoint judges to additional electoral court	Same as above
4. Ability to control election monitoring and monitoring entities <sup>34</sup>	Same as above
5. Ability to decide primary IEG's budget	No – 0 Yes, with legislative approval – .5 Yes – 1
6. Ability to decide secondary IEG's budget	No – 0 Yes, with legislative approval – .5 Yes – 1
7. Ability to decide primary electoral court's budget	No – 0 Yes, with legislative approval – .5 Yes – 1
<b><i>Category 3 (Election specific): Executive power over election legislation</i></b>	
1. Ability to create electoral laws	No – 0 Yes, with legislative participation/subject to review – .5 Yes – 1
2. Ability to create/change electoral districts	No – 0 Yes, with legislative approval – .5 Yes – 1
3. Ability to amend aspects of the constitution concerning elections (if amendable).	No – 0 Yes, with assent of legislature by supermajority – .5 Yes, through referendum – 1
4. Ability to call for referenda/plebiscites <sup>35</sup>	No – 0 Yes, with legislative participation/judicial review – .5 Yes – 1
<b><i>Category 4 (Election specific): Executive Power during election campaign and over candidate nominations</i></b>	
1. Ability to award government contracts during election campaign	No, restricted by law – 0 Yes, but with limits – .5 Yes, unlimited – 1

<sup>34</sup> This is not always an entity. It could also be a temporary committee or tasks delegated to certain representatives. It is important to note for executive authority, but is not noted again for budget. This is for two reasons: first, because different entities could be involved and actions are often not permanent, so tracking would be inaccurate over time; second, rules for the budget in most democracies are fairly static (the president drafts and congress approves). If there is a major discretion in this category regarding budget, I seek to note it in the analysis.

<sup>35</sup> Which are, of course, themselves elections.

2. Ability to restrict/control media (coverage, licensing, etc.)	No – 0 Yes, restricted – .5 Yes – 1
3. Limits on president campaigning for their re-election	Yes, restrictive – 0 Yes, vague – .5 No – 1
4. Limits on president campaigning for any election	Yes, restrictive – 0 Yes, vague – .5 No – 1
5. Requirement for democracy measures for presidential candidate nominations	Yes, required – 0 Yes, optional – .5 None – 1
6. Requirement for internal democracy measures for political party nominations	Yes, required – 0 Yes, optional – .5 None – 1

Prior to scoring Institutionalized Executive Power (IEP) along these indicators, I assessed the institutions involved in electoral governance and offered an assessment of potential involvement by the president in appointing of their leaders. Tables 3.2, 3.4, and 3.6 offer this assessment, which not only informs IEP scoring, but also the characteristics comprising a typology of electoral regimes (see Chapter 7). The next three sections present findings for institutionalized executive power over elections in Colombia, Ecuador, and Venezuela.

### **III. Colombia**

To date, there has not been a systematic, comparative study of how electoral institutions are structured in the region and the extent to which presidents have control over electoral regimes (Interview with McClintock 11/11/2013). Colombia is an interesting case because among the three countries of study, it had the highest level of institutionalized executive power over elections at the beginning of the study period, and witnessed consistent decline over time,

resulting in the lowest level of all three countries at the end of the period of study. This section describes these changes in detail.

Effective scoring of Institutionalized Executive Power requires first an understanding of what institutions are involved in the electoral system and how their power is constituted and adapted. Multiple government entities are involved in Colombia's voting process, including the National Electoral Council, the National Civil Registrar, Ministry of the Interior, courts, as well as (constantly changing) oversight commissions and national observers. The 1986 Electoral Code (Articles 9 and 26) specifies that five sets of institutions organize the electoral process. Table 3.2 lists the institutions that comprise Colombia's electoral system and provides the date and type of law that created or modified the institution. It also describes the composition and appointment procedures for each institution, then offers an assessment of the degree to which the executive *could* potentially influence the institution's management. This score is my comparative assessment of the relative level of the president's potential role in appointing top officials for each institution (high = significant potential involvement by the president; medium = some involvement; low = little involvement).<sup>36</sup> The relative label provides a useful description across time to note direction of change. I assessed the level of involvement through comparison with laws in previous time periods and my judgement based on an understanding of the electoral law

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<sup>36</sup> For example, if the president directly appoints at least a third of an entity's governing officials, and could theoretically influence appointment of the others, potential executive involvement is rated as "High" because he could influence a majority. In the case of Colombia's State Council, which advises the government and is involved in judicial appointments, the 1886 constitution allows the president to directly appoint two of the seven members, another member is the Vice President (chosen by the president), and the rest by congress (which is often in line with the president because elections for president and congress occur a month apart). In contrast, per the 1991 constitution, the judiciary nominates candidates to the State Council, eliminating direct involvement by the president, but he or she still has influence through judicial nominations and therefore is rated as "Medium." If the president is not involved in appointments, as with the National Election Council (CNE) per the 2003 reform, executive control rates as "Low."

and procedures across several countries. This background information was considered when scoring IEP indicators that involve election management institutions.

<b>TABLE 3.2 INSTITUTIONS INVOLVED IN ELECTIONS COLOMBIA (Since 1979)</b>			
<b>NAME</b>	<b>YEAR/ TYPE OF LAW (that creates or modifies)</b>	<b>COMPOSITION &amp; APPOINTMENT</b>	<b>POTENTI AL ROLE OF THE EXEC- UTIVE</b>
<b>State Council</b> <sup>37</sup>	1886: Constitution	Seven members: two named by Senate, two by Lower House, two by President, and seventh member is the Vice President (Art 98, 102, 120, 136)	High
	1991: Constitution	Council members are elected for eight-year, non-renewable periods, nominated by lists from the superior council (which is elected by Courts and Congress) (Art 233, 231)	Medium
<b>National Electoral Council – CNE (formerly Electoral Court)</b> <sup>38</sup>	1979: Law 28	Nine magistrates: four each from top two vote-getting parties, one from third party; elected by Supreme Court (Art 13, 14)	High
	1985: Law 96 (CNE replaced Electoral Court)	Seven members selected three each from top two vote-getting parties, one from third party; elected by State Council (four year terms, no reelection) (Art 3, 4)	High
	1991: Constitution	CNE comprised by number of members determined by law, no less than seven, elected by State Council (Art 264)	Medium
	2003: Legislative Act 1	Nine members elected by Congress for four years with electoral quotient system from lists proposed by parties/movements (Art 14)	Low
<b>National Civil Registrar</b>	1886: Constitution	The Electoral Court will elect and remove the National Civil Registrar (RNC) (Art 22)	High
	1985: Law 96	The CNE will elect and remove the RNC (Art 9)	High
	1991: Constitution	CNE elects and removes RNC (Art 266)	Medium

<sup>37</sup> The State Council (or Consejo de Estado in Spanish) is the highest tribunal to administer government contention, provide consultation, and review government decrees that the constitutional court declared unconstitutional.

<sup>38</sup> In Spanish, Consejo Nacional Electoral and Corte Electoral, respectively.

	2003: Legislative Act 1	Presidents of Constitutional Court, Supreme Court, and State Council will elect RNC by competitive merit (Art 15)	Low
<b>Supreme Court</b>	1886: Constitution	Six justices nominated by president for Senate approval (Art 98, 119, 146)	High
	1991: Constitution	Odd number of Supreme Court justices are named by their respective members from lists sent by the Superior Judicial Council, which has two chambers: Administrative (members elected by all three courts: Supreme, Constitutional, and State Council) and Disciplinary (members elected by Congress from candidates sent by government) (Art 231, 234, 254)	Medium
<b>Constitu- tional Court</b>	1991: Constitution	Justices are elected by the Senate for individual period of eight years from lists submitted by the President, Supreme Court, State Council, and can't be reelected (Art 249)	Medium

Over time, the role of the president in appointing officials involved in Colombia's electoral management has declined in almost every institution from "high" to "medium." The fact that policymakers over time deliberately reorganized power to reflect less top-down authority is noteworthy for a region often criticized for concentrating power in the executive.<sup>39</sup> Also, as described in the next two sections, while Colombia has multiple institutions involved in its electoral regime, the procedures to appoint IEG managers is relatively straightforward and transparent. If there is opportunity for the president to weigh in, it is done in an open manner and balanced by allowing other political forces to do the same. This contrasts with recent reforms in Ecuador and Venezuela, which both developed very complex processes for nominating and appointing electoral management officials, a process that resulted in easily being manipulated by the executive.

Two additional observations are worth noting regarding Colombia. While the existence of multiple electoral institutions does not necessarily diminish executive power, it likely dilutes the

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<sup>39</sup> In fact, I argue later that this institutional composition was conducive to restraining executive attempts to exercise power.



potential for presidents (or any institution, for that matter) to completely dominate the electoral regime. Having multiple institutions causes some bureaucratic confusion, but different agencies' independence allows for a system of checks and balances, or multiple veto players.<sup>40</sup> As described below, this dynamic of distributing government power reflects a trend toward political opening in Colombia over the period of study. For example, the Civil Registrar, which conducts the majority of practical election organization tasks, was previously appointed by the CNE and the CNE approved its budget. This was reformed via law and a Constitutional Court ruling in 2008, giving the Civil Registrar more independence in naming its leadership. Nuances such as these are captured in the IEP table, below.

Finally, laws initially required that representation in Colombia's electoral management bodies be allocated equally between the two major political parties.<sup>41</sup> This was intended to affirm democratic representation, maintain peace, and advocate fairness, but the system effectively excluded third parties. This approach also largely maintained power in the hands of elites, not uncommon in representative government. The political system favored individual candidates, emphasizing personal attributes over party platform ideals, hence alliances could cut across the dominant parties. While the president was required to appoint some members from the opposition party, there were mutual back-scratching favors and allegiances that superseded party allegiance. Hence, the system's original design – meant to ensure an equal balance of representation – essentially perpetuated a cycle of allied elites in the top two parties controlling elections.<sup>42</sup>

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<sup>40</sup> This possibility is explored in Chapter 6.

<sup>41</sup> This reflects the pact between Colombia's liberals and conservatives to share power during what was called the National Front period (Dix 1980).

<sup>42</sup> Despite this, it is worth noting that Colombia has a fairly effective system of checks on the executive. For example, Congress can review ministers and call them for questioning if they do not perform well. While they do not commonly remove ministers, the threat is present. Also, the president needs

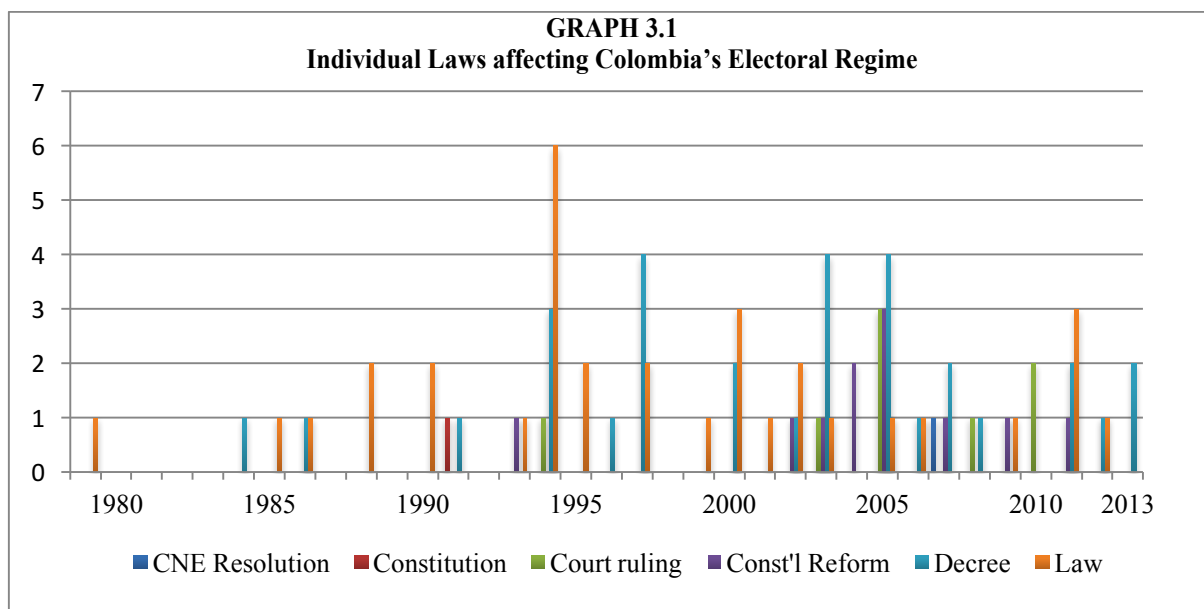
### *Electoral Laws*

Like much of Latin America, Colombia is known for implementing, or at least legislating, prolific policy reforms. Politicians often promise and seek to improve government – or at least hope to gain credit for trying (Interview with Mancera 11/24/2015). This “normative fetish” characterizes successive Colombian presidents (Gomez Mendez 2010), and the area of elections is no exception (Sarabia Better, 2003). Overall, I evaluated more than 80 adaptations to Colombia’s electoral system, implemented through laws (32), decrees (30), constitutional reforms (11), court rulings (8), constitutions (2), and an CNE resolution (1) passed between 1979 and 2013. A full timeline detailing Colombia’s body of electoral law is offered in Appendix 3C (listing statutes affecting not only executive power, but all aspects of elections). Graph 3.1<sup>43</sup> depicts the introduction of each new statute to the electoral regime and reforms over time (any new regulation, law, or modification), from 1979 to 2013.

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Congressional support to vote to approve executive appointments. (Interview with Wills Otero 11/25/2015).

<sup>43</sup> Graphs 3.1, 3.2, and 3.3 are on different scales because the disparity in number of laws for each country could not be reconciled to fit the same size graph.



Colombia's electoral code of 1986 was modified over 60 times through subsequent laws, amendments, decrees, and constitutional court rulings. Another dozen or so laws independent of the code also affect electoral procedures, such as those concerning the role of the interior ministry or reforms regarding government contracting during the campaign period. Interestingly, during Colombia's post-democratic transition period – which included reforms to allow participation by more than two parties – the use of presidential decrees increased. This could reflect increased stalemate between traditional parties and the new parties entering the legislature, hence the need for executive action. There were almost as many decrees (30) as laws (32), essentially making the president a legislator.<sup>44</sup> The increase in court rulings is also noteworthy. While Colombia's Supreme Court traditionally had jurisdiction over the constitutionality of laws (Uprimny 2003), it is not until the 1991 constitution, which established a Constitutional Court, that more frequent rulings on electoral issues occurred. The spike in legislation around 1994 reflects laws implementing clauses of the new constitution.

<sup>44</sup> It is fairly common for the executive to issue regulations via decree in Colombia (Interview with Vanegas Gil 11/23/2015).

Of the 80+ statues of Colombian electoral law collected and reviewed, 31 impacted executive power specifically, resulting in 45 separate changes affecting IEP indicators. These changes occurred within 20 of 22 possible indicators. Table 3.3 illustrates the amount of executive power in each IEP category, which a numerical score for each piece of law that either established or subsequently changed level of power (methodology described in Appendix 3B). The table demonstrates the direction of change for any indicator over time by color: red equals increased level of executive power over time, yellow indicates no change, orange means the score varied, but the ultimate score stayed the same, and green denotes an overall decrease in executive power. There are a few instances of minor, unique change that infers slight increase or decrease in executive power. In such cases, a “+” or “-” symbol was added to highlight there was some shift toward more or less executive power (however it did not qualify for a number change under the scoring rubric).<sup>45</sup> When indicators involved institutions such as the Supreme Court or State Council, information from Table 3.2 was used to evaluate the effects to potential level of executive control (i.e., the rating in Table 3.2 informs scoring in Table 3.3).<sup>46</sup>

TABLE 3.3 COLOMBIA: INSTITUTIONALIZED EXECUTIVE POWER (IEP)		
INDICATOR	SOURCE	SCORE
<i>Category 1 (Abstract): Amount of time Executive can wield power over elections</i>		
<b>1. Number of presidential terms</b>	<i>1886 Constitution</i> <sup>47</sup>	.25
	1991 Constitution	0
	2004 Legislative Act <sup>48</sup>	.75
	2005 Constitutional Court Ruling	.75
	2010 Constitutional Court Ruling	.75

<sup>45</sup> Adapting the rubric to account for specific nuances in each country’s laws would make the scoring too detailed and unique for comparative analysis. The +/- notation allows me to account for changes without fully sacrificing a streamlined, simpler numeric scoring that can be replicated across countries.

<sup>46</sup> Complete tables including direct relevant quotes from each piece of law and scoring justification are available upon request (katjan@uci.edu).

<sup>47</sup> Baseline measures, meaning those first applicable in 1979 or the first mention of an indicator, are in italics.

<sup>48</sup> An Acto Legislativo is legislation to change the constitution.

<b>2. Length of presidential terms</b>	<i>1886 Constitution</i> 1991 Constitution	1 0
<b>3. Presidential term susceptible to impeachment/recall</b>	<i>1886 Constitution (no mention)</i> 1991 Constitution	1 0
<b>Category 2 (Election specific): Executive power over election administration</b>		
<b>1. Ability to appoint governing members of primary IEG (CNE)</b>	<i>1886 Constitution: No mention</i> 1979 Law 1985 Law 1986 Decree (electoral code) 1991 Constitution 2003 Legislative Act	N/A .75 .75+ .75+ .5 0
<b>2. Ability to appoint governing members of secondary IEG (Registraduria Civil Nacional)</b>	<i>Law 28 of 1979 (electoral code)</i> 1985 Law 96 1986 Decree 2241 1991 Constitution 2003 Legislative Act 1 2008 Constitutional Court Ruling	.75 .75+ 1+ .5 0 0
<b>3. Ability to appoint judges to primary electoral court (Consejo de Estado)</b>	<i>1886 Constitution</i> 1991 Constitution	.75 0
<b>3a. Ability to appoint judges to additional court (Supreme Court)</b>	<i>1886 Constitution</i> 1991 Constitution	.75 0
<b>3b. Ability to appoint judges to additional tribunal (Constitutional Court)</b>	<i>1991 Constitution</i>	.75
<b>4. Ability to control election monitoring and monitoring entities</b>	<i>1979 Law (electoral code)</i> 1986 Decree 1988 Law 1990 Law 1990 Law 1994 Decree 1995 Law 1996 Decree 1997 Decree 2003 Decree 2007 Decree 2007 Decree 2008 Decree 2011 Decree 2013 Decree	1 1 .75 0 .75 .75 .75 .75 .5 .75 1 1+ 1+ 1+ 1
<b>5. Ability to decide primary IEG's budget (CNE)</b>	<i>1886 Constitution</i> 1979 Law 1985 Law 1986 Decree 1991 Constitution	.75 .75 .75+ .75+ .75

<b>6. Ability to decide secondary IEG's budget</b> (Registraduria Nacional Civil)	<i>1886 Constitution</i>	.75
	<i>1979 Law</i>	.75
	1985 Law	.5
	1986 Decree	.5
	1991 Constitution	.75
	2008 Constitutional Court Ruling	.75
<b>7. Ability to decide primary electoral tribunal's budget</b>	<i>1886 Constitution</i>	.75
	1991 Constitution	.75
<b>Category 3 (Election specific): Executive power over election legislation</b>		
<b>1. Ability to create electoral laws</b>	<i>1886 Constitution</i>	.5
	1979 Law	.5+
	1991 Constitution	.5-
	2000 Law	.5+
	2011 Decree	.5
	<b>2. Ability to create/change electoral districts</b>	<i>1886 Constitution</i>
	1991 Constitution	0
<b>3. Ability to amend aspects of the constitution concerning elections</b>	<i>1886 Constitution</i>	0
	1991 Constitution	0
<b>4. Ability to call for referenda/plebiscites</b>	<i>1886 Constitution (no mention)</i>	0
	1991 Constitution	.5
	1994 Law	.5
<b>Category 4 (Election specific): Executive Power over election campaign</b>		
<b>1. Ability to award government contracts during election campaign</b>	<i>1886 Constitution</i>	.5
	1985 Law	.5
	1986 Decree (electoral code)	.5
	2005 Law	.25
	2011 Law	.25-
	2012 Decree	0
	2013 Decree	.25
<b>2. Ability to restrict/control media</b>	<i>1886 Constitution</i>	.5
	1991 Constitution	.5
	1994 Law	0
	2005 Law	0
	2005 Constitutional Court Ruling	0
<b>3. Limits on president campaigning for their re-election</b>	<i>1886 Constitution (no reelection)</i>	N/A
	2004 Legislative Act	.5
	2005 Law	0
<b>4. Limits on president campaigning for any election</b>	<i>1886 No mention</i>	1
	<i>1979 Law (no mention)</i>	1
	2004 Legislative Act	.5
<b>5. Requirement for democracy measures for presidential candidate nominations</b>	See #6, below (no provision for presidential candidate, specifically)	
<b>6. Requirement for internal democracy measures for</b>	<i>1886 Constitution</i>	1
	1991 Constitution	1

<b>political party nominations</b>	2003 Legislative Act	.5
	2005 Law	.5
	2009 Legislative Act	0
	2011 Statutory Law	0-

The strength of formal executive power over elections in Colombia has diminished since 1979. For 20 the indicators, the level of formal power presidents have over Colombia’s electoral regime mostly decreased (11) or maintained the same level (7). The remainder of this sections describes the two increases in Colombia’s IEP, then discusses changes in the remaining categories in order.

Only two indicators of executive power increased in Colombia.<sup>49</sup> While this may be contrary to expectations for presidential systems in Latin America, it aligns with democratizing reforms over the last four decades. Colombia’s system gradually transformed from being heavily dominated by the executive and the top two political parties, even excluding third parties and independent actors, to becoming more open and decentralized. Interestingly, my systematic scoring reveals that executive power increased on only two parameters, and those are more abstract – affecting the electoral system indirectly. The first is number of presidential terms. Initially Colombia allowed only non-consecutive repeated terms, then banned any reelection, then eventually two consecutive terms were permitted.<sup>50</sup> However, perhaps to counter that increase, the length of the presidential term was reduced substantially from six to four years. In addition, a mechanism to recall the president was added in 1991, granting an important check on the executive.

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<sup>49</sup> This numeric analysis of the indicators alone omits important nuances. Not all indicators are of equal gravity – a change in some gives the president more power than a change in others. This is discussion later in Section VI.

<sup>50</sup> Interestingly, efforts to allow a third presidential term were thwarted by the Constitutional Court. And the next president, who began his second term in 2014, proposed ending the possibility of reelection. That reform was approved by Congress in June 2015.

The second indicator that reflects an increase in executive control of the electoral regime in Colombia is the ability to call for referenda or plebiscites. While this was not allowed prior to 1991, it became a potential tool for the executive with the new constitution. This increased the power of the president to call for a vote, but again, it is a somewhat abstract power as it does not alter his ability to directly influence voting. It is important to note that the only two incidents of increased executive power (reelection and referenda) were implemented through constitutional change, meaning they were difficult to implement and in theory are hard to change in the future. This is because changes to the constitution require stricter approval procedures (including extra congressional debates and constitutional court review).

The ability to control institutions that conduct and monitor elections is a significant source of power over the electoral system. In Category 2, we see the president's influence over the primary and secondary election institutions decreased significantly, as did influence over the Supreme Court and the State Council, over time. This means that the executive's ability to control four of the institutions that govern elections decreased – at least in a formal sense. Executive involvement in appointments to the Constitutional Court did not change since the court's creation in 1991. Additionally, executive power over election monitoring entities and the ability to control electoral institutions' budgets remained the same (although two experienced minor variation, the overall score at the end of the period was the same). These indicators represent all major actors in Colombia's election process, none of which ended the period of study witnessing increased executive control. Indeed, the trend to reduce executive power from electoral management is significant and is markedly different from the other countries of study.

Category 3 addresses very concrete, legislating abilities (creating law, forming electoral districts, and changing the constitution). Perhaps not surprising in a democracy, my analysis



suggests stability with regard to executive power.<sup>51</sup> Because these procedures are largely enshrined in the constitution, they are harder to change. In addition, basic, democratic legislative procedures have a long, established (and revered) history in Colombia (Interview with CNE Magistrate Carrillo 11/30/2015). Even with the new constitution, which includes significant changes in other areas, fundamental laws were not altered significantly with regard to the executive. The only increase in Category 3 was executive ability to call for referenda or plebiscites (i.e., call for a vote), albeit conditioned by the requirement of Senate approval and subject to the court's ruling on constitutionality.

Category 4 witnessed additional decreases in level of executive power, in this case during election campaigns and over candidate selection. Ability of the president to award contracts and control the media both diminished slightly. While Colombia, like many countries, struggles to enforce campaign accountability laws, significant steps were taken to at least implement legal limits. This study does not detail the limits on campaign spending, however, I tracked development of such laws. The 1986 electoral code contained no laws on campaign spending or government contracting during national election campaigns. Subsequently, the 1991 Constitution calls for law to set spending limits and states that parties/movements/candidates must publicly present their accounts. Following that, there was a veritable cascade of laws on this topic. A 1994 law regulates participation by political parties, financing, campaigning, etc. In 2003, a constitutional reform called for maximum campaign finance limits (to be set by Congress). Also in 2003, a decree set further campaign parameters, but a court sentence declared the decree unconstitutional. In 2005, in reaction to a reform allowing presidential reelection, Law 996 (the law of "Garantias" or guarantee, implying fairness) set maximum spending limits and campaign donation caps, as well as reporting and audit guidelines. Further, in 2011, law was passed to

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<sup>51</sup> However, interestingly, Venezuela and Ecuador witnessed changes in this category.

restrict campaign contributors from entering government contracts and details were established regarding funding guidelines for political parties and movements. Finally, a 2013 decree adds campaign finance precautions. While not all laws are perfectly implemented and enforced, this sequence demonstrates a significant effort to level the playing field and thwart excessive government control or domination by one party. Colombia's laws in this regard are far more comprehensive than Ecuador's and Venezuela's.

Limits on how the president could campaign in Colombia, either for his own reelection or for any election, evolved from non-existent, to some vague guidelines, finally to established, detailed restrictions. Legislation was also passed that now requires candidates be selected through democratic measures such as primaries: previously there was no mention, then it was suggested, and finally required by law. This limits somewhat the ability of the president to designate herself or her closest allies to candidacies.

In sum, the volume and intent of Colombia's body of electoral law signal a sustained commitment to distribute power among electoral institutions. Colombia's electoral regime is decentralized, with strong constraints on changing electoral law and balanced control over electoral governance. Judging by the volume of law alone, Colombia clearly values legal documentation and seeks adherence to written norms. In addition, while it has witnessed substantial revision to its body of electoral law, the balance of power remains decentralized with formal presidential powers in decline. Over time, the laws reflect increasing efforts to level the playing field and reduce advantages historically afforded to the executive. Whether this held true in reality, by effectively influencing the behavior of presidents, is addressed in Chapters 5 and 6. Certainly, the ability of presidents to run for reelection had a significant impact of increasing executive power, but it was approved only after lengthy debate involving multiple institutions

and the public, and was accompanied by concession to implement legislation to ‘guarantee’ fairness (seeking to level the playing field for candidates running against incumbents). Meanwhile, small changes over time to the overall management of electoral institutions (demonstrated in Table 3.2) have garnered less attention but likely have significant impact. Gradual changes reduced the role of the executive so that increasingly, control over the electoral regime is distributed equally among more political players. In addition, the fact that multiple institutions are involved provides an additional check on the president. From a normative standpoint, these changes represent a positive development for Colombia’s democracy, however, as we see in Chapter 5, decreased formal powers does not necessarily translate to decreased exercise of powers by the presidents.

To that point, not all laws are effective. Some laws that implicitly seek to limit executive power, in particular with regard to campaign spending and media limits, garner attention but experts complain they are not implemented or effectively enforced (Interview with CNE Magistrate Echeverri 11/25/2015). The quantity of law does not equal quality of outcome. The fact is, the president still commands substantial resources and media presence, the use (or abuse) of which are difficult to control. This is an issue that has yet to be addressed in Colombia as well as other countries, and is particularly challenging in countries that allow reelection.

#### **IV. Venezuela**

Organization of Venezuela’s elections is much more centralized than in Colombia – it essentially involves the primary IEG (Consejo Nacional Electoral or CNE) and – if there are contestations – the high court. The 1999 constitution established an additional, somewhat ambiguous, supervisory body, the Citizen Power (Poder Ciudadano in Spanish), which comprises existing

government accountability institutions and exercises a ‘republican moral authority’ over public actions. Table 3.4 lists the institutions involved in Venezuelan elections, provides the date and type of law that created or modified them, describes their composition and appointment procedures, then offers an assessment of the degree to which the executive *could potentially* control the institution.

<b>TABLE 3.4 INSTITUTIONS INVOLVED IN ELECTIONS IN VENEZUELA (Since 1979)</b>			
<b>NAME</b>	<b>YEAR/ TYPE OF LAW (that creates or modifies)</b>	<b>COMPOSITION &amp; APPOINTMENT</b>	<b>POTENTIAL ROLE OF THE EXEC- UTIVE <sup>52</sup></b>
<b>National Electoral Council – CNE</b> (formerly Supreme Electoral Council) <sup>53</sup>	1961: Constitution	Electoral Organization must be integrated such that no party or political group dominates, must be independent. PP have right to observe (vigilancia) over electoral process (Art 113)	Medium-low
	1977: Reform of Organic Electoral Law	Nine members elected every five years by 2/3 legislature in joint session (Art 39), five chosen from lists from two distinct political parties with highest vote percentage, other four are without political affiliation	Medium
	1993: Reform of Organic Electoral Law	Eleven directors (five from parties and six without political representation) [cannot access full copy of law]	Medium-Low
	1997: Reform of Organic Public Participation Law	Seven directors, elected by 2/3 legislature and cannot be affiliated with political party (Art 50, 51, 53)	Low
	1999: Constitution	Five members with no political ties (three from civil society, one from university, one from Citizen Power). Candidates presented by a Committee for Electoral Nominations (with representatives from different sectors of society as determined by law), elected separately for seven year terms, approved by 2/3 assembly [reduced to one chamber], can be removed by	Medium (potentially high with presidential majority in assembly and influence

<sup>52</sup> See Table 3.2 for explanation of scoring.

<sup>53</sup> In Spanish, Consejo Nacional Electoral and Consejo Supremo Electoral, respectively.

		assembly with pronouncement by Supreme Court (Art 295, 296).	over civil society)
	2002: Organic Electoral Law	Five members (called rectors) (three from civil society list, two from Citizen Power and universities) elected for seven years by 2/3 vote in assembly, with possible reelection for two additional terms. The 21-member Committee for Electoral Nominations (11 assembly members designated by plenary then choose 10 from other sectors of society) receives, reviews and selects from proposed nominees from law/politics university faculty, Citizen Power (with unanimous vote from Moral Republican Council), and social organizations. Assembly can remove rectors with 2/3 vote and Supreme Court pronouncement (Art 8, 17-21, 25, 30, 31).	Medium
<b>Supreme Tribunal of Justice – TSJ</b> (formerly Supreme Court of Justice) <sup>54</sup>	1961: Constitution	Justices elected by both houses of legislature for nine years (does not specify how many)	Low
	1976 Organic Law	Justices elected by joint session of Congress for nine year periods, renewing one third each three years and can be reelected. Congress, with two-thirds approval, can increase the number of Justices and number of chambers (Art 4). The Court shall sit in plenary, Political-Administrative Chamber, Civil Chamber and Chamber of Criminal Appeal, five Magistrates each (Art 24). Can declare null laws that contradict the constitution (Art 42).	Low
	1999: Constitution	Justices selected for one term of 12 years in election procedure determined by law, requiring that Candidates are proposed to Judicial Nominations Committee on their own or by organizations in the field of law. After hearing the community’s opinion, the Committee will carry out pre-selection to submit to Citizen Power which carries out second pre-selection to submit to National Assembly, which carries out final selection.	Low-medium (president has influence over Citizen Power and assembly)
	2004 Organic Law	Tribunal shall sit in plenary and chambers: Constitutional, Political-Administrative, Electoral, Civil, Criminal, and Social. Constitutional has seven justices, the rest five	Medium-high (increased number and

<sup>54</sup> In Spanish, Tribunal Supremo de Justicia and Corte Suprema de Justicia, respectively.

		each (Art 2). Justices approved by majority vote of assembly.	easier appoint, esp. with majority)
<b>Citizen Power</b> <sup>55</sup>	1999 Constitution	Citizen Power exercised by Moral Republican Council, comprised of Public Defender, Attorney General, and the Comptroller General (designated by National Assembly) (Art. 273)	Medium (as president influences Assembly)

In Venezuela, the CNE oversees election campaigns and voting procedures, and increasingly creates electoral law. It began as an organization representing the two dominant political parties (Copei and Accion Democratica), as with the liberals and conservatives in Colombia, and the executive's official involvement was limited to influence over the parties' nomination of its members. By 1997, however, following reforms to de-politicize electoral organization, this limited presidential involvement was eliminated as candidates to become CNE members could no longer represent political parties. The 1999 constitution added provisions reforming the CNE to represent civil society, universities, and government oversight entities (similar to Ecuador), and Congress is now charged with appointing members. However, in that same constitution the legislature was reduced to only one chamber, so the president could essentially control CNE appointments with a simple majority in Congress.

Justices on Venezuela's Supreme Court, which has jurisdiction over electoral matters,<sup>56</sup> were initially appointed in a two-thirds vote by a joint session of Congress, implying limited executive control. After 1999, justices are selected by Congress in a complicated process that allows increased control by the executive, particularly when the president enjoys a majority in the now-single chamber assembly. Further reforms under President Chavez enlarged the

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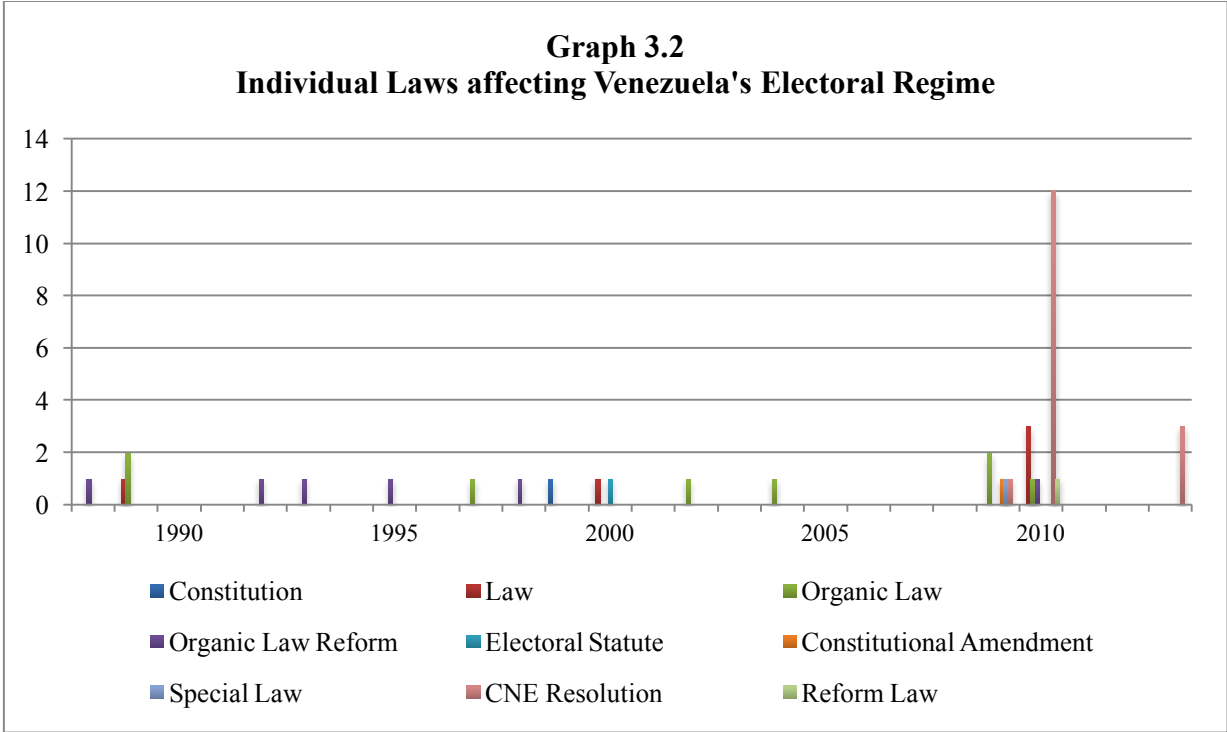
<sup>55</sup> Poder Ciudadano in Spanish.

<sup>56</sup> The Supreme Court is divided into chambers, one of which, the political-administrative chamber, has jurisdiction over elections. In 1999, the new constitution established a specific electoral chamber.

Supreme Court and reduced congressional approval from two-thirds to a simple majority, awarding him further opportunity to make high court appointments.

*Electoral Laws*

Venezuela’s body of electoral law is much leaner than Colombia’s. I identified 43 documents affecting all aspects of Venezuela’s electoral regime between 1979 and 2013, roughly half the number in Colombia. While there were fewer legal changes to Venezuela’s electoral regime than in Colombia, they were established through multiple methods, much like in Colombia, including constitutions (2), laws (6), organic laws (9), organic law reforms (7), electoral statute (1), constitutional amendment (1), special law (1), CNE resolutions (16), and reform to regular law (1). These are illustrated in Graph 3.2. Appendix 3D offers a detailed timeline listing Venezuela’s electoral laws.



Unlike Colombia, Venezuela initially maintained a steady and modest rate of modifications to the body of law governing the electoral regime. The increased use of different methods to change the regime is demonstrated after president Chavez came to power in 1998. A noticeable spike in 2010 followed passage of a new electoral law under President Chavez in 2009, which allowed the IEG (Consejo Nacional Electoral – CNE) to create law through resolutions, essentially bypassing the legislature. Between 2009 and 2013, 17 such resolutions were passed, adding significant detail to the electoral law. This means that rather than introduce, debate, and vote on changes to the electoral regime by elected officials in the assembly, appointed members of the CNE were making decisions and designing implementation of electoral rules.

Another significant change not visible on this graph is the increasing density of Venezuela's electoral rules – essentially the length and detail of each law. This is seen in part by the increased length or number of articles in each document. For example, the 1961 constitution had 252 articles, only a dozen of which pertain to voting. In contrast, the 1999 constitution has 350 articles, almost three dozen of which have implications for elections. Furthermore, Venezuela's electoral law went from being fairly straightforward to becoming immensely intricate. After 1977 reforms, the electoral law contained 189 articles. Subsequent reforms added a modest number of revisions, until the 1997 version contained 291 articles. When the new constitution was implemented in 1999, the initial temporary organic electoral law contained 69 articles. It was later replaced by a 2009 organic law containing 233 articles. In 2013, the CNE issued regulations to the electoral law, resulting in a law that now contains a whopping 491 articles. It is minutely detailed, accounting for all possible steps for institutional and electoral organization, and anticipating any possible transgressions. Provisions include significant



attention to restrictions and punishments for violations. Indeed, the wording and comprehensive nature of the legislation has a paranoid tone, as if anticipating voter theft and opposition party transgressions. These details suggest that comparing Colombia and Venezuela based on the *number* of laws alone only tells part of the story. Venezuela has fewer laws, but my analysis shows the content has significant impact on executive power (discussed later in this section).

Changes to Venezuela’s body of law that concerned executive power over national elections affected 13 out of a possible 21 IEP indicators, less change than in Colombia. Historically, Venezuela’s electoral system was more centralized and less complex than Colombia’s. Throughout the period of study, there were fewer institutions involved in the electoral regime, and the legal structure governing elections was largely consistent over time. A few reforms made in the 1980s and 1990s did not affect executive power significantly. This is likely a reflection of Venezuela’s ‘pacted’ democracy, where the two ruling parties benefitted from maintaining the existing electoral system. When Chavez was elected in 1998, he did not make major changes to the electoral system per se, but he replaced the constitution in 1999 and essentially re-designed the government such he was more likely to dominate all the appointments to institutions and law-making processes going forward. Like Table 3.3, Table 3.5 illustrates the amount of executive power in each IEP category by numerical score and demonstrates the direction of any change in level by color.

<b>TABLE 3.5</b>		
<b>VENEZUELA: INSTITUTIONALIZED EXECUTIVE POWER (IEP)</b>		
<b>INDICATOR</b>	<b>SOURCE</b>	<b>SCORE</b>
<i>Category 1 (Abstract): Amount of time Executive can wield power over elections</i>		
<b>1. Number of presidential terms</b>	<i>1961 Constitution</i>	.25
	1999 Constitution	.75
	2009 Constitutional Amendment	1
<b>2. Length of presidential terms</b>	<i>1961 Constitution</i>	.5

	1999 Constitution	1
<b>3. Presidential term susceptible to impeachment/recall</b>	1961 Constitution 1999 Constitution	1 0
<b>Category 2 (Election specific): Executive power over election administration</b>		
<b>1. Ability to appoint governing members of primary IEG (CSE, then CNE)</b>	1977 Reform of Organic Law 1988 Reform of Organic Law 1993 Reform of Organic Law 1997 Organic Law 1999 Constitution 2002 Organic Law	.5 .5 .5- .5- .5+ .5+
<b>2. Ability to appoint governing members of secondary IEG</b>	N/A	
<b>3. Ability to appoint judges to primary electoral court (CSJ, then TSJ)</b>	1961 Constitution 1999 Constitution	.5 .5+
<b>3a. Ability to appoint judges to additional tribunal</b>	N/A	
<b>4. Ability to control election monitoring and monitoring entities</b>	1997 Organic Law 1999 Constitution 2013 CNE Resolution	.5- .5+ .5+
<b>5. Ability to decide primary IEG's budget (CSE, then CNE)</b>	1961 Constitution 1977 Reform of Organic Law 1999 Constitution	.5- 0 0
<b>6. Ability to decide secondary IEG's budget</b>	N/A	
<b>7. Ability to decide primary electoral court's budget</b>	1961 Constitution 1999 Constitution	.5- .0
<b>Category 3 (Election specific): Executive power over election legislation</b>		
<b>1. Ability to create electoral laws</b>	1961 Constitution 1977 Reform of Organic Law 1988 Reform of Organic Law 1997 Reform of Organic Law 1999 Constitution 2010 CNE Resolution	.5 .5- .5- .5 1 1-
<b>2. Ability to create/change electoral districts</b>	1961 Constitution 1989 Organic Law 1999 Constitution	0 0 0
<b>3. Ability to amend aspects of the constitution concerning elections</b>	1961 Constitution (unspecified) 1999 Constitution	0 1
<b>4. Ability to call for referenda/plebiscites</b>	1961 Constitution 1997 Organic Law 1999 Constitution	0 1 1+
<b>Category 4 (Election specific): Executive Power over election campaign</b>		
<b>1. Ability to award government contracts during election campaign</b>	No mention	
<b>2. Ability to restrict/control media</b>	1988 Reform of Organic Law	.5

	1997 Organic Law 2009 Organic Law 2013 CNE Resolution	.5 .5+ .75
<b>3. Limits on president campaigning for their re-election</b>	No mention	
<b>4. Limits on president campaigning for any election</b>	No mention	
<b>5. Requirement for democracy measures for presidential candidate nominations</b>	No mention	
<b>6. Requirement for internal democracy measures for political party nominations</b>	No mention	

Despite witnessing fewer changes overall, IEP increased more in Venezuela than in Colombia over the time period of interest (additional comparative analysis provided in section six and Chapter 4). Colombian legislators consistently chipped away at executive power through reforms, whereas in Venezuela, initial changes to electoral law were largely aimed at decentralization to local government and reforming the party-list voting system, not directly impacting the president’s power over electoral governance. While I sought to score Venezuela on all indicators, because it has fewer institutions and its law is somewhat less comprehensive over certain election matters, Venezuela only had scores on 13 indicators (versus 16 for Ecuador and 20 for Colombia). However, of those 13, scores on nine indicators increased between 1979 and 2013, whereas there were only two increases out of 20 scores for Colombia. These measures show how executive power can be increased or decreased through formal means. The trend to empower presidents in Venezuela is also fairly recent – the most significant changes occurred after 1999. Over three decades, Venezuela experienced only three decreases in IEP out of 13 indicators, whereas Colombia had 11 decreases (out of 20). The remainder of this section discusses changes by category.

One decrease resulted from a new executive accountability measure added in Category 1 through the 1999 constitution, which is the ability to recall the president. In theory, this makes the president more susceptible to voter judgment, yet it is very difficult to implement this measure if the CNE is controlled by the presidents and opposes the move. This was witnessed in 2004 when the opposition unsuccessfully sought to recall Chavez (see Chapters 5 and 6). So, allowing citizens to ability to recall the president may appear to strengthen the democratic process, but the president also gained power over every institution needed to implement a recall, essentially empowering him to thwart any recall effort.

One of the most significant changes for individual Venezuelan presidents is the ability to remain in power and exercise control over elections longer. This was a trend witnessed across all three countries. Also in Category 1, not only can the president now run for reelection, per the new constitution in 1999, but further reform by referendum in 2009 allows presidents to hold office for an unlimited number of terms. In addition, in 1999 the term length was expanded to six years. These reforms offer the executive a chance to exercise any given power over elections for significantly longer duration. The cumulative influence of incumbency means powers can be enhanced by a president's seniority, contacts, influence, etc. (Masci 2014). In a sense, this is the most important reform for a president to achieve and was no doubt Chavez's principal strategy. Indeed, almost every president in this study sought reform for reelection or sought a second term (see Chapter 5). Gaining the ability to run for reelection opens the opportunity for a president to remain in power and gain more power over time.

Category 2 scores demonstrate increased formal executive power over appointments to the CNE and the high court, albeit small increments. While appointment power remains with the assembly, the assembly was reduced to one chamber and with a majority, the president holds

significant sway, especially with concurrent elections. In addition, the 1999 constitution added involvement in the appointment process of a judicial commission and the ambiguous “Citizen Power,” which arguably could be dominated with a majority government, especially to the extent the government controls resources and uses that advantage to influence citizen groups. In a country with major dependency on a single commodity (in Venezuela’s case, oil), in times of favorable prices the government commands significant influence by doling out state resources. In this sense, in a favorable economy the president can enjoy power beyond the institutional structure, as citizen groups, while appearing democratic, are dependent on state resources and could become obedient government supporters. Regarding the high court, a 2004 reform increased the size of the Supreme Court by 12 justices, allowing approval of high court appointments with only a simple majority in Congress. This allowed the president to appoint supporters (or ‘stack the court’). Finally, two decreases in this category involved a reduction in the executive’s ability to control electoral institutions’ budgets.<sup>57</sup>

Perhaps the most significant change to Venezuela’s IEP involves Category 3. Since 1999, the president can create electoral laws, as can the IEG (CNE). This influence is amplified by the fact that with a majority in Congress, the president has significant influence over appointments to the CNE. In addition, per the 1999 constitution, the president now has the ability to amend the constitution. He can initiate amendment “in counsel with cabinet” (Art 341), meaning his ministers must support, and can call for a national constituent assembly to draft a new constitution (Art 348). An example of this occurred in 2009, with Chavez’s amendment to eliminate presidential term limits. Venezuelan presidents also gained the ability to call for

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<sup>57</sup> This is partly because the 1999 constitution does not mention the president’s participation. The IEG can formulate its budget and send it to the national assembly for approval. Again, however, the president could have significant influence with a majority in the assembly.

referenda or plebiscites in the 1999 constitution, offering the possibility to approve policy changes by simple majority. Examples of this are described in Chapter 5.

Regarding election-specific indicators in Category 4, in contrast to Colombia, there are no limitations on the executive awarding contracts during election campaigns. In addition, there are a significant number of new restrictions against the media during campaigns, creating a possibility for the government to exercise control not only through the CNE, but through enforcement measures against the media as well. However, there are no limits, that I found, on presidents campaigning for their re-election or campaigning for fellow party members. Likewise, Venezuela has not implemented requirements for democratic nomination procedures by parties. These factors potentially strengthen the executive's institutional ability to influence elections.

In summary, Venezuela experienced the fewest changes to IEP scores, but the impact of changes to certain indicators was critical and the overall level of executive power remained high. Venezuela has a centralized electoral system with few entities involved in the electoral process. There are weak constraints on introducing or changing electoral law, with reforms that increased opportunities for executive involvement introduced in 1999. Subsequent implementation of reforms, including the constitutional amendment on indefinite reelection and changes to the appointment process for high court judges, concentrated power in the executive.

## **V. Ecuador**

From 1979 until 2008, Ecuador's electoral structure was centralized, constraints on changing law were weak, and formal control was balanced between the executive and the legislature. Since the 2008 constitution added new electoral entities, the structure became more decentralized, but control over the system became more concentrated as the president enjoyed top-down control.

Constraints remained largely the same except that now the principal IEG can create resolutions implementing electoral laws. The distribution of power across Ecuador’s electoral management institutions prior to 2008 was partly detrimental to effective functioning of the system, as political parties fought each other in the IEG (Tribunal Supremo Electoral – TSE, until 2008) and the TSE battled against other branches of government. Since Correa’s 2008 constitution, although it added a citizen committee to appoint officials and an electoral court, effective control over the electoral process has become more concentrated, or top-down (see Chapter 6). Again, before scoring IEP, I assessed formal control of Ecuador’s overall election management. Table 3.6 describes what entities are involved, their role, and potential executive influence.

<b>TABLE 3.6 INSTITUTIONS INVOLVED IN ELECTIONS IN ECUADOR (Since 1978)</b>			
<b>NAME</b>	<b>YEAR/ TYPE OF LAW (that creates or modifies)</b>	<b>COMPOSITION &amp; APPOINTMENT</b>	<b>POTENTI AL ROLE OF THE EXEC- UTIVE</b>
<b>Constitutional Court – CC</b> (formerly Constitutional Guarantees Tribunal – TGC) <sup>58</sup>	1978: Constitution	Eleven members comprised of three elected by Congress, the president of the Supreme Court, the attorney general, the president of the TSE, a representative of each of the following: the president, the workers, the chambers of commerce, and two from the citizens (elected from one list of elected mayors and the other list of municipal prefects) (Art 140)	Medium-Low
	1978: Election Law	Sanctions against electoral workers applied by the TGC (Art 14); TSE calls elections. If they fail to do so within the required time, the TGC calls elections and dismisses TSE members (Art 44)	No change
	1984 Constitution	The TGC comprised of 11 members elected by Congress for two year terms: three selected from outside Congress; two from president; two by citizens designated electoral college list, one from mayors and one from municipal leaders; one by national labor centers; and one by chambers of commerce (Art 140)	Medium

<sup>58</sup> In Spanish, Corte Constitucional and Tribunal de Garantias Constitucionales, respectively.

	1993 Constitution	Any court can challenge a law and constitutional chamber of Supreme court decides constitutionality (Art 141); TGC justices serve four years and can be reelected indefinitely (Art 143); TGC justices elected with 2/3 vote in Congress: three from outside Congress; two from lists from president; two from lists from judicial branch; one from list from mayors; one from list from provincial prefects; one from list from workers; one from list from chambers of commerce (Art 144); TGC reviews challenges to law's constitutionality, Supreme Court decides (Art 146)	Medium
	1996 Constitution	Nine justices serve four year terms and can be reelected, designated by Congress from lists: two from president; two from Supreme Court; two by Congress; one from mayor and prefects; one from workers and indigenous organizations; one from chambers (Art 174); CC decides constitutionality (Art 175)	Medium-high
	2008 Constitution	CC has maximum control over constitutional interpretation (Art 429); members are not subject to political judgment, can only be judged by CNJ with 2/3 vote and dismissal decided by 2/3 of CC members (Art 431); nine members serve nine year terms without immediate reelection (Art 432); designated by qualifying commission with two named from each of these Functions: Legislative, Executive, and Transparency & Social Control. Candidates undergo public competition process with citizen observation/challenge and parity among men/women (Art 434)	Medium-high
	2009 Organic Law (Electoral Code)	Conflicts of competency between the CNE and TCE not resolved by the parties is submitted to review and ruling by CC (Art 8). If CNE does not comply with call for elections, CC will require or will make call and dismiss CC members (Art 88)	
<b>National Court of Justice – CNJ</b> (formerly Supreme Court of Justice – CSJ) <sup>59</sup>	1978 Constitution	Justices are designated by Congress, for six year terms and can be reelected (Art. 101). Law will determine number of justices and organization/function (Art. 99).	Low
	1978: Election Law	Electoral infractions involving TSE members judged by CSJ (Art. 116)	
	1984 Constitution	Justices serve four year terms and can be reelected (Art 101)	
	1993 Constitution	Justices elected with 2/3 vote in congress, serve six years and can be reelected indefinitely, candidates	Medium

<sup>59</sup> In Spanish, Corte Nacional de Justicia and Corte Suprema de Justicia, respectively.



		presented in equal number by the congress, president, and judiciary (Art 104), CSJ constitutional chamber decides constitutionality of laws (Art 141); For the period 1992 – 1998, Congress will elect thirty justices to Supreme Court: 20 on its own, 10 from list from president (2 <sup>nd</sup> transition disposition); Justices elected for this term will renew partially 1/3 each in 1994 and 1996 (3 <sup>rd</sup> transition disposition)	
	1996 Constitution	CSJ chambers have three justices each. Law determines functions (Art 126); Same appointment process (Art 129); any court can rule law unconstitutional in a particular case, TGC decides general constitutionality (Art 172)	
	1997 Constitution	Justices not subject to fixed term, finish duties per causes determined in the constitution/law. When vacancy occurs, CSJ Plenum designates new justice with 2/3 vote (Art 129); For this instance, Congress designates 31 justices from lists proposed by entities representing civil society (religious, government, HR, lawyers, academic) (Transition disposition 16)	Low
	2008 Constitution	21 justices in specialized chambers serve only one nine year term (Art 182), elected by the Judicial Council in competition with opposition and merit, social challenge, and gender parity (Art 183); the Judicial Council has nine members serving six year terms with no reelection equally divided between men and women, designated through competitive merit and opposition with observation and challenge from citizens, six being legal professionals and three from areas of admin, economics, and management (Art 178, 179, 180); members of the Judicial Council selected by the CPCCS (Art 208)	Medium
	2011 Referendum	Judicial Council is replaced with a Transitional Council with three members, elected one each by the Executive Function, Legislative Power, and Function of Transparency and Social Control, for non-extendable period of 18 months (Annex #4). Organic Code is reformed such that Judicial Council has five members elected from lists sent by president of the Supreme Court (presides), Attorney General, Ombudsman, President, and National Assembly, elected by CPCCS through public process of scrutiny and monitoring with opportunity for citizens to impugn. Members serve six years. (Annex #5)	High
<b>National Electoral</b>	1978 Constitution	TSE is in charge of the electoral process, its organization is determined by law (Art 109)	

<b>Council – CNE</b> (formerly Supreme Electoral Tribunal – TSE) <sup>60</sup>	1978 Electoral Law	Seven members: three designated by the legislature, from outside its membership, representing the citizenship; two by the president; and two by the Supreme Court outside its membership. Five year terms. (Art. 17)	Medium
	1997 Constitution	Seven members selected by Congress from lists representing parties with most votes in last national election (Art 137)	Low
	1998 Constitution	Selection same. Members serve four years and can be reelected (Art 209)	
	2008 Constitution	CNE has five members who serve six years (Art 218); Members designated by CPCCS after selection process [see below] (Art 208, 224); legislature may not designate replacements for dismissed CNE and TCE members (Art 222)	Medium-high
<b>Electoral Contention Tribunal – TCE</b> <sup>61</sup>	2008 Constitution	TCE has five members who serve six year terms (Art 220); TCE reviews and resolves electoral recourses against CNE acts (Art 221); Members designated by CPCCS after selection process (Art 208, 224); the legislature may not designate replacements for dismissed CNE and TCE members (Art 222)	Medium-high
<b>Council of Citizen Participation and Social Control – CPCCS</b> <sup>62</sup>	2008 Constitution	CPCCS, part of Transparency and Social Control Function (new fifth branch of government) (Art 204); seven representatives serve five years terms with jurisdiction from the CSJ, subject to political judgment from the National Assembly, selected from candidates proposed by social organizations and the citizens in a public competition of opposition and merit conducted by the CNE (Art 205, 207); To complete function of designating TSE, CNE, and Judicial Council members, CPCCS organizes citizen selection committees with a delegate from each State Function and equal number representing social and citizen organizations chosen by public lottery among those who apply and meet requisites determined by law (Art 209)	Medium-high
	2009 Organic Law	CPCCS has seven members who serve five years, equal number men/women, based on best scores in selection process, at least one from indigenous populations, nominees proposed by social organizations and the citizens (Art 19, 23); CNE verifies nominees (Art 24), who perform aptitude test (Art 25), and realize qualification of merit and	Medium-high

<sup>60</sup> In Spanish, Consejo Nacional Electoral and Tribunal Supremo Electoral, respectively.

<sup>61</sup> In Spanish, Tribunal Contencioso Electoral.

<sup>62</sup> In Spanish, Consejo de Participación Ciudadana y Control Social.

		opposition (Art 28); To complete function of designation, CPCCS organizes citizen selection commissions to hold public contests of opposition and merit, integrated by one delegate from each: the executive, the legislature, the judicial function, the electoral function, and the Transparency and Social Control Function, and five representatives of social organizations/citizens chosen by public lottery among the 30 best qualified that nominate and comply with requirements, open to citizen challenge (Art 56, 59, 60, 61)	
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Of the three countries, Ecuador has developed the most complicated election management regime. Regarding electoral dispute resolution, Ecuador’s judicial hierarchy is essentially as follows: questions of constitutionality are handled by the constitutional court; electoral issues are handled by the electoral tribunal (especially during an electoral process, in which case its government authority is above the other branches); and the Supreme Court handles extraordinary issues such as rights and appeals. Despite the addition of new entities after the 2008 constitution, interviews with several experts from the public, private, and academic sectors in Ecuador revealed a gradual shift from distributed, party control of the electoral regime to top-down, government control (see Chapters 5 and 6).

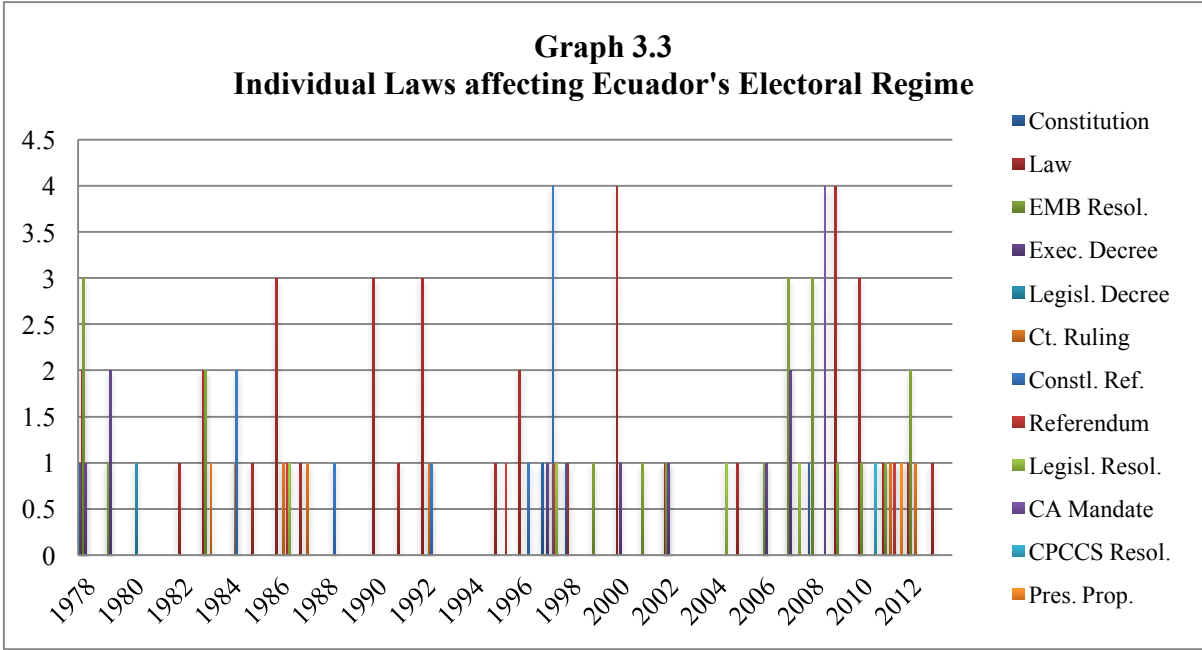
Electoral management in Ecuador was regarded as weak prior to 2008 (Interview with Verdesoto 7/30/2015). When electoral laws were first established after transition to democracy, appointments to the IEG and courts were made by the political parties in Congress, which represented elites and was the forum of power and national dialogue (Interview with Aguinaga 7/30/2015). While the political parties balanced each other’s power, citizens became frustrated by what they viewed as excessive control by party elites, and leaders faced increasing challenges of fractionalization – leading to negotiation of deals which many viewed as corrupt (Interview with Camacho 8/5/2015). Parties gradually lost credibility, a factor that Correa capitalized on to

justify restructuring the entire system (Interview with Rosero 8/5/2015). With Correa's new constitution of 2008, more regulatory power was concentrated in the IEG, and the government now essentially controls the appointment process of its governing members. Two new entities are involved in electoral management, an electoral tribunal (TCE) and a citizen oversight body (CPCCS). While this theoretically gives citizens greater oversight, it also provides the government with more opportunities for involvement, particularly when it commands a majority. Meanwhile, Congress was all but removed from having any role in the election management process, which is unusual. Correa's ability to put these changes into effect speaks to the extreme distrust of political parties leading up to his election, as an outsider, in 2007.

### *Electoral Laws*

Throughout the period of study, Ecuador has experienced constant changes to its body of electoral law. In addition to amending and replacing constitutions, the electoral law was amended and replaced several times. The new principal IEG (Consejo Nacional Electoral – CNE) can issue resolutions as well. Despite all this change, the electoral process is generally well respected (OAS 2008, 2009, 2011). For example, per the constitution, during election periods the electoral branch acts as the ultimate government authority, assuming power over the other branches of government. This is a safeguard that – to my knowledge – is unique to Ecuador. It was meant to secure electoral integrity and address fraud or manipulation experienced previously under military rule. Formally, the electoral branch can direct the government during election periods – including the military, which it commands to help facilitate the voting process.

I examined 103 statutes comprising Ecuador’s electoral law from 1978 to 2013, the highest number among the three countries. Ecuador also employed the highest number of different methods to implements change (12, compared to Colombia [6] and Venezuela [9]). These included 37 laws, 22 CNE resolutions, nine executive decrees, nine constitutional reforms, seven court resolutions, four constitutions, four referenda, four legislative resolutions, four Constituent Assembly mandates, one legislative decree, one CPCCS<sup>63</sup> resolution, and one presidential proposal. A detailed timeline of Ecuador’s electoral laws is available in Appendix 3E and illustrated in Graph 3.3.



Ecuador experienced the most change with regard to the phenomena my indicators capture: a total of 56 scores on 22 different indicators. This means the level of executive power increased and decreased through reforms on several separate occasions over time. These changes

<sup>63</sup> The Consejo de Participación Ciudadana y Control Social, or Council for Citizen Participation and Social Control, established in the 2008 constitution, is part of the fifth branch of government (the Transparency and Social Control Function), described later in the section. The electoral branch is considered the fourth branch.

raise questions about the stability of the voting process in Ecuador, with constant shifts to the legal foundations of the electoral regime. The amount of reform to Ecuador’s electoral law is fairly consistent over time, with some increase in volume over the last five years of study (2008-2013). This is partly a reflection of changing constitutions: the electoral law needed to be adapted to comply with each new charter. Reforms were also triggered by referenda, usually called by presidents. However, the overwhelming amount of electoral law stemmed from a very active national assembly and resolutions from the CNE. An Ecuadorean academic who follows politics there closely could not recall the country having ever held elections using the same rules twice during its democracy (Interview with Verdesoto 7/30/2015). This phenomenon is troubling for institutional stability.

Of the 103 pieces of law reviewed, only 14 significantly affected IEP,<sup>64</sup> perhaps because most major changes were implemented through new constitutions. This suggests some path dependency – if electoral law is set in constitutions, they will likely continue to be set there, as those with power to change the law will try to make it hard to change again (by setting it in the constitution). However, this also contributes to constitutional instability, because every time politicians want changes they must resort to altering or replacing the country’s founding principles. Several additional laws reviewed merely set regulations or impacted other aspects of elections not pertaining to IEP. Table 3.7 provides the scores and direction of change for each indicator.

TABLE 3.7 ECUADOR: INSTITUTIONALIZED EXECUTIVE POWER (IEP)		
INDICATOR	SOURCE	SCORE
<i>Category 1 (Abstract): Amount of time Executive can wield power over elections</i>		
<b>1. Number of presidential terms</b>	<i>1978 Constitution</i>	<b>0</b>

<sup>64</sup> Some additional laws affected IEP in minor ways. For examples, see the full IEP scoring document. Again, a “+” or “-“ indicates an increase or decrease in executive power, but not precisely as measured by the indicator, so while it did not change the score, it was worth noting the variation.

	1996 Constitution	.25
	1998 Constitution	.75
<b>2. Length of presidential terms</b>	1978 Constitution	.5
	1984 Constitution	0
<b>3. Presidential term susceptible to recall</b>	1978 Constitution	1
	1998 Constitution	1
	2008 Constitution	0
<b>Category 2 (Election specific): Executive power over election administration</b>		
<b>1. Ability to appoint governing members of primary IEG (TSE then CNE)</b>	1978 Electoral Law	.75
	1997 Constitutional Reform	.5
	2004 Legislative Resolution	.5
	2008 Legislative Decree	1
	2008 Constitution	.75
<b>2. Ability to appoint governing members of secondary IEG (TCE)</b>	2008 Constitution	.75
<b>3. Ability to appoint judges to primary electoral court (CS then CNJ)</b>	1978 Constitution	0
	1993 Constitution	.5-
	1997 Constitution	0
	2008 Constitution	.5+
	2011 Referendum	.75
<b>3a. Ability to appoint judges to secondary electoral court (TCG then CC)</b>	1978 Constitution	.75
	1984 Constitution	.75
	1993 Constitution	.75
	1996 Constitution	.75
	1998 Constitution	.75
	2008 Constitution	.75++
<b>4. Ability to control election monitoring and monitoring entities</b>	2008 Constitution	.5++
<b>5. Ability to decide primary IEG's budget</b>	1978 Constitution	.5
	2008 Constitution	.5+
<b>6. Ability to decide secondary IEG's budget</b>	2008 Constitution	.5+
<b>7. Ability to decide primary electoral court budget</b>	1978 Constitution	.5
	2008 Constitution	.5+
<b>7a. Ability to decide secondary electoral court budget</b>	2008 Constitution	.5+
<b>Category 3 (Election specific): Executive power over election legislation</b>		
<b>1. Ability to create electoral laws</b>	1978 Constitution	.5
	1984 Constitution	.5+
	2008 Constitution	.5
	2010 Organic Law	.5++
<b>2. Ability to create/change electoral districts</b>	1978 Constitution	0
<b>3. Ability to amend aspects of the constitution concerning elections</b>	1978 Constitution	.5+
	2010 Organic Law	1
<b>4. Ability to call for</b>	1978 Constitution	1

referenda/plebiscites		
<i>Category 4 (Election specific): Executive power over election campaign and candidate nominations</i>		
<b>1. Ability to award government contracts during election campaign</b>	<i>1978 Constitution</i>	<i>1</i>
	2009 Organic Electoral Law	.5
<b>2. Ability to control/restrict media</b>	<i>1978 Constitution</i>	.5
	1978 Electoral Law	.5
	1983 Supreme Court Resolution	.5
	2008 Constitution	.5
	2009 Organic Electoral Law	.5 ++
<b>3. Limits on president campaigning for their re-election</b>	<i>1978 Constitution</i>	<i>1</i>
	2008 Constitution	.5
	2009 Organic Electoral Law	.5
<b>4. Limits on president campaigning for any election</b>	<i>1978 Constitution</i>	<i>1</i>
	2000 Organic Spending Control Law	.5
<b>5. Requirement for democracy measures for presidential candidate nominations</b>	<i>1978 Constitution</i>	<i>1</i>
	2009 Organic Electoral Law	0
<b>6. Requirement for internal democracy measures for political party nominations</b>	<i>1978 Constitution</i>	<i>1</i>
	2009 Organic Electoral Law	0

While Ecuador experienced many changes to electoral law, its IEP scores varied less between 1979 and 2013 overall than did levels in Colombia or Venezuela. There were eight indicators with increased scores, while seven witnessed decreases. Scores on one indicator (ability to appoint governing members of the primary IEG) changed over time, but the final score was the same as the original. The fact that all of the indicators experienced some change is a testament to the constant variation of Ecuador's electoral law. In six indicators, the only relevant reference was in the baseline law (the 1978 constitution), therefore no changes were registered. Four of those changes were due to the introduction of new entities (a secondary IEG, the electoral tribunal, and a citizen monitoring entity, the CPCCS), which were not subsequently reformed. The other two resulted from the 1978 constitution setting a precedent that no subsequent law significantly altered.



While there were only slightly more increases in executive power than decreases, most increases occurred in the categories with arguably the most impact: the second, which is power over election administration; and the third, with is power over legislation. In addition, after the 2008 constitution, the president controls or has influence over additional election organizations (with the introduction of the TCE and the CPCCS). This represents an expansion of government oversight and involvement in the electoral adjudication process and appointment of justices. The remainder of this section describes additional interesting nuances in executive power variation by category.

In Category 1, the president gained significant opportunity to access power over elections after being allowed to run for a second term (starting in 1996). This essentially doubles the amount of time a president can accumulate and consolidate influence as well as promote his agenda. Executive power was slightly checked, however, by a reduced term length (from five to four years in 1984) and with the introduction of the full recall mechanism in 2008.<sup>65</sup> Overall there were more decreases than increases of executive power in this category, but the ability to run for a second term significantly increases the possibility for presidents to remain in power. As discussed, potential for reelection success is high in Latin America (and other countries), as executives enjoy a strong incumbency advantage (Corrales and Penfold 2014). According to Pew Research, “no incumbents from the 10 Latin American countries on the continent have lost bids for reelection” (Masci 2014). In addition, while the threat of recall is a powerful political tool, its successful implementation has been limited in the region (Marsteintredet and Berntzen 2008).

There were several significant changes in Category 2 over time that not only changed the appointment process, name, and structure of the primary IEG, but, in addition, two new entities

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<sup>65</sup> Recall was introduced in the 1998 constitution, but did not specify the right to revoke presidents until 2008.

were created. According to a former member of the TSE, the prior electoral law (1978) required representation among political parties to appoint members to manage the TSE, and one party never had a majority, so compromises and deals were always reached during the appointment process (and the executive could not completely control it) (Aguinaga, 2015). The top three parties were each formally guaranteed at least one representative. Usually the two representatives of the president were not from the same party, so political representation was diverse. In addition, some representatives were named by the president and the court, meaning members represented the three branches. They were thus forced to reach compromises that all three could accept.

Following a 1997 referendum, the 1998 constitution required the top seven vote-getting parties to submit lists from which Congress selected seven TSE members. Thus, it became more difficult for one party to control the TSE, including the president's party. Previously, if a party constructed an alliance in Congress, it could more easily control a majority of seats in the TSE.<sup>66</sup> Parties came to view TSE representation as an entitled 'quota' and could change or replace their representatives easily (to the detriment of institutional stability).

Designers of the 2008 constitution, stating goals to shift power from the discredited parties in Congress toward empowering citizens and other government entities, created the CPCCS. This was reportedly designed to address the perceived monopoly by political parties, avert constant gridlock, and prevent corruption resulting from deal-making. They essentially removed all appointment powers from Congress, establishing a new system with almost no political party involvement (unless you consider the political movement controlling

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<sup>66</sup> I was told parties would often name a friendly representative to the commission overseeing campaign spending (who obviously was not inclined to prosecute violations by their own party).

government).<sup>67</sup> Members of the new electoral court are also appointed by the CPCCS, but due to a complicated selection process that can require over six months, appointments are often delayed.<sup>68</sup>

Finally, executive ability to influence the budget of IEGs and courts increased slightly because the budget must now adhere to a ‘national development plan.’ This plan is drafted by the Executive Function. The Assembly may make observations, but cannot alter the total amount.

Category 3 considers the power of creating electoral law, which is more complicated than in Colombia and Venezuela. In Ecuador, it is important to consider the ‘Reglamentos’ – or implementing legislation – of constitutions and organic laws, according to a former CNE official and civic activist (Camacho 2015). Officially, the legal hierarchy is: first, the Constitution; second, Organic Law; third, Regular Law; and finally, Reglamentos, which are often issued in resolutions or presidential decrees (and not via the legislature). Technically, the latter should not contradict the former, but this is not always the case in practice according to an official with the government’s electoral think tank (Interview with Iturrabe 8/4/2015). There is room for interpretation and application by the institutions that create Reglamentos (like the executive or the CNE). Interestingly, with the 2008 constitution, the president lost the capacity to issue ‘Reglamentos’ for electoral law, but he can still exercise influence over the process (see Chapter 6).

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<sup>67</sup> The creation of a citizen commission was an effort to address ‘partyarchy’ and government corruption, yet the result, according to many observers, is a body controlled by the government majority. This presents an interesting contrast between partyarchy and hyper-presidentialism – each with their challenges. Neither system is truly representative. With domineering political parties, a few powerful members from each party controlled Congress and appointments, essentially perpetuating representation of the elites. The current system represents the majority, at the expense of opposition or minority groups. A similar complaint is heard regarding the new electoral court, or TCE.

<sup>68</sup> Many observers, including some in the government, have complained about the process being impractical and not truly representative. Former members of the CPCCS have denounced the system, but by the time of this writing nothing has been done to change it.

While presidents can no longer issue ‘Reglamentos,’ there have been executive decrees that directly impact groups involved in elections. For example, President Correa’s Decreto 16 impedes the work of civic groups, and other legislation has severely compromised independence of the media in Ecuador. In addition, new laws place cumbersome bureaucratic requirements on political parties. The president does not have the ability to create or change electoral districts, but recent laws implemented significant changes to the electoral system (regarding seat assignment, districts, etc.). Finally, in Ecuador the president has always had the capacity to call for constitutional reforms or initiate referenda or plebiscites, but after 1998 the president can call for a popular consult to create a constituent assembly for a new constitution, and, he can amend popular initiatives proposed by others. As address in Chapters 5 and 6, these tools representing executive power are often employed.

Category 4, which addresses election campaign and candidate nominations, witnessed the most changes that could potentially diminish executive power, with one notable exception. A new law created significant restrictions on the media and placed control over all media use during campaigns in to the hands of the CNE. This diminished media independence significantly, forcing media providers to submit to government authority, which is in effect ruled by a majority enjoyed by the president. Political parties must contract all advertisement through the CNE using government funds (with amounts set by the CNE), and with only government-approved media outlets. In addition, several detailed requirements for media use, guidelines for campaigns, and extensive penalties have created legal barriers for both parties and media outlets.<sup>69</sup> Regarding campaigning, a new law limits public officials from inaugurating new works or using state resources for campaign purposes. However, these are loosely implemented. Even a

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<sup>69</sup> For example, media are prohibited from making derogatory statements about a candidate (which hampers investigative reporting) and from reporting on political activities (hence no coverage of campaign activities).

representative of the CNE's democracy studies institute noted a legal vacuum regarding limits on presidents campaigning for reelection (Interview with Iturrabe 8/4/2015). For example, the candidate may not use the name of a governing political party to promote a public work, yet the president's slogan is on the billboard of every major project in the country (crediting the 'citizen's revolution' for each infrastructure project).

Finally, new laws require parties to use internal democracy measures for candidate nominations. While this, in theory, would place more decision power in the hands of voters rather than the executive, the internal democracy measures are closely monitored and conducted by the CNE, hence a government body currently controlled by a majority government manages the process.

In summary, Ecuador presents an interesting case, with mixed variation to IEP indicators (both up and down), yet little significant change to level over time. The structure of the electoral governance process was somewhat decentralized, and theoretically has become more so with new entities added to the electoral management regime, but control over the institutions has become more top-down as the president has more oversight of appointments (a power formerly distributed among different political parties) and the government overall controls more aspects of the electoral process (including party organization, media coverage, and campaign finance).

## **VI. Conclusion**

This chapter describes the massive volume of law undergirding the Colombian, Ecuadorean, and Venezuelan electoral systems from 1979 – 2013. It measured variation in executive power over those regimes over time, and highlighted trends in those changes. Very different electoral systems marked the three countries, despite being close neighbors in a relatively small sub-

region with some shared political history and regime type. Each country also witnessed significant changes within its formal structures over time.

As one might expect in a democracy, Colombia diminished executive power over elections consistently over time, but it also started at the highest level of the three countries. Reforms were introduced that gave more authority to political parties and independent institutions to manage the electoral regime, reducing the potential influence of the executive. Ecuador's level of IEP varied up and down, and ended with a slight decrease over time, but its final score was the highest of all three countries. It began the period of study with a more centralized electoral regime, with fewer entities involved in the electoral process, much like Venezuela. With the new constitution in 2008, more entities were added, but they can be controlled by the executive, essentially concentrating power in a top-down manner. Finally, Venezuela witnessed the fewest changes, but increased its level of IEP. The 1999 constitution and subsequent reforms increased the president's ability to control nominations to the CNE and the high court, as well as remain in power indefinitely, a formidable advantage.

It is important to note that the IEP scoring employed in this chapter can produce some misleading findings due to the potentially deceptive image of laws and their relative impact. For example, regarding image, it is possible to introduce reforms that look democratic, but disguise non-democratic impact. For example, while reforms adopted by Ecuador in the 2008 constitution appear to be balanced, because power to appoint electoral authorities is assigned to a citizen committee, that committee is run by the government and can be dominated by a majority president. Political parties are all but eliminated from the electoral management process there, which used to be largely controlled by plural forces Congress. While this can appear to remove partisanship from the system, it also removed the balance of power among actors, and allowed

one force to dominate. It is not surprising that the new system was called for and its design directly guided by former president Correa (who had no official political party at the time) and his supporters. Likewise, in Venezuela, the 1999 constitution allows citizens to recall the president. However, when the president controls the electoral entities that process the recall proposal, it is unlikely to succeed.

In addition, regarding scoring, it is possible that multiple reforms to limit executive power, such as campaign spending limits, requirements for party primaries, or reduced executive role in appointments, could reduce overall IEP score. But corresponding individual IEP increases might have greater impact (even if their point score does not outweigh the decrease), such as extended length of executive term, ability to call referenda, or unlimited reelection. Therefore, it is essential to understand not just the institutional design of the electoral system, but the power dynamics driving the process and interaction within complex reforms. Specifically, it is critical to understand the how these reforms were enacted and whether presidents exercised the powers assigned to them. The next chapter seeks to explain the variation (and instability) highlighted in this chapter, and later chapters address the specific role played by the executive.

## CHAPTER 4 – EXPLAINING IEP: INSTITUTIONAL INTERACTIONS AND EXECUTIVE STRATEGIES

*Chapter Outline: I. Introduction; II. Cross-national Change in IEP (DV #1): Hypotheses and Findings; III. Dramatic Changes in Level of IEP (DV #2): Hypotheses and Findings; IV. Case Studies Explaining IEP Change; V. Conclusion*

### **I. Introduction**

When Colombia, Ecuador, and Venezuela sought to consolidate democracy in the 1980s, they established electoral regimes designed to safeguard against a return to authoritarianism. Laws included provisions such as requiring representatives from multiple political parties to lead electoral entities and guaranteeing assembly seats for opposition parties. Over time, as discussed in Chapter 3, those formal systems were reformed, and changes were made not only to modernize and update electoral systems, but also impacting the role of the executive in electoral management. This chapter draws on an analysis of these three countries' experiences to develop a theory about why democracies concentrate power over elections in the executive to the degree that they do. I employ a two-pronged approach to explain why the level and nature of institutionalized executive power (IEP) – i.e., presidents' formal power over elections – varies across space and over time in Latin America. First, I explore several hypotheses to identify and analyze key variables based on approaches in the literature. I find that institutional variables, such as configuration of electoral entities and constraints on changing electoral law, had the greatest influence on level of executive power. When there are multiple entities that share authority over the electoral process, and there are constraints on changing the laws that require multiple entities to debate and approve changes, executive power is less likely to increase and even decreases. In addition, IEP decreases when popular presidents allow it to dip because



opportunities exist to seek broader or more important types of power. The process of how those variables worked is then traced through case studies.

I seek to explain how IEP (the first dependent variable, as defined and operationalized in Chapter 3) varies in two ways. To clarify, level of IEP is read off existing laws and reflects how much potential power a president has (as a *result of* those laws and institutions). I first seek to explain cross-national variation in the over-time trends in aggregate level of IEP that emerged in each country (DV #1). The trend line I develop for each country tracks the combined IEP scores on indicators in categories one through four over time.<sup>70</sup> The second dependent variable is “dramatic changes in IEP” (DV #2). This is a dichotomous variable – any point in time is either marked by a dramatic change (“yes”) or it is not (“no”). I selected for study the largest spikes and dips in IEP score in each country, with the goal of explaining dramatic changes in all cases.

In order to analyze these two types of IEP variation, I evaluated six hypotheses, generally derived from extant theory, but adapted independently to address electoral regimes specifically. First, based broadly on theory in new institutionalism, I expected the potential involvement of multiple government entities and restrictions in the established norms (that protect changing electoral laws) to influence the outcome: level and change in IEP over elections. One factor is captured broadly as institutional configuration, or the number of government entities involved in election management. These are entities that can play a role in efforts to formally empower or decrease the president’s power. The other factor is institutional constraints, or the extent to which formal barriers exist to changing electoral law (which can be strong, discouraging change, or weak, facilitating change). These variables were expected to best explain DV #1 because they

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<sup>70</sup> Category 1: Laws regarding amount of time Executive can wield power over elections; Category 2: Executive power over election administration; Category 3: Executive power over election legislation; Category 4: Executive power regarding election campaigns and over candidate nominations.

can create procedures and veto players that influence how formal powers are established and changed. These factors are clearly identifiable and change slowly, and thus are well suited to explain gradual change over time.

Second, I consider whether political and economic upheaval explains dramatic change in IEP over elections (DV #2), based also on studies of institutional instability and crises (Conaghan and Espinal 1990, Levitsky and Murillo 2009, O'Donnell 1993 and 1994). For this, I first consider spikes and dips in IEP scores in the aggregate, with countries being assigned a low, medium, or high score in IEP volatility (DV #2, H1). I track whether overall level of IEP volatility corresponds with overall level of major political and economic upheaval, assessed with a combined index of three factors (interrupted presidencies, constitutional replacements, and banking crises). Then, to account for spikes and dips in IEP over elections (DV 2, H2) individually, I considered also whether there were more specific corresponding crises. This “episodic occurrences” variable assesses whether the country experienced a significant economic or political upheaval preceding changes in IEP that could have been a trigger (i.e., coup/impeachment, severe economic or political crisis, security conflict, major social disruption, etc.).

Finally, employing an agency approach, I take a closer look at the potential role of the president in changing or creating institutions. While early institutional literature focused on the impact of institutions, I seek to explain how executives could influence those institutional changes. I consider the power asymmetry argument, which posits that presidents with higher level of support will seek greater executive power in new constitutions (Corrales 2013) or to remain in office (Corrales 2016). The potential for this dynamic is assessed with two variables: popularity (presidential approval ratings) and power advantage (majority in Congress). These

variables were expected to best explain DV #2 because I could trace support for a popular president along specific occurrences of IEP change.

Sections two and three present my hypotheses and findings, which suggest that institutional factors are better at explaining variation in IEP than crises and episodic occurrences or majority and mandate. While the institutional factors and IEP over elections thus seem to be correlated, how do we know that institutional and agential factors *actually caused* variation in IEP over elections? Section four seeks to demonstrate this causation through case studies. I argue that when electoral management is decentralized, and constraints on changing electoral law are strong, there is less likelihood for increased executive power. Specifically, Colombia's strong protections on electoral laws and distribution of authority across multiple electoral management entities created processes that prevented efforts by the president to increase executive power. They faced independent institutions that resisted efforts to concentrate power, and legal procedures that required multiple steps, allowing veto players to prevent or force compromise by presidents. Such institutional structures and restrictions made change difficult in either direction, but because multiple independent institutions sought to balance power, it led to decreased IEP over time in Colombia. The more strong institutions, the more effective they are in thwarting efforts to increase IEP and can actually work to decrease executive power. This is because institutional roadblocks and veto players delay and prevent efforts at increasing IEP.

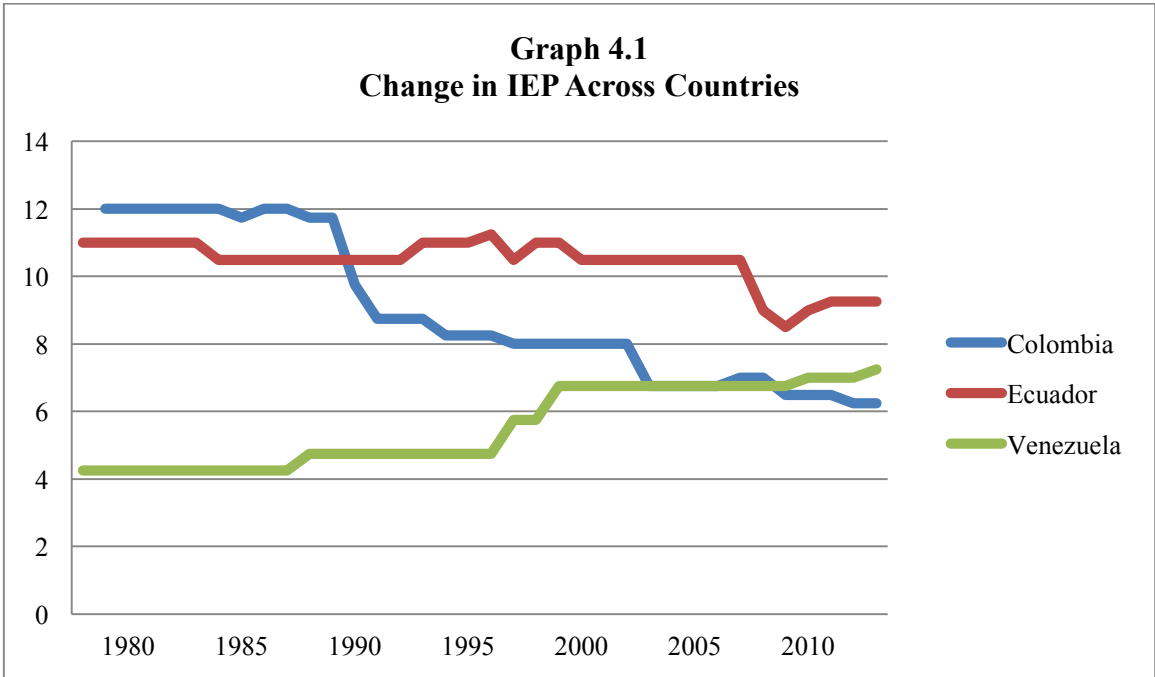
The absence of such mechanisms in Ecuador and Venezuela resulted in consistently high or increased IEP. When institutional factors are weak, they can be overcome by presidents. In addition, presidents sometimes employ strategies to bargain or compromise – agreeing to some reforms, while gaining power in other areas. When the president is very popular, the strength of institutional structures has less impact because popular presidents are able to employ strategies to

help overcome institutional factors (bargaining, persuasion, and compromise). This added nuance is addressed in section four as well.

In sum, IEP change is affected by a combination of institutional and agency factors. This argument is in line with literature highlighting the importance of institutions to democratic processes and illustrates how presidents can still overcome weak institutions to consolidate executive power. Section five concludes by summarizing my argument.

**II. Cross-national Change in IEP (DV #1): Hypotheses and Findings**

The first dependent variable is the over-time trend in overall level of IEP in all three countries across the period of study. I present a comparative view of country-level findings from the previous chapter. The outcome represents direction of change in the aggregate score in all four categories of IEP indicators for each country, based on scoring described in Chapter 3. Graph 4.1 (below) depicts significant decrease over time in Colombia, a slight decrease in Ecuador, and overall increase in Venezuela’s IEP over elections.



As the graph shows, Colombia's level of IEP began the highest all three countries. Ecuador, at the end, retained the highest overall level of IEP of all three countries. Finally, and perhaps of concern, is that Venezuela initially had the lowest level of IEP, but over time it increased to surpass Colombia. The high level in Ecuador and rising trend in Venezuela speak to widespread concerns about increasing authoritarianism in the region, contradicting previous optimistic expectations for post-democratic trajectory. During a period when countries were supposedly becoming more democratic, one would expect the trend witnessed in Colombia, not increasing or consistently high level of executive power as seen in Venezuela and Ecuador. To explain these aggregate trends, I consider two hypotheses.

*DV #1, H1 (institutional configuration): IEP is more likely to increase over time in countries where presidents faced fewer institutional obstacles or veto players (centralized configuration) and to decrease over time where presidents faced more (decentralized).*

This hypothesis argues that when power is distributed across more entities (decentralized structure), more coordination is required by the president and his supporters to pass policies that increase his power over elections over time. This argument is derived from institutional theory (Carey 2000, Persson and Tabellini 2003), which has been applied to argue that formal, organized political institutions support democracy (O'Donnell 1994, 57-59). More specifically, the interaction of institutions has transaction costs (Reynolds 2002), and multiple entities can act as veto players, as actors must agree to create or change policy (Tsebelis 1995). More veto players increase negotiation and influence the ability to reach agreement (Tsebelis and Aleman 2005).

I adapt these approaches to argue that an institutional configuration characterized by a higher number of entities is more likely to establish checks and balances, and prevent concentration of power in one branch over other institutions. Arguably, there are more aspects to

institutional interactions and functions (regarding strength and independence)<sup>71</sup>, but this variable captures the potential amount of coordination required by accounting for the number of entities involved. It is also a good estimation of how distributed the powers or at least authority over elections are. This is because the separate entities can participate in lawmaking and act as veto players, that can block measures to empower the president either because they seek to maintain their relative power or to preserve an equilibrium to maintain democracy. In addition, institutions are self-preserving, with an inherent interest to maintain their relevancy. Granting power to another entity, such as the executive, would likely be resisted by other government organizations as it could lead to a power disadvantage for them. Finally, the more institutions, with their own appointment, mandate, and culture, the greater chance of representation by different political interests, some of which might oppose empowering the current president. Conversely, when presidents face fewer institutions, and power is more concentrated, I expect presidents and their supporters are more likely to overcome the entities and achieve increased power.

To evaluate institutional configuration, I considered two factors: the number of entities involved in electoral management and the number of houses in the legislature requires to change electoral law. While a raw count does not exactly reflect the ability of those institutions to act for or against efforts to empower the president, they provide an account of the number of actors involved in the process and could create obstacles or at least coordination challenges. The more entities suggests more potential challenges in coordinating to pass reforms. These institutions are described in more detail in Chapter 3, and each has authority or influence over some aspect of creating or changing the electoral regime (i.e., if the president or his or her supporters seek to change level of executive power over elections, these entities can influence or thwart the

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<sup>71</sup> Such factors are difficult to quantify and compare systematically across countries, however, I evaluate them in my case studies (in Section V and in Chapter 6). In the Conclusion (Chapter 7), I propose ideas for further research to identify, evaluate, and compare scoring on institutional strength or independence.

process). I tally the total number of institutions and label comparatively: Colombia has the most entities and is labeled “high” with seven; Ecuador has four, then six, and is labeled “medium” then “high”; and Venezuela consistently had four institutions and is labeled “medium” as well. The trend is labeled based on whether there were changes to the institutional configuration. For example, Colombia consistently had the same entities, and is labeled “stable.” Ecuador added two entities after 2008, so its trend was an “increase.” In Venezuela there were always four entities, but their composition changed (in 1999 the legislature was reduced from two chambers to one, reducing the number, but a citizen committee was added, so the tally remained the same), so it is labeled “varied but stable.” Table 4.1 shows each countries’ institutional configuration, drawn from the data in Tables 3.2, 3.4, and 3.6.

<b>Indicator</b>	<b>Colombia</b>	<b>Ecuador</b>	<b>Venezuela</b>
Number of entities with authority over electoral management	5 <sup>72</sup>	3 (pre-2008) <sup>73</sup> 5 (post-2008)	2 (1961-1999) <sup>74</sup> 3 (1999-present)
Number of houses in legislature <sup>75</sup>	2	1	2 (1961 – 1999) 1 (1999-present)
Total number of institutions	High (7)	Medium-high (4 then 6)	Medium (4 then 4)
Trend	Stable	Increase	Varied but stable

*DV #1, H1 Findings*

My analysis found support for this hypothesis. Venezuela witnessed increased IEP and it had the least institutions involved in electoral management and law-making. While the entities

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<sup>72</sup> State Council, National Electoral Council, National Civil Registrar, Supreme Court, and Constitutional Court.  
<sup>73</sup> Pre-2008: Constitutional Guarantees Tribunal, Supreme Court of Justice, Supreme Electoral Tribunal; Post-2008: Constitutional Court, National Court of Justice, National Electoral Council, Electoral Contention Tribunal, Council of Citizen Participation and Social Control.  
<sup>74</sup> 1961-1999: Supreme Electoral Council, Supreme Court of Justice; 1999-Present: National Electoral Council, Supreme Tribunal of Justice, Citizen Power.  
<sup>75</sup> This could potentially be more important than number of electoral entities, and might be weighed more heavily in future iterations.

within its institutional configuration changed, the number of institutions remained stable and centralized. An entity, “Citizen Power,” to process nominations to government posts including appointments to the IEG and the high court, was added in 1999, but the number of houses in the legislature was simultaneously diminished from two chambers to one. So, in effect, there was an added player in the management of elections, but a reduced legislature. Although an entity with the potential to block executive efforts was added (Citizen Power) and another was removed (legislative chamber), with a majority in the now single-chamber Congress, the executive could easily dominate the new nominations entity. In addition, with only one chamber in the legislature, the steps to exercise power over elections (i.e., by creating laws or pushing appointments) were reduced and became more easily facilitated by the president and his supporters. Fewer entities (comparatively) also implies less institutional incentive to protect independence and autonomy, because electoral management is more concentrated under one power. Supporting the president could be seen as potentially bolstering an entity’s standing within an administration, and that loyalty would be rewarded by the president.

In contrast, Colombia showed the most pronounced trend in DV #1 with a continuous decrease in IEP over elections. It also had the highest number of institutions comprising its electoral management and law-making. Various causal mechanisms are possible. First, there were more players in the electoral realm to potentially impede efforts to increase executive power. Compared with Venezuela, in Colombia, power is distributed across more entities, as well as houses in Congress.<sup>76</sup> Hence, Colombian presidents and their supporters rarely succeeded in overcoming these steps to increase executive power. For example, Uribe and his supporters worked arduously to pass a reform to allow a second presidential reelection (i.e., a third term),

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<sup>76</sup> Added to that is the challenge of cobbling together a governing coalition among political parties within Congress to agree to support the president.



but ultimately failed to gain approval from the many entities involved in reform procedures (elaborated in Section IV).

On the contrary, reformers in Colombia were able to *decrease* executive power. It appears that more institutions made decreasing IEP possible, because multiple entities were motivated to maintain and increase autonomy. Colombia started the period of study with very high executive power, but after the 1991 constitution, which reduced executive power, a trend to seek more balance of power ensued. Change in any direction was difficult in Colombia because so many institutions were involved, but involvement by multiple institutions facilitated a trend to work together to maintain balance of power, rather than allow it to be concentrated in the executive. Institutional configuration could work to gradually decrease executive power over elections over time. Because power was distributed among several institutions, entities were inclined to retain their power. Rather than support reforms to increase executive power, these entities worked to maintain distribution of power or support efforts to diminish that of the president. When there are fewer institutions, power is already more concentrated, and institutions have less incentive to remove power from the centralized source, because they likely benefit from being close to the source of power. In Colombia, where there were many institutions, there was only one major increase to executive power in 2005, that of presidential reelection. This effort, however, was delayed due to IEG review, congressional debates, and court review. Also, in order to gain approval, supporters in Congress were pushed to create parallel legislation designed to even the playing field and counter the rise of incumbency advantage (addressed in Chapter 6). Colombia's institutional structure may have created an environment where efforts to increase executive power over elections, at least formally, were challenged, while limits on

presidential power more often prevailed. A main goal of the case studies is to evaluate these causal mechanisms and figure out which are in operation and how they work.

In Ecuador, an increase in institutions corresponded with a decrease in IEP, but the causal mechanism was different. Ecuador showed slight variation in formal executive powers over elections over time, with a more significant decrease in 2008. Before 2008, it had a medium number of institutions involved in electoral management and law-making, which suggests political forces were able to succeed in increasing IEP occasionally. Perhaps due to the instability caused by frequent constitutional changes, compounded by years of political instability and economic crises, by 2007 political parties and institutions were significantly weakened and discredited. This is when President Correa was elected and easily overpowered weak, existing institutions to completely redesign the government (he blatantly disregarded Congress and the IEG to replace the constitution). Perhaps to appease voters frustrated with corruption, the new constitution created more institutions with control over elections, which corresponded with a decrease in IEP; that is, at least formally, more IEGs corresponded with a decrease in formal executive power. When more entities were added, the score of the president's power was diluted. However, as we see later, when the president and his supporters designed these rules, although there were more institutions, it was easy to dominate or manipulate them.<sup>77</sup> This suggests that while a raw count of institutions is important, it does not completely capture actual constraints on the president. A critical caveat therefore is that when the institutions are created by the sitting president, and that president has the ability to influence how the entities are comprised, they could be beholden to the executive and do not necessarily function as a constraint on his power.

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<sup>77</sup> Chapter 5 and 6 describe how Correa dominated appointment procedures.

In sum, when the institutional configuration of electoral management is distributed among multiple entities, IEP less likely to increase. Institutions worked to maintain a balance of power and even decrease IEP over time. Concentrated institutional configuration allowed increased IEP, or changes that continued concentration in the executive (Ecuador).

*DV #1, H2: IEP is more likely to increase over time in countries where electoral law is more easily changed (weak institutional constraints).*

Hypothesis 2 is based on theories in the literature that demonstrate how formal rules affect policy outcomes (Carey 2000, Persson and Tabellini 2005, Reynolds 2002). When the law is easier to change, there can potentially be more successful attempts by leaders and their supporters to increase executive power. This assumes presidents and their parties seek greater power over elections, which is represented in the literature (Elkins, Ginsburg and Blount 2009, Corrales 2016). The causal mechanism underlying this hypothesis is similar to the one underlying the institutional configuration hypothesis: if electoral laws can be changed through regular law or effectively set by IEG regulations, it is easier for presidents or their allies to increase executive power because they only need to convince a simple majority or persuade a small handful of members in the IEG. Where electoral laws are protected in the constitution or are otherwise more difficult to reform, presidents and their allies are less likely to accomplish all the steps necessary to approve increased executive power. Political forces seeking to empower the executive face more challenges when they must gain legislative, IEG, and high court approval, as the chances of being able to dominate all branches are lower. The odds that at least one of these institutions will resist efforts to relinquish power or concentrate it in the executive are higher than if the president faces less constraints on changing electoral laws. In addition,

extra procedures take time, allowing for public scrutiny and critique, which could cause opposition among legislators and other officials.

To measure institutional constraints, I evaluated the procedures to change electoral law in the three countries and assessed the difficulty of doing so. Data were collected from the countries’ constitutions and laws, described in Chapter 2, as well as input from experts. I assign a blunt score to describe if the law is very rigid or difficult to change (stronger), somewhat difficult (medium), or easy (weaker). Some change during the period of study is worth noting because it impacted institutional constraints. In Ecuador, the 2008 constitution increased protection of electoral law (limiting the time period in which it is eligible for reform), but the new constitution also allowed the IEG to create electoral law regulations. Therefore, the changes essentially balance each other out as far as protecting from change to electoral law. Similarly, in Venezuela, the 1999 constitution permitted the IEG to regulate electoral laws, which weakened the constraints on electoral law, therefore Venezuela’s score dropped from medium to weaker. Colombia’s constraints on changing electoral law were strong throughout the period of study. Table 4.2 describes the three countries’ institutional constraints.

<b>Table 4.2</b>	
<b>Institutional Constraints: Changing electoral law</b>	
<b>Colombia</b> <i>(stronger)</i>	Electoral law has constitutional standing, hence to change it requires the same procedures as amending the constitution. The constitution can be reformed through an “Acto Legislativo,” which is legislation requiring a rigorous process: it must go through two rounds of debate in both houses of Congress, resulting in eight debates (four requiring simple majority and four requiring absolute majority for approval). Additional precautions require the reform to pass within one session of Congress and reform is not permitted during the year prior to an election. In addition, the reform must be reviewed and approved by the Constitutional Court. <sup>78</sup>
<b>Ecuador</b> <i>(medium)</i>	Electoral law does not have constitutional standing, but it must be “organic law,” making it superior to regular laws (Art. 133). The 2008 Constitution (Art 117)

<sup>78</sup> In addition to my review of the constitution and laws, insights were gained from Dr. Pedro Pablo Vanegas, constitutional law professor at Universidad Externado, Bogota, Colombia (Meeting 11/23/2015) and Yolima Carrillo, Magistrate of Colombia’s IEG, the Consejo Nacional Electoral (Meeting 11/30/2015).

	added a prohibition to changing electoral law within one year before elections. However, the new constitution permits the IEG to create regulations that essentially implement electoral law and technically should not contradict the law and the constitution. This provision gives the IEG discretion to emit norms that shape the electoral process. The 2010 Electoral Code does not have implementing legislation (as of February 2017), nor have the procedures for contesting electoral processes or irregularities been regulated/established, hence the IEG regularly proliferated norms. Some of these are difficult to manage and could be interpreted based on political context. <sup>79</sup>
<b>Venezuela</b> ( <i>medium- weaker</i> )	Electoral law does not have constitutional standing, but must be “organic law,” meaning modification requires debate by two-thirds of those present in the National Assembly. Per the Constitution of 1999 (Art. 293), the IEG can ‘regulate the laws’ (issue implementing regulations) and ‘resolve doubts or omissions’ as long as they do not contradict the laws. Where the law is silent, the IEG can essentially dictate regulations. This results in a similar situation as in Ecuador, where impartiality of regulations depends on composition of the IEG. <sup>80</sup>

### *DV #1, H2 Findings*

Evaluation of this hypothesis produced mixed results. Colombia has the most rigid procedures to reform electoral law, and it witnessed almost no increase in formal executive power over elections over three decades. This finding supports the argument that when the president and his or her supporters face a more difficult process, with added checks and potential veto players, their likelihood of successfully increasing the president’s power is diminished. Hence, Colombia’s experience suggests that when electoral laws are protected in the constitution or are otherwise more difficult to reform, presidents and their allies may be less likely to accomplish all the steps needed to increase executive power.<sup>81</sup> The mechanisms in this process are explored in section four.

<sup>79</sup> Additional insights gained from Víctor Hugo Ajila, electoral law expert formerly with Ecuador’s electoral tribunal (TCE), currently a lawyer in private practice (E-mail 2/12/2017).

<sup>80</sup> Additional insights gained from Dr. José Molina, electoral law expert at Universidad del Zulia, Maracaibo, Venezuela (E-mail 2/11/2017).

<sup>81</sup> In fact, as shown in Chapter V, there were even fewer *attempts* by presidents to exercise power over elections.

However, despite strict institutional constraints safeguarding electoral law, Colombia still witnessed the most changes to level of IEP over time. While reformers were not very successful in changing laws to increase executive powers over elections, there were many successful attempts to reduce executive powers. Constraints to reform electoral law were overcome when efforts aimed to *decrease* IEP. This suggests that since transition to democracy, multiple institutions were more willing to work together to reduce executive power, i.e., more players shared an interest in maintaining and improving the distributed portion of power, rather than let it become concentrated in the executive. Protections under Colombian law encouraged more democratic deliberation, because changing the institutional structure required additional debates, IEG approval, court review, etc. These procedures, as I show in section four, have the potential to temper, delay, and thwart authoritarian trends.

Electoral law is somewhat easier to make or change in Venezuela (it in fact became easier after 1999), and in that country IEP increased the most and was the second highest level at the end of the period of study. This supports the argument that if electoral laws can be changed through regular law or set by IEG regulations, presidents or their allies will more easily take advantage to increase executive power. This was likely facilitated by the fact that they only needed to convince a simple majority in Congress or persuade only five members of the IEG to affect change. Again, with a majority government this was more easily facilitated.

Ecuador represents a middle case. Electoral law is easier to change there than it is in Colombia. There were increases and decreases in IEP, but variation did not have a pronounced trend in one direction or another there (IEP decreased somewhat, with a small spike toward the end). Most importantly, its IEP level remained the highest of all three countries. Presidents and their supporters were able to maintain a high level of institutionalized executive power there,

amid constant instability (see Table 4.3, next section). Interestingly, Ecuador witnessed increases *and* decreases in IEP around the same time. As in Colombia, presidents and their supporters introduced democratic reforms to reduce executive power while adding others that strengthened it. The reductions likely represent compromise, while parallel increases boosted power (and potentially more effective powers) for the president. This suggests that institutions and legal restrictions can be important, but another factor is likely at play. This intervening variable, possibly involving strategic approach or compromise by popular presidents and their supporters, is addressed later when looking at executive mandate (popularity and majority).

In sum, it is plausible that institutional factors influenced IEP change. Evidence from the case of Colombia shows that when more institutions are involved, and the process to change electoral law is stringent, the likelihood of increasing IEP is diminished. In Venezuela, relatively easier rules of change likely contributed to efforts that increased IEP there. Finally, Ecuador experienced many IEP changes, albeit not in a consistent direction. It too had fewer institutions and fewer constraints. Interestingly, toward the end of the period of study it instituted changes that decreased IEP, but those changes, as we see in later chapters, did not always result in an effective reduction of executive power. This is why it is important to understand change to IEP, formal powers, but also subsequent exercise of power, to note the real effects of these changes.

### **III. Dramatic Changes in Level of IEP (DV #2): Hypotheses and Findings**

The second dependent variable is dramatic changes in IEP, or spikes and drops in level of executive power. This outcome captures the degree of volatility in countries' electoral law. The goal of the analysis is to explain cross-national variation in degree of volatility in IEP over elections, and direction of changes in the level of IEP over elections, during the time period of

interest. To assess the most dramatic changes, I identified episodes when the IEP score jumped or dropped by more than half a point. A half point or higher represents a significant change, considering that the scores only vary within an eight-point range – from four to 12 points (see Graph 4.1), and that a half point could represent changes as significant as a president gaining the ability to create electoral law or call for referenda (again, see Table 3.1 for indicators). Table 4.3 lists the sample of six spikes (in Ecuador and Venezuela) and 10 dips (in Colombia and Ecuador).

<b>Table 4.3</b>			
<b>DV3: Dramatic Changes in IEP<sup>82</sup></b>			
<b>(amount of change in parentheses)</b>			
	Colombia	Ecuador	Venezuela
<b>“Spikes”</b>		1993 (.5) 1998 (.5) 2010 (.5)	1997 (1) 1988 (.5) 1999 (1)
<b>“Dips”</b>	1990 (2) 1991 (1) 1994 (.5) 2003 (1.25) 2009 (.5)	1984 (.5) 1997 (.75) 2000 (.5) 2008 (1.5) 2009 (.5)	
<b>Total volatility</b>	5 changes (5.25)	8 changes (5.25)	3 changes (2.5)

Ecuador’s electoral law exhibited the most volatility with the highest number of dramatic changes. Not surprisingly, Colombia had the highest number of dips. Venezuela had the fewest dramatic changes, with only three spikes. In other words, volatility is highest in Ecuador, at a medium level in Colombia, and lowest in Venezuela. I seek to explain this cross-national variation by looking at the dependent variable in two ways. First, I look at the country with greatest, medium, and least IEP volatility (combined number of spikes and dips) to see if

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<sup>82</sup> Data drawn from Graph 4.1 “Change in IEP Across Countries.” Caveat that each case can represent a different type of executive power, such as ability to create electoral law or ability to appoint officials to the electoral court.



institutional factors (instability from coups, constitutional crises, and financial ruptures) are a factor (DV #2, H1). Then, I consider whether individual spikes or dips can be explained by specific episodic occurrences of political and economic upheaval (DV #2, H2). Finally, I consider agential factors, such as the president’s popularity (DV #2, H3) and whether he has a majority (DV# 3, H4), to gauge their potential role in influencing IEP change.

*DV #2, H1: Countries with more major political or economic upheaval will be marked by greater IEP volatility.*

Theory tells us that political or economic instability can foment institutional instability as weak institutions do not always survive crises (Levitsky and Murillo 2009, O’Donnell 1993). The recurring presence of authoritarian-style leaders to confront these crises leads to arbitrary rule and institutional instability (O’Donnell 1994). Ecuador has even been labeled a “crisis-prone democracy” with continual weak institutions prompting dictatorial-type rule (Conaghan and Espinal 1990). I hypothesize that this cycle of political and economic upheaval can lead to more overall spikes and responsive dips in executive power over elections as policymakers seek to address crises, and this motivates them to empower their executives (or executives to seize power), followed by potential reductions in executive power to correct the imbalance. To operationalize political and economic upheaval broadly (IV3), I create an index of significant institutional and financial instability events: 1. Interrupted presidencies 2. Constitutional replacements; and 3. Banking crises, in the period starting five years before the first IEP drop or spike in 1984 until the last one in 2010, so, 1979-2010.

<b>Table 4.4</b>					
<b>Political and Economic Upheaval 1979-2010</b>					
<i>Country</i>	<i>Level of IEP</i>	<i>Interrupted presidencies</i> <sup>83</sup>	<i>Constitutional replacements</i> <sup>84</sup>	<i>Systemic Banking</i>	<i>Upheaval score</i>

<sup>83</sup> Failure of a democratically elected president to finish their term (Valenzuela 2004, Martinez 2015).

	<i>Volatility</i>			<i>crises</i> <sup>85</sup>	
Venezuela	low	1	1	1	3
Colombia	medium	0	1	2	3
Ecuador	high	3	5	2	10

As expected, the country with the most volatility in IEP scores, Ecuador, also experienced the most political and economic upheaval. This suggests that policymakers are constantly responding to crises and attempting to change level of executive power as one tool to address instability. Ecuador also retained the highest level of IEP, meaning political and economic upheaval could contribute to maintaining significant executive power. Venezuela and Colombia had low and medium volatility in their IEP scores respectively, and both experienced significantly less upheaval than Ecuador. In sum, this demonstrates a potential relationship between changing level of executive power and crises, but it does not predict direction of change.

*DV #2, H2: IEP is more likely to dip (or spike) following major political or economic crisis.*

To see if there is a link between political and economic upheaval and changes in level of IEP over elections, IV4 considers whether “episodic occurrences,” crises such as a coup or impeachment, major economic or political crisis, security conflict, etc., occurred within nine months prior to a spike or dip (pooled results for all three countries). Numerous studies have ascribed increased executive power to major crises, as presidents justify their need to act in the

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<sup>84</sup> “A set of revisions that is formally designated as a ‘new’ constitution or significant revisions that do not use the stated amendment procedure” (Elkins, Ginsburg, and Melton 2009, 126). Data from Comparative Constitutions Project (<http://comparativeconstitutionsproject.org/about-ccp/>).

<sup>85</sup> Data from Valencia and Laeven 2012. A banking crisis is defined as systemic if two conditions are met: 1) Significant signs of financial distress in the banking system (as indicated by significant bank runs, losses in the banking system, and/or bank liquidations); 2) Significant banking policy intervention measures in response to significant losses in the banking system. (<https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Systemic-Banking-Crises-Database-An-Update-26015>).

face of conflict (Gasiorowski 2013, Gunes 2017, Healy 2009, Yoo 2010). I took into account possible lag time, i.e., how long it takes to pass legislation. The logic is that chaos could fuel public perception that the country needs a stronger leader. Presidents and their parties could seize on moments of uncertainty to gain power advantage. Their agenda could be justified as a necessary means to address conflict. Support for a strong leader following a crisis could facilitate the power-grab due to a “rally-around-the-flag” phenomenon. Additionally, a crisis-mentality could distract from the possible disadvantages or perceived risks from empowering the executive branch. In contrast, I also check to see if crises preceded dips in IEP. If a major crisis was perceived to be poorly managed by the executive or legislators were frustrated with the president, it is possible they would attempt to remove power from a failing executive.

Table 4.5 provides detailed data on this variable, as well as the IVs at the heart of the other two hypothesized explanations for spikes (and declines) in IEP over elections (presidential popularity and legislative mandate). The first column identifies the “spike” in IEP, noting the country, date, point change, and how it was implemented. The second column states whether there was a crisis preceding the spike, with a brief explanation of its nature. The third column records data relevant to the president, including when he was inaugurated (to ensure the relevancy of the president’s involvement), his approval ratings average during the six months preceding the spike (examined in a later hypothesis), and whether the president’s party enjoyed a majority in the legislature (also examined later).

**Table 4.5**  
**Dramatic Changes in IEP – “Spikes”**

<b>“Spikes”</b> (Country, year, point change, method)	<b>Crisis?</b> <sup>86</sup> (Yes/No, description)	<b>President data</b> (Date inaugurated, popularity preceding spike <sup>87</sup> , majority/minority <sup>88</sup> )
<u>Ecuador</u> May 1993 (.5) [constitutional reform]	YES: constitutional reform (= major effort); faced economic “chaos” “disaster” with inflation/debt; new president sought to address; protests demanding action (Andean Group 10/8/1992)	July 1992 (runoff); 45.85%; No majority
<u>Venezuela</u> 1988 (.5)	NO: Ongoing debt crisis, but negotiation in progress with IMF, emergency funds not yet accessed, no mention of major disturbances in electoral campaign (Andean Group 6/23/1988, 9/1/1988; LAWR 8/4/1988, 8/25/1988, 9/8/1988)	February 1984; 66.67%; Majority
<u>Venezuela</u> December 1997 (1.5) [Organic law]	NO: Recovering from bank crisis (Andean Group 6/17/1997); some debt reduction/retirement of Brady bonds (LAWR 9/16/1997); businesses criticized but so far workers mostly quiet (LAWR 10/7/1997); some rumblings of problems to come (Caldera presidency first to break from traditional parties) (Andean Group 11/4/1997)	February 1994; 43.07%; No majority
<u>Ecuador</u> August 1998 (.5) [constitution]	YES: new constitution; political chaos with new president replacing interim president; economic crisis; energy crisis (El Nino) (LAWR 10/21/1997; Andean Group 11/4/1997, LAWR 7/21/1998, 3/3/1998, Andean Group 7/28/1998)	August 1998; NA; NA <sup>89</sup>
<u>Venezuela</u> December 1999 (1) [constitution]	YES: political upheaval with Chavez’s election and re-write of constitution by constituent assembly; questions regarding legitimacy of process; recovering from major econ recession in 1998 (LAWR 7/27/1999)	February 1999; 51.68%; Majority (in Constituent Assembly) <sup>90</sup>
<u>Ecuador</u> April	NO: some indigenous protests (Informe	January 2007;

<sup>86</sup> Systematic search of Latin American Weekly Reports for the 12 months surrounding the IEP change (nine months preceding and three months following) to capture language regarding crisis preceding the change. Searched “crisis” and read surrounding articles to verify the context. When necessary, also checked with experts to gauge whether ‘crisis’ was indeed extraordinary (as opposed to typical ‘crises’ of challenged democracies).

<sup>87</sup> Measured as average approval rating over 6 months preceding spike. Data from: Carlin, Ryan E., Jonathan Hartlyn, Timothy Hellwig, Gregory J. Love, Cecilia Martinez-Gallardo, and Matthew M. Singer. 2016. Executive Approval Database 1.0. Available for download at [www.executiveapproval.org](http://www.executiveapproval.org).

<sup>88</sup> Calculated using data from Nohlen (2005), IFES, and Interview with Silva 11/27/16).

<sup>89</sup> While we cannot calculate if the president’s party had a majority because of executive turnover, it is worth noting that no party had a majority. The highest percentage of one party was 21%, followed by 16%, 11%, 10%, then 7%, meaning the legislature was very divided.

<sup>90</sup> President Chavez’s ‘Polo Patriotico’ had 120 of 128 seats in the Constituent Assembly, but no majority the legislature (OAS 1999, 14). It was the Constituent Assembly that wrote the legislation affecting change in IEP.

<u>2010</u> (.5) [organic law]	Latinoamericano 4/8/2010); Correa political spat with congress, ministers (Andean Group March 2010); but good cabinet reshuffle, end to energy crisis, and regional relations calm (Andean Group February 2010); economy OK (Latinnews Daily 1/25/2010)	62.19%; Majority <sup>91</sup>
<u>Total: 6</u>	<i>Three cases following crises; three with no crises</i>	<i>Average popularity 53.89% (four cases)</i>

The data do not fully support this hypothesis. Of the six spikes that occurred in Ecuador and Venezuela, three were preceded by significant crises and three were not. Also, considering the history of instability in the region, there were also times of extreme conflict that did not witness IEP spikes. So, while crisis could certainly be a contributing factor, as seen in three cases, these “episodic occurrences” did not factor in all cases. Table 4.6 offers the same data as 4.5, but for IEP dips.

<b>Table 4.6 Dramatic Changes in IEP – “Dips”</b>		
<b>“DIPS”</b> <i>(Country, year, point change, method)</i>	<b>Crisis?</b> <i>(Yes/No, description)</i>	<b>President data</b> <i>(Date inaugurated, Popularity preceding dip; majority/minority)</i>
<u>Ecuador</u> <u>June 1984</u> (.5) [constitution]	NO: Some economic stagnation from regional debt crisis; described as “calm before the storm” (Andean Group 1/27/1984)	1981 (new president elected in May 1984 runoff, not inaugurated yet); 42.6%; No majority
<u>Colombia</u> <u>January 1990</u> (2) [law]	YES: Drug war conflict at high level, liberal presidential candidate assassinated (Andean Group 10/5/1989)	August 1986; Not available; Yes majority
<u>Colombia</u> <u>July 1991</u> (1) [constitution]	YES: conflict with guerillas, energy crisis, pipelines bombed, failing peace process (LAWR 5/2/1991); protests (Andean Group 6/27/1991)	August 1990; Not available, but popular (Andean Group 4/18/1991); Yes majority
<u>Colombia</u> <u>March 1994</u> (.5)	NO: economy improving, Escobar killed but peace process still stalled (Andean Group 12/23/1993, LAWR 12/16/1993)	August 1990; 65.34%; Yes majority

<sup>91</sup> Correa’s Alianza Pais won 59 of 100 seats in 2009 (IFES 2017, online).

[law]		
<u>Ecuador</u> <u>February 13,</u> <u>1997</u> (.75) [constitution]	YES: Interim president took office 2/11/97, preceded by 2-day president, preceded by himself for 3 days, before that President Bucaram was ousted on 2/6/97 (LAWR 3/4/97, Andean Group 2/25/97)	NA (see previous cell); 39.71% <sup>92</sup> ; No majority
<u>Ecuador</u> <u>March 2000</u> (.5) [organic law]	YES: bank crisis, inflation, pending dollarization, poverty/unemployment (LAWR 1/1/8/2000); social tension (LAWR 2/8/2000); political uncertainty as Noboa appointed after Mahuad ousted (Andean Group 2/29/2000)	January 2000; 49.44% <sup>93</sup> ; No majority
<u>Colombia</u> <u>July 2003</u> (1.25) [legislative act] <sup>94</sup>	NO: president highly popular, pop feels safer, improving econ (Latinnews Economy & Business July 2003)	August 2002; 65.82%; Yes majority <sup>95</sup>
<u>Ecuador</u> <u>September 2008</u> (1.5) [constitution]	YES: Global financial crisis; threats of default (LAWR 11/27/2008); scandal re expropriations to settle bank crisis victims, in June Acosta – heading constituent assembly – resigned, but replacement rushed it through to approve (Economy & Business July 2008)	January 2007; 70.61%; Yes majority <sup>96</sup>
<u>Colombia</u> <u>July 2009</u> (.5) [legislative act]	NO: Some economic problems due to global downturn	August 2002 (second term started August 2006); 67.41%; Yes majority <sup>97</sup>
<u>Ecuador</u> <u>April 27, 2009</u> (.5) [organic electoral law]	NO: Some economic problems (Economy & Business April 2009; Informe Latinoamericano 1/9/2009)	January 2007; 71.98%; Yes majority
<u>Total: Ten cases</u>	<i>Five cases following crises; five with no crises</i>	<i>Average popularity: 61.98% (data from seven cases)</i>

<sup>92</sup> Data from only three months (before Bucaram was ousted).

<sup>93</sup> Data from only three months.

<sup>94</sup> Reform to the constitution.

<sup>95</sup> Uribe formed a liberal coalition that commanded the most seats (Nohlen 2005; Interview with Miguel Silva 11/27/2016).

<sup>96</sup> Correa won 80 of 100 seats in the Constituent Assembly (IFES).

<sup>97</sup> While it was more difficult to create a coalition in Congress at this point in his term, as Uribe no longer had as comfortable a majority, he still was able to get major laws passed (likely because his ministers bribed members of Congress) (LAWR notes, Silva interview 11/27/2016).

These data also do not support the hypothesis, as IEP dips did not correspond consistently with episodic occurrences of economic or political upheaval. Of the ten dips, five occurred immediately after a major crisis while five did not. Nor was there a country-specific or temporal pattern. In Ecuador, three dips were preceded by crises and two were not. Colombia had two dips preceded by crises and three that were not. That is not to say that episodic upheaval could not have influenced some policy changes to reduce executive power, but there was no consistent relationship. Colombia has a consistent pattern of reducing executive power over elections, regardless of political and economic turmoil or relative calm. Ecuador had the most volatile IEP scores, with eight spikes and dips, but no consistent pattern connecting these changes to crises. In sum, this suggests that crises are less influential than institutional factors in IEP change. The next hypothesis considers whether agential factors played a role in IEP change by assessing the power of the president based on his mandate (popularity and legislative majority).

*DV #2, H3: IEP is more likely to dip (or spike) when the president is very popular.*

While formal rules establish government structures and can shape outcomes, actors are required to create and pursue change in those rules. This hypothesis considers the potential influence of the president himself. Politicians are likely swayed or motivated by the popularity of the executive and would be more inclined to empower a popular president than an unpopular one. In addition, research shows that executives may seek to overcome institutional restrictions (such as term limits) if they have sufficient political support (Ginsburg et al. 2011) and they are often successful (Corrales 2016). This argument is also linked to literature on populism, which finds that some leaders use their widespread popular appeal to further increase their power (de la Torre 1997, Weyland 2013). I trace whether presidential popularity could be a factor behind spikes and

dips in IEP. Column three in Tables 4.5 and 4.6 provides data on the presidents' average approval rating over six months preceding the spike or dip. I find a weak correlation between presidential mandate and majority on the one hand, and changes in the level of IEP over elections on the other.

In all IEP spike cases, the presidents' approval ratings were at least 43% or above during the six months preceding the spike, but not remarkably high. The average popularity among the four spikes cases was 53.89%. To provide context, in a survey of 137 executives in 30 parliamentary and presidential democracies, presidents averaged 55.9% approval in the first quarter of their term, and 40.6% at the end of their terms (Carlin, Martinez-Gallardo, and Hartlyn 2012, 214). Surprisingly, for the seven<sup>98</sup> cases where IEP scores dipped, the average executive approval rating was even higher, at 61.89%. In particular, dips occurred under very popular presidents in the latter years of study. In the four cases of dips that occurred most recently (since 2000), the president's approval ratings were above 65%. This presents an interesting puzzle – why would popular presidents witness reduced powers? Perhaps reduced power in some areas is offered to gain or maintain popular appeal, or as a bargaining chip traded for other executive power gains. Some increases could be concealed and paired with other reforms (such as the compromise policies mentioned previously), providing a democratic veneer to gain popular and external support.

In sum, contrary to expectation, popularity of the president did not correlate with IEP spikes. Interestingly, IEP dips occurred under very popular presidents. The potential that presidents and their supporters designed strategic reforms – allowing some dips while gaining other increases – is explored further at the end of the section, after examining whether presidents' support in Congress influences IEP change.

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<sup>98</sup> Unfortunately, data for the earliest years were not available for Colombia from the same source.



*DV #2, H4: IEP is more likely to dip (or spike) when the president commands a majority in the legislature.*

Combining institutional and agency approaches, studies in the literature have argued that presidents and their supporters will seek greater executive power (self-dealing), and in particular, popular presidents seek power in order to promote their policies and to remain in office (Corrales 2016, Ginsburg, Elkins and Blount 2009). These efforts can be facilitated when presidents enjoy majority support in the legislature. With a majority, presidents are more likely to have sufficient votes to pass legislation that empowers them, because not only do most members of Congress align ideologically with the president, but they are also in a position to benefit from a partisan president with more power. Legislators can plausibly expect the president to share some of the benefits of office with those who supported his increased power. I expect increases in IEP to occur during times when presidents enjoyed a majority. I also test whether IEP dips occurred when presidents had majorities in Congress. Again, data on this variable are provided in Column three of Tables 4.5 and 4.6, above.

Surprisingly, there is no consistent pattern to support this hypothesis in the two countries with spikes. Of the six IEP spikes, three occurred when the president had a majority and two when he did not. In a fifth case (Ecuador 1998), presidential turnovers prior to the IEP change prevent an accurate assessment of whether the president had a majority, however, no party enjoyed a majority in the legislature at the time (seats were divided among many political factions). In one of the cases the president's majority (Venezuela 1999) was actually in the Constituent Assembly, which passed the IEP change through a new constitution. At the time, Chavez did not have a majority in the legislature, which had effectively been sidelined. In sum, having a majority in the legislature only corresponded with two of four IEP spikes.

On the contrary, having a majority in Congress corresponded more closely with IEP dips. Of 10 dips in IEP, seven occurred when the president enjoyed a majority, three when he did not. This trend, however, appears to be specific to Colombia. All five IEP dips in Colombia occurred when the president had a majority. The other five dips were in Ecuador, where two occurred with a majority, three without. The only consistent finding is that Colombian presidents who enjoyed a majority in the legislature were nevertheless subject to reductions in executive power over elections. This suggests that institutional configuration and constraints are stronger factors in facilitating or blocking IEP change than mandate.

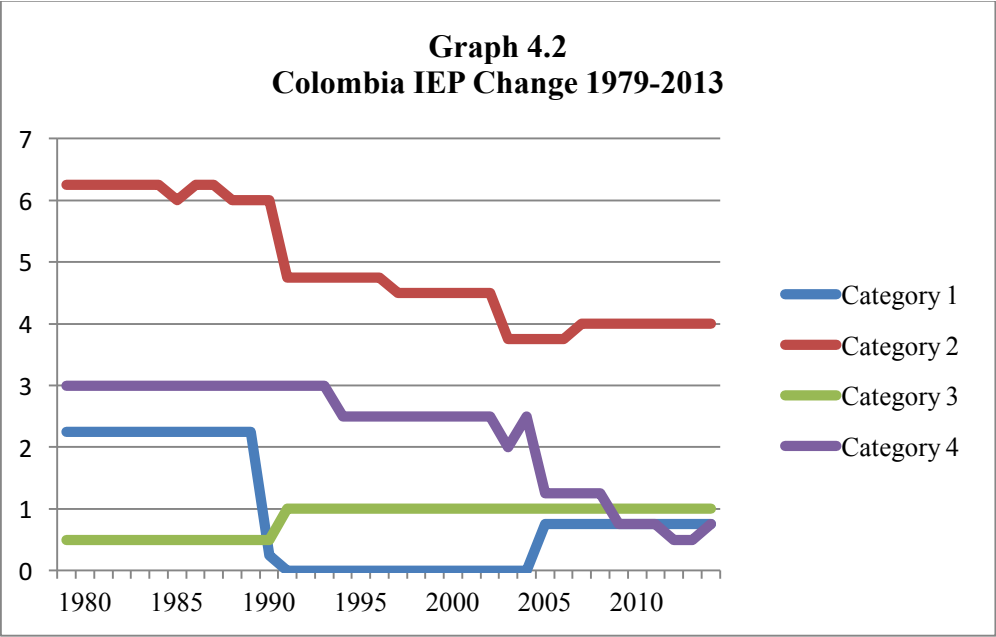
These findings have a few implications. First, Colombian presidents lost formal power despite enjoying a majority in Congress. Reformers' efforts to consistently reduce IEP succeeded despite there being popular presidents who commanded a majority in Congress. Second, presidents and their supporters in Ecuador and Venezuela managed to increase formal executive power over elections despite having a minority in Congress. In three cases this occurred through constitutional reform, which required irregular modification to the law, outside of regular legislative procedures. This suggests a tighter correlation between institutional factors and changes in level of IEP than between agential factors (popularity and majority). However, I have not yet demonstrated that the institutional factors/IEP level relationship is causal or drawn out the causal mechanism operating behind the relationship. Why would popular presidents, with a majority in Congress, experience reductions in IEP? One possibility is that they or their supporters make compromises, allowing certain reforms to increase "accountability" (or at least the appearance thereof), leading to a lower score, while maintaining or increasing certain other powers that can circumvent or otherwise outweigh those reforms. The result could be a reduction

in formal IEP score, but in effect the president maintained or increased other powers to influence elections.

*Intervening Variable: Executive Strategy*

The preceding analysis reveals a puzzle: IEP sometimes decreases even when presidents are popular and have legislative majorities. Comparing evidence within IEP scores suggests that popular presidents strategically allowed a decrease in their institutionalized power over elections in some areas because they were not threatened by the changes (the reforms were not likely to be implemented effectively) or because they compromised to gain power in other areas that provide greater advantage. I describe this process by identifying more closely the dips that occurred under popular presidents and providing evidence of when executives and their supporters packaged reforms to conceal subsequent power grabs, or agreed to some accountability measures to gain other powers. I first discuss whether IEP dips included increases in some categories, yet the lower overall score resulted because of greater decreases in other categories, or were followed or preceded by spikes. Then I confirm whether this variation within IEP scores was widespread (occurred in all three countries). Finally, I assess whether the resulting IEP decrease was indeed “window dressing,” because the decreased score could have less impact than (or conceal) a corresponding increase. For example, in some reforms, promoters agreed to campaign restrictions on the president, such as spending and media limits. These changes appear to help level the playing field, and could be offered by supporters as a bargain to pass legislation. However, at the same time, a reform to allow executive reelection was ultimately more significant than the corresponding compromises, because of the cumulative impact of holding office over time (and because spending limits are weakly enforced). While this suggests the need

to improve weighting of the scores in future work, it is necessary first to highlight whether this type of variation occurred. Summarizing, I posit that IEP decreases occurred under popular presidents when measures that decrease IEP mask other strategic increases in presidential power or the reforms were not likely to impact the president significantly. The remainder of this section discusses such trade-offs within categories of IEP.



Graph 4.2 shows the overall trend of decreased IEP in most categories in Colombia.

Again, the categories are:

- Category 1 (blue): Laws regarding amount of time Executive can wield power over Elections
- Category 2 (red): Executive power over election administration
- Category 3 (green): Executive power over election legislation
- Category 4 (purple): Executive power regarding election campaigns and over candidate nominations

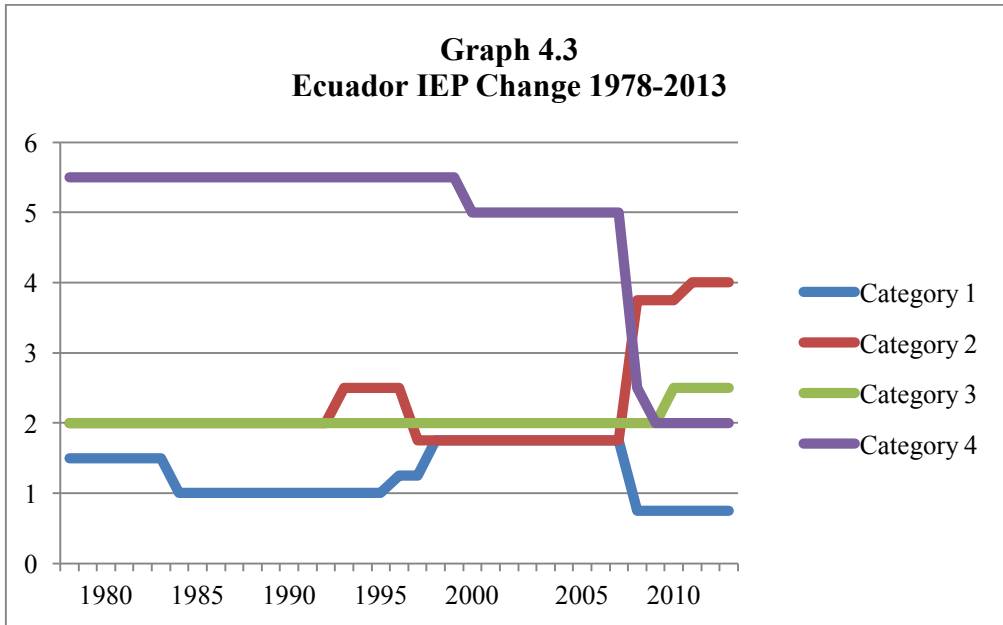
The one major spike in 2003, when Colombia’s President Uribe finally achieved approval of presidential reelection (represented in the blue line increase), was achieved partly because Uribe agreed to an offset with corresponding legislation that later added accountability measures

(Guarantee Law or “Ley de Garantias” in 2005). This reform (represented by the purple line decrease) restricted electoral activity and campaign spending by the incumbent president (at least formally). So, while the overall IEP score dipped, due to the accountability reforms, the ability of presidents to run for office again, while holding the country’s most powerful office, arguably results in greater effective executive power over time. This is especially true if the accountability measures in the ‘balancing’ legislation were never implemented or strictly enforced. We cannot know for sure if the president predicted or planned this, but the outcome is clear. Indeed, two magistrates of the CNE noted that the effect of the “Ley de Garantias” is very limited and did not materially help equalize the playing field. According to one, it is impossible to diminish the inequality generated from government access to resources and contracting, and in fact the law’s measures were weak and rarely enforced (Interview with Novoa 11/27/ 2015). A CNE magistrate from a different party noted continued executive abuse of media access to benefit public office as well as inequitable institutional spending on campaigns (Interview with Echeverri 11/25/ 2015). Hence, the president and his supporters were willing to compromise and accept reforms to level the playing field, which diminished the IEP score, likely because it helped the president achieve his reelection goal, arguably a long-term net power advantage.

Another example supports the contention that presidents and their supporters allowed dips in some categories of IEP because they gained power in others. Colombia’s 1991 constitution contains several measures that significantly curtailed executive powers, like reducing the presidential term length, adding the possibility of executive recall, and removing some appointment powers (see decreases in Graph 4.2 Categories 1 and 2, legislation details in Table 3.3). However, the constitution also granted presidents the power to call referenda (see the green line increase), a significant tool to potentially change legislation (particularly if a president

is popular and can count on majority support). This power was used once and threatened twice by Uribe (LatinNews Daily 7/7/2008), as well as threatened by Santos (LatinNews Daily Report 4/23/2013). Hence a significant executive power was gained in the 1991 constitution, yet the total IEP score fell. Again, this nuance suggests the need to adjust the scoring, but when measuring formal powers, it is not possible to predict how and when presidents might actually use their powers. That is why Chapters 5 and 6 address exercise of executive power.

Ecuador provides additional evidence of how IEP reductions can mask simultaneous increase in executive power, thus helping us to understand why such reductions might occur even when presidents have strong mandates. President Correa violated formal rules and institutions to replace the constitution in 2008, and did so with the promise to increase public accountability and reduce the role of political elites (see Chapter 6). Indeed, the Constituent Assembly wrote a new constitution that increased the number of electoral institutions and added citizen input mechanisms (see Chapter 3). While this decreased the formal IEP score, as graph 4.3 (below) shows, the executive made significant gains in power in other areas.



The 2008 constitution added an electoral court and a citizen commission to appoint judges and other government officials that, while formally appearing more plural or representative, could be easily be dominated by a popular president with a congressional majority<sup>99</sup> (as Correa had).<sup>100</sup> In a strategic move, the constitution also allows for executive recall, thus Correa could argue that unhappy citizens could vote to unseat him. While this appears democratic, Correa’s government essentially controlled the institutions that would facilitate any recall vote. Indeed, he has effectively blocked initiatives for popular vote that were promoted by the opposition (Interview with Orrantia, 4/29/2017). Hence, while presidents and their supporters agreed to increased accountability that resulted in reduced IEP scores, there were significant strategic (and more effective) increases as well.

In addition, like in Colombia, the increased accountability measures are not always effective. Ecuador witnessed significant IEP decreases in Category 4, resulting from the creation of indirect, election-related restrictions on the president (such as campaign spending limits or

<sup>99</sup> Described in Chapter 5.

<sup>100</sup> This is common in systems with concurrent presidential and legislative elections.

democratization of candidate nomination procedures). However, these laws are often symbolic. Such reforms garner wide popular support from local politicians, civic groups, and international NGOs (Interview with Parreño, 7/30/2015), and make it appear the president's power will be checked, but subsequently the measures are only sporadically implemented and enforced. This neglect diminishes the laws' impact and is likely why popular presidents would agree to them (also, if they have majority support – which I examine more closely in the next chapter – presidents can expect less implementation by Congress or enforcement by the government). Meanwhile, at the same time, IEP increased in Category 2, as the president gained significant power over appointments to electoral management entities and some added control over their budgets. We do not know if Correa specifically maneuvered to allow Category 4 reforms in return for Category 2 gains, but we do know that he hired consultants and closely monitored the drafting of much of the text of the new constitution (See Chapter 6). He also controlled a majority in the constituent assembly that controlled the constitution drafting process (Andean Group, November 2007). His campaign included rhetoric to reform the government and address corruption, which is reflected in the reforms promoted to increase citizen participation (and appeal to voters and supporters), but the impact of institutional changes and his control over carrying out reforms, reflects a more top-down approach. He “was able to govern ‘over the heads’ of existing institutions and greatly debilitate what remained of the political opposition” (Conaghan 2008, abstract). Thus, his strategy initially appeared democratic and popular, but masked IEP increases that were arguably more powerful in affecting electoral outcomes in the long term.

In sum, this subsection presents an argument for why presidential mandate might correlate with IEP *dips*. Chapters 5 and 6, which examine executive behavior, describe and



explain more closely the role of presidents in making changes to executive power and additional strategies that were employed. The next section examines cases to explain how institutional factors affected levels of IEP.

#### **IV. Case Studies: Explaining IEP Change**

This section examines how institutional factors worked to obstruct or facilitate changes in IEP. To address this question, I identify causal mechanisms that demonstrate how configuration and constraints created environments in which presidents gained formal power over electoral institutions or not. I follow closely the sequence of events, actors involved, and circumstances that connected the independent and dependent variables. Specifically, I study the case of Colombia and trace how institutional configuration and institutional constraints created processes, steps, and sequences that shape, or block, IEP change. I highlight how distribution of authority across independent institutions, particularly the Constitutional Court, and strong legal restrictions on changing law, created barriers to increased executive power and facilitated interests seeking to maintain distribution of power. The cases of Ecuador and Venezuela do not present a pronounced trend of decreased or blocked increase in IEP, however, I examine the case of Ecuador, which maintained the highest level of IEP and had the highest trend in score volatility. Because laws were relatively easier to change, and authority was concentrated top-down in fewer institutions (centralized institutional configuration), this caused instability as conflict focused at these top levels. Rather than compromise, a pattern emerged to overthrow combat or rewrite the constitution. This resulted in constant fluctuation in IEP levels as the prevailing powers rewrote laws to their own benefit or to correct past increases/decreases.

## *Colombia*

The analysis above suggested that Colombia's decrease in IEP occurred with or without crises, and even with popular presidents who had a majority in Congress – signaling that decreased executive power was a consistent pattern supported by dynamics resulting from institutional structures and legal constraints, and less subject to episodic occurrences and agency. That said, it does not *necessarily* work this way – multiple institutions do not automatically mean power is distributed equally among them, that they will check the president, or that they seek to maintain the status quo. However, I describe how this indeed worked in the case of Colombia as decentralized institutional configuration set in the constitution, combined with legal constraints, created and supported independent entities and steps in the reform process that made it more difficult for politicians to pass reforms. In that country, the distribution of power among multiple IEGs strengthened autonomy and entities worked together to maintain their distribution of power over time. Strong constraints created steps that facilitated this process, allowing for participation by multiple entities as veto players.

The 1991 Constitution (see Table 3.3) established autonomy for multiple institutions and created checks and balances designed to prevent drastic changes to the constitution or the concentration of power in one branch. The result is that many independent entities share power over electoral rules and administration, and complex processes help them protect that power from efforts to concentrate power in one branch (Giraldo Garcia 2008). Electoral law enjoys constitutional status in Colombia, which means change requires amending the constitution. This involves eight debates – four each in the two houses of Congress – and then review and approval by the principal IEG (Consejo Nacional Electoral – CNE) and the Constitutional Court, followed by approval in a referendum. This process (institutional constraints) results in many institutions,

and potential veto players (institutional configuration) that can block or facilitate the change in electoral laws. To increase formal executive power over elections not only requires more steps, and must overcome debate, public consideration, and judicial review, it also involves several actors who are interested in maintaining the balance of power.

As described in Chapter 3, Colombia's electoral governance entities are decentralized – responsibility is distributed among the CNE, National Civil Registrar, local entities, oversight committees, and there are two houses of Congress, as well as a Constitutional Court that actively oversees reforms to electoral legislation (Interview with Vanegas Gil 11/23/2015). They each share some power in the process of reforming the constitution, and have some ability to check others' powers. The CNE itself cannot pass laws and does not have outsized influence: its members represent several different political parties (Interview with Carrillo 11/30/2015). In fact, among the main electoral entities (the CNE and the Registrar) there are struggles over the budget and tension over autonomy and governing roles, which work to keep each institution in check (Interview with Serrano 11/23/2015). For example, such tension led to reforms that provided increased autonomy to the Registrar, which was previously appointed by the CNE (see Chapter 4). Not only is the CNE configured to include nine governing members representing different political parties (Table 3.2), a consensus through a quorum of six members is required to allow a referendum to change the constitution (Interview with Echeverri 11/25/2015). In another check, the Constitutional Court must review the referendum. That Court “has a history of strong independence from the executive, having resisted pressure from a succession of presidents to undergo reform and fought off their attempts to introduce friendly judges into the court” (LAWR Andean Group September 2005). For example, even after he was reelected, when Uribe was in power long enough to appoint judges, the court remained independent and some of

Uribe's own appointees voted against him (Interview with Vanegas 11/23/2015).<sup>101</sup> Indeed, when his supporters sought reform to allow a third executive term for him, the Constitutional Court blocked the move, deciding the change would fundamentally alter a cornerstone of the constitution. Observers called the Court the "salvanguardia de la constitucion," or lifesaver of the constitution (Interview with Mancera 11/24/2015). Not only do institutions have their own powers and independence, but they were willing (and able) to exercise them, safeguarding against significant increase executive powers or concentration in one branch over another.

Moreover, Colombia's IEGs are open to constant evaluation and observation from local NGOs and outside organizations (such as the OAS), and the Ministry of the Interior has a commission to monitor electoral processes, providing a further check on disproportionate (Interview with Mancera 11/24/2015 and Vanegas 11/23/2015). The Consejo de Estado (State Council)<sup>102</sup> also serves as an independent check on the president and historically will rule in favor of the opposition (Interview with Echeverri 11/25/2015). During Santos' first term (2010 – 2014), the State Council annulled three CNE decisions that favored the president's party (Interview with Novoa 11/27/2015). In addition, the attorney general and public prosecutor are both powerful and will counter the ruling party, as is the Congress with its power to question ministers (Interviews with Silva 11/26/2015 and Garcia Sanchez 11/27/2015). These factors have created a dynamic where institutions seek to maintain power and autonomy, and are enabled to prevent efforts to concentrate power or diminish their independence. Based on information from multiple interviews, it is clear that Colombian institutions generally do not enjoy unequal power

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<sup>101</sup> The Supreme Court was also independent. It prosecuted and convicted paramilitaries, despite the fact that many were allied with Uribe (including his cousin Mario Uribe of Colombia Democratica) (Interview with Ruiz 11/23/2015).

<sup>102</sup> This entity is unique to Colombia in the context of Latin America and Europe, with the exception of France (Presentation by Justice Vergara, President of the Council of State, University of Rosario Conference on Comparative Constitutional Justice, Bogota, 11/25/2015).

over others, will work to block efforts to concentrate power in one branch, and generally seek to maintain the status quo balance of power. Again, this dynamic is complemented by strong institutional constraints, such that changes to electoral law require the same strict and elaborate procedures as changing the constitution, which triggers multiple debates and involvement of many government entities.

### *Ecuador*

Centralized institutions and weak institutional constraints worked together with episodic occurrences to facilitate volatility in Ecuador's IEP score, facilitating repeated attempts at reforms and changes in level of executive power. Ecuador's electoral institutions lack the strength and independence of Colombia's, and there are weaker constraints on changing electoral law there. Electoral power was concentrated in fewer institutions until 2008 and new institutions added in 2008 were centrally controlled (described in Chapter 3). As a result, frequent political crises often concentrated on a battle for power at the top and fueled disruptions to the electoral regime, resulting in volatility (dips and spikes) in Ecuador's IEP scores. This section demonstrates how institutional factors and conflict played out in the electoral arena, causing constant disruptions to laws governing the electoral regime.

IEP changes in Ecuador did not occur in a consistent direction, but of the three countries, it experienced the highest level of IEP volatility, with several spikes and dips in its score (and it maintained the highest level of IEP of all three countries). Because Ecuador did not demonstrate a pronounced trend in direction of IEP change, it is not the best case for demonstrating the impact of institutional configuration and constraints on *level* of IEP. However, it does show how instability inherent in centralized configuration and lack of constraints led to volatility and

frequent manipulation. In the earlier years of the study, battles among political elites for influence at the highest levels resulted in changes in electoral power (through laws and new constitutions); in the latter half of the period of study, a new constitution allowed President Correa to manipulate electoral institutions and further concentrate power. There were insufficient constraints to deter such efforts and over time, nor was there sufficient autonomy and independence among institutions; hence laws were subject to constant change by prevailing interests. Rather than negotiate, deliberate, and compromise from positions of balanced power, reform efforts often led to conflict, domination, and sometimes complete collapse of institutions. Ecuador lacked the mechanisms that encouraged institutional moderation in Colombia, resulting from multiple debates in two houses in Congress, oversight by an independent court, and rulings by a balanced IEG. The top players with stakes in Ecuador's game sought changes for their own advantage, were less restricted by institutional constraints on changing laws, and conflicts and changes ensued (causing IEP volatility, rather than a consistent trend).<sup>103</sup>

Ecuador's combative institutional interactions and easy manipulation span a long history of "crisis-prone democracy" (Conaghan and Espinal 1990). Not only are there fewer institutions involved in making electoral law, those that exist were not able to withstand changes and upheaval. Ecuador's structural instability and the tendency for entities to attack each other has been characterized in its own media coverage as "institutional cannibalism" (LAWR 4/26/2007, NP). The severity of this dynamic is demonstrated by the fact that many changes to IEP were in fact due to complete replacement of constitutions, as Ecuador had five different constitutions during the period of study (Elkins, Ginsburg, and Melton 2009). It has become somewhat of a trend to rewrite the constitution in the face of conflict, which is arguably the worst time to write

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<sup>103</sup> While this dynamic does not necessarily explain Ecuador's *level* in IEP, the result was in fact consistent concentration in the executive, the highest among the three countries.

a constitution and can lead to further instability (see Chapter 7 and Newman 2011, 2012). Further, clashes between the IEGs, presidents, and the Congress were commonplace, leading to manipulation and defiance of institutional procedures by presidents and their supporters. When power is concentrated at the top and set in the constitution, efforts for change must concentrate on the top leaders and the founding charter. The absence of strong institutions, and weaker protections against change, created an absence of the process of checks and balances, contributing to constant conflict, upheaval, and resulted in volatility in IEP scores. Rather than discuss reforms, and careful review by the courts, there were threats, firings, and even the fall of presidents or institutions. The efforts to gain or remove executive power were not tempered by required debates and deliberation, with checks by additional independent institutions, but rather led to constant conflict. This instability often involved attempts at outright manipulation of and by the IEGs, demonstrated in several destructive cases.

For example, in 1985, President Febres clashed with Congress over his nominations to the Supreme Electoral Tribunal (TSE) (LAWR 4/5/1985, LAWR 8/30/1985). In 1994, President Duran Ballen conflicted with TSE members over efforts to reform the constitution, followed by Congress's call to impeach them in 1996 (LAWR 8/25/94, LAWR 6/6/96). President Gutierrez manipulated nominations with a slim Congressional coalition and stacked the TSE with his supporters (Latinnews Daily 11/26/2004, Andean Group 11/30/2004). In 2005, the TSE president resigned in a dispute over President Palacio's request to hold a referendum on a constituent assembly (Latinnews Daily 12/5/2005). In 2006, President Gutierrez defied the TSE by formally proclaiming his candidacy (LAWR Informe Latinoamericano 6/14/06). It had ruled "to suspend Gutierrez's political rights for two years due to irregularities in his 2002 campaign finance (he hoped to run for president again, arguing Palacios is not just finishing his term but is instated as

president, so it wouldn't be a reelection, which is not allowed). The head of his party, Gutierrez's brother, threatened to criminally prosecute in court the TSE members who approved the suspension" (LAWR Informe Latinoamericano 5/17/06: NP). Changes to level of executive power played out through conflict at the highest levels, between presidents and the TSE.

Correa's push for a new constitution was also marred by a showdown with the TSE, which he ultimately vowed to replace, but first he threatened to convoke an ad hoc TSE if they refused to ratify his decree to call an assembly (LAWR Informe Latinoamericano 1/12/07: NP). The process toward a new constitution also involved decimating another institution – 57 opposition legislators were removed from Congress when they opposed the referendum for a new constitution (LAWR Informe Latinoamericano 3/9/07: NP)(see Chapter 6).

These examples demonstrate the instability and constant manipulation to electoral institutions in Ecuador by various political interests at the highest levels. Clashes led to IEP variation in both directions, as presidents and their supporters sought to increase control and the few other institutions either succumbed (sometimes with complete collapse), or fought back, sometimes toppling the president.

## **V. Conclusion**

Chapters three and four discuss the comprehensive and complicated body of electoral law in the Andes, which is ever-growing and changing. IEP increased (allowing reelection, ability to call plebiscites), but was also tempered (added spending limits, ability to recall the executive). This chapter demonstrates how the strongest factors influencing formal changes in Institutionalized Executive Power (IEP) across countries were the configuration of government entities and constraints on changing laws over time. When multiple, independent institutions control electoral



governance and there are strong constraints to changing electoral law, a process of deliberation and potential for veto players prevents efforts to increase executive power. In fact, these factors worked to support efforts at reducing IEP over time in Colombia. In Ecuador, where electoral governance is centralized and constraints are weak, presidents maintained a high level of power. Looking at spikes and dips in IEP scores more specifically, we see that episodic occurrences, or political and economic crises, foment greater volatility in IEP change. However, that instability did not predict direction of change. Episodic occurrences of economic and political upheaval did not correspond consistently with change in direction of IEP.

Interestingly, it was common for very popular presidents to witness decreased executive power. I analyze how presidents and their supporters made strategic compromises in their electoral reforms. Ecuador's 2008 constitution formally reduced executive power in some respects, by opening the electoral process to citizen input and allowing recall and other direct democracy measures. These reforms addressed citizens' frustration with corruption by past political elites. However, in fact executive power increased as Correa's government could dominate the nomination process of judges and his control over electoral institutions made it difficult for the opposition to propose popular consult.

Thus, formal rules and institutional dynamics establish important parameters and procedures for how to change executive power over elections, but they do not represent the full context of power over elections. Presidents and their supporters worked with institutions and sometimes compromised. In addition, reforms that appear democratic can also mask potential impact for powerful leaders. This begs the question of when and how presidents themselves seek to influence the electoral process? IEP analysis was critical for understanding the level and intent of formal electoral laws establishing executive power, but does not explain fully how the

president actually acted (and whether laws effectively empower or restrict executives). The next chapters focus on the behavior of the president in exercising executive power, specifically addressing when and how they employed their powers over elections.

## CHAPTER 5 – EXERCISED EXECUTIVE POWER (EEP): HOW PRESIDENTS CONTROL ELECTIONS

*Chapter Outline: I. Introduction; II. Identifying EEP Cases: Search Methodology and Criteria; III. Presidents' Actions over Electoral Regimes; IV. Conclusion: Comparative Observations*

### I. Introduction

President Correa's 2008 constitution created new electoral entities that were intended to remove political party influence in electoral management and allow greater citizen input (see below and Chapter 3). While this might appear democratic, the outcome significantly expanded and enhanced government control. I spoke at length with a member of the Constituent Assembly who helped draft this aspect of the constitution as well as one of the first members of the citizen commission (Consejo de Participación Ciudadana y Control Social, CPCCS, or Council for Citizen Participation and Social Control).<sup>104</sup> According to him, Correa manipulated citizen participation to his benefit, placing supporters who were not the most qualified in the highest state posts. The description below is based on those interviews and demonstrates the importance of understanding the role and actions of the executive in creating and interacting with electoral institutions.

Ecuador's 2008 constitution established a fifth branch of government,<sup>105</sup> the Función de Transparencia y Control Social (Transparency and Social Control Function). While this was intended to reflect popular demand for government accountability and greater citizen participation (reflected in part by a rising number of civic groups in the 1990s), it appears to have usurped the role of civil society into a government entity. It essentially institutionalized civil

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<sup>104</sup> July 2015 in Quito, Ecuador.

<sup>105</sup> In addition to the executive, legislative, and judiciary branches, the fourth branch of government is electoral. To my knowledge, Venezuela is the only other country in the region with an electoral branch.

society participation into the state. Correa's Constituent Assembly's plan was for this new branch to designate high government authorities through "concurso" (or competition of merit); combat corruption; and promote the right to participate (2008 Constitution, Art. 208). A member of the 2008 Constituent Assembly who helped design the CPCCS stated the objective of the "concurso" was to be an alternative to the previous problem of patridocracia (or excess control by political elites)<sup>106</sup>. The idea was based on a previous experience negotiated after President Gutierrez was ousted (in 2005), when the IEG (Tribunal Supremo Electoral, TSE) and the Supreme Court were newly appointed using a competition of merit. The process was generally perceived as transparent because appointees were selected based on their qualifications and were less beholden to political parties. The issue now is, rather than using a temporary, representative selection committee, this process was incorporated into a government entity. A member of the transition TSE named by the Constituent Assembly, who was part of the "concurso" for the first CPCCS, said the ministry of the presidency had a team of "tecnicos/asesores" (or experts/consultants) who ensured that Correa's supporters won the competition. He recalled receiving pressure to favor certain candidates.

The first competition for CPCCS members (to replace the transitional one named by the Constituent Assembly) had 1500 applicants (who were required to be affiliated with civil society).<sup>107</sup> The first job of new CPCCS was to name the other "superintendencias" (such as banking, public companies, telecom superintendents), which they did using lists from the president (despite the fact that the lists, too, were supposed to be selected by "concurso"). My

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<sup>106</sup> Previously political parties had not respected the law and their negotiations often violated the constitution. Examples included replacing ousted President Bucaram with the head of Congress (Alarcon) rather than the vice president in 1997; irregular appointments to the Supreme Court in 2002; and negotiating Bucaram's return in 2004 by making an "express law" (norma expresa) to remove Supreme Court justices without an individual legal process for each judge.

<sup>107</sup> In the 2015 competition there were only 200 applicants, reflecting a steep decline in the entity's credibility.

contact witnessed numerous irregularities in the naming of authorities, resulting in appointment of only those tied to the government. He argued that in the competition of merit, the “merit” equaled ties to President Correa. Whereas previous to 2008, designation of top posts required representation from several political parties, now only one power controls appointment to top posts. The CPCCS names a 10-member Comisión de Selección (Selection Commission), which is called every time an official is selected. Half the members represent one each of the five government “Functions” or branches – so arguably five posts are automatically government supporters – and five member are chosen through competition of merit, which the government can manipulate. For example, in the appointment of the Fiscal General (Attorney General), after reviewing the applicants’ CVs (“carpetas”) for the possible 100 point score, Galo Chiriboga was in 10<sup>th</sup> place (he only scored 34 out of 50 on the merit test). Then the president announced that Chiriboga should be named. Subsequently, he shot to first place and was appointed. Despite denouncements from some committee members, the government-supporting majority won. Critics said they were not allowed to observe how the “carpetas” were qualified (nor was the press allowed to view the folders). Hence, while there was increased citizen participation and arguably less party influence, the process favored the government.<sup>108</sup>

This chapter takes the next step in understanding executive power over elections by describing actions presidents take to change or impact national election management, processes, or outcomes. Previous chapters traced the formal rules, or Institutionalized Executive Power (IEP), that establishes how presidents in Colombia, Ecuador, and Venezuela are permitted to act vis-à-vis elections since transition to democracy, and sought to account for variation in levels of

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<sup>108</sup> The word for political “pork” in Ecuador is “palanca” (to get something, like a government position, for favors). Some say Ecuador went from a “partidocracia” (where political elites had outsized influence) to a “palancocracia” – where influence is institutionalized through official government procedures.

IEP over time and across countries. This foundation was essential for understanding the role executives are formally assigned in the electoral arena.

However, as the literature has shown, politicians do not consistently follow the law, nor is the law always 100% clear (Ginsburg et al. 2011, Przeworski and Maravall 2003, Weingast 1997). As the previous example shows, implementation or interpretation of the law is critical, yet often misunderstood or unrevealed. Scheppele notes this issue, how “We still don’t understand well enough how law becomes real...how law goes from words on paper to practices in the world...how practices in the world reinforce or undermine structures of legality” (Albert 2017). Presidents are far-reaching in their goals when they seek to manipulate the electoral process for their own gain, not just seeking to win one election, but rather “consolidating and monopolizing political power” (Simpser 2013, 5). They do this regardless of laws restricting them and, as this chapter demonstrates – many acted illegally. They also act despite many accountability measures introduced to level an unequal playing field during the time of study, at least in Colombia and Ecuador (as demonstrated in Chapters 3 and 4). Moreover, some presidents’ actions that occurred within the law, nevertheless resulted in democratically troubling outcomes. Per Chapter 4, some reforms that introduced accountability measures and direct democracy also concentrated power in the executive branch.

So, while understanding laws is essential, it is equally important to know how they were interpreted, applied, or abused. I track how executives *used* formal powers they were awarded when seeking to affect elections, did not use other formal powers, and, in particular, when they acted *outside* the law and constitution norms. The potential for elected leaders to manipulate elections is particularly compelling in the context of a sub-region where democracy was firmly established, yet recent backsliding toward semi- or full authoritarianism is a growing reality. Just

as it is possible for leaders to follow democratic procedures under a constitution that was written during authoritarianism (Ginsburg and Simpser 2014), so too is it possible to witness authoritarian actions under a democratic constitution and electoral laws.

This chapter seeks to understand presidents' behavior in the electoral realm by examining *exercised* executive power (EEP), or actions presidents take to change or impact national election management, processes, or outcomes. It is worth clarifying here the difference between IEP and EEP. EEP is actually acting to *change* an institution; IEP is read off existing institutions and reflects how much potential power a president has (as a *result of* those institutions). As such, EEP addresses *de facto* power, discussed in Chapter 2. By analyzing EEP, this study reaches beyond the formal, parchment parameters of power to understand how and when *de jure* powers are used or abused.

As such, I look at how and when presidents attempt to impact national election processes, institutions, and outcomes, 'legally' or otherwise. I am concerned not only with whether presidents were successful or not, but each attempt they made to exercise power over elections. Through event analysis and expert interviews, I identified 43 cases when presidents sought to exercise powers in order to affect electoral outcomes or procedures in Colombia, Ecuador, and Venezuela between 1993 and 2013. This time period was selected because it represented the most recent period of post-transition democracy and was enough years to provide a medium-N sample representing multiple presidents. This chapter describes and compares those incidents, analyzing the date and president involved, strategy used, constitutional impact, whether the strategy was questioned (legality), outcome of actions, duration of episode, and institutional involvement and their alignment.

Several interesting aspects of executive exercise of power are worth noting. For example, sometimes the president overtly and obviously violated the constitution. Other times, institutions, the public, and courts were divided regarding the constitutionality of presidents' actions. This is relevant because presidents often sought significant changes. Nearly half the EEP cases involved reforming (or even replacing) the constitution. Others involved reform of fundamental electoral laws, creation of related laws restricting political parties or the media, abuse of appointment powers, and misuse of state resources, media time, and campaign funds. By most accounts, when presidents sought to change significant powers or construct major reforms, the process was complicated and often required protracted political struggle, involving multiple institutions and perseverance. Presidents were persistent and strategic in their actions, which often required significant time and effort. However, they were generally successful in their attempts, and in many cases acted outside the accepted understanding of the law. While this is troubling in the context of developing democracy, presidents rarely acted alone. In almost all instances, executives collaborated with other institutions to advance their goals. In sum, presidents were active, persistent, and largely successful in exercising their power over elections, working with other institutions, both within and outside the law.

This chapter proceeds as follows. The next section presents the methodology and search criteria used to identify EEP cases and section three describes each country's EEP episodes. Section four concludes the chapter, reviewing its main findings and providing some comparative observations across countries and time that help frame the next chapter's explanatory analysis.

## **II. Identifying EEP Cases: Search Methodology and Criteria**



This section briefly discusses the conceptualization of Exercised Executive Power (EEP), describes what constitutes a “case,” i.e., an episode of EEP, and how cases were selected for study.

Attention to power beyond formal legal rules is slowly increasing. Mazzuca highlights the importance not just of access to power, but also the conceptually distinct *exercise* of power – an important separation often missing in literature on quality of democracy (2010). While it is important to study *de jure* arrangements of power – for example, formal rules within a constitution – it makes sense to also understand whether and when those rules were followed. Some studies address this by offering examinations of executive trespass of rules (Alberts 2009, Barndt 2010, Ginsburg et al. 2011). As executives enjoy greater formal powers over other institutions, this could make them “less inclined to cooperate with legislatures, increasing the likelihood of executive-legislative conflicts” (Cox and Morgenstern 2001, 15). Others examine the implication of strong presidents, or *presidencialismo*, in the region. Poguntke and Webb describe the *presidentialization* of politics by describing the growing autonomy of presidents vis-à-vis political parties. They note “the greater prominence of leaders in electoral processes” in modern democracies, including a “shift in intra-executive power to the benefit of the head of government . . . accompanied by signs of growing executive autonomy from his or her party” (2005, 336-337). In sum, it is important to conceptualize both *de jure* and *de facto* executive power, as formal imbalances can inform subsequent behavior and political power dynamics.

Again, EEP over elections is defined as actions presidents take to change or impact national election management, processes, or outcomes (electoral regimes, as defined in Chapter 1). Cases were identified through event analysis and expert interviews. Event analysis included a search of *Latin American Weekly Reports* (LAWR) over three decades (comprehensive details of

the criteria, search, and methodological approach are provided in Appendix 5A). In addition, I conducted dozens of interviews with experts in the three countries (a list of interviewees, their affiliation, dates, and place of meeting is provided in Appendix 5B). For an executive action to qualify as EEP, one must be able to make a plausible claim that the action had the potential to affect an electoral institution, the electoral process, or electoral outcomes. As such, EEP cases should meet the following criteria: 1. Action should be carried out by Executive (formally or informally); or 2. Promoted indirectly by president (through the ruling party or executive-controlled/directed institutions). Also, the action must have the potential to influence or change conduct of national elections<sup>109</sup> (for example, impact electoral timing, districts, rules, legislation, etc.) or impact electoral management or outcomes. Again, details are provided in Appendix 5A.

Through the comprehensive LAWR search and expert interviews, my research identified 10 cases of EEP in Colombia, 14 in Ecuador, and 19 in Venezuela between 1993 and 2013. This period was selected to reflect a significant representation of post-transition democracy years. I addressed the most current period possible because more reliable data and institutional memory were available for research. Two decades constitute sufficient time to provide a medium-N sample of cases. The EEP cases vary in duration, ambition, and outcome, but every case represents an executive effort to impact electoral management, electoral processes, and thus ultimately electoral outcomes.

Some considerations regarding methodology are worth noting here. While not surprising, it is worrisome that democratic executives, who by the nature of the presidential system already

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<sup>109</sup> I focus on national level-events. Events at the sub-national level are worth noting, especially when they are initiated or executed by the executive, but they are not reported consistently enough to account for systematically (only the most notorious events are reported, which would not be an accurate representation of local electoral events).

wield a disproportionate amount of power vis-à-vis other branches of government,<sup>110</sup> can manipulate what theoretically should be a plural, open, and unbiased process. Indeed, some of the episodes involve quite significant actions, going so far as complete replacement of the constitution. In addition, the cases I identified are publicly known (i.e., there were identified through LAWR reporting and interviews). There are no doubt other actions presidents took privately that were not revealed.<sup>111</sup> While this means I might have missed “behind-the-scenes” maneuvers by the executive, I none-the-less charted a robust sample of events, collected systematically with supporting evidence. If I missed cases, I likely missed a similar representation across countries, for example, actions that were not public, and hence, realistically, would be impossible to capture accurately.<sup>112</sup> The next section describes and compares presidential exercise of power over elections in these three Andean countries.

### **III. Presidents’ Actions over Electoral Regimes**

From 1993 – 2013, Andean executives consistently sought to change formal electoral institutions or impact electoral outcomes, as might be expected within the context of Latin American hyper-presidentialism and history of dictatorship. All three countries experienced 10 or more episodes of EEP, with a total of 43 cases identified in the three countries over 20 years since transition to democracy (10 in Colombia, 14 in Ecuador, and 19 in Venezuela). Appendix 5C provides a brief description of each case. Most of the episodes were complicated, contested, and involved executive interactions with multiple institutions. Approximately half, fully 19 EEP cases, altered (or sought to change) the constitution in some way. Several more sought to reform electoral laws

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<sup>110</sup> All Latin American democracies are governed by some version of presidential systems.

<sup>111</sup> Note as well that there could be actions that increased executive power in the electoral realm that were not led by the president; ideally my analysis of IEP would have captured at least some of these.

<sup>112</sup> To do this would require investigating and substantiating rumors or actually interviewing the presidents themselves, both of which are outside the purview of this study.

and related regulations and institutions. This represents an extensive amount of attempted alteration to the countries’ fundamental rules for democracy at the hands – directly or indirectly – of the president.

To better understand the character of EEP, the 43 cases under study were evaluated on several factors. Table 5.1 below lists the factors and possible scoring on each. Appendix 5D provides the full table with data on all cases. The next sub-sections offer a description of EEP cases based on these various factors.

<b>TABLE 5.1 EEP Case Comparison and Scores</b>						
<i>DAT E/ PRES</i>	<i>STRATEGY</i>	<i>IMPACT CONST.?</i>	<i>STRATEGY QUESTION- ED? (Publicly reported as illegal or unconst'l.)</i>	<i>OUTCOM E</i>	<i>DURA- TION</i>	<i>PRIMARY INSTNS. INVOLVED &amp; THEIR ALIGNMEN T</i>
Year / Name of Pres.	Sought institutional change (New law, reform, const'l. change, etc.)  Called for elections (recall, plebiscite, etc.)  Other <sup>113</sup> (irregular appointment , threat,	Yes	Yes	Achieved apparent aims	Long <sup>114</sup>	Institutions
		No	No	Failed to achieve apparent aims	Mediu m	Support the president
				Partially achieved apparent aims	Short	Oppose the president
						Neutral/Mixe d

<sup>113</sup> This is executive action outside of changing laws, and implies “extra-institutional” behavior, i.e., the president did something that outside of formal institutions. This could potentially be illegal/unconstitutional (addressed in “strategy questioned?”).

<sup>114</sup> Estimate of the duration of each event based on media reports: 0-6 months (Short); 6-12 months (Medium); and more than a year (Long).

	violation, etc.)					
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*Date and President*

An interesting element of EEP cases is their timing and the responsible presidents. Thirteen different presidents carried out the 43 EEP episodes between 1993 and 2013.<sup>115</sup> During those two decades, 16 presidents held office in the three countries,<sup>116</sup> which means nearly all presidents sought to influence the electoral regime during their tenure. Table 5.2 illustrates these numbers, and the bottom row lists the presidents who conducted the EEP episodes in chronological order, revealing that three presidents were most active – Uribe with six episodes, Correa with 10, and Chavez with 16.

<b>Table 5.2 Presidents and Timing of EEP Episodes</b>				
<i>Country (# of cases)</i>	<i># of presidents 1993 – 2013</i>	<i>Presidents with EEP episodes</i>	<i>Episodes during 1993 – 2003</i>	<i>Episodes during 2004 – 2013</i>
Colombia (10)	5	4	4	6
Ecuador (14)	7	5	2	12
Venezuela (19)	4	4	8	11
Total (43)	16	13	14	29
Colombian presidents: Samper (1); Pastrana (1); Uribe (6); Santos (2)				
Ecuadorean presidents: Duran-Ballen (1); Alarcon (1); Gutierrez (1); Palacio (1); Correa (10)				
Venezuelan presidents: Perez (1); Caldera (1); Chavez (16); Maduro (1)				

Twice as many EEP episodes occurred in the second decade of the period of study than in the first decade. This signals a significant increase in exercise of executive power over elections over time, which could be interpreted to reflect poorly on the progress of plurality and democratic quality. As democracies mature, one might expect greater stability of plural institutions and less intervention by executives, at least per the experience in developed

<sup>115</sup> Appendix 5D lists when each president was in power and attempted EEP.

<sup>116</sup> Six of the 16 presidents represent only partial terms due to the cutoffs of the period of study.

democracies where electoral systems are more static. While the increase in EEP could reflect ‘growing pains’ with presidents implementing necessary reforms post-transition, the second decade also witnessed a decline in democracy indicators in Ecuador and Venezuela, suggesting a correlation between executive behavior and deteriorating democratic quality.

As noted above, three recent presidents were predominant in exercising power over elections compared to previous executives. Colombia’s Uribe, Ecuador’s Correa, and Venezuela’s Chavez are responsible for the overwhelming majority of EEP cases (32 out of 43). For example, Colombia had five presidents between 1993 and 2013. Of those, only President Uribe was involved in more than two EEP episodes (and was in fact involved in six). Correa and Chavez topped Uribe with 10 and 16 cases, respectively. It is important to note that these three presidents each served two (or more) terms instead of one, increasing the amount of time they could exercise power. However, they nevertheless represent a significant number of episodes attributed to a single executive. Even if you divide their respective number of episodes in half, to represent one term each, these presidents’ episodes still outnumber actions by any of the preceding presidents during their terms.

The fact that recent and reelected presidents were most active in exercising their power over elections signals a real concern regarding incumbency and executive power. Almost every president (13 of 16), attempted at least one episode of EEP, but prior to the three reelected presidents, there was only one episode per president. Presidents used more power because they were in power longer, which also gave them more power. The fact that these actions affected elections specifically is worrisome. One could question the normative implications of a system where the most powerful player in the political game is also affecting the rules of the game, during their term, often to their own advantage or that of their party. These numbers also support

the notion of incumbency advantage, that reelection affords presidents cumulative power, which they in turn employ.

The timing of these episodes in relation to electoral cycles did not present consistent or obvious patterns. One would expect presidents to act immediately preceding a major election to achieve specific advantage, or perhaps immediately following a significant electoral victory favoring the president's party to capitalize on gains and consolidate power. One exception was Chavez's rush to appoint new Supreme Court justices and quickly pass several laws before a new Congress was sworn in (right after his ruling party lost its majority) in 2010. However, more commonly actions took an extended amount of time and their duration varied widely, hence timing vis-à-vis election dates was inconsistent. In addition, presidents' strategic goals varied in each case, meaning the timing of presidents' efforts did not always benefit from (nor were they necessarily linked to) issues regarding electoral timing (such as mandate or voter turnout) in the same way.

### *Strategy of Executive Actions*

The strategies presidents employed to exercise executive power in the electoral realm can be placed in three, broad categories: sought institutional change (new law, reform, constitutional change, etc.), called for elections (recall, plebiscite, etc.), and other (irregular appointment, threat, violation, etc.). Across the board, most episodes involved institutional change, which entails the attempted introduction of a new law, reform of laws, or constitutional change affecting electoral outcomes.<sup>117</sup> In Colombia, six of its 10 episodes involved institutional change. Ecuador's cases also predominantly involved institutional change (10 of 14). The same holds for Venezuela, albeit slightly less so, with 13 of 19 cases involving institutional change. Meanwhile,

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<sup>117</sup> Again, EEP is actually acting to *change* an institution; IEP is read off existing institutions and reflects how much potential power a president has (as a *result of* those institutions).

that country also had the highest number of events involving informal executive behavior and the most calls for elections. The amount of formal, institutional change attempted by the executive could suggest respect for the law, as presidents frequently used institutional channels to advance their efforts (rather than simply violating the law). However, many institutional changes were implemented through questionable means or were widely opposed. This raises the issue of using legal or constitutional means for non-democratic ends.

Presidents employed both traditional and non-traditional methods to influence elections. Some reforms to the electoral system, such as gaining presidential reelection, changing seat assignment formulas, or gerrymandering, are common across democracies. However, other leaders devised original tactics, such as creating onerous registration requirements for political parties and civic groups, developing parallel citizen committees to circumvent established institutions, promoting laws to restrict the media, and appointing new regional positions to undermine elected officials. Sometimes these efforts were blatant, other times measures were masked within broader proposals or popular promises, so the details and impact were less clear.

EEP efforts occurred through obvious as well as opaque methods. For example, when Chavez sought unlimited reelection the first time, he included numerous reforms in the measure and tacked on multiple programs with promises to benefit the poor (Andean Group, September 2007). It was a blatant appeal to voters and, surprisingly, this first attempt failed. A less obvious approach involved the multitude of minute details written into Chavez's 1999 constitution and subsequent electoral laws and regulations. Some articles place very specific restrictions and requirements on political parties that could be onerous to implement or difficult to understand. Such provisions give leeway to interpretation and open the possibility for selective prosecution by government officials.



Surprisingly, there were fewer cases of the latter two categories of executive strategy – call for elections (8) and other (12). Again, this could signal respect for democratic procedures, or at least presidents wishing to appear democratic and hence using more institutional, legislative means (rather than informal threats or blunt violations) to effect change. Also, it is politically risky to call for elections or violate the electoral process, both of which require wide support or may carry a threat of repercussions, hence these approaches are used more judiciously. In fact, as noted below, presidents likely only employ this strategy when they are certain they will prevail.

A related, interesting phenomenon is the strategy of intimidation. While presidents did not always follow through, they sometimes *threatened* to exercise significant executive powers. There were repeated public pleas for constitutional reforms, threats to use plebiscites, or calls to dissolve congress. This was particularly common in times of political conflict or when the president faced strong opposition or protests. Sometimes the threat of further instability of executive action spurred voters to rally around the presidents or persuaded institutions to bend to the president’s will.

Of the eight cases where presidents called for elections, they achieved their aims in five, partially achieved their aims in two, and in only one case did the president fail (addressed further in “Outcomes,” below). Likewise, presidents using “other” strategies of informal behavior achieved their apparent aims in 10 of 12 cases, with partial results in the remaining two.<sup>118</sup> No presidents failed to achieve their aims when employing “other” behavior, which is troubling if not surprising considering the power of the executive office. This means when presidents used

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<sup>118</sup> Interestingly, there was very little evidence of presidents meddling with the IEGs’ budgets. While certainly no IEG officials complained of being overfunded, the LAWR search only revealed one specific threat by a president to reduce IEG funding (Chavez threatened to cut funding for Indra contracts for electronic voting) and one budget conflict (with Duran Ballen in Ecuador).

means such as a threat or violation of the law, they always achieved their goals. The next chapter examines whether presidential popularity was a factor in this dynamic.

### *Constitutional Impact*

In nearly half (19 of 43) of the efforts by presidents to exercise power over elections, they impacted or sought to change the constitution itself. In one sense this is not surprising, because fundamental election parameters are typically set in the constitution. However, it is noteworthy that presidents actively sought to make many changes to the country's founding document, post-democratic transition. Some presidents even sought reforms to constitutions they themselves had only recently implemented.

In addition to 19 episodes that impacted the constitution, there were also many cases (23) that impacted formal electoral law in other ways. These combined revisions speak to the general instability of legal institutions in these countries, which has implications for establishing clarity and legitimacy to the rules of the game. If the guidelines are unclear or constantly changing, it is more likely that players will act outside the rules (knowingly or unknowingly). Not everyone takes the time to study new norms, and savvy politicians could act quickly to maximize their advantage over others. It also takes time to write implementing legislation for many laws, so there could be an interim period when the law is in fact unclear, unspecified, or still contradicts earlier norms. This uncertainty invites manipulation and is particularly dangerous during electoral periods when emotions are charged and important elected offices are at stake. In addition, changing laws means that observers or the opposition will have more difficulty understanding if and when rules are violated. These phenomena have real impact on the quality of democracy.

### *Strategy Questioned*

Perhaps even more noteworthy than changing the constitution, is when presidents acted in a manner that was questionably legal, or was overtly questioned for having violated existing norms. Often the action was perceived to have or alleged to have violated such norms (claims were often disputed as legal grounds can be complicated and claims can be made for political purposes). While some exercises of executive power were institutionally unproblematic (legal and constitutional), in the majority of EEP cases, the legality or constitutionality of executive actions were questioned and generated public challenges. Allegations that executive action was illegal may reference violations of principles stated in the constitution or in electoral law; others involve presidents using their office to wield their power disproportionately (through bribes, for example).

This manifested in different ways. As expected, many included accusations and outcry by the opposition, as well as criticism by the media or international observers, depending on the severity of the presidents' actions. When contentious, this often led to evaluation and involvement by multiple domestic institutions (like rulings from an IEG or decisions by the high court). Likely as a result of this contention, most cases involved at least two, if not three or more institutions. For example, in 2000, after drafting the new constitution, the Chávez-dominated Constituent Assembly appointed a transitional, mini-congress ("congresillo") to rule for approximately one year until new elections were held. This legislative body proceeded to appoint government-friendly candidates to the new Supreme Court and the IEG (Consejo Nacional Electoral). These procedures were widely questioned by the Carter Center and the Ombudsman for not complying with the new constitution.

It is interesting to note how rarely the president was held accountable when such allegations were made. While I do not examine this systematically, rarely is the president

successfully convicted of violations. In Colombia, Samper was almost impeached for excessive campaign spending from questionable sources in a very tight race, but ultimately he was absolved by Congress (LAWR 5/30/1996 and 6/20/1996). Also in Colombia, Uribe's party was found to have bribed members of Congress to gain votes for his constitutional amendment to allow presidential reelection (see Chapter 4 for details), but only the members of Congress who accepted bribes were punished, not the president. Correa and Chavez are accused of multiple violations of constitutional procedures (even of the constitutions they themselves promoted), but neither was brought to account. Only in Ecuador in the earlier years of the period of study were presidents punished for their actions, but this was typically done informally through their ouster, amidst severe political and institutional instability. For example, in 2004-2005, President Gutierrez lacked sufficient support in Congress to pass reforms, so he called for a referendum to change the constitution to reduce the size of Congress, permit presidential reelection, and 'depoliticize' the Supreme Court (Andean Group 10/5/2004, Latinnews Daily 10/27/2004).<sup>119</sup> As part of this effort, he dismissed the Supreme Court justices and sought a referendum to reform judicial system and legitimize a new Supreme Court (Latinnews Daily 12/14/2004, 12/17/2004). Congress ultimately rejected the reforms, after Gutierrez dismissed the Supreme Court a second time, and he was ousted. These examples demonstrate the lack of accountability of presidents, short of overthrow on the streets, which is not conducive to political stability.

### *Outcomes of Executive Action*

In addition to being relatively free from accountability, presidents were also overwhelmingly successful in accomplishing their apparent aims, even when significant effort was required and conflicts (often) emerged. Of the 43 cases, presidents succeeded in achieving

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<sup>119</sup> He abandoned a further effort to reform the seat-allocation system.

their stated goals in 27 cases (over 60 percent). There were eight cases when presidents partially achieved their goals, and only eight cases when they failed. Presidents were particularly successful in Ecuador and Venezuela. They achieved their apparent goals in nine of 14<sup>120</sup> cases in Ecuador and in 14 of 19 cases in Venezuela. In Colombia outcomes were more balanced: of its ten cases, presidents succeeded four times, failed three, and achieved partial results on three occasions. Again, raw data are provided in Appendix 5D. These outcomes align with variation in IEP described in Chapter 3, and may thus be accounted for by some of the same factors – institutional configuration and constraints – addressed in the next chapter.

There were only a small handful of cases when the executive's efforts were defeated or he accomplished only partial results. Interestingly, this usually occurred at the hands of the voters or the courts. For example, voters defeated Chavez's reforms in a 2007 referenda, and Uribe was thwarted in a 2003 referendum. Uribe also suffered defeated in a call for an election re-do in 2008, and his effort for another reelection (to a third term) in 2007-2010 was ultimately blocked by the Constitutional Court. Other examples included when presidents were found to have violated campaign rules, but punishment was not implemented and they could still enjoy their victory. While this seeming impunity might imply significant executive power, it could also be the case that presidents were selective and attempted to exercise their power over elections only when they were relatively confident they would succeed or escape repercussions.

Two of the failed EEP attempts specifically involve presidents seeking approval to change the constitution to run for a third term. One example is Venezuelan President Chavez's first push to reform the constitution to allow an additional presidential reelection (along with several other measures) in a 2007 referendum. Another is when Colombian President Uribe's

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<sup>120</sup> One case, Correa's quest for indefinite reelection, was not settled by the end of the period of study. He ultimately succeeded in his goal, but compromised by promising not to run again (partial achievement).

supporters were unsuccessful in their push to allow him a third presidential term (2007-2010).<sup>121</sup> While Chavez went on to win indefinite reelection in a subsequent (second) referendum the following year, Uribe ultimately obeyed the court ruling against him, despite his high popularity at the time. While this analysis is not specifically concerned with explaining variation in the success of attempts to exercise executive power over elections, I would posit that Uribe's abandonment of his reelection effort (i.e., he didn't take the issue to a popular vote) demonstrates the important role of institutions in that country and, in particular, its respect for a strong, independent judiciary. This suggests public opinion (president's approval ratings) and the institutions (courts) present two potential explanatory factors for whether or not presidents are successful in achieving their apparent aims (also addressed in the next chapter).

In Ecuador a similar effort for unlimited reelection was initiated by President Correa's party in 2013, but remained ongoing at the end of the period of study. Correa was successful in gaining one reelection through a complete replacement of the constitution and then his supporters sought further reform for the president to run indefinitely. Prior to Correa, at least three previous Ecuadorian presidents failed in their efforts to gain reelection. In their cases, it was not an issue of voters or the court ruling against the president, rather the presidents were unable to gain approval for their reforms from necessary institutions and faced strong opposition parties.

Again, presidents were mostly successful in employing their EEP strategies. As this section notes, the toolkit for executive manipulation of elections is expansive. These tools can be particularly effective when the president enjoys a majority as well as a compliant IEG and

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<sup>121</sup> Interestingly his successor, President Santos, abolished reelection for presidents (after he was reelected).

courts (addressed later). Such conditions only increase with longer, multiple terms in office, now possible due to reelection reforms.

*Duration of Executive Actions*

Variation in the amount of time presidents were involved in each EEP episode was noteworthy.<sup>122</sup> Most cases (26) endured more than six months, and approximately one third (12) lasted well over a year. Table 5.3 provides a summary of duration of EEP cases, from estimates based on media reports.

<b>Table 5.3</b>				
<b>Duration of EEP Cases</b>				
<b>Duration</b>	<b>Colombia</b>	<b>Ecuador</b>	<b>Venezuela</b>	<b>Total</b>
Short (0-6 months)	4	5	8	17
Medium (6-12 months)	1	5	8	14
Long (1 year+)	5	4	3	12
<b>Total</b>	<b>10</b>	<b>14</b>	<b>19</b>	<b>43</b>

In Colombia, cases were either very long (half lasted a year or more), or short (four were zero to six months long, and only one was medium). Ecuador’s record was mixed, with a nearly equal number of its 14 cases falling in each range (five short, five medium, and four long). Venezuela had a speedier record, with most cases occurring within less than a year (eight short and eight medium). Only three of Venezuela’s 19 EEP cases lasted more than a year.

These differences suggest interesting variation in presidents’ ability to act in different settings and time periods. Some presidents quickly achieved their agendas. For example, Venezuelan President Chavez implemented a new constitution that increased his powers over elections in less than a year. Meanwhile, others failed to achieve their goals after protracted struggles – such as President Duran-Ballen’s efforts at electoral reform and reelection in Ecuador

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<sup>122</sup> See Appendix 5D for definition and data on length of episodes.

in 1994 – or won after years of deliberation, as with Uribe’s first reelection effort in Colombia in 2003-2004. It usually took longer for presidents to enact constitutional reforms or complicated electoral reforms (sometimes requiring multiple efforts) than informal actions such as simply violating electoral rules.

### *Institutional Involvement and Alignment*

The final column in Table 5.1 refers to the number and involvement (supportive or not) of institutions in EEP cases. These observations must be made carefully, because institutions vary in size, power, and purpose and their participation is complex, occurring at many potential levels. However, it is possible to gain some insights by observing the tally of institutions involved in EEP processes and interactions. For example, there were only a few episodes where the president acted unilaterally and relatively unimpeded. More than half the cases have three or more institutions participating in creating, promoting, questioning, protesting, etc. the executive’s exercise of power. Ecuador is the clear frontrunner, with eight of 14 cases involving four or more institutions. Most of Venezuela’s episodes (14 of 19) involved only one or two institutions besides the executive. In only four cases were three or more institutions fully involved. In addition, in all but three cases, the president enjoyed active support from at least some of the institutions involved. In only five cases did presidents face opposing institutions and there were four cases where mixed/neutral institutions played a primary role. Perhaps this is due to the more centralized nature of Venezuela’s government, or the popularity of the president (to be explored in the next chapter).

In contrast, Colombia had no episodes where the president acted alone, and only three where he faced just one other institution. The majority of cases in Colombia featured two or more institutions (in three cases there were three or more). Colombia also had an equal number



of episodes where the president contended with supporting institutions and opposing institutions. This suggests that Colombian presidents must overcome more institutional hurdles.

In many cases with the most institutions involved, the presidents were able to overcome opposition and achieve their apparent aims. This means either that presidents maintain disproportionate power or, as suggested in Chapter 4, they and their supporters negotiated for a compromise outcome. Ecuadorian and Venezuelan presidents enjoyed a higher rate of success in their apparent aims, despite having a varied number of institutions involved. This suggests that their success, and likely also the amount of time it took them to achieve their goals, was shaped not just by the number, but also the strength, centralization, and independence of institutions, among other factors. The fact that Colombian presidents experienced more challenged outcomes, with many institutions involved, suggests a complexity to the process there, with extensive debate and compromise among institutions.

These findings have positive as well as negative normative implications for democratic quality. On the one hand, presidents rarely acted alone, meaning they either worked with other institutions or were forced to overcome opposition from other entities. At a minimum, the transition to democracy has largely forced the executive to work within institutional structures and democratic procedures rather than blatantly act unilaterally. However, this did not prevent presidents from abusing power. Some found ways to overpower institutions, or manipulate within them, using democratic means for questionable ends. For example, despite an obvious restriction in the constitution to propose the same reform within a year after it was defeated, Chavez managed to overcome the Supreme Court's questions and coerce support from the IEG to push for another referendum on reelection. He often argues that nothing is more democratic than letting the people decide in a vote (despite arranging the vote through improper means)

(Andean Group September 2007, LAWR 8/6/2009). This is something he also professed when dictating laws, stating that people can always vote to repeal them (Latinnews Daily 2/2/2007). Correa likewise worked to overpower institutions to push through a new constitution in Ecuador, ultimately firing 57 members of congress with support from the IEG, to create a constitution that purports more citizen involvement in government. Regardless of the goals and having cooperated with other institutions, presidents still appear to be quite active in using their power to shape electoral regimes.

In sum, this section describes variation on the main parameters of episodes of exercised executive power. Presidents' behavior in the electoral realm was extensive – nearly every president in the period of study had at least one episode. More current presidents were the most active, meaning EEP is an increasing phenomenon. Many episodes were complicated, and most were contested. Presidents were ambitious, with nearly half seeking to change the constitution. This means that not only did they exercise their power, but some did so using democratic means and many gained increased powers. The next section concludes by highlighting key findings in cross-national variation.

#### **IV. Conclusion: Comparative Observations**

This chapter identified and analyzed 43 cases when presidents sought to exercise powers in order to affect electoral procedures and outcomes in Colombia, Ecuador, and Venezuela between 1993 and 2013. It describes the increase in EEP incidents over time, noting how three recent presidents, one in each country, were the most active. In addition, these actions often had significant impact, with nearly half instituting changes to the constitution. While this is a concern for democratic stability, there were also important efforts to resist some presidents' actions.

While there was a pattern of increased executive actions over elections in each country over the last two decades, some interesting national patterns varied.

For example, ironically, executives' efforts at exercising power over the electoral regime could signal some positive developments with regard to democratic and institutional stability. Presidents typically sought to implement change through legal means, and often through mechanisms that are touted for being democratic (at least in a direct democracy sense), such as referenda. They actively introduced and pushed legislation as well as issued decrees. However, when they attempted to make fundamental, constitution-changing changes, such as allowing reelection, they often faced challenges from the courts, IEGs, public opinion, etc., igniting a long chain of events. While they still prevailed in most cases, many presidents were forced to employ complicated legal procedures or burdensome political mechanisms to legitimately (or at least quasi-legitimately) to accomplish their goals. The process was often lengthy, taking up to a year or more.

The best example of this was Colombia, with the fewest (10) concrete examples of EEP among the three countries. Interestingly, Colombia was also the case in which IEP consistently decreased over time. In addition, the duration of Colombia's episodes was notable – most required a year or more. In many cases this was because presidents faced several requisite institutional procedures to introduce changes, for example: proposal in the legislature, extensive debates among committees and the two houses of Congress, review by an IEG or constitutional court, sometimes public referenda, etc. Cases where presidents successfully achieved their objectives were particularly long, but so were some failures (specifically President Uribe's party's attempt for a third executive term, first proposed in late 2007 and ultimately defeated by the Constitutional Court in March 2010). This suggests that while Colombian presidents are still

powerful, and increasingly active, they face institutional constraints. The example of Colombia, which witnessed reduced IEP, the fewest attempts at EEP, and the fewest successful outcomes by presidents (which took a long time to achieve), could be an example of how democratic procedures function to maintain and strengthen checks and balances.

In contrast, Venezuela had the most EEP episodes (19), and it witnessed an increase in institutionalized executive power (IEP) over time. Interestingly, a smaller proportion of its cases involved formal changes to the constitution, as presidents successfully used more informal measures and manipulation to exercise power. In addition, many episodes there occurred more quickly than in Colombia. Venezuelan presidents face a more centralized electoral management structure (fewer institutions, one house of Congress, one high court that also serves as electoral tribunal)<sup>123</sup> and also took advantage of the ability to make direct appeals to voters through direct democracy measures. These initiatives can be more expedient for presidents because they essentially bypass other institutions and were occasionally implemented or facilitated by working outside the strict confines of the law. Indeed, President Chavez, who was in power during most of the two decades under study, was both creative and consistent in his efforts to thwart institutions and influence the electoral process. The case of Venezuela demonstrates increases of both formal and exercised executive power over elections.

Ecuador's mixed record provides interesting insights, suggesting the need to look more closely at the implications of laws designed by the president himself. Its 14 cases of EEP reflect an interesting shift in political power during that country's turbulent political history. During approximately the first half of the period of study, governments were controlled by powerful

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<sup>123</sup> Unlike Colombia and Ecuador, Venezuela does not have a separate electoral or constitutional court. Electoral judicial matters are resolved within the Supreme Court, which has separate chambers to address specific topic such as elections. Therefore, when power was exercised over the Supreme Court, it was counted as EEP because the Court is the final arbiter of electoral disputes.

political cliques in Congress and presidents (as well as other institutions) fell repeatedly. Executives often sought to exercise power over elections, but were repeatedly thwarted by a complete break-down of relations among government institutions, which often included battles with the IEG. By the time of President Correa's election in 2006, political parties, as well as institutions such as the Supreme Court, were thoroughly discredited. His administration reshaped political power through a new constitution and subsequent laws, and government became concentrated within a top-down movement (albeit with more/new institutions that purportedly seek greater citizen participation) (Becker 2016, Conaghan 2016, Peruzzotti 2013). Correa's successive efforts to exercise power over elections involved discrediting and de-funding political parties, while placing restrictions on the media, and using massive government spending to bolster his campaigns, create government projects, and envelop citizen participation into new government entities. In sum, presidents increasingly sought to exercise power over elections over time in Ecuador, but the real success occurred after political parties were discredited and complete replacement of government institutions.

Finally, there is cause for concern that presidents are so active in exercising power over elections. In all three countries executives sought to exercise their power through various mechanisms and *each country witnessed attempts at a third presidential term*. In addition, in all three countries, presidents would incorporate their goals into broader popular reforms to mask the intent for personal or party gain or to make their reforms appear democratic. For example, Uribe sought extensive reforms that were touted to address rising frustration with corruption in politics and involvement by narco-trafficking interests in 2008. Chavez, when seeking a constitutional amendment for reelection in 2007 year, first packaged the reform with extensive promises of more hospitals and increased pay for public workers. Correa's 2008 constitution

offered progressive social, economic, and environmental rights, but also significantly increased executive power. A subsequent constitutional reform in 2011 effectively granted him significant increased power over the judiciary, but it was presented in a referendum on ten issues including popular items such as banning bullfighting and cracking down on criminals. So, while a president's intent cannot always be identified, most EEP actions appeared at some level to be self-serving to the president or his party. From a normative perspective, this means that those concerned about democracy should still focus attention on actions by the executive and their interactions with institutions. The next chapter advances possible explanations for executive behavior described in this chapter.

## Chapter 6 – EXERCISED EXECUTIVE POWER: EXPLAINING PRESIDENTS' ACTIONS

*Chapter Outline: I. Introduction: Executive Actions in the Electoral Realm; II. Cross-national Variation in EEP Frequency (DV #1): Hypotheses and Findings; III. Initiation of EEP Attempts (DV #2): Hypotheses and Findings; IV. Outcomes in EEP Attempts (DV #3): Hypotheses and Findings; V. Summary of Results; VI. Cases and Causal Mechanisms: Explaining Exercised Executive Power; VII. Conclusion*

### **I. Introduction: Executive Actions in the Electoral Realm**

Chapter five described Exercised Executive Power (EEP), or actions presidents take to change or impact national election management, processes, or outcomes. Not only were there dozens of examples, but episodes occurred increasingly over the time of study and by almost all serving presidents. Certain presidents were particularly active, and most were successful in achieving their goals. The number of EEP episodes across countries compared as expected, considering variation in Institutional Executive Power (IEP). For example, Colombia had the greatest decrease in *formal* executive powers (essentially increasing restrictions on presidents), and also had the fewest episodes of *exercised* executive power. Meanwhile, Venezuela had the greatest increase in IEP (essentially empowering presidents), as well as the most EEP episodes.

However, change over time – the increase of executive actions demonstrated in all three countries – does not correspond clearly with IEP. For example, while the level of formal executive powers decreased slightly in Ecuador, presidents' exercise of power increased there. IEP decreased consistently over time in Colombia, reducing formal executive powers, but that country witnessed an increase in EEP episodes, meaning presidents became more active. In Venezuela, both presidents' formal powers over elections, and the actions that they actually took to affect them, increased over time. This misalignment suggests that the same factors that influenced IEP may not necessarily explain changes in EEP.

This chapter seeks to account for the variation across countries and over time in EEP discussed in the previous chapter, analyzing the 43 cases identified there. The dependent variable is examined in three different ways. First, I seek to explain cross-national variation in the *frequency* of EEP episodes, or the combined tally in each country over two decades of study (DV #1). Per Chapter 5, there were 10 episodes in Colombia, 14 in Ecuador, and 19 in Venezuela. Second, I evaluate the *initiation* of EEP attempts (DV #2), or the moment when presidents sought to use their power over elections. I examine all 43 cases individually to determine factors triggering presidents' actions. The third dependent variable is *success* of EEP attempts, scored as whether presidents achieved, failed, or partially succeeded in their apparent aims (DV #3). Per Chapter 5, there were 27 cases where presidents achieved their EEP goals, eight cases of partial success, and eight failures.

Based on arguments in the literature and the findings presented in Chapter 5, I use qualitative techniques to evaluate 10 hypotheses that could help explain these three outcomes. I test whether the factors that had the most impact on IEP are also relevant to EEP. Data for three of the independent variables are provided in the sections below and the remainder appear in Appendix 6. The first hypotheses (again, based broadly on new institutionalism approach) posit that the structure of formal entities and the established norms that comprise electoral regimes influence executive behavior. These variables (institutional configuration and institutional constraints<sup>124</sup>) were expected to best explain DV #1 and DV #3 because they vary slowly over time and can be traced along broad outcomes such as frequency of EEP occurrences and results. They are characteristics that are more likely to explain variation across countries, likelihood of success in those efforts over time, and duration of those efforts. The hypotheses are:

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<sup>124</sup> These variables are scored based on a review of all laws pertaining to elections and electoral authorities in the three countries since transition to democracy. Full description and data are provided in Chapter 4.



*DV #1, H1: EEP episodes are more likely to occur in countries where presidents face fewer institutional obstacles or veto players (centralized institutional configuration) and less likely to occur where presidents face more (decentralized).*

*DV #1, H2: EEP episodes occur more frequently in countries where electoral law is more easily changed (weak institutional constraints) than where electoral law is more difficult to change (strong).*

*DV #3, H1: Attempts to exercise executive power over elections are more likely to be successful in countries where presidents faced fewer entities or veto players (centralized institutional configuration) and less successful where presidents faced more (decentralized institutional configuration).*

*DV #3, H2: Attempts to exercise executive power over elections are more likely to be successful in countries where electoral law is more easily changed (weak institutional constraints) than where it is rigid (strong institutional constraints).*

Next, as explored in Chapter 4, I consider whether political and economic upheaval explains difference across countries (DV #1). I track whether frequency of EEP cases corresponds with overall level of political and economic upheaval, assessed with a combined index of three factors (interrupted presidencies, constitutional replacements, and banking crises). I also test whether specific crises, or “episodic occurrences” triggered initiation of particular EEP attempts.

*DV #1, H3: Countries with a history of major political or economic upheaval experience more EEP episodes.*

*DV #2, H1: Presidents are more likely to initiate attempts to exercise executive power over the electoral arena following major political or economic crisis.*

Finally, employing an agency approach, I tested the self-dealing argument, which holds that officeholders seek to maximize their own power (Ginsburg, Elkins and Blount 2009). This works in conjunction with the argument that popular presidents (and their supporters) will seek greater executive power in order to promote their policies and to remain in office (Corrales 2016). Similarly, presidents with more support in Congress can expect to gain more power, as

was researched regarding the design of new constitutions (Segura and Bejarano 2004). I expect these variables, popularity (presidential approval ratings) and power advantage (majority in Congress), to best explain DV #2 and DV #3, because I could trace support for a popular president along the specific actions by those presidents.

*DV #2, H2: Presidents are more likely to initiate attempts to exercise executive power over the electoral arena when their popularity is high.*

*DV #2, H3: Presidents are more likely to initiate EEP attempts when they have a majority in Congress.*

*DV #3, H3: A president's attempts to exercise power over elections are more likely to be successful the more popular s/he is.*

*DV #3, H4: A president's attempts to exercise power over elections are more likely to be successful when s/he has majority support in Congress.*

Based on the findings of this analysis, I argue that the strongest factors to impact EEP frequency, initiation, and success are institutional, namely configuration and constraints. However, unlike with IEP, the president's mandate is also a key contributing factor. Economic and political upheaval, as well as presidential popularity, are less influential. The fact that institutional structure (configuration and constraints) and legislative support (i.e., in a governing institution) is more important than popular support or crises has important implications for democracy. Continued emphasis on building and strong institutions and supporting stable laws can work to temper executive overreach. In addition, the power of legislative support is an important consideration, as presidents with a majority were more active and more successful. This argument and implications are further demonstrated through cases studies that seek to show the underlying causal processes at work and in the concluding discussion.

The remainder of this chapter proceeds as follows. Sections two, three, and four advance the hypotheses I evaluated for each dependent variable and present my findings. Section five

briefly summarizes the results and advances my argument based on findings in the previous sections. Then, section six illustrates how the variables work through case studies. Section seven concludes by reviewing my findings and argument, and introducing implications for democratic development (further developed in Chapter 7).

## **II. Cross-national Variation in EEP Frequency (DV #1): Hypotheses and Findings**

Why do presidents in some countries attempt to exercise power over elections more frequently than in other countries? This section evaluates a set of hypotheses that could help to explain cross-national variation in the first of three EEP outcomes described above (DV #1), the frequency of EEP attempts during the period of study. As shown in Chapter 5 (Table 5.2) and described in Appendix 5C, there were 10 EEP episodes in Colombia, 14 in Ecuador, and 19 in Venezuela. I consider whether three variables could explain variation in these numbers across countries. The first two are institutional configuration and institutional constraints. Per Chapter 4, these factors impact level of formal executive powers over elections and could also account for whether presidents seek to exercise their powers (legitimately or otherwise) or not. The third variable considers a country's political and economic stability over time, the logic being that greater upheaval could prompt an increased number of attempts by presidents to exercise executive actions over time.

*DV #1, H1: EEP episodes are more likely to occur in countries where presidents face fewer institutional obstacles or veto players (centralized institutional configuration) and less likely to occur where presidents face more (decentralized).*

This hypothesis argues that when power over elections is distributed across more entities (decentralized institutional configuration), presidents will be less likely to try to exercise power

in that realm because the likelihood of achieving their goals is diminished. This employs the same logic used in Chapter 4 to explain IEP change. With multiple institutions involved in the electoral process, presidents are less likely to impact electoral outcomes and could be dissuaded from attempting to exercise their powers. When power is distributed across many institutions, these entities are likely inclined to maintain their power and resist actions imposed by another branch. Conversely, when presidents face fewer institutions, and power is more concentrated, I expect presidents are more likely to try to exercise power, because they envision the likelihood of successful outcomes.

This reasoning is also based on findings in Chapter 5, that showed there were only a few EEP episodes where the president acted unilaterally and relatively unimpeded. In more than half the cases, there were three or more institutions that participated in creating, promoting, questioning, protesting, etc. the executive’s attempted exercise of power. Ecuador is the clear frontrunner, with eight cases involving four or more institutions. Most of Venezuela’s episodes (14 of 19) involved only one or two institutions besides the executive. In that country, only four cases had three or more institutions fully involved. This hypothesis tests more closely if the institutional configuration is related to the number of EEP episodes. Table 6.1, below, demonstrates institutional configuration compared to the number of EEP episodes per country, as well as institutional constraint, tested in the next hypothesis (data from Table 4.1).

<b>Table 6.1 Institutional Configuration &amp; EEP</b>			
<i>Indicator</i>	<i>Colombia (10 EEP episodes)</i>	<i>Ecuador (14 EEP episodes)</i>	<i>Venezuela (19 EEP episodes)</i>
Number of entities with authority over electoral management	5	3 (pre-2008) 5 (post-2008)	2 (1961-1999) 3 (1999-present)
Number of houses in legislature	2	1	2 (1961 – 1999) 1 (1999-present)

Total number of institutions	High (7)	Medium-high (4 then 6)	Medium (4 then 4)
Degree of constraint on making electoral law	Strongest	Medium-low	Medium-low

My analysis found support for this hypothesis. Venezuela witnessed the highest number of attempted EEP episodes and it had the lowest number of institutions involved in electoral management and law-making. Colombia had the most decentralized institutional configuration, with seven entities involved in the electoral process, and the fewest number of EEP episodes. Ecuador represents a middle case, with more episodes than Colombia and a corresponding slightly lower number of institutions. Therefore, it is possible that presidents were deterred from exercising power over elections when they faced decentralized institutional configuration. In Venezuela, where the electoral regime’s institutional configuration is more centralized, it had the most attempts by presidents to exercise power over elections.<sup>125</sup>

*DV #1, H2: EEP episodes occur more frequently in countries where electoral law is more easily changed (weak institutional constraints) than where electoral law is more difficult to change (strong).*

The second hypothesis considers another institutional factor: how electoral law is made. More specifically, it considers the potential constraints to changing the electoral system (described in Chapter 4) – this includes constitutional protections of electoral law, rigid rules to reform the constitution, and time limits on such reforms.<sup>126</sup> Per Table 4.2, Colombia had the

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<sup>125</sup> In fact, Chavez successfully changed the constitution to reduce the legislature from two chambers to one, and increased the ability of the government-controlled IEG to create electoral regulations, essentially creating fewer potentially opposing entities (increased centralization of institutional configuration) and weakened institutional constraints (discussed in Section 6).

<sup>126</sup> Changing laws or seeking to change laws is one of various ways that executives can exercise power over elections, so this hypothesis could really only explain part of the variation in EEP. However, it represents a significant amount of the variation. In Colombia, institutional change accounted for six of 10

highest constraints on changing electoral law, Ecuador and Venezuela scored medium-low strength (meaning it is easier to create and reform electoral law there). Colombia had the fewest EEP episodes (including those that sought institutional change), suggesting that presidents could be deterred from exercising power over elections because they know that their efforts would be difficult or complicated, or because changing the law was not permitted and efforts to change it could be unlawful. By comparison, Ecuador and Venezuela both have electoral regimes with medium-low levels of institutional constraints, meaning it is easier to change their voting systems. They also experienced higher number of EEP episodes that sought to change the law (nine of 14 in Ecuador and 13 of 19 in Venezuela), suggesting a lower threshold of institutional resistance to executive actions over electoral regimes. In fact, in both Ecuador and Venezuela, the presidents successfully acted to reduce the restraints on making electoral law, hence we can infer their motivation to act more freely in the electoral realm. Both Correa (2010) and Chavez (1999) led reforms making it easier to change electoral law and to allow the IEG to create regulations, essentially bypassing the legislature. This is addressed more closely in Section 6, tracing causal mechanisms.

*DV #1, H3: Countries with a history of major political or economic upheaval experience more EEP episodes.*

I hypothesize that a cycle of political and economic upheaval can lead to more overall actions by executives to control elections as they seek to address crises and consolidate power. This corresponds with O'Donnell's argument that authoritarian-style leaders arise to confront crises, leading to arbitrary rule and institutional instability (1994). I operationalized political and

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EEP attempts; in Ecuador it represents nine of 14; and in Venezuela, 13 of 10 EEP attempts sought to change electoral law.

economic upheaval with an index of three factors (described in Chapter 4). Table 6.2 provides the data together with number of EEP episodes.

<b>Table 6.2</b>					
<b>Political and Economic Upheaval 1979-2010</b>					
<i>Country</i>	<i>Number of EEP episodes</i>	<i>Interrupted presidencies<sup>127</sup></i>	<i>Constitutional replacements<sup>128</sup></i>	<i>Banking crises<sup>129</sup></i>	<i>Upheaval score</i>
Colombia	10	0	1	2	3 – low
Ecuador	14	3	5	2	10 – high
Venezuela	19	1	1	1	3 – low

The data do not support this hypothesis. Colombia, with the fewest EEP episodes, indeed had a low score of political and economic upheaval as expected, but so did Venezuela with 19 episodes. Ecuador had the highest level of instability, and had a higher number of EEP cases than Colombia, but less than Venezuela. This suggests that a cycle of crises is not directly related to executives acting over the electoral realm. While they could be related, the trend is not consistent.

**III. Initiation of EEP Attempts (DV #2): Hypotheses and Findings**

The second dependent variable is initiation of EEP episodes. The goal of the analysis is to explain when presidents sought to exercise power over elections. I test three hypotheses to account for factors that could trigger presidents’ attempt to exercise power: episodic occurrences

<sup>127</sup> Failure of a democratically elected president to finish their term (Valenzuela 2004, Martinez 2015).

<sup>128</sup> “A set of revisions that is formally designated as a ‘new’ constitution or significant revisions that do not use the stated amendment procedure” (Elkins, Ginsburg, and Melton 2009, 126). Data from Comparative Constitutions Project (<http://comparativeconstitutionsproject.org/about-ccp/>).

<sup>129</sup> Data from Valencia and Laeven 2012. A banking crisis is defined as systemic if two conditions are met: 1) Significant signs of financial distress in the banking system (as indicated by significant bank runs, losses in the banking system, and/or bank liquidations); 2) Significant banking policy intervention measures in response to significant losses in the banking system.

(<https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Systemic-Banking-Crises-Database-An-Update-26015>).

(political or economic crisis preceding the episode); popularity (president enjoyed high approval ratings); and power advantage (president had a majority in Congress).

The first independent variable considered here is “episodic occurrences,” or whether political and economic crises triggered attempts by presidents to exercise executive power (using the same logic as for political and economic upheaval, in DV #1 H3, above). As described in Chapter 4, numerous studies have ascribed executive power to major crises, as presidents justify their need to act in the face of conflict (Gasiorowski 2013, Gunes 2017, Healy 2009, Yoo 2010). The logic is that chaos could fuel the needs for a strong leader to take executive action. I score episodic occurrences the same as in Chapter 4, by assessing whether the country experienced a significant economic or political upheaval in the nine months preceding changes initiation of EEP attempt (coup/impeachment, severe economic or political crisis, security conflict, major social disruption, etc.). Data are provided in Appendix 6.

*DV #2, H1: Presidents are more likely to initiate attempts to exercise executive power over the electoral arena following major political or economic crisis.*

Table one notes the number of EEP episodes that occurred following a major political or economic upheaval (based on Appendix 6 data).

<b>Table 6.3 EEP Episodes Following Episodic Occurrences</b>		
	Yes crisis	No crisis
Colombia	6	4
Ecuador	13	6
Venezuela	10	9
<i>Total</i>	<i>24</i>	<i>19</i>

Surprisingly, there were only slightly more EEP attempts following episodic occurrences (24) than there were outside of crises (19). This suggests that while many presidents exercise their



powers in the face of political and economic upheaval, they are almost just as likely to do so in the absence of crises. This finding is contrary to conventional wisdom for the region. Indeed, based on comprehensive review of LAWR articles, the media frequently report and speculate on how presidents take advantage of crises to use their power and implement their plans, which in fact they did. For example, there are numerous examples of Venezuelan President Chavez capitalizing on crises in neighboring countries or at home to shore up his reputation as a regional leader, push his policies, or declare a state of emergency to consolidate power (LAWR 9/25/2008 and 1/28/2010, LatinNews Daily 11/21/2008 and 7/26/2010, Andean Group January 2010). Ecuadorian President Correa used similar techniques, provoking conflict with Colombia, (Andean Group March 2010), pushing policies following a police uprising (LAWR 10/21/2010), provoking conflict with the legislature (LAWR 4/26/2012, Andean Group April 2012), and fighting with and blaming the media (Andean Group June 2012). However, there were almost as many episodes where presidents attempted to exercise power during periods of relative calm. Hence, while the evidence does not support this hypothesis, it raises the important issue that presidents are more active than we suspect, there are potentially more episodes of executive action that receive less attention, at least in the media, and that presidents are often acting outside of the “justification” by crises.

*DV #2, H2: Presidents are more likely to initiate attempts to exercise executive power over the electoral arena when their popularity is high.*

The second independent variable is presidential popularity. I expect that when presidents are highly popular or command a majority in the legislature, they are more likely to initiate attempts to exercise power over elections. This is based on similar logic used in Chapter 4 to explain why

countries would empower popular presidents, as well as literature noting executives' efforts to consolidate power (Corrales 2016, Simpser 2013). Further literature suggests that popularity can help explain executive behavior, as presidents with majority support will act on their support to seek to create or confirm greater power for themselves. This is referred to as self-dealing (Ginsburg, Elkins, and Blount 2009), and was demonstrated to occur when presidents sought reforms for reelection (Corrales, 2016b). I score each of my 43 cases on this variable by calculating the presidents' average monthly support in opinion polls for up to three months preceding initiation of the EEP attempt. I use data from the Singer et al. (2016) Executive Approval Database<sup>130</sup> and score popularity as follows: LOW = less than 40%; MEDIUM = 41-49%; HIGH = 50-59%, VERY HIGH = 60% of more.<sup>131</sup> Table 6.4 provides data on the number of EEP cases and presidential popularity.

<b>Table 6.4 Presidential Popularity &amp; EEP</b>	
<i>Approval Rating at Initiation of Attempt</i>	<i>Number of EEP Cases</i>
Low (less than 40%)	8
Medium (41-49%)	14
High (more than 50%)	4
Very high (more than 60%)	17

My analysis finds little support for this hypothesis: presidents enjoyed higher levels of popularity in only half of the instances when they sought to affect electoral institutions, processes, or outcomes. Support was low/medium in 22 cases, and high/very high in 21. The greatest number of cases were initiated by presidents with the highest approval ratings. Of the 43

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<sup>130</sup> Carlin, Ryan E., Jonathan Hartlyn, Timothy Hellwig, Gregory J. Love, Cecilia Martinez-Gallardo, and Matthew M. Singer. 2016. Executive Approval Database 1.0. Available for download at [www.executiveapproval.org](http://www.executiveapproval.org).

<sup>131</sup> I base these labels on data from the Executive Approval Database. In a survey of 137 executives in 30 parliamentary and presidential democracies, presidents averaged 55.9% approval in the first quarter of their term, and 40.6% at the end of their terms (Carlin, Martinez-Gallardo, and Hartlyn 2012, 214).

cases, nearly half (21) were initiated when the executive had at least a high or very high approval rating (meaning more than 50%). However, another 14 cases occurred with medium approval (above 41%). This is still relatively positive based on historical comparison (Carlin, Martinez-Gallardo and Hartlyn 2012). There were only eight cases where presidents initiated an exercise of executive power over elections when they had low popularity (less than 40%). As explored later in the chapter, some of these cases can be explained by the fact that the presidents enjoyed a majority in Congress (true for all but three). In sum, presidents rarely initiated EEP episodes when their popularity was very low. When they did, they typically had a majority in Congress. Most presidents initiated EEP when their approval ratings were medium or high. This provides partial support for the theory that popular presidents will act to consolidate or increase their power.

*DV #2, H3: Presidents are more likely to initiate EEP attempts when they have a majority in Congress.*

Some argue that presidents will change laws to their advantage if they enjoy majority support in Congress. This was demonstrated with regard to presidents seeking reforms to economic policy (Biglaiser 2016). This argument uses similar logic as that regarding presidential popularity, namely that majority presidents will seize the opportunity and leverage support to advance their agenda. Presidents who enjoy a majority in the legislature can anticipate facilitation by friendly debates and supportive votes from members of Congress. They might also expect to face weaker, potentially less effective, opposition. Presidents are emboldened by likely success in the legislature as well as minimal fear of repercussions such as overturn (if that provision is allowed). In contrast, presidents without majority support would be less likely to initiate an

attempt to exercise power because of likely opposition in the legislature and potential fear of repercussions.

To assess the executive’s power over the legislature, I calculated whether the president commanded majority support in Congress or not.<sup>132</sup> I used data from Nohlen (2005) and IFES (<http://www.electionguide.org/elections/>), referred to Negretto (2006), and consulted with Silva (Interview 11/28/2016) to check some years. Table 6.5 provides a summary of the data.

<b>Table 6.5</b>	
<b>Majority/Minority in Legislature when EEP Attempt Initiated</b>	
<i>President’s Support in Legislature</i>	<i>EEP Cases</i>
Minority	11
Majority	32

The data support this hypothesis. In the overwhelming majority of cases (74%), presidents who initiated EEP attempts enjoyed majority support in Congress. There were 32 EEP attempts initiated when presidents had a majority, compared to only 11 when presidents did not. Hence, presidents are more likely to initiate attempts to exercise power over elections when they enjoy a majority in Congress. Interestingly, with regard to timing, all but one of the episodes initiated by presidents who enjoyed a majority occurred after 2002 (there was one in 1996). By contrast, the 11 EEP cases by presidents without majority support occurred in 2007 and prior (seven were before 1998). This suggests executives are more active when they enjoy a majority and that this is an increasingly common phenomenon. The fact that executives acted even

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<sup>132</sup> During the period of study, Latin America witnessed the decline of traditional parties and the growth of large, less-formal movements as well as many smaller parties. This makes it difficult to accurately assess the exact number of seats the president can count on for support in the legislature. It is, however, possible to gauge if the president enjoys a majority, both by assessing his party’s strength and coalition partners, as well as post hoc observation of how members of the assembly voted. Therefore, rather than estimate the share of seats that supported the president at a given time, which could be inaccurate and fluid, I assess if the president commanded majority support.

without a majority is also impressive. Interestingly, in Colombia there was only one EEP case when the president did not have a majority. This makes sense because with Colombia’s institutional configuration (including many entities) and strong constraints on changing laws, potential obstacles there are likely insurmountable without support from a majority in Congress. And indeed, in that one episode in 1998, President Pastrana failed to accomplish his goals (again, see Appendix 6 for data).

The result is that presidents took advantage of supportive legislatures to advance their goals. This is perhaps truer in Ecuador and Venezuela, where presidents led populist movements in a single chamber of Congress. Regardless, the fact that presidents commanding a majority more frequently exercised their powers over time in post democratic transition countries is concerning. The next section looks more closely at whether they were successful or not.

**IV. Outcome of EEP Attempts (DV #3): Hypotheses and Findings**

Not only were presidents increasingly active in exercising power over time, but they often prevailed. The third dependent variable is whether presidents succeeded in their EEP attempts or not. As described in Chapter 5, the three possible outcomes of attempts to exercise executive power over elections (no matter the precise objective) are “Achieved,” “Partial Success,” and “Failed” at attempted goals. Partial success means the president achieved some, but not all, of his stated goals. Table 6.6 provides data on EEP Attempt outcomes.

<b>Table 6.6 EEP Attempt Outcomes</b>	
<i>EEP Outcome</i>	<i>Cases</i>
Achieved	27
Partial Success	8
Failed	8

I tracked four independent variables that could help account for the third EEP outcome: institutional configuration (number of entities involved in the electoral process), institutional constraints (strength of protections on changing electoral law), popularity (executive approval ratings), and power advantage (whether president has a majority in Congress).

*DV #3, H1: Attempts to exercise executive power over elections are more likely to be successful in countries where presidents faced fewer entities or veto players (centralized institutional configuration) and less successful where presidents faced more (decentralized).*

The logic of this hypothesis is similar to DV #1, H1. I expect it to be easier for presidents facing fewer entities that manage the electoral process (centralized institutional configuration) to succeed in their efforts. This is because they will likely encounter fewer obstacles or veto payers. In contrast, I expect that presidents who face many entities (decentralized institutional configuration) will enjoy less success when they seek to exercise power over elections. This is because multiple entities that share power over the process are less likely to concede or centralize power in one entity. Table 6.7 provides presidents' success rates and the country's level of institutional configuration.

<b>Table 6.7 Institutional Configuration<sup>133</sup> and EEP Attempts Outcomes</b>			
<i>Country/Institutional Configuration</i>	<i>Achieved</i>	<i>Partial Success</i>	<i>Failed</i>
Colombia: High (decentralized)	4 (40%)	3 (30%)	3 (30%)
Ecuador: Medium-high	9 (64%)	3 (21%)	2 (14%)
Venezuela: Medium (centralized)	14 (74%)	2 (10%)	3 (16%)

<sup>133</sup> See Table 4.1 for specific data on Institutional Configuration scores.

My analysis found some support for this hypothesis. Venezuela witnessed the most successes by executives in their EEP attempts and it had the lowest number of institutions involved in electoral management and law-making. Its presidents achieved their EEP goals in 74% of cases. In contrast, in Colombia, with the most decentralized institutional configuration including the highest number of electoral management entities, presidents had the least successes. Colombian presidents were successful in only 40% of cases and failed in 30%. The middle case, Ecuador, also fits the pattern, with more successes than Colombia, but fewer than Venezuela (64% of cases). Presidents in Ecuador<sup>134</sup> and Venezuela, with more centralized institutional configuration, only failed to achieve their EEP goals in 14% and 15% of cases, respectively. This suggests that decentralized institutional configuration can contribute to thwarting presidents' goals to exercise power over elections, and that centralized (fewer) institutions might facilitate their efforts.

*DV #3, H2: Attempts to exercise executive power over elections are more likely to be successful in countries where electoral law is more easily changed (weak institutional constraints) than where it is rigid (strong institutional constraints).*

I expect that in countries where norms are established to protect electoral laws, presidents are less likely to succeed in exercising executive power over elections when they try to change laws. Not only could such norms deter presidents' attempts, but stricter procedures could trigger processes that delay presidents' efforts, invite veto players, and potentially force compromise or defeat. In contrast, where constraints on making or changing electoral law are weaker, presidents will likely have more success in their overall EEP attempts, as there are fewer obstacles to reforms. Table 6.8 illustrates countries' level of institutional constraints and the outcomes of presidents' EEP attempts (which sought to change the law).

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<sup>134</sup> While Ecuador's institutional configuration had more entities than Venezuela, those were easily dominated by the president (see analysis in Chapter 4, Sections 2 and 5).

<b>Table 6.8</b>			
<b>EEP Attempts Outcomes<sup>135</sup> and Institutional Constraints<sup>136</sup></b>			
<i>Country/Institutional Constraints</i>	<i>Achieved</i>	<i>Partial Success</i>	<i>Failed</i>
Colombia: High (strong)	2 (33%)	1 (17%)	3 (50%)
Ecuador: Medium-Low (weak)	5 (56%)	2 (22%)	2 (22%)
Venezuela: Medium-Low (weak)	14 (78%)	1 (5%)	3 (17%)

Again, my analysis found support for this hypothesis. In Colombia, where constraints on changing electoral law are strong, fewer presidents achieved their EEP aims and there were more failed attempts. In Ecuador and Venezuela, where it is easier to introduce, change, and regulate electoral laws, presidents were more successful in achieving their EEP aims. This was particularly the case in Venezuela, where 78% of presidents achieved their attempts to change electoral law. This means that strong institutional constraints could play a role in thwarting executive attempts to exercise power over elections, whereas countries with weak constraints witness more successful attempts to exercise executive power.

*DV #3, H3: A president's attempts to exercise power over elections are more likely to be successful the more popular s/he is.*

In addition to expecting presidents to exercise power more frequently when they are popular, I expect popular presidents to enjoy more success in exercising power. Presidents can use their popular support to promote, facilitate, and justify their agenda. Their perceived mandate can not only help gather votes but can discourage and deter the opposition. Also, with broad support the president has a credible option to threaten a referendum to bypass legislative barriers

<sup>135</sup> Of the 43 cases, I look at the 29 where presidents sought institutional change.

<sup>136</sup> See Table 4.2 for specific data on Institutional Constraints scores.



and pass his efforts through a popular vote. This could work to motivate supporters and deflect or dismay the opposition. In contrast, we could expect unpopular presidents to be less successful in their attempts because they did not enjoy overwhelming support or confidence. Less popular presidents might find legislators are uneasy in supporting them and without high approval ratings they are less likely to win a referendum for major reforms. Table 6.9 provides data on the level of popularity of presidents (very high, high, medium, and low) and the outcome of their EEP attempts (achieved, partial success, and failed).

<b>Table 6.9</b>					
<b>Outcomes of EEP Attempts and Presidential Popularity</b>					
<i>Outcome</i>	<i>Popularity</i>				
	Very High	High	Medium	Low	Average
Achieved	11	2	10	4	54.54%
Partial Success	5		1	2	57.79%
Failed	1	2	3	2	48.74%

I found partial support for this hypothesis. As discussed in Chapter 5, presidents frequently achieved their apparent aims (in 27 out of 43 cases). There were eight cases of “partially achieved” results and eight cases of “failed” results. In cases when presidents were successful (“achieved”), their average approval rating was 54.54%. For cases in which presidents partially achieved their aims the average popularity was even higher, at 57.79%. Presidents who attempted, but failed to succeed in their goal to exercise control over elections had lower approval ratings averaging 48.74%. However, for the region this represents an average approval rating, which could explain why presidents still felt confident enough to attempt EEP. Overall, there is not a very significant difference among these numbers. Clearly presidents with lower popularity ratings experienced more failures. There was only one case of a very popular president and two cases of highly popular presidents failing. However, presidents that only

partially achieved their aims were more popular than those who fully did so. This suggests only some support for the notion that public support is a factor in whether presidents achieved EEP aims.

*DV #3, H4: A president's attempts to exercise power over elections are more likely to be successful when s/he has majority support in Congress.*

Presidents with majority legislative support can more readily expect their efforts to be facilitated by friendly debates and favorable votes when they face less opposition in the legislature.<sup>137</sup> Without majority support, it is more likely that presidents must compromise, resulting in partial achievement, or could be blocked, resulting in failure. Minority support in Congress could thwart presidents' efforts due to lack of votes from like-minded legislators or the perceived potential of facing repercussions for EEP actions (such as censure, revoke of policy, or impeachment). Table 6.10 demonstrates whether presidents enjoyed a majority in Congress and the outcome of their EEP effort.

<b>Table 6.10</b>						
<b>Power Balance and EEP Outcome</b>						
<i>EEP OUTCOME</i>	<i>Achieved</i>		<i>Partial Success</i>		<i>Failed</i>	
	Majority	Minority	Majority	Minority	Majority	Minority
Control over Congress						
Total	22	5	6	2	4	4

I found strong support for this hypothesis. Presidents had overwhelmingly more successful outcomes exercising power over elections when they enjoyed a majority in the legislature than when they did not. Most cases (22) of achieved aims were by presidents with a majority in Congress. Only five presidents were successful without a majority. Those five cases

<sup>137</sup> The logic of this outcome is not completely straightforward. We could also expect more success from unpopular presidents, because if they were initiating attempts to affect elections in the absence of popular support they must have been confident they would succeed.

occurred in Ecuador (three) and Venezuela (two), during a time when the presidents were very popular, but did not enjoy full support in the Congress. However, in all five cases, the three different presidents were calling for a new Constituent Assembly. Because they were popular, they could hope to win a majority in a constituent assembly. In the 1999 Venezuelan cases and the 2007 Ecuadorean cases the presidents in fact won a majority in the Constituent Assembly, which essentially (although not officially, by some observers) took over power from the traditional elected legislature. This strengthens support for the notion that it is majority support in the legislative body that matters. Indeed, having a majority in Congress also appears to have helped presidents partially achieve their goals: most cases of partial success in EEP outcomes occurred when presidents had a majority. Finally, it is also interesting that of the eight failed cases, half occurred when presidents had majority support in congress, and the other half with a minority. Each of these cases sought significant changes, seven of them impacting the constitution or calling for a new constitution. In sum, while having a majority in Congress is not sufficient for success, it can clearly help facilitate executives' intended outcomes.<sup>138</sup> Presidential mandate seems tightly connected to success in presidential attempts to affect elections.

## **V. Summary of Results**

In sum, these results demonstrate strong support for the hypotheses advancing institutional factors and presidential mandate to explain EEP outcomes, more so than popularity and economic and political upheaval. The number of EEP episodes (frequency), their timing (initiation), and outcome (success) appear to be most influenced by the structure of a country's

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<sup>138</sup> It appears that more recently, after 2007, presidents were more likely to enjoy a majority in Congress. This has normative implications for the democratic ideal of balance of power or checks and balances. In future research, it would be worth exploring additional areas where presidents gain and use power. If they increasingly control the legislature, it is likely the electoral regime (as I find) is not the only area where executive actions have increased.

institutions and laws, as well as a president's majority in Congress (or the acting legislative body at the time).

Countries with more entities in their electoral management (decentralized institutional configuration) and more rigid controls over changing electoral law (strong institutional constraints) witnessed fewer EEP episodes and less successful outcomes. Presidents whose faced challenging institutional barriers were less likely to attempt to exercise power over elections. These factors also seemed connected to whether presidents were successful in achieving their goals, with centralized institutional configurations and weak institutional constraints associated with greater success by presidents in their EEP outcomes. There were more failed attempts to exercise executive power in Colombia, where executives faced participation by multiple entities and laws that establish arduous steps to change electoral institutions.

In addition, across all three EEP outcomes, majority support in congress seems to matter much more, and much more consistently, than popularity. EEP episodes were rarely initiated by presidents without a majority in Congress, and presidents with a majority in Congress were more successful in their efforts. The five examples of when a president exercised power without a majority in Congress occurred when they were highly popular and they in fact sought to create a new legislative entity to rewrite the constitution. This has important implications for democratic institutions (discussed in Chapter 7).

As Chapter 5 described, presidents remain active wielders of power in the region. This Chapter's analysis highlights certain institutional factors can be effective in restraining powerful executives. Meanwhile, the lack of strong constraints, combined with mandate in Congress, can facilitate continued actions and abuse of power by executives. The next section advances my

argument based on findings in sections two, three and four, combining agency and institutional explanations for EEP variation, then illustrates how the variables work through case studies.

## **VI. Cases and Causal Mechanisms: Explaining Exercised Executive Power**

The preceding sections evaluated ten hypotheses seeking to account for the frequency, timing, and success of executive's efforts to exercise power over elections. Results highlight the important role of institutions as a potential barrier to presidents' actions and outcomes, as well as the advantage enjoyed (and opportunity seized) by presidents who command a majority in the legislature (who then use that power to overcome or diminish institutions). This section analyzes how the factors the previous section highlighted as potentially important for explaining variation in the exercise of presidential power over elections – institutional configuration, institutional constraints, and majority support in congress – contributed to the outcomes of EEP frequency and success by providing evidence from cases studies in each country. The cases highlight an important facilitating condition – not just number of institutions over which authority is distributed, but also the stability and independence of those institutions.

Decentralized institutional configuration and strong constraints triggered procedures and processes that delayed the president, opened debate, allowed more participants (i.e., potential veto players, which generated potential opposition to presidents and public exposure of their goals to exercise power). This was particularly the case when electoral authority was distributed across multiple independent institutions that were stable, or had not been created and controlled by the president. In contrast, centralized institutional configuration (which created instability or was easier for the executive to control) and weak constraints facilitated presidents' efforts by

presenting fewer roadblocks *and* limited opportunity for the opposition and other potential veto players to block presidents' efforts.

I also highlight the process of how presidents used their mandate (majority in Congress) to act and advocate policies without proper deliberation or open discussion. Having majority support in Congress helped them circumvent institutional obstacles. In Colombia, strong institutions with shared authority in government stood up to Uribe, delayed his efforts, and forced him to compromise. He eventually achieved success, but through questionable means. He manipulated his majority in Congress (through bribery) in order to circumvent the court and made bargains (agreeing to subsequent legislation limiting his power, which he likely knew would not impact him). In Ecuador and Venezuela, presidents used their majority to dominate the centralized, weak institutional authorities involved in electoral management. Once they gained control, they used their majority to exercise further power over the electoral arena.

### *Colombia*

I argue it is more difficult for presidents to exercise executive power when electoral management is distributed, because multiple entities are involved and can trigger a process to delay and block the effort. Likewise, these entities are less motivated to help the executive because they enjoy a share in the distribution of power, therefore they are less likely to gain from helping the president concentrate power in his branch of government. In Colombia, these institutions demonstrated strength and independence (discussed in Chapter 4), which repeatedly created debate and delay for the presidents. However, a strong mandate (majority in Congress) can ultimately work to overcome those mechanisms by facilitating favorable deliberation, compromise, and votes. The causal mechanisms are described in detail in Chapter 4 (Section II).

I argue there are fewer EEP attempts in Colombia because the institutional structures and legal mechanisms make it more difficult to change electoral law and deter executive attempts to exercise power. Indeed, fewer Colombian presidents are successful in their EEP attempts. I illustrate how one president was successful largely due to his legislative majority and only after deliberation and concessions to the many entities (decentralized institutional configuration) and steps in the process (institutional constraints) that delayed and nearly blocked his path. This example traces how the greater number of independent institutions introduced debate and resistance to executive actions, detailing enormous effort required by Uribe to overcome procedures raised by independent institutions. He was only successful by using his dominating strength in Congress to pass legislation, making legislative compromises to appeal to other entities, and even bolstering his Congressional support by resorting to corruption.

In late 2003, Uribe urged his supporters in Congress to approve a reform to the constitution to allow for presidential reelection. He argued his participation was necessary for the ongoing peace process. He counted on his popularity – and the public’s desire to end conflict – as justification of a second term, arguing that his continued participation was “necessary for him to complete the pacification effort he began in 2002” (LAWR 10/25/2005, NP). However, such change requires multiple debates in Congress, and a very contentious and protracted deliberation followed in both houses, with “fierce criticism” regarding the potential perils of empowering the executive by allowing a second term (LatinNews Daily 8/18/2004). This heated debate involved wrangling between multiple institutions. Both chambers of Congress finally approved the measure in late 2004 (LAWR 12/21/2004). To get support from critics, Uribe and his supporters pushed for legislation to protect rights of the opposition going forward, a move that helped gain favor by demonstrating commitment to electoral ‘fairness’ (Interview with Echeverri

11/25/2005). He promoted this widely-sought reform, which required corresponding legislation called the ‘electoral guarantees law,’ and placed campaign limits on executives who run for reelection and other measures to level the playing field (LAWR 10/25/2005). This process was facilitated by his influence with members of Congress. According to an election expert in Colombia’s civil society, politicians often call for reforms to bolster their reputations, leading to what he calls “legislative populism” (Interview with Mancera 11/24/2015).

In addition, Congressional support helped Uribe maneuver around opposition from the Constitutional Court. Toward the end of debate in the legislature, when the court’s approval did not appear guaranteed, Uribe convinced members of Congress to add a measure in the law that would allow for its implementation through regulation by the State Council, regardless of the Constitutional Court’s ruling (LAWR 12/21/2004). This step was seen as a threat to the courts, signaling that the well-liked president<sup>139</sup> would not accept a negative ruling from the judges.

Finally, as discovered later, Uribe enhanced his Congressional support through bribery (LAWR 7/30/2013). It was revealed that Uribe paid legislators to support his reform, two of whom were convicted by the Supreme Court to serve six and eight years for corruption (Interview with Silva 11/26/2015). Ultimately, the amendment was reviewed by the Constitutional Court, which approved the measure in October 2005, two years after Uribe began his reelection efforts (Andean Group September 2005). The barrage of steps (from strong constraints) and multiple actors (from decentralized configuration) worked to delay and almost block his efforts. He overcame each of these institutional factors only after intense capitalization of his support in Congress: by convincing legislators to introduce parallel popular compromise legislation, getting supporters to stand up to the court, and enhancing compliant votes by bribing members.

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<sup>139</sup> Uribe enjoyed 70% approval ratings at the time (10/19/2005).



Again, there were fewer EEP attempts in Colombia, and of those, successful outcomes occurred when presidents enjoyed a majority. Additional examples – one successful, the other not – further illustrate the importance of congressional support to overcome Colombia’s institutional barriers. In 1996, President Samper sought to call for early elections for a plebiscite to reaffirm his electoral win. He was under investigation for using illicit funds in his campaign (LAWR 2/8/1996; 6/20/1996; 7/4/1996). Characteristic of Colombia’s institutional configuration, there was a prolonged process of investigation by a prosecutor, review by a congressional committee, and balanced rulings by the Constitutional Court (LAWR 5/30/1996). However Samper, who enjoyed a majority, was ultimately absolved in a vote by his supporters in Congress and allowed to continue his term. His legislative majority helped him overcome a lengthy investigation in to his electoral abuse. A couple years later, President Pastrana campaigned and won on promises of much-demanded electoral reform (1998). He sought to pass changes to the party list system, first through Congress and then by proposing a referendum (with additional measures to address the peace process). The bill was ultimately defeated, when it failed in Congress because he did not enjoy majority support (Andean Group 6/22/1999, Shugart, Moreno, and Fajardo 2006). Popular calls for reforms and the presence of a severe security crisis were insufficient for the executive to achieve reforms without a majority in Congress.

### *Ecuador*

A strong mandate facilitated President Correa’s successful exercise of power over elections, in contrast to several failures by previous presidents. Ecuador lacked balance of power among its centralized government institutions, leading to constant abuse of government entities

by the executive. In addition, electoral law is easier to change, allowing constant reforms and changes by varied political interests (see Chapter 4, Section V). While there were many attempts by presidents to exercise power, there was more success when Correa enjoyed a majority. Correa used his majority in the Constituent Assembly to draft a constitution he favored. When more institutions were added per the 2008 constitution, they were constructed to support the president (see Chapter 5 introduction). This section shows how the president used his Congressional majority (and when he didn't have one, his high popularity facilitated creation of an entirely new representative body) to pass legislation and consolidate power in the electoral arena. Legislative support facilitated further presidential actions to overpower electoral institutions, as well as restrict and discredit institutions that could oppose him (such as political parties, NGOs, and the media).

Ecuador has a history of presidents trying to manipulate or work around its institutions to implement reforms when they did not enjoy a majority in Congress. Having centralized institutional configuration, with power concentrated among a few entities, and weaker constraints on changing laws, facilitated ongoing instability where political interests dominated, overpowered, or side-stepped institutions. Past presidents often threatened to circumvent institutions and use popular measures when legislative support was lacking. Duran Ballen threatened to submit his constitutional reforms to plebiscite if Congress did not approve them (LAWR 1/12/1995). Gutierrez called for a referendum to reform the constitution because he had insufficient support in Congress (LAWR 10/19/2004, Informe Latinoamericano 10/6 and 10/27/2004). Even Correa has hinted he could use referendums and plebiscites to sidestep Congress, appealing to his popular support when legislative support began to lag (LAWR 1/13/2011, Latinnews Daily 8/11/2011). Examples of such institutional instability in Ecuador are

detailed in Chapter 4, Section 4. Hence, past presidents made many attempts at EEP, taking advantage of centralized institutions and weak constraints, but they rarely prevailed.

Against this background of institutional turmoil, Correa capitalized on his mandate to create a new political order, taking steps to concentrate power over elections in the executive. This process began when he was elected in 2006 by a comfortable margin (IFES.org) on promises to dissolve Congress and replace the constitution, campaigning “among the marginalised majority in the interior of the country... [denigrating] his rivals as representing the corrupt traditional political parties responsible for many of Ecuador's problems” (LAWR 10/3/2006, NP). His first action after taking office in 2007 was to call for a new constitution. To avoid the unicameral Congress, where his movement did not yet have representation, he sent a decree to the Supreme Electoral Tribunal (TSE) calling for a referendum to elect a Constituent Assembly. When the TSE stalled, and sent the proposal to Congress, Correa publicly threatened to replace the TSE (Informe LatinoAmericano 11/29/2006). Congress eventually approved the measure, but 58 members who opposed the measure voted to file a lawsuit with the Constitutional Court. To counter them, Correa had the TSE remove the opposition members of Congress for interfering (LAWR 3/8/2007). The TSE claimed it had authority to do this because it was an electoral period (per Ecuadorean law, the electoral authority controls all branches of government during certain months surrounding an election). When the Constitutional Court (one of the few institutions that could get involved) tried to reinstate the members, Correa’s supporters in Congress voted to remove the judges and fire the court’s president (Latinnews Daily 4/25/2007). He won 82% support in the referendum to call a Constituent Assembly and publicly insulted and accused the Court of “forging a ‘shameful pact’ with the 57 deputies in a new manoeuvre to undermine him” (LAWR 4/26/2007, NP). Bolstered by his majority support,

Correa used tactics to demean other institutions and help push his plans. “Correa’s criticism of the TC [constitutional court] shows a disturbing lack of respect for the balance of power in Ecuador. The executive, bolstered by the TSE, is clearly pre-eminent” (LAWR 4/26/2007, NP).

Having discredited the few institutions in his path, and with a majority now in the Constituent Assembly – Correa enjoyed support from 78 of 100 members (Interview with Parreño 7/30/2015, Latinnews Daily 8/22/2008) – he used his mandate to dominate the constitution-writing process. According to a civic organization representative who worked closely with the government during the process, Correa would have large chunks of the constitution drafted by his consultants and legal team, and submitted them to the Constituent Assembly for quick approval by his supporters. He then oversaw the appointment of government-friendly officials to the new electoral entities by the compliant Constituent Assembly (see Chapter 5, Introduction).

After coopting and replacing all government institutions by writing a new constitution, Correa continued to exercise executive power and consolidate control by working to discredit any other opposition and dominate institutions. He used his majority in Congress to consolidate greater power over the electoral arena by introducing and quickly passing legislation to change electoral district laws, restrict the media, and intimidate civil society (Interviews with Proaño 7/29/2015 and Ricaurte 7/30/2015, Weekly Report 1/19/2012, Latinnews Daily 1/11/2012). Experts described how the president’s office would draft and submit legislation to the Assembly, where it was approved with little to no discussion (Interviews with Bustamante 8/11/2015, Camacho 8/5/2015, and Hidalgo 7/29/2015). In fact, civic organizations that had previously tracked and reported on debates in Congress ceased to do so because there no longer were substantive deliberations taking place, rather there was a “rubber stamp” from Correa’s

supporters (Interview with Rosero 8/5/2015). This process continued. In interviews, a former CPCCS member and a former member of Congress (who helped draft the constitution) claimed the president's legal secretary often drafts favorable policy and submits it to the Assembly or CNE (Consejo Nacional Electoral, the new principal IEG) for easy passage. The same sources as well as a civil society representative noted that when an unfavorable policy was proposed, the president often made a major public statement announcing his preferences and subsequently the policy was changed. The president relied on his mandate to facilitate legislation that helped consolidate his power and prevent criticism of his government. Using his support in Congress, he created new restrictions on political parties and the media, with complicated steps for parties to register and inscribe (Interviews with Bustamante 8/11/2015, Hidalgo 7/29/2015 and Ricaurte 7/30/2015).

Implications of these actions are serious. Over time, many "watch dog" and civic groups, including international NGOs, were dissolved or left the country. Like the media, Correa threatened these groups and many were 'auto-extinguished' or voluntarily shut themselves down to avoid prosecution after legislative restrictions, budget cuts, and direct threats (Interviews with Astruizaga 7/28/2015, Camacho 8/5/2015, and Ricaurte 7/30/2015). Not only did Correa rely on his majority to facilitate the exercise power over elections directly, he used his legislative support to further consolidate control related sectors of society.

### *Venezuela*

The case of Venezuela presents another example of how the absence of multiple strong, independent institutions facilitates exercise of executive power over elections. The president's majority in the Constituent Assembly, then Congress, facilitated attempts to concentrate power in

the few institutions with electoral authority and overcome opposition. President Chavez further took advantage of weakened constraints once he controlled the IEG, which then issued favorable resolutions, circumventing debate in the Congress. In contrast, Colombian presidents faced multiple steps as they were required to work with two houses of Congress, two IEGs, and the Constitutional Court, in addition to other independent monitoring entities, a process that often delayed or blocked EEP efforts. The case of Chavez illustrates why there were more, and more successful, EEP attempts in Venezuela, because this his mandate he easily overcame fewer veto players and gained control of more top-down management of Venezuela's institutions.

Chavez successfully exercised power over elections in 2003 when he defeated efforts by the opposition to recall him. He was able to do so because he could manipulate and dominate the two institutions with electoral authority (the Supreme Court and the National Electoral Council or Consejo Nacional Electoral, CNE) by using his majority in Congress. The 1999 constitution introduced the ability to recall the president. In theory, this is a democratic measure because it makes the president more susceptible to voter judgment. However, it is very difficult to implement this measure if the executive controls institutions of authority and they can oppose the move. So, while granting citizens the ability to recall the president may appear democratic, when the president can use his majority to exercise control over the few institutions needed to implement a recall, he could essentially thwart a recall effort. Unlike Uribe, Chavez did not face obstacles from additional entities such as a constitutional court, separate chambers in the legislature, or multiple IEGs. And he was able to coopt the key institution that handles the recall process.

The process began when the CNE finally agreed to accept the opposition's petitions for a presidential recall referendum after they threatened a national strike. To counter this, the

Supreme Court, which was appointed by Chavez's supporter in Congress, declared the vote null since it passed with only a simple majority of CNE members (LAWR 12/3/2002). When the CNE then ratified the recall with a new vote (Andean Group 4/25/2003), the government-led Congress stalled procedures to negotiate for a new CNE, whose members were due to be appointed at the time (LAWR 4/29/2003). Chavez and Congressional supporters essentially refused to go forward with the referendum under the old CNE officials because he knew he could gain more support after consolidating control over the one necessary institution (LAWR 7/29/2003). Once the new (ultimately more Chavez-friendly) CNE was appointed, he further sought to stall the recall effort by directing focus toward regional elections and publicly threatening to cut the CNE's budget (Latinnews Daily 9/2/2003).

Under pressure from the president, the CNE announced the need to re-do the massive recall signature-collection process, stating the previous effort was null because it was conducted before Chavez was half-way through his term (based on interpretation of timing per the constitution) (Latinnews Daily 9/15/2003, Informe Latinomamericano 3/2/2004). Chavez knew the now-friendly CNE could help his efforts to defeat the recall. Indeed, there were reports of government threats and harassment to those working to verify signatures. In fact, two CNE members resigned, complaining of the organization's bias toward Chavez. This is described in a blog post for Americas Quarterly by Venezuela expert Javier Corrales (2013, NP):

“Following the resignation of two CNE rectors, the government appointed a new set of rectors. The ruling party wanted four pro-government candidates. The opposition wanted two opposition candidates, two pro-government candidates and one independent president. The ruling party intentionally postponed a vote in the National Assembly, automatically prompting the Supreme Court to take over the decision. For the second time under *chavismo*, the Court appointed the vacancies. The result was that the CNE was left with four openly pro-government rectors, further eroding the credibility of this third CNE under *chavismo* (European Union 2006; Alvarez 2009).”

This process further reduced any likelihood of the institution opposing the executive's efforts (LAWR 6/16/2004, Andean Group 10/5/2004).<sup>140</sup> The recall vote was ultimately held on August 15, 2014, and Chavez prevailed with a 58% 'no' vote (Latinnews Daily 8/17/2004). Not only did Chavez survive the vote, but he used his Congressional support to further consolidate power. The list of voters who supported the recall referendum was released by a member of the ruling party. In the famous Tascon scandal, the list of recall signatures was published and over the next years the government harassed opposition supporters by withholding jobs, contracts, and documents (Andean Group April 2007, Corrales and Penfold 2011, 27). Chavez's disregard for and blatant manipulation of the few, key institutions was successful despite his low popularity at the time – his average approval rating percentages in late 2002 and early 2003 were in the low to mid 30s (Carlin, et al. 2016). He used his influence in Congress to delay recall efforts, influence CNE appointments, and punish the opposition.

## **VII. Conclusion**

This chapter demonstrates how presidents continued to exercise power over elections in three Andean countries after transition to democracy. In cases where institutions were decentralized and there were strong constraints, presidents were less active and even when they were popular, their efforts could be delayed and thwarted. Where institutions were centralized and constraints were weak, presidents with a majority in Congress more frequently and easily manipulated power over elections. While one might argue that presidents with a legislative mandate are representing the voters and should have the ability to act. However, I find that presidents took advantage of this mandate to undertake further efforts to diminish the number of independent institutions and weaken constraints. In Colombia, Uribe actively sought to increase his power

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<sup>140</sup> See also Kornblith and Jawahar (2004), Corrales and Penfold (2011).



and circumvent the court, but was delayed by constant opposition from other government entities. Ultimately, his efforts succeeded because he controlled a majority in congress (and manipulated members). In contrast, presidents in Ecuador and Venezuela witnessed more EEP attempts and more frequent successful outcomes by the president, largely because they were able to use their mandate to overcome weak institutional constraints and faced fewer institutions that has the authority or strength to oppose them. They continued to use their mandate in further EEP attempts to gain power advantages and discredit the opposition, leaving critics with little recourse. This increase in exercise of executive power involving manipulation to the electoral system has several important implications.

One involves the troublesome inclination of presidents to seek and consolidate power over elections specifically. The frequent attempts by presidents to alter institutional configuration and weaken constraints illustrates this threat. When given the opportunity to exercise executive power, many used it to change institutions to their advantage. Both Chavez and Correa took advantage of majorities in the Constituent Assembly to push for constitutional replacement that established institutional structures over which they had more control. While Ecuador added more formal institutions to manage elections (with the 2008 constitution), providing an appearance of democracy and transparency, the effective control of those institutions was concentrated in the executive (see Chapter 5, Introduction). The citizen committee formed to make all high government appointments was ultimately controlled by Correa (Interviews with Rosero and Camacho 8/5/2015). He managed to expand and control government institutions to include more citizens and gain their loyalty. He also introduced legislation to discredit the media, civil society, and political parties. This meant that there was little recourse for those who opposed the government or whistleblowers, as they had no institutional outlet or support.

Chavez used his majority in the Constituent Assembly to reduce the number of houses in Congress from two to one. In Chavez's new constitution, executives only need approval from one institution to exercise power over elections. For example, an IEG can approve a president's call to hold a referendum. This influence is amplified by the fact that with a majority in now just one chamber of Congress, the president has significant influence over appointments to the IEG and the court, further institutionalizing and facilitating his actions. In addition, per the 1999 constitution, the president also gained the ability to amend the constitution. He can initiate amendments in counsel with cabinet (Art 341) and call for a national constituent assembly to convoke transformation of a new constitution (Art 348). Furthermore, in 2009 Chavez passed a new electoral law which allowed the CNE to create electoral regulation through resolutions. This weakened constraints by essentially bypassing the legislature and a noticeable spike in CNE resolutions followed. Between 2009 and 2013, 17 such resolutions were passed, adding significant detail to the electoral law (see Graph 3.2). This means that rather than introduce, debate, and vote on changes to the electoral regime by multiple elected officials in the assembly, it was a few appointed members of the IEG making decisions and designing implementation of electoral rules. If the opposition objected to the laws, Chavez argued that the people can always vote to repeal them (*Latinnews Daily* 2/2/2007). He states that nothing is more democratic than letting the people decide in a vote (despite his ability to arrange or block the vote through improper means) (*Andean Group* September 2007, *LAWR* 8/6/2009 and 12/17/2015). Yet once the president dominates the only necessary institution to enact electoral law and processes, the opposition has no recourse to other electoral branches or independent entities. As such, Chavez claimed to act democratically, as he proceeded to dominate the system through legislation and domination of elections. "The retreat of democracy there has been accompanied and sustained by

voting.... From 1999 to 2013, Venezuela held four presidential, four regional, three legislative, and two municipal elections, in addition to six national referenda and one election for delegates to a constituent assembly” (Kornblith 2013, 49). “Each of these electoral processes was marked by disputes about whether a free, fair, and competitive contest was taking place. Elections indeed became more competitive over the course of Chávez’s rule – yet at the same time became less free and fair” (50). Because Chavez had a majority and there were fewer institutions involved than in Colombia (no second chamber of Congress, no Constitutional Court, no State Council), there were fewer checks on how the executive could push his policies and exercise power over elections successfully. With no other recourse, it is not surprising that the opposition is now taking to the streets.

Indeed, the implications are serious. Venezuela’s current crisis (a great deal of which revolves around improper election procedures and executive abuse of power) has become increasingly violent. Demonstrations increased at the end of Correa’s term as well, and demonstrators faced serious repercussions.<sup>141</sup> This speaks to the implication that formal, democratic reforms, by popular elected leaders, do not always have democratic outcomes and that there are negative consequences of concentrated executive power. The pattern of executive exercise of power and disrespect for democratic institutions perpetuates a type of presidentialism that still resembles the “delegative democracy” that O’Donnell (1994) identified shortly after transition to democracy. Popular presidents continue to use their advantage over weak institutions, justifying their actions as being representative of the people. They do this within and outside times of crisis.

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<sup>141</sup> In discussions with a close friend, I learned that a student studying to become a doctor was seen at a protest and was told by an official not to “mess with your degree.” Another protester, who directs a private school, received an anonymous email with pictures of himself at the demonstration. He subsequently has been unable to secure renewal of the license for his school.

While increased EEP is concerning, I also argue that more and balanced institutions in Colombia worked to temper exercise of executive power. The next chapter elaborates on implications of this argument and application for further study.

## CHAPTER 7 – CONCLUSION: PRESIDENTS, ELECTORAL INSTITUTIONS, AND DEMOCRACY

*Chapter Outline: I. Introduction; II. Elections and Presidential Power: Findings and Argument; III. Empirical Contributions and Electoral Regime Typology; IV. Theoretical Implications: Executive Power, Institutional Impact, and Democracy and the Rule of Law; V. Future Agendas for Research; VI. Conclusion*

“Let us assume that politicians want to be in office and to maximize their autonomy in decision making. On the other side, citizens want to avoid abuses by politicians. Citizens have two instruments to protect them: first, to throw the rulers out of office at election time; second, to enforce, through institutions, legal limits to the political discretion of incumbents between elections. The first protection is provided by democracy; the second, by the rule of law” (Maravall 2003, 262).

### **I. Introduction**

This study addresses an inherent challenge facing Latin American democracies: accommodating strong presidents in a system that values the balance of power. Democracy is generally understood to function best when no one entity has significantly more power than another (or if they do, their actions can be reviewed or reversed) – and voters ultimately have the final say. For voters and institutions to be effective involves more than just democratic structures, but fair and equal implementation of rules. To ensure this proper function, increasing attention is focused on the importance of the rule of law, which – although its definition remains contested – has become “the preeminent legitimating political ideal in the world today” (Tamanaha 2004, 4). Very simply, it means “a system in which the laws are public knowledge, are clear in meaning, and apply equally to everyone” (Carothers 1998, 96). This notion generally highlights three themes: limited government, formal legality (to ensure security and predictability), and rule of law, *not man* (impersonality in application) (Tamanaha 2004). These ideals are closely

intertwined with democracy, and the need for institutions to provide sufficient checks on the ambitions of powerful actors.

I advance the argument that institutions can, in fact, effectively moderate executives' actions, helping to balance power in democracy and ensuring accountability so that voters have a say. However, this effectiveness is limited as popular presidents and presidents with strong mandates can circumvent weak institutions, even in democracies. In fact, sometimes they exercise and consolidate power using legitimate means. During this longest period of democratic rule in the region, since the 1980s, elected presidents employed both legal and illegal methods to change, enhance, and abuse electoral laws to their advantage. They often do so by creating more complex laws, or "legal density" (Menkel-Meadow 2017, Personal Communication), as detailed regulations appear democratic, but essentially create processes that enable the president to manipulate elections or disadvantage the opposition. As such, their actions verge on a related phenomenon – rule *by* law, where application of certain laws becomes a tool of governments to repress, albeit in a legal fashion (Tamanaha 2004, 3). In this light, I focus my concluding observations on how changing executive power over elections relates to what is conceived as quality of democracy and the rule of law.

In section two, I briefly review again my findings and argument. The present multi-country analysis adds to established theory on executive power, expanding the theoretical approach to include electoral institutions and analyzing presidential actions. I argue that variation in the president's level of formal (legally granted) power depends largely on institutional configuration and constraints. These factors impact executive exercise of power as well, but their effect is influenced by the political context – namely the presidents' mandate (popularity) and whether he has a majority in congress. Section three discusses the empirical contributions of my

study and introduces a typology for future research on electoral governance. In section four, I discuss the theoretical contributions my research, which offers a more complete understanding of executive power, institutional stability, and democratic quality. I relate these implications to ideals regarding balance of power and the rule of law. In section five, I discuss possible application of this research in future study agendas. This could address countries throughout the region and in other parts of the world, parliamentary or even non-democratic regimes, and local electoral management as well. Final concluding thoughts are provided in section six.

## **II. Elections and Presidential Power: Findings and Argument**

When countries across Latin America transitioned to democracy, new constitutions and electoral laws established rules designed to balance power among the branches of government and prevent a return to authoritarianism. Under this system, one would expect that executive power – especially over elections, the hallmark of democracy – would not increase.

Indeed, this was the case in Colombia, where decentralized institutional configuration (multiple entities with electoral authority) and strong constraints (protections on changing electoral laws) established a process that consistently distributed power among players in the electoral regime and decreased the level of Institutionalized Executive Power (IEP). This worked because multiple institutional road blocks and veto players were empowered and inclined to deliberate, delay, or thwart efforts to enhance or concentrate executive power. This trend was strong enough to resist even actions by popular executives who commanded a majority in Congress. In fact, Colombia also had the fewest episodes of Exercised Executive Power (EEP). That is not to say presidents did not try to exercise power – in fact, their efforts increased over time in Colombia, but the decentralized institutional environment and strong legal constraints

protecting electoral laws largely kept presidents in check. Steps in the process such as requirement of multiple debates in both houses of Congress and review by the Constitutional Court created obstacles to presidents that were only overcome when the president had a majority in Congress. This suggests that the nature of presidential democratic systems continues to generate leaders who are intent on concentrating their power, and reinforces the importance of strong institutions and laws to keep those actors in check.

The case of Ecuador presents mixed results. It witnessed considerable variation in IEP in both directions, resulting in a slight drop near the end of the period of study, but overall it maintained the highest level of formal executive power over elections across all three countries. It also had several EEP episodes (14), more than Colombia (10), but fewer than Venezuela (19). President Correa was able to use his popularity and majority in Congress to implement his agenda to consolidate power over elections partly because he faced weak institutional constraints and a centralized electoral authority. He also used his Congressional majority to circumvent legislative debate, gaining rubber-stamp approval for his policies. Further disrespecting institutional autonomy, Correa threatened to fire judges and electoral magistrates who opposed him.<sup>142</sup> Unlike in Colombia, there were insufficient independent actors to prevent Correa's actions, such as a state council, registrar, second chamber in congress, etc. Nor was electoral law sufficiently protected such that there were multiple steps required to change it. Indeed, in a sign that Correa understood these power dynamics, he sought to further reduce constraints on electoral law by introducing a reform that allows the primary institution of electoral governance (IEG) to regulate laws. This not only increased his control over legal content (because he oversaw the appointment of IEG members), but reduced a component of the institutional configuration, by circumventing legislative debate.

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<sup>142</sup> Actions by U.S. President Trump provide possible parallel examples for comparison and analysis.



In Venezuela, formal executive power (IEP) increased and that country also witnessed the most attempts to exercise executive power (EEP). Efforts by presidents (and their supporters) to concentrate power were facilitated by a more permissive institutional environment. Institutional configuration there was more centralized and institutional constraints on changing electoral law were weaker than in Colombia. Under this scenario, the president with a majority was able to concentrate and increase his powers, often using “legal” means including constitutional reforms and direct democracy mechanisms such as plebiscites. There were insufficient independent actors and inadequate legal protections to prevent the president’s actions. Sometimes increased executive powers were masked by other reforms or obscured by complex details. Centralized, top-down control of electoral management also works to frustrate efforts by the opposition to stop presidents and their supporters from increasing and exercising executive power, because there are fewer independent institutions to facilitate and support their efforts. President Chavez took advantage of centralized institutional configuration and weak constraints, which made it easier for him to overcome the few obstacles to consolidate power and exercise his influence over elections. He, too, used his popularity and majority in Congress to advance his agenda. Venezuela’s single IEG was easily overcome because the members who objected to the president’s actions were replaced, and others were appointed by the ruling party in Congress. There was no separate IEG or electoral court to challenge Chavez’s actions.

Implications of this concentration of power and lack of independent institutions for the quality or stability of democracy is apparent. The process of consolidating power in the incumbent eventually leads to a system where it is very difficult for opposing forces to prevail, an outcome contradictory to the democratic notion of competition for power (see Chapter 2 discussion of Dahl). The deteriorating political situation in Venezuela, which became

increasingly violent after Chavez's death, is an alarming example of the potential impact of executive power (discussed later). Just as the balance of power across institutions and protections of electoral law set in motion a continued check on executives in Colombia, the lack thereof in Venezuela contributed to a compounding increase in executive power and erosion of political freedoms, within and beyond the electoral arena.

This study offers a comprehensive example of what we can learn by comparing executive power across countries and time. Expanding this systematic approach beyond the Andean region could deepen our understanding of executive power electoral regimes. The next section briefly discusses the empirical contributions of this work, and offers a typology for future comparative analysis.

### **III. Empirical Contributions and Electoral Regime Typology**

This section discusses original contributions made by this dissertation in conceptualizing, measuring, and analyzing a newly specified component of executive power. Then, I propose an electoral regime typology to further this research.

To date, there is a lack of comparative, cross-national data on electoral law in general and on the role of the executive in the electoral arena specifically. My study provides a systematic, empirical analysis of executive power over elections, and how and when many Andean presidents wielded those powers. My work documents the increased volume of electoral law in three countries, and all changes to the rules governing the president's role over time, from 1979 – 2013. It also documents the increase in executive actions to impact elections over two decades (1993 – 2013). Finally, I propose a typology (below) for understanding the institutional environment in which the president interacts and categorizing regime types.

This approach contributes to current studies on executive power, institutional stability, and democratic quality (addressed in section four). By providing newly specified indicators – we can track the use of power by presidents over elections and study the relationship between presidential strength and democratic quality. This model can be applied to compare changes more consistently across time and countries, beyond Latin American presidential systems. Applying the typology of electoral regime management, can improve our understanding of how power is organized over elections and whether there are adequate checks and balances. It addresses a call for studying the *origins* of electoral systems, not just the *consequences* of institutional design (Benoit 2004, 364). It also goes beyond most studies that focus on the impact of institutions on political parties or seats in the assembly, to understand the power assigned to the president as well (discussed in section four). In a region of all presidential systems, this approach can help categorize and classify electoral management dynamics across countries, not only in the Andes. Such a tool would be useful for analysis and implementation by electoral observation entities such as IDEA, IFES, and Organization of American States, to evaluate and compare change in executive power over the electoral arena throughout the region over time (see section five for future research agendas).

### *The Nature of Electoral Regimes: A Typology*

This dissertation offers a model to evaluate variation in assigned power or control over electoral regimes by the executive. To further this work, I propose development of a typology of electoral regimes, based on their institutional structure and legal protections, to gauge executive power and categorize systems across space and time. Based on the data, findings, and comparative analysis presented in these chapters on Colombia, Ecuador, and Venezuela from

1979-2013, I propose two key characteristics of electoral governance on which to base the typology, which can vary across a spectrum, presented in Table 7.1. This could be researched in parliamentary systems as well. Ultimately the typology could include additional aspects on which to score.

<b>Table 7.1</b>	
<b>Electoral Regime Typology: Spectrum of Characteristics</b>	
<i>Institutional configuration</i>	Centralized => Decentralized
<i>Institutional constraints</i>	Weak => Strong

The first characteristic is structure of authority over electoral management regimes, or institutional configuration. This can be either centralized or decentralized, a qualification I base on the number of IEGs across which authority over election management is distributed (i.e., electoral courts, councils, registrar, oversight commissions, etc.). Second, I consider institutional constraints that govern how electoral law can be changed and who can change it. For example, if electoral law is protected in the constitution or requires special law-making procedures and time limits, constraints are strong. With less protections, constraints are weak. Data for these characteristics is gleaned from Tables 3.2, 3.4, and 3.6. Overall, systems with a decentralized institutional configuration (such that one entity does not dominate the process and avoid accountability), and strong constraints (such that electoral law is not easily changed by current political interests) are more likely to be plural (open to different interests) or enjoy more balanced authority.

Since 1979, Colombia has consistently demonstrated a high level of decentralization with an institutional configuration that includes the electoral council, national registrar, constitutional court, supreme court, two chambers in Congress, and a state council, all with some potential

input in the electoral process. Venezuela, in contrast, has a more centralized structure, with only one IEG, one court, and since 1999, only one chamber in Congress. It also witnessed the collapse of traditional parties and reforms which led to the concentrated, top-down control of the electoral system, and laws are not granted constitutional guarantee (weak institutional constraints). In Ecuador, power over electoral institutions went from the Congress, where it was balanced or distributed among political parties, to the executive branch, with its creation of an appointment committee in the 2008 constitution, and electoral law is not protected as rigorously. Thus, while structure (institutional configuration) became less centralized there, control was effectively concentrated in the executive.

Based on my research of the three countries under study, I apply this typology and propose labels to describe combined traits categorizing each country’s electoral regime (see Table 7.2).

<b>Table 7.2 Electoral Regime Types</b>			
<i>Country/ Period</i>	<i>Institutional Configuration</i>	<i>Institutional Constraints</i>	<i>Type of Regime</i>
Colombia (pre-1991)	Decentralized	Strong	“Plural autocratic”
Colombia (post-1991)	Decentralized	Strong	“Plural democratic”
Ecuador (pre-2008)	Centralized	Weak	“Controlled democratic”
Ecuador (post-2008)	Decentralized	Weak	“Plural autocratic”
Venezuela (pre-1999)	Centralized	Weak	“Controlled democratic”
Venezuela (post-1999)	Centralized	Weak	“Electoral autocratic”

When a country is “plural democratic,” this implies that power over the electoral system was decentralized and balanced, hence the president was less likely to be able to overpower other

institutions and the potential for plural participation is maximized. However, this does not necessarily mean that democracy functioned particularly well. In Ecuador pre-2008, for example, power was distributed among political parties, which sometimes fought over appointments to the IEG (TSE) and TSE members often battled with other institutions (see Chapter 4, section four, for details). Likewise, in Colombia post-1991, election results were respected, but complaints regarding executive advantage and weak electoral management remain (Interviews with Serrano and Ruiz, 11/23/ 2015). That said, the decentralized structure and balanced authority in Colombia represent a greater chance for multi-party interactions and fair participation in administration of elections. The “controlled democratic” period of Venezuela’s elections pre-1999 also resulted in many elections considered adequate (IRI, November 23, 1998), however there were often complaints of excessive control by the two ruling parties (Coppedge 1994). Post-1999, Venezuela’s electoral regime has produced multiple elections, but under a regime that most observers now call outright authoritarianism (Diamond et al. 2016). The “plural autocratic” characteristic of pre-1991 Colombia and post-2008 Ecuador also produced regular elections, but many would argue the playing field was not fair.

Charting institutional data and classifying electoral regimes along these parameters could be helpful in many respects. First, to politicians, understanding the dynamics of power and impact of institutional decisions is helpful to assess participation, confidence, and fairness. It also provides a guide for institutional designers or government policy makers to assess options. This classification could be useful to electoral observers for setting standards, and also to academics for application to additional countries and comparative analysis of outcomes over time. Further development of the typology to classify a greater number of cases in the region, and worldwide, presents a rich opportunity for future work.

#### **IV. Theoretical Implications: Executive Power, Institutional Impact, and Democracy and the Rule of Law**

This dissertation provides a number of theoretical contributions to the broader political science literature. In this section, I discuss implications for three related fields. First, by evaluating an unexplored component of presidential authority, my study adds to what we know about the foundation of executive power and how to think about it within electoral democracy. By studying *exercised* executive power, this research goes beyond our typical understanding of formal, “parchment” rules to offer insights on the impact of institutions (or lack thereof). Second, my argument has implications for the broader study of institutions in political science. This study contributes to the theory that strong institutions are important for democratic governance, by keeping authoritarian tendencies in check over the electoral arena. Third, I discuss implications for the notion that the rule of law is essential to democratic quality. My study reveals how some presidents acted legally, using the very mechanisms meant to support democracy, yet their behavior undermined democracy or concentrated executive power. For this reason, it is critical to look not just at the baseline intent of the law, but how it changes, is implemented, and resulting implications.

##### *Executive Power and Elections*

This study provides empirical and theoretical contributions to our understanding of executive power. First and foremost, unlike many studies in the field, I examine *de jure* and *de facto* power. Many scholars who focus on the role of institutions provide measures of the intent of the law, noting that “the institutional baseline is important.” While this is true, and studying IEP provides this baseline, I go further by looking both at institutionalized and *exercised*

executive power in a specific area. This offers a much fuller picture of presidential power than we would otherwise have. While a law could be drafted or designed to protect democratic process, we do not know if that law was effective unless we trace whether it was obeyed, ignored, violated, or changed. My study addresses this potential impact. Interestingly, while IEP varied in different directions among the three countries, EEP increased in all three, confirming that institutions do not function in a uniform manner. Thus, my nuanced evaluation of institutions and how they interact with presidents provides a fuller picture of the reality of law versus actions in three democracies (one former).

For example, constitutional designers at the transition to democracy in the 1980s and 1990s generally respected the idea that institutions of electoral governance (IEGs) should be autonomous from the executive. It is troubling that IEGs' independence has since declined in two countries, and that *de facto* exercise of presidential power can render laws less representative (as with the use of majority influence in Congress and avoidance of legislative debate in Ecuador, as well as pressure exercised by Chavez through detailed regulations targeting the opposition in Venezuela). As might be expected in the region of Bolivar, a permissive institutional environment allows popular presidents to continue to wield and increase their power over the democratic process, essentially institutionalizing hyper-presidentialism. Executives took advantage of the absence or weakness of institutions to introduce and apply new laws, reforms, and regulations that centralized electoral management and favored the ruling party or incumbent. However, in Colombia, institutions were more effective in delaying or even thwarting efforts to empower the president or behavior of the president himself.

As such, and in line with the recent works on populism (Barczak 2001, de la Torre 1997, Dugas 2003, Nyenhuis 2016, Selçuk 2016, Weyland 2013), this study highlights the potential



consequences of presidential mandate. It is one thing for leaders to be popular, but if the leader also enjoys disproportionate access to power, the resulting imbalance can hurt competitiveness and chances for opposition representation. Presidents with high approval ratings, and particularly those with a majority in Congress, used their positions to further consolidate power. They worked to overcome not only the existing institutions, but (as seen in Chapter 6) used their majority to reconfigure and create new institutions to benefit the incumbent and to circumvent dissent. New electoral regime structures in Venezuela and Ecuador are so centralized and controlled by the executive that the opposition has less of a voice (chances to gain legislative seats or enjoy fair media coverage were diminished by laws changing district representation and repressing independent actors).

The finding that countries continue to formally concentrate electoral power in the executive and that presidents increasingly exercise that power does not bode well for democracy. In the two countries with high or increased executive power, there was a corresponding decline in democratic quality indicators. These empirical findings and my argument have implications for understanding the process of democratic decline, by developing theory on the role of institutions as they interact with actors who have authoritarian ambitions. When presidents change the rules to benefit their grasp of power and disadvantage the opposition, this is sometimes referred to as rule *by law*: essentially using legal means, in order to appear legitimate, for authoritarian ends (discussed later).

Although outside the period of study, it is important to note subsequent repercussions in Venezuela. Even when voters eventually managed to elect an opposition majority in Congress there in 2015, the president proceeded to undermine their legislative work and future elections using his control of the Supreme Court and the National Electoral Council (CNE). The president

now seeks to rewrite the constitution (yet again) by manipulated election of a supportive constituent assembly, which immediately removed the attorney general and dismissed the legislature. In this process to further consolidate power, set in motion during Chavez's rule, over time Venezuela has become a full-scale authoritarian government, with increased violence and diminishing prospects for peaceful resolution. This was a shocking upset in one of the oldest democracies in the region. Accumulation of power in the executive has real implications.

### *Institutional Instability and Impact*

This study traced extensive over-time variation in executive power over elections, documenting the changes to, and complex details of, the rules that establish, monitor, and adjudicate authority over voting procedures. The constant changes in electoral regimes' legal structures can have negative implications for political actors and observers, both accidental and intentional. New laws, decrees, regulations, etc. present challenges to practitioners applying the law; offer potential opportunities for manipulation; and place in question the validity and application of basic constitutional rules.

It is difficult for political and electoral participants to follow and monitor voting processes when the rules of the game are constantly changing. By their nature, fair elections require an understanding of and adherence to the rules of the game by the players. Despite the fact that Colombia and Venezuela are relatively old democracies, the body of electoral law in those countries is very fluid. This contrasts with the relatively stable electoral institutions of the U.S. and European democracies (Benoit 2004, 365). In general, political institutions are considered more effective when they are stable, because participants rely on rules remaining constant and on the expectation that others will understand and comply with the same rules

(Carey 2000). Constant changes result in logistical challenges such as implementing new laws, ensuring that necessary entities conform with updated standards and procedures, and maintaining adequate institutional history. Electoral institutions and laws were in a constant state of flux in Ecuador, micro-managed from above in Venezuela, and contained such complexity in Colombia that confusion and overlap were common.

In addition, because the basic rules of elections are established in the constitution, changes often involve reforming the country's founding charter. These constant revisions speak to the general instability of legal institutions in Latin America, and historic malleability of its constitutions, which has implications for establishing clarity and legitimacy to a country's fundamental rules. If the guidelines are unclear or constantly changing, it is more likely that participants will act outside the rules (knowingly or unknowingly) and that observers or the opposition will have difficulty monitoring when and whether rules are violated.

Furthermore, there are potential pitfalls for political actors shrouded in the complex details of ever-expanding and changing electoral laws. If election organizers are well-informed of minute regulations, and are motivated to do so, they can apply obscure laws to disadvantage the opposition, or neglect to implement certain laws that might have helped level the playing field. When incumbents control IEGs, which occurred in Ecuador and Venezuela, the objectivity of the electoral process is more easily compromised. For example, Ecuador's 2008 constitution added more formal institutions for citizen representation with complicated appointment procedures (rather than allow multiple political representatives to manage elections). This gave the appearance of democracy and transparency, but the effective control of those institutions was concentrated in the executive. Also, in both Ecuador and Venezuela now, when new laws are now introduced, there is opportunity for IEGs to implement regulations, often done with the

controlling party's interests in mind. It is challenging for participants to monitor all the changes and possible implications.

This notion, that institutions are not always what they seem to be, reinforces the need to look beyond the formal institutional baseline to understand their impact. These insights suggest the importance of continued emphasis on how certain institutional structures work to maintain and monitor balance of power in electoral systems (and how they change). Instability can negatively impact quality of democracy, as increased change and complexity in electoral law creates opportunity for interpretation and manipulation, impacting democratic legitimacy (explored in the next section).

### *Quality of Democracy & the Rule of Law*

In a broader context, this study addresses the call by democracy scholars to focus more closely on the rule of law in developing democracies (O'Donnell 2001) and the lack of constitutional liberalism, which is about limitation of power (Zakaria 1997). I show how some elected presidents effectively concentrated power using legal means, the very means intended to protect from authoritarianism. The fact that presidents employed *democratic* mechanisms (i.e., through the legislature or plebiscites) to weaken institutional constraints put in place to bolster the rule of law, relates directly to our understanding of democratic quality, and the somewhat simplistic notion that it requires rule of law. While a relationship between the two macro-ideas (rule of law and democracy) is often implied, the ideas are regularly conflated and the relationship remains underspecified. My work draws attention to the need to identify how and when rule of law could actually be harmful to democracy. It does so not only by revealing concentration and exercise of power by elected presidents, but how sometimes increasing

executive power occurs through democratic means. My empirical findings look beyond constitutional texts to expose *how* presidents subsequently obey the rules, change them, or violate legal norms.

Several examples of how some democratically elected presidents (and their supporters) changed electoral rules to empower the most powerful player, sometimes using completely democratic methods, were discussed in Chapter 5. I highlighted how many reforms increased executive power through legislative procedures or alongside democratic reforms, meaning the trend toward more authoritarian regimes is occurring within an electoral context. This ‘apparent democracy’ (Menkel-Meadow 2017) or ‘façade of legality’ (Galleher 1987) was also demonstrated in Chapter 4, when presidents passed reforms that appeared democratic, but also masked changes that concentrated power in the executive or disadvantaged the opposition. Some reforms were blatant, like removing term limits for the executive or redistricting to advantage incumbents. These reforms were promoted using democratic justifications, such as statements that unlimited reelection allows demonstration of the will of the people, or that certain forms of redistricting reaches or empowers underrepresented areas (particularly when they include supporters of the president). In other reforms the hidden intent were less obvious, such as Ecuador’s growing restrictions on political parties, the media, and civil society. These were presented as reforms to counter corruption or the old elites, yet their effect was to empower the incumbent president over the opposition or groups critical of the president. Meanwhile, the example of Colombia demonstrates how effective institutional checks and balances provide more opportunity to review, debate, and block (potentially veiled) power grabs by the president, or to reach more representative compromise.

Hence my argument relates to the quality of democracy and rule of law by demonstrating how executive power is concentrated and how that concentration was implemented (and justified). Stronger institutions can detect and potentially thwart concentration and abuse of executive power, providing a chance of blocking legal reforms that lean toward authoritarian rule. The present study goes beyond what we know about how laws and constitutions are written, to explore how they are actually obeyed, changed, or manipulated, with regard to the electoral arena. This is critical because throughout Latin America, political actors are still chosen through elections. With a majority in Congress or the ability to call plebiscites, presidents were able to exercise and consolidate power, and significantly diminish chances for the opposition to compete fairly.

The fact that constitutional changes to *increase* executive power were implemented during democracy, a time when theoretically, power should not become more concentrated at the top, means that the rule of law is not always beneficial to democracy. If the most powerful government actor can manipulate the most basic citizen power – voting – often through legitimate (legislative or direct democracy) means, then democracy is critically flawed. When horizontal accountability is weak and the president is strong, elections are one of the only checks on power, short of tense and sometimes violent demonstrations in the street. Identifying how and why presidents and their supporters changed rules limiting executive power, and subsequently exercised powers (or failed to do so), speaks to a nagging question in the literature on whether and how constitutional rules in effect matter in democracy. This study reaches beyond the assumption that rules matter and should be followed, and identifies how interactions between presidents and institutions impact electoral systems. It looks at democracy in practice.

#### **IV. Future Agendas for Research – Electoral Governance Around the World**

Understanding how presidents can act, especially impacting democratic procedures such as elections, is crucial to the study of political science. This section suggests possibilities for the broader application of my research to electoral governance around the world. Expanding this research to more countries, using a standardized classification, would create useful comparative analysis of systems worldwide. In the context of continued electoral authoritarianism in the region and beyond, such study could improve how we identify the processes behind democratic decline.

The practice of holding elections for political office occurs across every continent, not only for head of state. Including local elections and direct democracy mechanisms, districts in some states conduct elections almost every year. In many countries, the process is peaceful and some in cases, electoral races struggle to even gain enough interest to achieve a meaningful turnout. In other cases, elections are so contentious that contestation and violence are frequent factor. Having a better understanding of who controls the electoral process would contribute to comparative analysis of how systems function and whom to hold accountable. My research approach could be applied across all countries that hold elections, democratic or otherwise (even dictatorships hold elections and need officials to implement voting). It would be useful for government entities, politicians, observers, and civic groups to have a clearer understanding of how the institutions of electoral governance function and how they change over time. Such data would be valuable to academics studying the process and evolution of an important aspect of democracy worldwide.

An immediate project in this regard would be to expand my study to include more countries. This could help confirm my findings by offering more cases to look for consistency,

and could likely present new insights or outliers. At a minimum, it would be useful to re-create Table 3.2 (“Institutions Involved in Elections”) for the remainder of Andean countries, to compare individual countries’ structure and draw insights on their comparative effectiveness and function. Ideally, future research would collect data (laws, constitutions, decrees, etc.) to measure IEP for additional countries as well. It would be interesting to see if other countries have reduced formal executive power over elections, as Colombia did, or whether increased power occurs elsewhere besides Venezuela. In addition, Tables 4.1 and 4.2, tracing institutional configuration and constraints, could be replicated across more countries to see if electoral governance has similar characteristics throughout the region and compare outcomes. Such analysis is not necessarily limited to presidential systems – it could be collected in parliamentary systems to provide an interesting comparison of whether elections are governed similarly across regime types. A study of Spain might be an interesting first step, considering its close ties to the region. In light of profound critique of presidential systems (Chapter 2), evaluating an additional aspect of that government structure compared to other regimes types would enhance discussion of whether presidential power is the problem, or if it is the lack of institutions to balance that power (or both).

It would be useful to extend scope of this research to examine executive influence over local level elections as well. President Chavez employed very creative methods to undermine opposition mayors and governors, by creating new, parallel positions of authority (appointed by him) and designating wildly popular (celebrity) candidates in districts where the opposition threatened. In all three countries, the presidents’ access to resources and media means they wield significant (perhaps even more disproportionate) influence in rural areas. A closer examination



of IEP and EEP at the local level would immensely enhance our knowledge of the full reach of democracy.

## **V. Conclusion**

Extant literature lacks a comparative study of the allocation of electoral powers to the president, nor is there particular focus on the actual behavior of the executive in the electoral realm specifically. This multi-country analysis adds to established findings on executive power, expanding the theoretical approach to include understanding of electoral institutions and analyzing presidents' actions. My study confirms that presidents remain powerful and active in post-transition democracies. This suggests the need to sustain focus on the presidents' role in electoral management. It is not sufficient to have democratic constitutions or frequent elections – these can be dominated by the president. To keep popular presidents or an incumbent with a legislative majority in check requires decentralized, autonomous institutions and strong institutional constraints against changing electoral law. My study examines the impact of institutions on authority over electoral governance and presidents' behavior, which has implications for democratic checks on the executive branch in this arena. I demonstrate how most presidents try to influence electoral outcomes and regimes, but how strong institutional structures can counter and even decrease that effect. The case of Colombia demonstrates that decentralized institutional configuration and strong institutional constraints can function to delay and defeat attempts by presidents to increase their power over elections. In fact, the establishment of multiple independent institutions and laws protecting electoral regimes set in motion a process to maintain and support the balance of power, encourage compromise, and restrain efforts to concentrate power. This balancing function represents what the literature

suggests is essential to the rule of law in democracy, or law that distributes power to resist concentration in one branch. Demonstrating how presidents gain and use power over the most critical component of democracy sheds light on why some leaders prevail and countries move toward electoral authoritarianism, while others do not.

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### **APPENDIX 3A: Data Collection**

Understanding a country's electoral system requires much more than looking at the constitution and the electoral code. There is a complicated network of documents that influence every major and minute aspect of this critical process, with varying degrees of implementation and application. Some, but not all, laws are provided on countries' national electoral organization websites. Finding many laws required additional searching and tracking. The following steps were taken to ensure the best possible coverage and consistency in each country.

First, I conducted an internet-based search to identify all laws that impact electoral management in each country, starting with what was provided on the IEGs and other government websites. When these were found to be incomplete (either because the time period was not covered or a law referred to another law that was not on the site or an internet link was broken), I searched additional sources, in particular non-governmental organizations that track, observe, and research elections (such as International Foundation for Electoral Systems, Organization of American States, and the International Institute for Democracy and Electoral Assistance). I erred on the side of inclusiveness, gathering a comprehensive representation of each country's body of electoral law. Before determining whether a law (or decree, resolution, etc.) was specifically relevant or not to executive power, I noted its existence in a timeline for each country if it had any potential to influence the governance of the electoral process, directly or indirectly. This way I could ensure I covered all possible instances of executive power over elections. The full timeline tables for each country are provided in Appendices 3C, 3D, and 3E. In each table I note the date of the law, the type of law, the name, web link (if available), and notes (if relevant).

Next, I reviewed scholarly and media articles on each country to understand when constitutions, reforms, and electoral laws were written, modified, and when electoral events took

place (tracking references in a separate document). I identified experts on the election process to answer questions. This included in-country officials and academics, as well as insight from international sources, including the Political Database of the Americas, International Republican Institute, National Democratic Institute, Organization of American States, and Carter Center.

To analyze each entry in the timeline, first I skimmed the document and highlighted all references to elections and to the legal framework for the executive branch and judicial system, as well as any other clauses that might relate to the IEP indicators (see Appendix 3B). Then I carefully reviewed the highlights and noted the relevant clauses in a separate document (jotting down article number and description of power). This stage identified possible parameters of power. After reviewing two countries, for comparative purposes, I determined whether each indicator is one that I can compare across time and countries. Previously, I had developed a longer list of any possible indicator of executive power (for the dissertation prospectus). This was useful to envision the universe of possible indicators. Through this iterative process, after collecting data for two countries, I could evaluate whether or not certain issues are addressed in legislation or not and whether there would be enough data to compare. For example, I had initially proposed tracking whether the president could decide the number of members in the IEG or if he could decide their necessary qualifications. This ended up typically being set by the constitution and ultimately not as interesting as how the members are appointed and by whom. Through this inductive process I selected the best appropriate measures to score for IEP.

Finally, from all the notes/articles collected on executive powers that are detailed in each law, I copied only the references relevant to my IEP indicators and pasted the data in a table for scoring, as described in Appendix 3B.

**APPENDIX 3B:  
Institutionalized Executive Power (IEP) Category Explanations, Methodology, and Scoring**

This appendix explains each indicator of institutionalized executive power (IEP) listed in Table 3.1 at the beginning of Chapter 3. It describes the criteria used to determine what data are included and the coding scheme to score them. Data on laws collected per Appendix 3A were analyzed and scored per these indicators. Scores range from zero to one in possible increments of .25 for simplicity and for comparability across cases. The zero to one parameters establish two possible extremes for each indicator, with a range of variation in between the high and low score. Sometimes a plus (+) or minus (-) is used to indicate slight variation that represents an increase or decrease in executive power, but not in the exact sense defined by that indicator, and therefore does not qualify a score change per the rubric. It is noted however for analytical purposes. Here I provide the table in segments for each category for ease of viewing along with the explanatory text.

*Category 1 (Amount of time Executive can wield power over elections)*

<b>TABLE 3B.1 (Category 1) INDICATORS OF IEP</b>	
<i>Category 1 (Abstract): Amount of time Executive can wield power over elections</i>	
<b>Indicator</b>	<b>Score</b>
1. Number of presidential terms	No reelection – 0 Non-consecutive terms – .25 Two consecutive terms – .75 Unlimited terms – 1
2. Length of presidential terms	Four years or less – 0 Five years – .5 Six or more – 1
3. Presidential term susceptible to impeachment/recall	Yes, can be removed – 0 No – 1

Category 1 captures the duration of time a single individual can access executive power over elections, including their susceptibility to being removed from office. It can be described as a “multiplier” in the sense that whatever formal powers a president has, the more permissive this structure (allowing him or her to stay in office longer and potentially wield power more freely) gives the president more “potential” power (including those over elections). This potential power is inherent through possession of the executive office and attributed to the person holding the office. These powers are amplified or extended the longer a president’s term in office, particularly when presidents cannot be removed. This influence is captured through three separate indicators: 1. Number of presidential terms; 2. Length of presidential terms; and 3. Presidential term susceptible to impeachment/recall.

While somewhat abstract, the reasoning behind the first two indicators in Category 1 is that the executive office – the position itself – has inherent powers, such as opportunities to oversee appointments that might affect electoral supervision (institutional advantage); accumulative experience in changing laws in his or her favor; chances to bestow political favors in return for electoral support; and increasing connections and strengthened relationships with elites who influence elections and politics in general. The longer someone can hold executive office, the greater her potential to affect elections. These are not attributes of the office, but rather refer to how much power can accrue to *any one person* who holds that office. Hence, the possibility of more than one term increases executive domain and efficiency, facilitating greater powers over elections. (It also likely motivates the president to *use* accumulated power, in particular to gain another term). Indicator 1, number of presidential terms, is scored at zero if no reelection is permitted; a quarter point (.25) if non-consecutive terms are permitted; three-quarters of a point (.75) for two consecutive terms; and one for unlimited terms. Indicator 2,

length of term, captures whether presidents can enjoy those powers over more time. Four years, which is more or less standard, or less is scored as zero; five years, which is slightly higher, as a half point; and six or more years is scored as one, because this is less common and represents a significant term length.

The third indicator in Category 1 reflects the likelihood of the president’s removal. This involves executive power by indicating a level of accountability. Without impeachment or recall, presidents are immune to one form of electoral redress, giving them power to act more freely. In theory, a president could act more brazenly because she is less worried about removal from office. If a president can be impeached or recalled, she has less power vis-à-vis the electorate, and is theoretically more vulnerable to being held accountable by voters. It is scored simply as a one if the president cannot be removed and a zero if recall or impeachment is permitted.

*Category 2 (Executive Power over election administration)*

<b>TABLE 3B.2 (Category 2) INDICATORS OF IEP</b>	
<i>Category 2 (Election specific): Executive power over election administration</i>	
1. Ability to appoint governing members of primary institution of electoral governance (IEG)	No – 0 No, but appointed by the legislature and presidents are elected concurrently so their party likely has majority – .5 Yes, with legislative oversight and approval or appoints partially – .75 Yes, no approval needed – 1
2. Ability to appoint governing members of secondary IEG	Same as above
3. Ability to appoint judges to primary electoral court	Same as above



3a. Ability to appoint judges to additional electoral court	Same as above
4. Ability to control election monitoring and monitoring entities <sup>143</sup>	Same as above
5. Ability to decide primary IEG's budget	No – 0 Yes, with legislative approval – .5 Yes – 1
6. Ability to decide secondary IEG's budget	No – 0 Yes, with legislative approval – .5 Yes – 1
7. Ability to decide primary electoral court's budget	No – 0 Yes, with legislative approval – .5 Yes – 1

Category 2 addresses elections specifically. There are seven indicators in this category (potentially more depending on the country's number of institutions) that capture key powers presidents could have over the administration of elections through influence in election governing institutions. First, the most important area where the president could wield influence is by appointing governing members to the institutions of electoral governance (IEGs).<sup>144</sup> Elections parameters, such as periodicity, timing, how many candidates can run, type of electoral system, etc., when not set by the constitution or law, are often by default decided by the electoral institution. Obviously having presidential supporters manage the election process could enhance executive influence. Even if the legislature makes the appointments, I look at whether the

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<sup>143</sup> This is not always an entity. It could also be a temporary committee or tasks delegated to certain representatives. It is important to note for executive authority, but is not noted again for budget. This is for two reasons: first, because different entities could be involved and actions are often not permanent, so tracking would be inaccurate over time; second, rules for the budget in most democracies are fairly static (the president drafts and congress approves). If there is a major discretion in this category regarding budget, I seek to note it in the analysis.

<sup>144</sup> The professional qualifications required to become a member of an IEG theoretically could be important. If requirements are set high (i.e., appointee must be lawyer, or superior judge, etc.) one could argue this leaves only a small pool of candidates in countries with concentrated elites, and candidates with those qualifications might associate closely with the president. However, the reasoning behind this additional consideration would be abstract and subjective to quantify. Rather, I consider more clear or direct indicators such as who has the power to appoint these key officials and determine their organizations' budgets.

president is elected concurrently so his party is likely to have a majority.<sup>145</sup> If the president cannot appoint members, it is scored zero. If she cannot appoint, but the legislature does and presidents are elected concurrently, so her party likely has a majority, it scores a half point (.5). If the president can appoint the members, with legislative oversight and approval, or directly appoint some of the members, it is scored as three quarters of a point (.75). If the president appoints all the members directly, it scores a one. The scoring reflects the spectrum of possible influence. This is scored first for the primary electoral institution, then second, if necessary, for each additional institution involved in the process.

The third indicator in Category 2 considers the president's ability to appoint judges to the electoral courts. This assesses potential influence over the entity that adjudicates electoral disputes, typically a chamber of the Supreme Court or a separate electoral tribunal.<sup>146</sup> I use a similar scoring scheme as that for appointment to IEGs: if the president cannot appoint members, it is scored zero. If she cannot appoint, but the legislature does and presidents are elected concurrently, it scores a half point (.5). If the president can appoint the members, with legislative oversight and approval, or directly appoint some of the members, it is scored as three quarters of a point (.75). If the president appoints all the members directly, it scores a one. Again, this is scored first for the primary electoral court, then second, if necessary, for each additional institution involved in the process.

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<sup>145</sup> This issue has raised criticism of Latin American democracies for decades, namely “the subversion of checks and balances when presidents have a disciplined majority backing them. The congress may not function as an effective check on the president, but instead rubber-stamp all executive initiatives” (Black, 1990, 795).

<sup>146</sup> In the countries of study, it is often unclear who has final authority over electoral disputes. There are several entities that have some role, making it difficult to decide which one is most powerful. This denotes a weak consensus on the role of the judiciary. However, to the extent a law specifies any electoral adjudication mechanism, it is worth noting and determining who appoints that entity. In contrast, other countries (including Brazil and Mexico) have clearly vested electoral authority in one specific electoral tribunal.

Fourth, I determine whether the president has the ability to control any separate election monitoring entity (such as a committee or ombudsman that monitors IEGs). This could potentially enable the president to influence the credibility of elections or have supporters in charge of judging electoral irregularities.<sup>147</sup> The same scoring of appointment influence for IEGs and courts is used.

Finally, I consider whether the president decides the budget of these entities. Obviously if the president presides over this decision, the institution would be more deferential to the president and the president could selectively fund particular aspects of the process to her advantage. If the president does not decide the budget, it scores a zero. If she does, but with legislative approval, it gets half a point (.5). If the president decides the budget, the score is one.

*Category 3 (Executive Power over election legislation)*

<b>TABLE 3B.3 (Category 3) INDICATORS OF IEP</b>	
<i>Category 3 (Election specific): Executive power over election legislation</i>	
1. Ability to create electoral laws	No – 0 Yes, with legislative participation/subject to review – .5 Yes – 1
2. Ability to create/change electoral districts	No – 0 Yes, with legislative approval – .5 Yes – 1
3. Ability to amend aspects of the constitution concerning elections (if amendable).	No – 0 Yes, with assent of legislature by supermajority – .5 Yes, through referendum – 1
4. Ability to call for referenda/plebiscites <sup>148</sup>	No – 0 Yes, with legislative participation/judicial review – .5 Yes – 1

<sup>147</sup> Of course, this assumes that the entity has some control over elections. While this project does not measure application of this control, it is fairly safe to assume the entity would not be created if not to have some influence in the process and its existence alone can signal some authority.

<sup>148</sup> Which are, of course, themselves elections.

Category 3 is also election specific, with four indicators that capture the president's ability to shape the body of electoral law. Many election parameters are set in the constitution or in the subsequent implementing legislation or code. The president potentially has power over this process in at least four ways. First, election laws are typically drafted through congress, perhaps with the IEG's input, and signed by the president. However, the president could also have the power to decree electoral laws. This would provide the executive with significant potential influence. The first indicator, ability to create electoral laws, is scored zero if the president cannot create laws; a one if she can; and a half point (.5) if the president can propose laws subject to legislative review (representing the middle-ground of power over creating law).

The second indicator in Category 3 is whether the president is empowered to define electoral district boundaries. This could facilitate changes to enhance control through gerrymandering or by adding a district to dilute opposition control. This is scored similarly: zero if the president cannot change electoral districts; a one if she can; and a half point (.5) if change is subject to legislative review.

Third, a president might have the power to amend the constitution on matters concerning elections. This could allow the president to change the electoral system in his or his party's favor. I check first whether issues regarding elections can be amended per the constitution and then score whether the president can do so. If the president cannot alter the constitution with regard to elections, the score is zero. If she can, but only with assent of the legislature by supermajority, a half point is given (.5). If she can through referendum, the score is one, because with a majority, which is common with concurrent elections presidential systems, the president wields a significant potential to create law.

Finally, if the president can call for referenda or plebiscites, this provides a powerful tool to promote an agenda or capitalize on majority support through elections. It also could enable the executive to bypass the legislature. The president obviously enjoys a high-profile and influential seat in government: she could use the position to gain unfair advantage, for example, by changing appointment procedures for the judiciary or altering the seat assignment process for the national assembly. Therefore the fourth indicator in Category 3 tracks whether the president can call for referenda or plebiscites. It is scored the same as above, depending on legislative input.

*Category 4 (Executive Power during election campaigns and over candidate nominations)*

<b>TABLE 3B.4 (Category 4) INDICATORS OF IEP</b>	
<i>Category 4 (Election specific): Executive Power during election campaign and over candidate nominations</i>	
1. Ability to award government contracts during election campaign	No, restricted by law – 0 Yes, but with limits – .5 Yes, unlimited – 1
2. Ability to restrict/control media (coverage, licensing, etc.)	No – 0 Yes, restricted – .5 Yes – 1
3. Limits on president campaigning for their re-election	Yes, restrictive – 0 Yes, vague – .5 No – 1
4. Limits on president campaigning for any election	Yes, restrictive – 0 Yes, vague – .5 No – 1

Category 4 is the final, election-specific category and includes six indicators. The presidential office has significant oversight of spending and government contracts, which can be lucrative, create jobs, and curry favor from voters. First, when a president can award contracts during the election campaign, this could unfairly garner voter support for the president or her party. In some countries, the need to contract for election services quickly during the campaign

has led to laws removing bidding procedures or allowing the president to contract directly (for example, to mechanize the voting process). Without restrictions, a president can use the office to award lucrative projects, providing an advantage for her candidacy or the party. If the ability to award government contracts during election campaigns is restricted by law, the score is zero; if it is permitted, but with some restrictions, the score is a half point (.5); if there are no limits on government contracts, the score is one.

Second, control over the media can provide a significant electoral advantage. Presidents typically command extensive media coverage, which can be used to their advantage before, during, and even after election campaigns. If that coverage is free and open, the president is subject to the same critique or compliments as other candidates. If, however, there are laws placing demands, restrictions, or monitoring on media coverage that are enforced by the government, the president could take advantage of this facility to shield herself or someone she would like to see elected from negative publicity. Laws could also enable executives to dominate coverage (for example, by requiring government notices, or requiring equal coverage for all candidates, regardless whether they command 40% of the vote or 2%). Additionally, the media could self-censor, essentially not criticize the government if they know the government can retaliate. This could favor a sitting president and her party over opposition parties. Taking each of these possibilities into account, if there are no government restrictions on the media, the score is zero. If there are some restrictions, the score is a half point (.5); if the president has unlimited control or ability to restrict the media, the score is one.

The third and fourth indicators in Category 4 take into account the advantage of a sitting president campaigning for herself or for another candidate. The president obviously enjoys a high-profile and influential seat in government. If there are no restrictions on a president's

activities in campaigning for reelection, she could use the position to gain unfair advantage (through media coverage, travel, inaugurating public works, etc.). In addition, she could use her position to campaign for supporting candidates who would facilitate the executive agenda. If there are limits on a president campaigning (whether for herself or another candidate) and they are restrictive, the score is zero; if there are restrictions, but they are vague or do not specify enforcement or repercussions, the score is a half point (.5); if there are no limits the score is one.

The fifth and sixth indicators involve selection of candidates, both for office of the president and for other national offices. If a president does not have to compete for the party's support in a primary, this could be an advantage in that she is subject to less scrutiny and can circumvent some level of accountability if assured candidacy for the office. The president essentially escapes part of the public vetting process. In addition, without internal democracy procedures such as primaries, the leader of a party – often the president – has more say regarding who will run for other offices as well. If primaries are required, the president enjoys less appointment power. If democracy measures are required for presidential and other national candidate nominations, the score is zero; if they are optional, the score is a half point (.5); if there is not a requirement, the score is one.

### APPENDIX 3C

<b>TIMELINE OF ELECTORAL LAW: COLOMBIA</b>		
<b>DATE IN EFFECT</b>	<b>EVENT/ LAW</b>	<b>TITLE/NOTES</b>
1886	Constitution (210 articles)	<b>Constitucion Politica de Colombia</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=7153#13">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=7153#13</a>
May 16, 1979	Electoral Code  (200 articles)	<b>Ley 28 de 1979 – Codigo Electoral</b> Por el cual se adopta el Código Electoral (Derogated by Decreto 2241) <a href="ftp://ftp.camara.gov.co/camara/basedoc/ley/1979/ley_0028_1979.html">ftp://ftp.camara.gov.co/camara/basedoc/ley/1979/ley_0028_1979.html</a> <a href="ftp://ftp.camara.gov.co/camara/basedoc/codigo/codigo_contencioso_administrativo.html#247">ftp://ftp.camara.gov.co/camara/basedoc/codigo/codigo_contencioso_administrativo.html#247</a>
1984	Decree	<b>Decreto 01 de 1984 – Codigo Contencioso Administrativo</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6543#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6543#0</a> Establishes the Consejo de Estado as supreme judicial authority, elected by judiciary for 8-year terms, subsequently reformed three times (1988 adjusts numbers of justices)
November 21, 1985	Electoral reform	<b>Ley 96 de 1985</b> Modification of electoral laws
July 15, 1986	Electoral Code  (218 articles)	<b>Decreto 2241 de 1986 – Codigo Electoral</b> Derogated much of 1979 Codigo Electoral <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9029#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9029#0</a>
December 30, 1986	Law	<b>Ley No. 78 de 1986</b> Develops law regarding popular election of mayors
January 25, 1988	Legislate code to create Consejo de Estado	<b>LEY 14 de 1988</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=14508#2">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=14508#2</a> “Por la cual se integra la Seccion Quinta de la Sala de lo Contencioso Administrativo del Consejo de Estado en forma permanente integrada por cuatro Consejeros, se establecen las competencias para los juicios electorales contra la eleccion de Alcaldes y se dictan otras disposiciones” Mainly discusses integration of Consejo de Estado and the Sala de lo Contencioso Administrativo per the Codigo Contencioso Administrativo (Contentious/legal action Administrative Code) of January 2, 1984 <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6543#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6543#0</a> (which was removed by Art. 309 of Ley 1437 of 2011)
December 14, 1988	Reform of the Electoral	<b>LEY 62 DE 1988</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6</a>



	Code	<a href="#">547</a> Por la cual se modifica la Ley 96 de 1985 y el Decreto número 2241 de 1986 (Código Electoral)
January 5, 1990	Reform of Electoral Code	<b>LEY 06 DE 1990</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9028">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9028</a> por la cual se reforma el Decreto 2241 de 1986 (Código Electoral) y se dictan otras disposiciones.
December 28, 1990	Law	<b>Ley 52 de 1990</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=3428">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=3428</a> Within Ministry of Government (late Interior), creates La Comisión para la Coordinación y Seguimiento de los Procesos Electorales (see Decreto Numero 233 de 1994 for ‘regalmentacion’)
July 20, 1991	New Constitution	<b>Constitucion Política de Colombia</b> <a href="http://www.secretariasenado.gov.co/index.php/leyes-y-antecedentes/constitucion-y-sus-reformas">http://www.secretariasenado.gov.co/index.php/leyes-y-antecedentes/constitucion-y-sus-reformas</a> or (when link is down): <a href="http://pdba.georgetown.edu/Constitutions/Colombia/vigente.html">http://pdba.georgetown.edu/Constitutions/Colombia/vigente.html</a>
November 19, 1991	Presidential Decree	<b>Decreto Numero 2615</b> Reorganizes departmental councils of security and of Capital District, creates regional security councils and authorizes governors to create security councils, for coordination, planning, etc. reporting to President. (Cesar Gaviria)
November 11, 1993	Provisions for elections	<b>LEY 84 de 1993</b> “Por la cual se expiden algunas disposiciones en materia electoral.” <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=5875">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=5875</a> Modified by Constitutional Court in Sentence C-145 of 1994 (most declared unconstitutional because provisions should be statutory, not ordinary law and due to procedural defects and content).
December 15, 1993	Constitutional reform	<b>Acto Legislativo 3 de 1993</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4128">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4128</a> Por el cual se adicionan los artículos 134 y 261 de la Constitución Política de Colombia Modifies law to replace missing/indicted members of congress (adds detail; more added in 2009) <a href="http://www.secretariasenado.gov.co/index.php/leyes-y-antecedentes/constitucion-y-sus-reformas">http://www.secretariasenado.gov.co/index.php/leyes-y-antecedentes/constitucion-y-sus-reformas</a>
January 26, 1994	Presidential Decree	<b>Decreto Numero 223</b> “Por el cual se reglamenta el artículo 26 de la ley 52 de 1990, en relación con la comisión para la coordinación y seguimiento de

		<p>los procesos electorales”</p> <p>Can't find online – have print out from Registraduria 900+ page code</p> <p>See also Decreto 2267, which does same thing in 1997</p>
March 23, 1994	Constitutional Court Ruling	<p><b>Sentencia C-145/94</b></p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6969#1">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6969#1</a></p> <p>Declares most of Ley 84 de 1993 unconstitutional because provisions should be statutory, not ordinary law.</p> <p>“Ahora bien, mediante esta providencia fueron declarados inexecutable numerosas disposiciones de la Ley 84 de 1993, por tratarse de una ley ordinaria que regulaba materias electorales que tenían reserva de ley estatutaria, lo que suscitó el problema de las normas que debían aplicarse a la función electoral hasta cuando se expidiera un nuevo cuerpo normativo de carácter estatutario que regulara la materia.”</p> <p>(<a href="http://www.corteconstitucional.gov.co/relatoria/2010/c-402-10.htm">http://www.corteconstitucional.gov.co/relatoria/2010/c-402-10.htm</a>)</p>
March 23, 1994	Statutes for Political parties and movements	<p><b>Ley 130 de 1994</b></p> <p>Estatuto basico de los partidos y movimientos politicos</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4814#37">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4814#37</a></p>
May 9, 1994	Provisions for recall	<p><b>Ley 131 de 1994</b></p> <p>“Por la cual se reglamenta el voto programático y se dictan otras disposiciones”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4818">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4818</a></p>
May 31, 1994	Provisions for citizen participation mechanisms	<p><b>Ley 134 de 1994</b></p> <p>“Por la cual se dictan normas sobre mecanismos de participación ciudadana.”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=330">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=330</a></p> <p>Direct democracy</p>
June 2, 1994	Provisions for local government	<p><b>Ley 136 de 1994</b></p> <p>“Por la cual se dictan normas tendientes a modernizar la organización y el funcionamiento de los municipios”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=329">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=329</a></p>
August 31, 1994	Provisions for election day	<p><b>Ley 163 de 1994</b></p> <p>“Por la cual se expiden algunas disposiciones en material electoral”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=37781">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=37781</a></p> <p>Sets out some logistics for elections. Prohibits campaigning on election day.</p>
November	Presidential	<b>Decreto 2626 and 2796</b>

29 1994 – March 30 1995	decrees and Constitution al Court ruling	<p>“por el cual se expide la compilación de las disposiciones constitucionales y legales vigentes para la organización y el funcionamiento de los municipios.”</p> <p>See:  <a href="http://www.secretariassenado.gov.co/senado/basedoc_ant/decreto_2626_1994.htm">http://www.secretariassenado.gov.co/senado/basedoc_ant/decreto_2626_1994.htm</a>:  “El artículo <u>199</u> de la Ley 136 de 1994, por el cual se otorgaron las facultades extraordinarias para expedir este Decreto, fue declarado INEXEQUIBLE por la Corte Constitucional mediante Sentencia <u>C-129-95</u> del 30 de marzo de 1995, Magistrado Ponente Dr. Vladimiro Naranjo Mesa.</p> Igualmente, por unidad de materia, fue declarado INEXEQUIBLE el Decreto 2626 de 1994. Mencionó la Corte Constitucional en la parte resolutive de la Sentencia: 'Sin embargo, se aclara que cada una de las disposiciones legales que fueron recopiladas en dicho decreto, mantienen su vigencia y su obligatoriedad jurídica, en los términos de la presente sentencia'. <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=2285">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=2285</a> : “El problema jurídico en cuestión se enmarca, entonces, dentro de los alcances de la facultad de compilar y reordenar normas jurídicas, frente a la expresa prohibición constitucional de autorizar al presidente de la República para expedir códigos.”
December 28, 1994	Law	<p><b>Ley 177 de 1994</b></p> <p>“Por la cual se modifica la Ley 136 de 1994 y se dictan otras disposiciones”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=324">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=324</a>  Modifications to election provisions</p>
July 22, 1995	Law	<p><b>Ley 199</b></p> <p>“por la cual se cambia la denominación del Ministerio de Gobierno y se fijan los principios y reglas generales con sujeción a los cuales el Gobierno Nacional modificará su estructura orgánica y se dictan otras disposiciones.”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6012">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6012</a>  Outlines Interior Ministries duties regarding elections, first call for Commission for Coordination and Monitoring of Electoral Processes</p>
July 28, 1995	Law (Code)	<p><b>Ley 200</b></p> <p>“por la cual se adopta el Código Disciplinario Único”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=318">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=318</a></p>
February 26, 1996	Decree	<p><b>Decreto 372</b></p> <p>“por el cual se establece la estructura interna del Ministerio del Interior, se determinan sus funciones y se dictan disposiciones complementarias.”</p>

		<a href="http://www.icbf.gov.co/cargues/avance/docs/decreto_0372_1996.htm">http://www.icbf.gov.co/cargues/avance/docs/decreto_0372_1996.htm</a> Derogated by Decree 200 of 2003
August 14 (21?), 1997	Presidential Decree	<b>Decreto 2008</b> “Por el cual se dictan normas de orden publica para garantizar la participación democrática de los ciudadanos en los procesos electorales.” <a href="http://diario-oficial.vlex.com.co/vid/decreto-353491834">http://diario-oficial.vlex.com.co/vid/decreto-353491834</a> Directs the Security Councils and Public Order Committees (from Decreto 2615 of 1991) to be in permanent session to assure the safety of voters, campaigns, and candidates.
September 12, 1997	Presidential Decree	<b>Decreto 2267</b> “por la cual se reglamenta la Comisión para la Coordinación y Seguimiento de los Procesos Electorales” (called for in Ley 199 de 1995) <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=18618">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=18618</a> (bad link)
August 27, 1997	Law	<b>Ley 403</b> “Por la cual se establecen estímulos para los sufragantes” <a href="http://www.registraduria.gov.co/Leyes,405.html">http://www.registraduria.gov.co/Leyes,405.html</a> Interesting (bonuses for voting). In part to encourage/reward participation, possibly prompted somewhat by security concerns too (some likely deterred by ongoing violence).
October 17, 1997	Presidential Decree	<b>Decreto 2559</b> “Por la cual se reglamenta la Ley 403 de 1997, que establece estímulos para los sufragantes.” Defines the electoral certificate to contain voting table president’s declaration of completion of vote, elaborated by the National Civil Registrar
February 10, 1999	Provisions for justices of peace	<b>Ley 497 de 1999</b> “Por la cual se crean los jueces de paz y se reglamenta su organización y funcionamiento” <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4553">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4553</a> Creates justices of the peace (unpaid) to resolve conflicts
February 8, 2000	Law passed by Congress bestowing extraordinary powers to President	<b>Ley 573</b> “Mediante la cual se reviste al Presidente de la Republica de precisas facultades extraordinarias en aplicación del numeral 10 del artículo 150 de la Constitución.” <a href="http://www.icbf.gov.co/cargues/avance/docs/ley_0573_2000.htm">http://www.icbf.gov.co/cargues/avance/docs/ley_0573_2000.htm</a> Art. 1, #8. Modify the structure of the National Civil Registry and system functions and internal competencies and establish their personnel can create, delete or merge jobs; modify and determine the system of nomenclature and classification of jobs electoral organization and establish all the features within the competence of the law relating to the areas of personnel; establish and create

		the structure of the personnel of the National Electoral Council (CNE) and its internal system of tasks and responsibilities; make rules and define the legal nature of the Social Housing Fund of the National Civil Registry define its structure, performance, competency and system resource management for housing of officials of the National Civil Registry; establish and create the internal structure, the functions of their offices and the personnel of the Revolving Fund of the National Civil Registry, specifying the system of nomenclature and classification of their positions; and modify and promulgate rules on specific arrangements for administrative career, ineligibility and incompatibility of workers in electoral organization provided for in Decree 3492 of November 21, 1986.
June 6, 2000	Presidential Decree	<b>Decreto 1010</b> “por el cual se establece la organización interna de la Registraduría Nacional del Estado Civil y se fijan las funciones de sus dependencias; se define la naturaleza jurídica del Fondo Social de Vivienda de la Registraduría Nacional del Estado Civil; y se dictan otras disposiciones.” <a href="http://www.registraduria.gov.co/IMG/pdf/Decreto_1010_de_2000.pdf">http://www.registraduria.gov.co/IMG/pdf/Decreto_1010_de_2000.pdf</a> Details internal administration of National Civil Registry, naming each department, its procedures, tasks, etc. Any important appointments are in Constitution.
May 18, 2000	Presidential Decree	<b>Decreto 895</b> “por el cual se reglamenta la parte operativa de la Ley 134 de 1994” <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6021">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6021</a>
October 2, 2000	Slight modification to 1994 Ley 130	<b>Ley 616 de 2000</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4155&amp;iu=0#1">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4155&amp;iu=0#1</a> por la cual se modifica el artículo 10 de la Ley 130 de 1994. (adjusts internal democracy mechanisms like primaries)
October 6, 2000	Reform	<b>Ley 617 de 2000</b> Reform of 1994 Ley 136, regulations and budget for local government. <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=3771">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=3771</a>
March 27, 2001	Law	<b>Ley 649</b> “Por la cual se reglamenta el artículo 176 de la Constitución Política de Colombia” <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4157">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=4157</a>
January 18, 2002	Presidential Decree	<b>Decreto 55</b> “por el cual se fija el número de Representantes a la Cámara que

		<p>se elegirán por Circunscripción Territorial del Distrito Capital y Circunscripción Nacional Especial”</p> <p><a href="http://www.acnur.org/biblioteca/pdf/6536.pdf?view=1">http://www.acnur.org/biblioteca/pdf/6536.pdf?view=1</a></p> <p>Adjusts number of representatives (those assigned by population, beyond the two per department) to account for census results of 1993)</p>
May 31, 2002	Reform	<p><b>Ley 741 de 2002</b></p> <p>“Por la cual se reforman las Leyes 131 y 134 de 1994, Reglamentarias del voto programático” (reform slightly recall vote for mayor and governor)</p>
August 6, 2002	Constitutional reform	<p><b>Acto Legislativo 02 de 2002</b></p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=5562">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=5562</a></p> <p>"Por el cual se modifica el período de los gobernadores, diputados, alcaldes, concejales y ediles".</p> <p>*NOTE: There is an <b>Acto Legislativo 01 de 2002</b> with two articles regarding Colombian citizenship (reforming article 96 of the constitution)</p>
December 27, 2002	Law	<p><b>Ley 790</b></p> <p>"Por la cual se expiden disposiciones para adelantar el programa de renovación de la administración pública y se otorgan unas facultades Extraordinarias al Presidente de la República".</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6675">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=6675</a></p> <p><b>Artículo 3º.</b> <i>Fusión del Ministerio del Interior y el Ministerio de Justicia y del Derecho.</i> <u>Derogado por el art. 22, Ley 1444 de 2011.</u> Fusiónese el Ministerio del Interior y el Ministerio de Justicia y del Derecho y confórmese el Ministerio del Interior y la Justicia. Los objetivos y funciones del Ministerio del Interior y la Justicia serán las establecidas para los Ministerios fusionados. Cuando alguna de las funciones de los Ministerios fusionados deba ser realizada por otra entidad pública nacional, el Presidente de la República podrá reasignar dichas funciones en ejercicio de las facultades extraordinarias a las que se refiere el artículo 16 de la presente ley.</p> <p><b>Parágrafo.</b> Producida la fusión de los Ministerios del Interior y Justicia, se mantendrá una estructura para las comunidades negras e indígenas.</p>
January 21, 2003	Law proposing Constitutional reform	<p><b>Ley 796 de 2003</b></p> <p>“Por la cual se convoca un referendo y se somete a consideración del pueblo un proyecto de Reforma Constitucional”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=7144">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=7144</a></p> <p>Considered Uribe’s major attempt at constitutional reform to reform and reduce the state. Bill was approved by Congress then sent to Constitutional Court. They ruled on July 9, 2003 (C-</p>

		<p>551/03)  <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9566#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9566#0</a>) that four provisions were unconstitutional. Referendum for 15 measures was held in October; measures were approved but did not pass because insufficient percentage of voters participated.  See: <a href="http://colombiajournal.org/the-referendum-in-colombia-democratic-participation-or-endorsement-of-dictatorship.htm">http://colombiajournal.org/the-referendum-in-colombia-democratic-participation-or-endorsement-of-dictatorship.htm</a>  <a href="http://www.caracol.com.co/noticias/actualidad/uribe-propuso-en-2003-curules-para-grupos-armados-en-proceso-de-paz/20131110/nota/2012430.aspx">http://www.caracol.com.co/noticias/actualidad/uribe-propuso-en-2003-curules-para-grupos-armados-en-proceso-de-paz/20131110/nota/2012430.aspx</a></p>
February 3, 2003	Presidential Decree	<p><b>Decreto 200 de 2003</b>  “Por el cual se determinan los objetivos y la estructura orgánica del Ministerio del Interior y de Justicia, y se dictan otras disposiciones.”  <a href="http://www.secretariassenado.gov.co/senado/basedoc/decreto_0200_2003.html">http://www.secretariassenado.gov.co/senado/basedoc/decreto_0200_2003.html</a>  outlines ministry’s role in elections, politics</p>
July 3, 2003	Const’l. reform	<p><b>Acto Legislativo 01 de 2003</b>  "Por el cual se adopta una Reforma Política Constitucional y se dictan otras disposiciones"  <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=8620#3">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=8620#3</a>  Reglamentado by <b>CNE Reglamento 01</b> (6/25/2003) filed with Doc #8.0  Further elaborated by <b>RESOLUCIÓN 4150 DE 2003</b> (Julio 07)  "Por la cual se reglamenta el régimen de transición en materia de reconocimiento y pérdida de personería jurídica de los partidos, movimientos políticos y grupos significativos de ciudadanos, y se deroga la Resolución número 0369 de 2000"  EL CONSEJO NACIONAL ELECTORAL, en ejercicio de sus funciones constitucionales y legales, en especial de las conferidas por los artículos 108 y 265 numerales 5 y 8, de la Constitución Política, y 3º, 4º y 39-c de la Ley 130 de 1994, y  <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9203#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9203#0</a></p>
July 9, 2003	Constitutional Court ruling	<p><b>SENTENCIA C-551/03</b>  “Revisión de constitucionalidad de la Ley 796 de 2003, “Por la cual se convoca un referendo y se somete a consideración del pueblo un proyecto de Reforma Constitucional”  <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9566#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9566#0</a>  Declares #s 10, 16, 17 and 19 of Ley 796 proposed referendum questions unconstitutional.</p>
July 29, 2003	Presidential decree	<p><b>Decreto 2111</b>  “Por la cual se determina el número de Diputados que puede</p>

		<p>elegir cada departamento”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9196">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9196</a></p> <p>While this was not at the national level, just interesting because you would think assignment of seats per district would adjust automatically after each census. This took a presidential decree and was 10 years after census.</p>
August 5, 2003	Presidential decree	<p><b>Decreto 2207</b></p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9199#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=9199#0</a></p> <p>"Por medio del cual se desarrolla el artículo 3° del Acto Legislativo 01 de julio 3 de 2003, en lo concerniente a las elecciones departamentales y municipales".</p> <p>Establishes campaign financing laws by presidential decree because legislature had not completed regulations. DECLARED UNCONSTITUTIONAL IN 2005.</p>
August 25, 2003	Presidential Decree	<p><b>Decreto 2390</b></p> <p>“Por el cual se crea y reglamenta la Comisión para la Coordinación y Seguimiento de los Procesos Electorales”</p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=31949">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=31949</a></p> <p>Derogated by Decreto 2821 de 2013.</p>
October 25, 2003	Referendum	<p><b>Vote on Questions in Ley 796 to Reform Constitution</b></p> <p>Voters approve, but insufficient turnout.</p>
January 7, 2004	Constitutional reform	<p><b>Acto Legislativo 01 de 2004</b></p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=11247">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=11247</a></p> <p>Details loss of political rights for public servants (extends to candidates)</p>
2004	Constl. Reform to allow re-election	<p><b>Acto Legislativo 02 de 2004</b></p> <p>Introduces immediate re-election for the president (see <a href="http://www.congresovisible.org/democracia/reformas/reeleccion/">http://www.congresovisible.org/democracia/reformas/reeleccion/</a>)</p> <p>Plus rules to reduce inequality in electoral competition (due to incumbency)</p> <p>*** Calls for laws to help even the playing field by June 2005</p>
2005	Constitutional reforms	<p><b>Acto Legislativo 01, 02 (July 22) and 03 (December 29) of 2005</b></p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=17236">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=17236</a></p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=17162">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=17162</a></p> <p><a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=18733">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=18733</a></p> <p>Not directly related to executive power (one is about pensions the others changes Art. 176: adds an international circumscription,</p>



		adds required citizen population count, adds Bogota capitol district, allows Colombians living abroad to vote, adjusts seats to population growth). Because Congress didn't enact implementing legislation for #02, issued decree (see next item, below)
2005	Presidential decrees	<b>Decreto 549 (3/3/05), Decreto 4766 (12/30/05), Decree 4767 (12/30/05), and Decree 4768 (12/30/05)</b> Implementing legislation for abovementioned reforms. Interesting how president had to push. Worth looking in to how much he could benefit from international vote (lots of refugees? Would they favor his policy on the conflict?)
May 19, 2005	Constit'l. Ct. declares Law 2207 Unconst'l.	<b>SENTENCIA C-523/05</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=17058#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=17058#0</a> "RESUELVE: Declarar <b>INEXEQUIBLE</b> el Decreto-Ley 2207 de 2003, por no haber surtido el control previo de constitucionalidad." Because the legislation was decreed by president and hadn't been through democratic procedure (control of constitutionality required for statutory laws). See: <a href="http://books.google.com/books?id=G4ceSCMqwBsC&amp;pg=PA151&amp;lpg=PA151&amp;dq=colombia+decreto+2207&amp;source=bl&amp;ots=HXMvr_EOmV&amp;sig=HG1aHcdAmAQR77KpTShDi53IQ0&amp;hl=en&amp;sa=X&amp;ei=UDEGVK2gLc3foASqx4H4Cg&amp;ved=0CDEQ6AEwAg#v=onepage&amp;q=colombia%20decreto%202207&amp;f=false">http://books.google.com/books?id=G4ceSCMqwBsC&amp;pg=PA151&amp;lpg=PA151&amp;dq=colombia+decreto+2207&amp;source=bl&amp;ots=HXMvr_EOmV&amp;sig=HG1aHcdAmAQR77KpTShDi53IQ0&amp;hl=en&amp;sa=X&amp;ei=UDEGVK2gLc3foASqx4H4Cg&amp;ved=0CDEQ6AEwAg#v=onepage&amp;q=colombia%20decreto%202207&amp;f=false</a>
July 22, 2005	Law	<b>Ley 974 de 2005</b> por la cual se reglamenta la actuación en bancadas de los miembros de las corporaciones públicas y se adecua el Reglamento del Congreso al Régimen de Bancadas. <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=17164">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=17164</a>
October 19, 2005	Supreme Court	<b>SENTENCIA C-1040</b> Approved 5-4 reform to allow one consecutive presidential reelection (see <a href="http://www.congresovisible.org/democracia/reformas/reeleccion/">http://www.congresovisible.org/democracia/reformas/reeleccion/</a> ) Only declared one clause unconstitutional <a href="http://english.corteconstitucional.gov.co/sentences/C-1040-2005.pdf">http://english.corteconstitucional.gov.co/sentences/C-1040-2005.pdf</a>
November 11, 2005	Constitutional Court Ruling	<b>SENTENCIA C-1153/05</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=18212#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=18212#0</a> Ruled most of Congress' proposed guarantee law constitutional, some adjustments
November 24, 2005	Law regulating presidential	<b>Ley 996 de 2005 "Ley de Garantías"</b> Diario Oficial 46.102 Guarantee Law (to accompany reelection reform to constitution)

	election	<a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=18232">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=18232</a> “por medio de la cual se reglamenta la eleccion de Presidente de la Republica, de conformidad con el articulo 152 literal f) de la Constitucion Politica de Colombia, y de acuerdo con lo establecido en le Acto Legislativo 02 de 2004, y se dictan otras disposiciones” Adds a lot of good intentions to monitor fairness and incumbency advantage. New work for the CNE!
March 23, 2006	Presidential Decree	<b>Decreto Nacional 863 de 2006</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=46940#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=46940#0</a> “por el cual se reglamentan los Capítulos <u>III</u> y <u>IV</u> de la Ley 996 de 2005 en lo relacionado con la financiación estatal previa de las campañas presidenciales.” (Repealed by Art. 163 of Decree 1510 of 2013) Regulates Law 996, so main parameters were set in the law
July 21, 2006	Law by Congress	<b>Ley 1070</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=20871">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=20871</a> Allows foreign residents to vote in local elections
March 14, 2007	Presidential Decree	<b>Decreto 810</b> <a href="http://www.avancejuridico.com/actualidad/documentosoficiales/2007/46570/d0810007.html">http://www.avancejuridico.com/actualidad/documentosoficiales/2007/46570/d0810007.html</a> “Por el cual se adiciona el Decreto 2390 de 2003, se crea la Unidad de Reaccion Inmediata para la Transparencia Electoral y se dictan otras disposiciones.” Related/part of Comisión para la Coordinación y Seguimiento de los Procesos Electorales
April 30, 2007	Presidential Decree	<b>Decreto 1465</b> “Por el cual se modifica el Decreto 2390 del 25 de Agosto de 2003 y se dictan otras disposiciones.” <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=31948">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=31948</a> Modifies Comisión para la Coordinación y Seguimiento de los Procesos Electorales
June 27, 2007	Constitutional Reform	<b>Acto Legislativo 01 del 27 de Junio de 2007</b> Modifies Articles 135, 299, 300, 213, and 313 of constitution Mainly affects local government
July 25, 2007	CNE Resolution	<b>Resolución 0468</b> “por la cual se constituyen Tribunales Seccionales de Grantias y Vigilancia Electoral.” CNE outlines procedures for Departmental level tribunals of electoral guarantee and monitoring (they appoint three-member tribunals)
June 3,	Const'l	<b>C-230A</b>

2008	Court ruling	<a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=30892#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=30892#0</a> “Demanda de inconstitucionalidad en contra de los artículos 10 y 102 y de algunos apartes de los artículos 12, 26, 32, 40, 47, 75, 79, 85, 101, 149 y 157 del Decreto 2241 de 1986 "Por el cual se adopta el Código Electoral" y en contra del artículo 11 del Decreto 111 de 1996 "Por el cual se compilan la Ley 38 de 1989, la Ley 179 de 1994 y la Ley 225 de 1995 que conforman el Estatuto Orgánico del Presupuesto".”
November 28, 2008	Presidential Decree	<b>Decreto 4530</b> “Por el cual se modifica la estructura del Ministerio del Interior y de Justicia y se dictan otras disposiciones” <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=36773">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=36773</a>
July 14, 2009	Const'l. reform regarding political parties	<b>Acto Legislativo 01 de 2009</b> Diario Oficial No. 47.410 de 14 de julio de 2009 <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=36844">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=36844</a> Por el cual se modifican y adicionan unos artículos de la Constitución Política de Colombia. (see <a href="http://www.congresovisible.org/democracia/reformas/2009/">http://www.congresovisible.org/democracia/reformas/2009/</a> )
September 8, 2009	Law for referendum to approve third presidential term	<b>Ley 1354</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=37303">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=37303</a> “Por medio de la cual se convoca a un referendo constitucional y se somete a consideracion del pueblo un proyecto de reforma constitucional.” Declared UNCONSTITUTIONAL by C-141/10 on February 26, 2010
February 1, 2010	Constitutional Court Ruling	<b>Sentencia C-040/10</b> <a href="http://www.corteconstitucional.gov.co/relatoria/2010/c-040-10.htm">http://www.corteconstitucional.gov.co/relatoria/2010/c-040-10.htm</a> <i>Declarar INEXEQUIBLE el artículo 13 del Acto Legislativo 1º de 2009 “por el cual se modifican y adicionan unos artículos de la Constitución Política de Colombia.”</i>
February 26, 2010	Const'l. Court Ruling	<b>Sentencia C-141/10</b> <a href="http://www.registraduria.gov.co/descargar/sentencia_reeleccion_c141.pdf">http://www.registraduria.gov.co/descargar/sentencia_reeleccion_c141.pdf</a> (Declares law seeking referendum on third consecutive presidential term unconstitutional)
January 18, 2011	Law	<b>Ley 1437</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=41249">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=41249</a> “Por la cual se expide el Código de Procedimiento Administrativo y de lo Contencioso Administrativo” administrative courts can hear cases to overturn elections results

		(as stipulated in constitution)
May 27, 2011	Presidential Decree	<b>Decreto 1870</b> “por el cual se crea la Comisión para la Redacción del Código Electoral” <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=42969#0">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=42969#0</a> to create commission to study and modify the electoral code
June 21, 2011	Constitutional Reform	<b>Acto Legislativo 02 de 2011</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=43141">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=43141</a> Repealed Art 76 regarding electromagnetic spectrum
July 12, 2011	Law	<b>Ley 1474</b> “por la cual se dictan normas orientadas a fortalecer los mecanismos de prevención, investigación y sanción de actos de corrupción y la efectividad del control de la gestión pública.” <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=43292">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=43292</a> First mention of elections/campaigns with relation to public contracts (checked preceding laws)
July 14, 2011	Statutory Law	<b>Ley Estatuaría 1475</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=43332">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=43332</a> <a href="http://wsp.presidencia.gov.co/Normativa/Leyes/Documents/ley147514072011.pdf">http://wsp.presidencia.gov.co/Normativa/Leyes/Documents/ley147514072011.pdf</a> “Por la cual se adoptan reglas de organización y funcionamiento de los partidos y movimientos políticos, de los procesos electorales y se dictan otras disposiciones” <a href="http://www.elcolombiano.com/BancoConocimiento/L/la_reforma_politica_entre_odios_y_amores/la_reforma_politica_entre_odios_y_amores.asp">http://www.elcolombiano.com/BancoConocimiento/L/la_reforma_politica_entre_odios_y_amores.asp</a> “Para el analista Carlos Andrés Pérez, es claro que con esta reforma, la política se vuelve más institucional que personalista. Sentenció que muchos aspectos de esta ley van a quedar en letra muerta. "En Colombia sufrimos de algo muy negativo y es querer reformar la manera de hacer política cada dos años", dijo Pérez.” Also: <a href="http://www.congresovisible.org/democracia/reformas/2011/">http://www.congresovisible.org/democracia/reformas/2011/</a> “The political reform law, sanctioned by President Juan Manuel Santos on 14 July, bans “double militancy for the directors of political parties and movements”, meaning that someone who holds a top position in a political party cannot quit the party to run for another. The law stipulates that in such cases, the candidate is banned from running for a period of 1 year.” (LatinNews 7/28/2011)
August 11, 2011	Presidential Decree	<b>Decreto 2893</b> “Por el cual se modifican los objetivos, la estructura orgánica y

		funciones del Ministerio del Interior y se integra el Sector Administrativo del Interior.” <a href="http://www.mininterior.gov.co/sites/default/files/upload/decreto_2893_de_11072011.pdf">http://www.mininterior.gov.co/sites/default/files/upload/decreto_2893_de_11072011.pdf</a>
January 10, 2012	Law	<b>Ley 1507</b> “Por la cual se establece la distribución de competencias entre las entidades del Estado en materia de televisión y se dictan otras disposiciones”. <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=45327">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=45327</a> Declared UNCONSTITUTIONAL in Sentencia C-593/12
April 13, 2012	Presidential Decree	<b>Decreto 734</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=46940">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=46940</a> “Por el cual se reglamenta el Estatuto General de Contratación de la Administración Pública y se dictan otras disposiciones.” <i>Derogated by Decree 1510 of 2013</i>
July 17, 2013	Presidential decree	<b>Decreto 1510</b> <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=53776#163">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=53776#163</a> “Por el cual se reglamenta el sistema de compras y contratación pública.” Effort to implement best practices, increase transparency.
December 3, 2013	Decree from Ministry of Interior (“Delegatarios de funciones Presidenciales”)	<b>Decreto 2821</b> “Por el cual se crea y reglamenta la Comisión para la Coordinación y Seguimiento de los Procesos Electorales” <a href="http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=55796">http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=55796</a> President was out of town: <a href="http://wsp.presidencia.gov.co/Normativa/Decretos/2013/Documentos/NOVIEMBRE/29/DECRETO%202773%20DEL%2029%20DE%20NOVIEMBRE%20DE%202013.pdf">http://wsp.presidencia.gov.co/Normativa/Decretos/2013/Documentos/NOVIEMBRE/29/DECRETO%202773%20DEL%2029%20DE%20NOVIEMBRE%20DE%202013.pdf</a>

### APPENDIX 3D

<b>TIMELINE OF ELECTORAL LAW: VENEZUELA</b>		
<b>DATE IN EFFECT</b>	<b>EVENT/ LAW</b>	<b>TITLE/NOTES</b>
March 16, 1983 (last reforms)	Constitution	<b>Constitution of 1961 (and amendments)</b> <a href="http://pdba.georgetown.edu/Constitutions/Venezuela/ven1961.html">http://pdba.georgetown.edu/Constitutions/Venezuela/ven1961.html</a> (last updated 9/13/05)
April 30, 1965	Law	<b>Ley de Partidos Políticos, Reuniones Publicas y Manifestaciones</b> Gaceta Oficial No. 27.725 <a href="http://www.pdba.georgetown.edu/parties/venezuela/leyes/leypartidos.pdf">www.pdba.georgetown.edu/parties/venezuela/leyes/leypartidos.pdf</a>
July 30, 1976	Organic Law	<b>Ley Orgánica de la Corte Suprema de Justicia</b> Gaceta Oficial N° 1.893 Extraordinario <a href="http://fpantin.tripod.com/index-11.html">http://fpantin.tripod.com/index-11.html</a>
December 29, 1977	Reform of Organic Law	<b>Ley de Reforma Parcial de la Ley Orgánica del Sufragio</b> Publicada en la Gaceta Oficial No 2.117 Extraordinario <a href="http://www.cne.gov.ve/web/documentos/la_institucion/antecedentes/1977.pdf">http://www.cne.gov.ve/web/documentos/la_institucion/antecedentes/1977.pdf</a>
September 8, 1988	Reform of Organic Law	<b>Ley de Reforma Parcial de la Ley Orgánica del Sufragio</b> Gaceta Oficial No. 4.043 This law established decentralization – direct election of governors and mayors, establishment of municipalities, etc. <a href="http://www.cne.gob.ve/web/la_institucion/antecedentes2.php">http://www.cne.gob.ve/web/la_institucion/antecedentes2.php</a>
April 14, 1989	Law	<b>Ley Sobre Elección y Remoción de Gobernadores</b> Gaceta Oficial No. 4.086 Extraordinario La Ley sobre Elección y Remoción de Gobernadores estableció la elección directa de gobernadores, designados hasta ese entonces por el Presidente de la República. <a href="http://docs.venezuela.justia.com/federales/leyes/ley-sobre-eleccion-y-remocion-de-los-gobernadores-de-estado.pdf">http://docs.venezuela.justia.com/federales/leyes/ley-sobre-eleccion-y-remocion-de-los-gobernadores-de-estado.pdf</a> <a href="http://venezuela.justia.com/federales/leyes/ley-sobre-eleccion-y-remocion-de-los-gobernadores-de-estado/gdoc/">http://venezuela.justia.com/federales/leyes/ley-sobre-eleccion-y-remocion-de-los-gobernadores-de-estado/gdoc/</a>
June 15, 1989	Organic Law	<b>Ley Orgánica de Regimen Municipal</b> Gaceta Oficial No 4.109 See notes. Not necessary to score because I look at national elections. Creation/fusion of municipalities approved by Asamblea Legislativa; very little mention of Ejecutivo Nacional. <a href="http://www.cne.gob.ve/web/la_institucion/antecedentes.php">http://www.cne.gob.ve/web/la_institucion/antecedentes.php</a> ; <a href="http://www.oas.org/juridico/spanish/ven_res48.pdf">http://www.oas.org/juridico/spanish/ven_res48.pdf</a>
September 14, 1989	Organic Law	<b>Ley Orgánica del Sufragio</b> Mentioned on CNE website: “1.- Sustituyó el sistema de elección de listas cerradas y bloqueadas a los concejales- por el sistema preferencial de listas abiertas, 2.- Redujo el período de ejercicio de los cargos municipales de

		<p>cinco (5) a tres (3) años.</p> <p>3.- El número de miembros directivos del CSE se mantuvo en nueve (9) principales con la siguiente composición: cinco (5) representantes de partidos políticos y cuatro (4) miembros sin afiliación política.”</p> <p>(<a href="http://www.cne.gob.ve/web/la_institucion/antecedentes.php">http://www.cne.gob.ve/web/la_institucion/antecedentes.php</a>; Leer más: <a href="http://www.monografias.com/trabajos64/consejo-nacional-electoral/consejo-electoral2.shtml#ixzz2nJ74dHOA">http://www.monografias.com/trabajos64/consejo-nacional-electoral/consejo-electoral2.shtml#ixzz2nJ74dHOA</a>”)</p>
1992	Reform of Organic Law	<p><b>Ley de Reforma Parcial de la Ley Orgánica del Sufragio</b> Gaceta Oficial No 4.422 (May 7, 1992) (Affects local level electoral organization)</p> <p>Se instituye la elección directa de los miembros de las juntas parroquiales, representantes locales ubicados en el último escalafón de los cargos de elección popular. (Leer más: <a href="http://www.monografias.com/trabajos64/consejo-nacional-electoral/consejo-nacional-electoral2.shtml#ixzz2nJFK8Mnf">http://www.monografias.com/trabajos64/consejo-nacional-electoral/consejo-nacional-electoral2.shtml#ixzz2nJFK8Mnf</a> <a href="http://www.cne.gob.ve/web/documentos/la_institucion/antecedentes/1992.pdf">http://www.cne.gob.ve/web/documentos/la_institucion/antecedentes/1992.pdf</a> (printed) <a href="http://www.cne.gob.ve/web/la_institucion/antecedentes2.php">http://www.cne.gob.ve/web/la_institucion/antecedentes2.php</a>)</p>
July 29, 1993	Reform of Organic Law	<p><b>Ley de Reforma Parcial de la Ley Orgánica del Sufragio</b> Gaceta Oficial 4918 (?) Extraordinario (20/08/1993)</p> <p>Modifica el número de miembros directivos del CSE aumentándolo a once (11) principales (cinco (5) representantes de partidos políticos y seis (6) sin afiliación política). (Leer más: <a href="http://www.monografias.com/trabajos64/consejo-nacional-electoral/consejo-nacional-electoral2.shtml#ixzz2nJFPDYWK">http://www.monografias.com/trabajos64/consejo-nacional-electoral/consejo-nacional-electoral2.shtml#ixzz2nJFPDYWK</a>)</p>
June 2, 1995	Reform of Organic Law	<p><b>Ley de Reforma Parcial de la Ley Orgánica del Sufragio</b> Gaceta Oficial No. 4.918 Extraordinario (de fecha 2 de junio de 1995; sancionada el 16 de mayo de 1995)</p> <p>Se automatizan los procesos de totalización y adjudicación. (Leer más: <a href="http://www.monografias.com/trabajos64/consejo-nacional-electoral/consejo-nacional-electoral2.shtml#ixzz2nJFSvqPz">http://www.monografias.com/trabajos64/consejo-nacional-electoral/consejo-nacional-electoral2.shtml#ixzz2nJFSvqPz</a>)</p>
December 30, 1997	Organic Law	<p><b>Ley Orgánica del Sufragio y Participación Política</b> Gaceta Oficial No 5200 Extraordinario (30 de diciembre de 1997)</p> <p>1.- Se crea el Consejo Nacional Electoral en sustitución del Consejo Supremo Electoral y se ratifica la autonomía plena que posee y ejerce como máxima autoridad en la materia.</p> <p>2.- Se despartidiza el organismo, es decir, que ningún partido político tiene representación formal en su estructura y funcionamiento.</p> <p>3.- Se reduce el número de miembros que integran la directiva del organismo a siete (7).</p> <p>4.- Se establece como principio la automatización del proceso de escrutinio.</p> <p>5.- Se crea la Gaceta Electoral como instrumento oficial del Consejo Nacional Electoral para publicar sus resoluciones y otros</p>

		actos. 6.- Establece la implementación del Servicio Electoral Obligatorio, el cual se refiere a que todos los electores tienen el derecho y están obligados a prestar sus servicios en las funciones electorales que se le asignen -mediante sorteo- para que formen parte de la administración electoral, salvo las excepciones previstas en la ley. ( <a href="http://www.cne.gob.ve/web/la_institucion/antecedentes.php">http://www.cne.gob.ve/web/la_institucion/antecedentes.php</a> ) <a href="http://pdba.georgetown.edu/Parties/Venezuela/Leyes/LeySufragio.pdf">http://pdba.georgetown.edu/Parties/Venezuela/Leyes/LeySufragio.pdf</a> (link is bad - use Google search)
May 28, 1998	Reform of Organic Law	<b>Ley de Reforma Parcial de la Ley Orgánica del Sufragio y Participación Política</b> Gaceta Oficial de la República de Venezuela Extraordinaria N° 5.233 <a href="http://virtual.urbe.edu/legaltexto/LEG-0060/reforma.htm">http://virtual.urbe.edu/legaltexto/LEG-0060/reforma.htm</a> (printed) <a href="http://www.oas.org/juridico/spanish/mesicic2_ven_anexo_42_sp.pdf">http://www.oas.org/juridico/spanish/mesicic2_ven_anexo_42_sp.pdf</a>
July 1998	<i>New Electoral Law Publishing Site</i>	<b>Gaceta Electoral</b> CNE Resolutions printed in Electoral “Gazette” <a href="http://www.cne.gob.ve/web/gaceta_electoral/gaceta_electoral.php">http://www.cne.gob.ve/web/gaceta_electoral/gaceta_electoral.php</a> First Number from July 2, 1998
April 1999	<i>Constituent Assembly</i>	<b>Referendum to approve constituent assembly</b> Chavez elected December 1998, April 1999 referendum approved call for CA, July 1999 CA elected (governing Polo Patriótico won 122 of 131 seats), CA convened August 1999, referendum on constitution December 1999, first elections for new assembly July 2000 (characterized as flawed by Carter Center) and December (local/state)
December 20, 1999	Constitution	<b>Constitucion de la Republica Bolivariana de Venezuela</b> <a href="http://www.cne.gov.ve/web/normativa_electoral/constitucion/indic_e.php">http://www.cne.gov.ve/web/normativa_electoral/constitucion/indic_e.php</a> <a href="http://iidh-webserver.iidh.ed.cr/multic/UserFiles/Biblioteca/CAPEL/3_2013/2520.pdf">http://iidh-webserver.iidh.ed.cr/multic/UserFiles/Biblioteca/CAPEL/3_2013/2520.pdf</a> (printed)
January 30, 2000	Electoral Statute (emanado por el Asamblea Nacional Constituyente)	<b>El Estatuto Electoral del Poder Público</b> (sancionado por la Asamblea Nacional Constituyente el 30 de enero de 2000 y publicado en Gaceta Oficial de la República Bolivariana de Venezuela N° 36.884 de fecha 03 de febrero de 2000). Printed version from April 4, 2000. Denounced to the Constitutional Chamber of the Supreme Tribunal of Justice because written by Chavez’s Constituent Assembly (he controlled 125 of 131). Derogated in 2009. <a href="http://www.sumate.org/democracia-retroceso/attachments-spanish/T3%20ST03%20N2%20Estatuto%20electoral%20del%20poder%20p%20FAblico.pdf">http://www.sumate.org/democracia-retroceso/attachments-spanish/T3%20ST03%20N2%20Estatuto%20electoral%20del%20poder%20p%20FAblico.pdf</a> (link doesn’t work – have to cut & paste) Issue: <a href="http://historico.tsj.gob.ve/decisiones/scon/Marzo/180-">http://historico.tsj.gob.ve/decisiones/scon/Marzo/180-</a>



		<p><a href="#">280300-00-0737%20.htm</a></p> <p>See:  <a href="https://books.google.com/books?id=5XltrbYZ7QC&amp;pg=PA302&amp;pg=PA302&amp;dq=el+estatuto+electoral+del+poder+p%C3%BAblico+2000&amp;source=bl&amp;ots=DbRbke6Bic&amp;sig=8WD6d-8Scq8paD5pOSYF5jxzeY0&amp;hl=en&amp;sa=X&amp;ei=9Dv_VICLNI-4oQTuwILIDQ&amp;ved=0CFYQ6AEwBw#v=onepage&amp;q=el%20estatuto%20electoral%20del%20poder%20p%C3%BAblico%202000&amp;f=false">https://books.google.com/books?id=5XltrbYZ7QC&amp;pg=PA302&amp;pg=PA302&amp;dq=el+estatuto+electoral+del+poder+p%C3%BAblico+2000&amp;source=bl&amp;ots=DbRbke6Bic&amp;sig=8WD6d-8Scq8paD5pOSYF5jxzeY0&amp;hl=en&amp;sa=X&amp;ei=9Dv_VICLNI-4oQTuwILIDQ&amp;ved=0CFYQ6AEwBw#v=onepage&amp;q=el%20estatuto%20electoral%20del%20poder%20p%C3%BAblico%202000&amp;f=false</a></p>
May 23, 2000	Law	<p><b>Ley de Transicion del Distrito Federal a Distrito Metropolitano de Caracas</b>  Gaceta Oficial No 36.920  <a href="http://www.cmdmc.com.ve/index.php?option=com_content&amp;view=article&amp;id=107:ley-de-transicion-del-distrito-federal-a-distrito-metropolitano-de-caracas-&amp;catid=63:leyes-especiales-&amp;Itemid=101">http://www.cmdmc.com.ve/index.php?option=com_content&amp;view=article&amp;id=107:ley-de-transicion-del-distrito-federal-a-distrito-metropolitano-de-caracas-&amp;catid=63:leyes-especiales-&amp;Itemid=101</a>  (Called for by Art 6, #1 of Decreto de la Asamblea Nacional Constituyente which establishes the Regimen de Transicion del Poder Publico in Gaceta Oficial No 36.920 of 3/28/00). Creates new Metropolitan District of Caracas to house all federal government.  (derogated April 2009 by Ley Especial Sobre la Organizacion y Regimen del Distrito Capital)</p>
November 19, 2002	Organic Law	<p><b>Ley Orgánica del Poder Electoral (LOPRE)</b>  Gaceta Oficial No 37.573  1.- Regula la organización y funcionamiento del Poder Electoral  2.- Desarrolla sus competencias y las de sus órganos subordinados: la Junta Nacional Electoral, la Comisión de Registro Civil y Electoral, y la Comisión de Participación Política y Financiamiento.  3.- Concede la administración del Consejo Nacional Electoral a cinco (5) miembros principales con sus respectivos suplentes, denominados "Rectores Electorales" elegidos por la Asamblea Nacional de acuerdo a un procedimiento novedoso.  (<a href="http://www.cne.gob.ve/web/la_institucion/antecedentes.php">http://www.cne.gob.ve/web/la_institucion/antecedentes.php</a>)  <a href="http://www.cne.gov.ve/web/normativa_electoral/ley_organica_poder_electoral/indice.php">http://www.cne.gov.ve/web/normativa_electoral/ley_organica_poder_electoral/indice.php</a>  <a href="http://pdba.georgetown.edu/Parties/Venezuela/Leyes/poderelectoral.pdf">http://pdba.georgetown.edu/Parties/Venezuela/Leyes/poderelectoral.pdf</a> (printed)</p>
May 20, 2004	Organic Law	<p><b>Ley Orgánica del Tribunal Supremo de Justicia</b>  Gaceta Oficial No 37.942  (Derogates 1976 law, establishes electoral chamber)  <a href="http://www.oas.org/juridico/spanish/mesicic2_ven_anexo_44_sp.pdf">http://www.oas.org/juridico/spanish/mesicic2_ven_anexo_44_sp.pdf</a>  <a href="http://www.mp.gob.ve/c/document_library/get_file?p_1_id=29950&amp;folderId=14478&amp;name=DLFE-2755.pdf">http://www.mp.gob.ve/c/document_library/get_file?p_1_id=29950&amp;folderId=14478&amp;name=DLFE-2755.pdf</a></p>
August 18,	Referendum	<b>Recall of Chavez defeated</b>

2004		
December 2, 2007	Referendum	<b>Reforms including reelection defeated</b>
2008	<i>CNE proposal</i>	<b>2008 Paridad y alternabilidad de género</b> El Consejo Nacional Electoral exige a las organizaciones con fines políticos la paridad y alternabilidad de género en sus listas de postulados y postuladas para los cuerpos deliberantes a las Elecciones Regionales de ese año. <a href="http://www.cne.gob.ve/web/la_institucion/antecedentes.php">http://www.cne.gob.ve/web/la_institucion/antecedentes.php</a> <a href="https://groups.google.com/forum/#!topic/golde/V7n8PmALyu8">https://groups.google.com/forum/#!topic/golde/V7n8PmALyu8</a>
February 19, 2009	Constitutional Amendment	<b>Enmienda No 1 de la Constitucion de la Republica Bolivariana de Venezuela</b> (Not noted on list of laws at CNE website) Allows reelection for all. <a href="http://www.cne.gov.ve/web/normativa_electoral/constitucion_primera_enmienda/titulo1.php">http://www.cne.gov.ve/web/normativa_electoral/constitucion_primera_enmienda/titulo1.php</a>
February 19, 2009	<i>Amended Constitution</i>	<b>Print out of Amended Constitution</b> (highlighted in Doc #12)
April 13, 2009	Special Law	<b>Ley Especial Sobre la Organizacion y Regimen del Distrito Capital</b> Gaceta Oficial 39.156 <a href="http://www.tsj.gov.ve/gaceta/abril/130409/130409-39156-1.html">http://www.tsj.gov.ve/gaceta/abril/130409/130409-39156-1.html</a> <a href="http://www.gdc.gob.ve/content/2/module/pages/op/displaypage/page_id/4/format/html/">http://www.gdc.gob.ve/content/2/module/pages/op/displaypage/page_id/4/format/html/</a> <a href="http://venezuelanalysis.com/news/4357">http://venezuelanalysis.com/news/4357</a>
August 25, 2009	Organic Law	<b>Ley Orgánica de Registro Civil</b> Gaceta Oficial 39.264 (promulgated 9/15/09) 1.- Se establece la obligatoriedad y gratuidad en la inscripción de los actos declarativos, constitutivos o modificatorios del estado civil. 2.- Se crea el Sistema Nacional de Registro Civil, el cual, entre otros avances, permite asignar un Número Único de Identidad para la partida de nacimiento, cédula, pasaporte y acta de defunción, con el fin de que sea universal para todos los actos civiles y todas las bases de datos del país se acoplen a través de la creación del Expediente Civil Único. 3.- Se automatizan los procesos, estableciendo la conexión directa entre el Registro Civil y el Registro Electoral, permitiendo la incorporación automática de las personas al padrón de votantes en el momento que alcancen la mayoría de edad, así como la depuración de dicho Registro Electoral en tiempo real. ( <a href="http://www.cne.gob.ve/web/la_institucion/antecedentes.php">http://www.cne.gob.ve/web/la_institucion/antecedentes.php</a> )  <a href="http://asesorya.com/2009/LEYES/CIVIL/39264%2015-09-2009%20LEY%20ORG%20C3%81NICA%20DE%20REGISTRO%20CIVIL.pdf">http://asesorya.com/2009/LEYES/CIVIL/39264%2015-09-2009%20LEY%20ORG%20C3%81NICA%20DE%20REGISTRO%20CIVIL.pdf</a> (printed)

		<a href="http://www.cne.gov.ve/web/normativa_electoral/ley_organica_registro_civil/indice.php">http://www.cne.gov.ve/web/normativa_electoral/ley_organica_registro_civil/indice.php</a> <a href="http://www.mp.gob.ve/c/document_library/get_file?uuid=403354ff-9cda-4b73-8165-6cad4087b977&amp;groupId=10136">http://www.mp.gob.ve/c/document_library/get_file?uuid=403354ff-9cda-4b73-8165-6cad4087b977&amp;groupId=10136</a>
August 12, 2009	Organic Law	<p><b>Ley Orgánica de Procesos Electorales (LOPRE)</b>  Gaceta Oficial 5.928E August 12, 2009 (passed in Natl Assembly July 31, 2009; passed by Executive August 5, 2009)  <a href="http://www.mp.gob.ve/c/document_library/get_file?uuid=87516330-3bac-4f4f-8ed0-f104a8392ed9&amp;groupId=10136">http://www.mp.gob.ve/c/document_library/get_file?uuid=87516330-3bac-4f4f-8ed0-f104a8392ed9&amp;groupId=10136</a> (printed)  <a href="http://www.cne.gov.ve/web/normativa_electoral/ley_organica_procesos_electorales/indice.php">http://www.cne.gov.ve/web/normativa_electoral/ley_organica_procesos_electorales/indice.php</a>  <a href="http://pdba.georgetown.edu/electoral/venezuela/lope2009.pdf">http://pdba.georgetown.edu/electoral/venezuela/lope2009.pdf</a>  <a href="http://www.mp.gob.ve/c/document_library/get_file?uuid=87516330-3bac-4f4f-8ed0-f104a8392ed9&amp;groupId=10136">http://www.mp.gob.ve/c/document_library/get_file?uuid=87516330-3bac-4f4f-8ed0-f104a8392ed9&amp;groupId=10136</a>  233 articles, which replaces the previous Law of Suffrage and Political Participation and the Law of Electoral Statute  NA No 759 – “DISPOSICIONES DEROGATORIAS PRIMERA. Quedan derogados: El Estatuto Electoral del Poder Público, sancionado por la Asamblea Nacional Constituyente el 30 de enero de 2000 y publicado en Gaceta Oficial de la República Bolivariana de Venezuela N° 62. 6236.884 de fecha 03 de febrero de 2000 y la Ley Orgánica del Sufragio y Participación Política, publicada en Gaceta Oficial de la República de Venezuela Extraordinaria N° 5.233 de fecha 28 de mayo de 1998.”  <a href="http://www.as-coa.org/articles/explainer-venezuelas-2013-presidential-election">http://www.as-coa.org/articles/explainer-venezuelas-2013-presidential-election</a></p>
September 14, 2009	CNE Resolution	<p><b>Consejo Nacional Electoral Resolucion No. 090914-0388</b>  (printed with above law)</p>
February 2, 2010	Reform	<p><b>Ley de Reforma Parcial del Decreto No. 6.239 Con Rango, Valor y Fuerza de Ley Organica de la Fuerza Armada Nacional Bolivariana</b>  Establishes Milicia Bolivariana  <a href="http://www.mp.gob.ve/c/document_library/get_file?uuid=7c4f7fbe-be7d-446c-be87-3994d36614ac&amp;groupId=10136">http://www.mp.gob.ve/c/document_library/get_file?uuid=7c4f7fbe-be7d-446c-be87-3994d36614ac&amp;groupId=10136</a></p>
February 8, 2010	CNE Resolution	<p><b>Resolucion No 100208-0011</b>  “Reglamento No 1 de la ley organica de procesos electorales en Materia de convocatoria, registro electoral, postulaciones, constitucion de grupos de electoras y electores y procedimiento de escogencia de posicion en el instrument de votacion.”  <a href="http://www.cne.gov.ve/web/normativa_electoral/elecciones/2010/parlamentarias/documentos/REGLAMENTO_1.pdf">http://www.cne.gov.ve/web/normativa_electoral/elecciones/2010/parlamentarias/documentos/REGLAMENTO_1.pdf</a>  <a href="http://www.youblisher.com/p/230917-Reglamento-N-1-de-la-Ley-Organica-de-Procesos-Electorales-en-materia-de-Convocatoria-Registro-Electoral-Postulaciones-Constitucion-de-Grupos-de-Electoras-y-Electores-y-Procedimiento-de-Escogencia-de-Posicion-en-el-Instrumento-de-Votacion/">http://www.youblisher.com/p/230917-Reglamento-N-1-de-la-Ley-Organica-de-Procesos-Electorales-en-materia-de-Convocatoria-Registro-Electoral-Postulaciones-Constitucion-de-Grupos-de-Electoras-y-Electores-y-Procedimiento-de-Escogencia-de-Posicion-en-el-Instrumento-de-Votacion/</a></p>

		(Derogated in 2013 by Resolucion No 130118-0005)
February 8, 2010	CNE Resolution	<b>Resolucion No 100208-0012</b> “Reglamento No 3 de la ley Organica de Procesos Electorales en Materia de la Representacion Indigena” <a href="http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_3.pdf">http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_3.pdf</a> Sets rules/process to elect designated indigenous representatives. (Derogated in 2013 by Resolucion No 130118-0005)
February 9, 2010	Organic Law	<b>Ley Orgánica del Consejo Federal de Gobierno</b> <a href="http://www.asambleanacional.gob.ve/uploads/leyes/2010-02-09/doc_36a20ecd9cb5a96923baf31d1b2a184dd80426fb.pdf">http://www.asambleanacional.gob.ve/uploads/leyes/2010-02-09/doc_36a20ecd9cb5a96923baf31d1b2a184dd80426fb.pdf</a>
February 10, 2010	CNE Resolution	<b>Resolucion No 100210-0016</b> “Reglamento No 2 de la ley Organica de Procesos Electorales en Materia de Organismos Electorales Subalternos de la Junta Nacional Electoral” Selection (automated public drawing from voter list) and rules for temporary workers that run elections at local level, conducted by CNE and follows Ley Organica de Procesos Electorales, under supervision of Junta Nacional Electoral <a href="http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_2.pdf">http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_2.pdf</a> (Derogated in 2013 by Resolucion No 130118-0005)
February 25, 2010	CNE Resolution	<b>Resolucion No 100225-0026</b> “Reglamento No 4 de la Ley Organica de Procesos Electorales en Materia de los Actos de Instalacion, Constitucion, Votacion, Escrutinio y Auditoria en el Proceso Electoral” <a href="http://www.sumate.org/documentos/Marco_Legal_Electoral_Venezuela/REGLAMENTO_4.pdf">http://www.sumate.org/documentos/Marco_Legal_Electoral_Venezuela/REGLAMENTO_4.pdf</a> Published in Gaceta Electoral No 520 on March 19, 2010. MODIFIED in July by Resolucion No 100722-0274 (below). (Derogated in 2013 by Resolucion No 130118-0005)
February 25, 2010	<i>CNE Resolution summary</i>	<b>Gaceta Electoral No 516</b> <a href="http://www.cne.gob.ve/web/gaceta_electoral/gaceta_electoral_detalle.php?tg=1&amp;num_gac=516">http://www.cne.gob.ve/web/gaceta_electoral/gaceta_electoral_detalle.php?tg=1&amp;num_gac=516</a> Lists four Resolutions (noted above)
March 4, 2010	CNE Resolution	<b>Resolucion No 100304-0043</b> “Reglamento No 5 de La Ley Organica de Procesos Electorales en Materia de Control del Financiamiento de Campana Electoral” <a href="https://www.google.com/search?client=safari&amp;rls=en&amp;q=Resoluci%C3%B3n+N%C2%BA+100304-0043&amp;ie=UTF-8&amp;oe=UTF-8">https://www.google.com/search?client=safari&amp;rls=en&amp;q=Resoluci%C3%B3n+N%C2%BA+100304-0043&amp;ie=UTF-8&amp;oe=UTF-8</a> Lists procedures to regulate, control, track origin and use of campaign financing (not really about limits, just reporting, audit, procedures to investigate – all handled by CNE and Comision de Participacion Politica y Financiamiento). (Derogated in 2013 by Resolucion No 130118-0005)
March 18,	CNE	<b>Resolucion No 100318-0058</b>

2010	Resolution	<p>“Reglamento No 6 de la Ley Organica de Procesos Electorales en Materia de Propaganda Durante la Campana Electoral”</p> <p><a href="http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_6.pdf">http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_6.pdf</a></p> <p>Establishes rules for campaigning and media use, actions by public officials, and fines for violations. No significant executive powers. (Derogated in 2013 by Resolucion No 130118-0005)</p>
March 10, 2010	CNE Resolution	<p><b>Resolucion No 100310-0035</b></p> <p>“Reglamento No 7 de la Ley Organica de Procesos Electorales en Materia de Totalizacion, Adjudicacion y Proclamacion”</p> <p><a href="http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_7.pdf">http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_7.pdf</a></p> <p>Very detailed procedures for Counting, Verifying and Proclaiming election results. Not significant for executive power. (Derogated in 2013 by Resolucion No 130118-0005)</p>
May 26, 2010	CNE Resolution	<p><b>Resolucion No 100526-0124</b></p> <p><a href="http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_8.pdf">http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_8.pdf</a></p> <p>“Reglamento No 8 de la Ley Organica de Procesos Electorales en Materia de Eleccion a Organos Deliberantes de Competencia Internacional”</p> <p>Not significant for executive power. (Derogated in 2013 by Resolucion No 130118-0005)</p>
June 3, 2010	CNE Resolution	<p><b>Resolucion No 100603-0125</b></p> <p><a href="http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_9.pdf">http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_9.pdf</a></p> <p>“Reglamento No 9 de la Ley Organica de Procesos Electorales en Materia de Testigos en los Procesos de Inscripcion y Actualizacion de Datos del Registro Electoral, Testigos Ante Organismos Electorales Subalternos y Testigos en las Auditorias de un Proceso Electoral y de sus Etapas”</p> <p>Procedures to register election witnesses. (Derogated in 2013 by Resolucion No 130118-0005)</p>
June 17, 2010	CNE Resolution	<p><b>Resolucion No 100526-0123</b></p> <p><a href="http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/Reglamento_Observacion.pdf">http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/Reglamento_Observacion.pdf</a></p> <p>“Reglamento en materia de Observacion Nacional Electoral y Acompanamiento Internacional Electoral”</p> <p>Not significant to executive power. Outlines procedures for national and international observers. Per LOPRE, CNE decides if allowed. (Derogated in 2013 by Resolucion No 130118-0005)</p>
July 22, 2010	CNE Resolution	<p><b>Resolución N° 100722-0274</b></p> <p><a href="http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_4.pdf">http://www.cne.gob.ve/web/normativa_electoral/elecciones/2010/p/arlamentarias/documentos/REGLAMENTO_4.pdf</a></p> <p>“mediante la cual se resuelve modificar los artículos 33 numerales 1, 8 y 9; 36 y 62 parágrafo segundo del Reglamento N° 4 de la Ley</p>

		Orgánica de Procesos Electorales” (Printed in Gaceta Electoral 534: <a href="http://www.cne.gob.ve/web/gaceta_electoral/gaceta_electoral_detalle.php?tg=1&amp;num_gac=534">http://www.cne.gob.ve/web/gaceta_electoral/gaceta_electoral_detalle.php?tg=1&amp;num_gac=534</a> )
December 22, 2010	Law	<b>Ley de Responsabilidad Social en Radio y Televisión (Resorte)</b> GO No. 39.579 <a href="http://www.leyresorte.gob.ve/ley-resorte/">http://www.leyresorte.gob.ve/ley-resorte/</a> Does not specifically impact elections (however opposition claimed it could be used to intimidate political campaigns)
December 21, 2010	Organic Law	<b>Ley Orgánica del Poder Público Municipal</b> <a href="http://www.cne.gov.ve/web/normativa_electoral/LEY_ORGANICA_DEL_PODER_PUBLICO_MUNICIPAL.pdf">http://www.cne.gov.ve/web/normativa_electoral/LEY_ORGANICA_DEL_PODER_PUBLICO_MUNICIPAL.pdf</a> (printed) <a href="http://www.minamb.gob.ve/files/leyes-2011/No39582reform_lorgppm.pdf">http://www.minamb.gob.ve/files/leyes-2011/No39582reform_lorgppm.pdf</a> “Queda derogada la Ley Orgánica de Régimen Municipal sancionada en fecha 14 de Junio de mil novecientos ochenta y nueve y Publicada en la Gaceta Oficial de la República de Venezuela N°. 4.109 Extraordinario, de fecha 15 de Junio de mil novecientos ochenta y nueve y su Reglamento Parcial N°. 1 sobre la Participación de la Comunidad.”
December 23, 2010	Law, Law, Reform Law, Reform of Organic Law	<b>Ley de Regularización de los Periodos Constitucionales y Legales de los Poderes Públicos Estadales y Municipales; Ley de Defensa de la Soberanía Política y Autodeterminación Nacional; Ley de Reforma Parcial de la Ley de Partidos Políticos, Reuniones Públicas y Manifestaciones; and Ley de Reforma Parcial de la Ley Orgánica de la Contraloría General de la República y del Sistema Nacional de Control Fiscal.</b> <a href="http://www.cne.gov.ve/web/normativa_electoral/LEY_DE_REGULARIZACION_DE_LOS_PERIODOS.pdf">http://www.cne.gov.ve/web/normativa_electoral/LEY_DE_REGULARIZACION_DE_LOS_PERIODOS.pdf</a> <a href="http://www.mp.gob.ve/c/document_library/get_file?p_1_id=162760&amp;folderId=134941&amp;name=DLFE-2209.pdf">http://www.mp.gob.ve/c/document_library/get_file?p_1_id=162760&amp;folderId=134941&amp;name=DLFE-2209.pdf</a> (printed) <a href="http://www.ministeriopublico.gob.ve/c/document_library/get_file?p_1_id=40513&amp;folderId=134941&amp;name=DLFE-2209.pdf">http://www.ministeriopublico.gob.ve/c/document_library/get_file?p_1_id=40513&amp;folderId=134941&amp;name=DLFE-2209.pdf</a> See: <a href="http://rrmlegal.com/es/blog/22/la-ley-de-reforma-parcial-de-la-ley-de-partidos-politicos-reuniones-publicas-y-manifestaciones-o-como-desconocer-la-voluntad-popular">http://rrmlegal.com/es/blog/22/la-ley-de-reforma-parcial-de-la-ley-de-partidos-politicos-reuniones-publicas-y-manifestaciones-o-como-desconocer-la-voluntad-popular</a>
June 7, 2012	CNE Resolution	<b>Resolution N° 120607-367 202° y 153°</b> <b>“REGLAMENTO GENERAL DE LA LEY ORGÁNICA DE PROCESOS ELECTORALES”</b> Seems to be a compilation of Reglamento Nos 1-10. <a href="http://www.cne.gob.ve/web/normativa_electoral/elecciones/2012/regionales/documentos/Reglamento_General_LOPRE.pdf">http://www.cne.gob.ve/web/normativa_electoral/elecciones/2012/regionales/documentos/Reglamento_General_LOPRE.pdf</a> <a href="http://www.eleccionesvenezuela.com/noticia-ley-organiza-procesos-electorales-129.html">http://www.eleccionesvenezuela.com/noticia-ley-organiza-procesos-electorales-129.html</a> <a href="http://www.telesurtv.net/articulos/2012/06/08/poder-electoral-venezolano-aprobo-reglamento-para-comicios-presidenciales-">http://www.telesurtv.net/articulos/2012/06/08/poder-electoral-venezolano-aprobo-reglamento-para-comicios-presidenciales-</a>

		<a href="#">3958.html</a>
January 2013	<i>TSJ ruling</i>	The Supreme Court (TSJ) ruled that Chávez could be sworn in at a later date after he missed his inauguration.
January 18, 2013	CNE Resolution (regulating Organic Law)	<b>Resolution #130118-0005 – Reglamento General de la Ley Orgánica de Procesos Electorales (LOPRE)</b> <a href="http://www.sumate.org/documentos/Reglamento_General_LOPRE.pdf">http://www.sumate.org/documentos/Reglamento_General_LOPRE.pdf</a> <a href="http://www.cne.gov.ve/web/normativa_electoral/reglamentos/Reglamento_General_LOPRE.pdf">http://www.cne.gov.ve/web/normativa_electoral/reglamentos/Reglamento_General_LOPRE.pdf</a> Contains significantly more direction/steps/details (but similar to 2012 version).
March 5, 2013	<i>Chavez passed</i>	According to the Constitution, elections must take place within 30 days of a president’s passing.
March 8, 2013	<i>TSJ ruling</i> (ratified Maduro as interim pres, set election date)	TSJ ratified Maduro as president, and decided that he could serve as interim head of state while running for office. The National Electoral Council (CNE) chose a date for the election that falls 40 days after Chávez’s death. Candidates officially registered on March 11, but the CNE ruled that campaigns will only legally run from April 2 through 11. <a href="http://www.as-coa.org/articles/explainer-venezuelas-2013-presidential-election">http://www.as-coa.org/articles/explainer-venezuelas-2013-presidential-election</a>
March 9, 2013	CNE resolution	<b>Resolution 130309-0029 – Reglamento Especial Sobre la Campana Electoral para la Eleccion Presidencial 2013</b> (special presidential election campaign) <a href="http://www.cne.gov.ve/web/normativa_electoral/elecciones/2013/presidenciales/resoluciones/reglamento_especial.pdf">http://www.cne.gov.ve/web/normativa_electoral/elecciones/2013/presidenciales/resoluciones/reglamento_especial.pdf</a> <a href="http://www.diarioelprogreso.com/edi-020413/html/pag03-a.html">http://www.diarioelprogreso.com/edi-020413/html/pag03-a.html</a>
March 15, 2013	CNE resolution	<b>Resolution 130315-0044 – Procedimiento para Extender las Credenciales a las o los Testigos en la Eleccion Presidencial 2013</b> ( <a href="http://www.cne.gov.ve/web/normativa_electoral/elecciones/2013/presidenciales/resoluciones/resolucion_130315-0044.pdf">http://www.cne.gov.ve/web/normativa_electoral/elecciones/2013/presidenciales/resoluciones/resolucion_130315-0044.pdf</a> )
April 14, 2013	<i>Presidential elections</i>	See report: <a href="http://www.defensoria.gob.ve/dp/phocadownload/userupload/varios/eleccion_14A2013_def.pdf">http://www.defensoria.gob.ve/dp/phocadownload/userupload/varios/eleccion_14A2013_def.pdf</a>

**APPENDIX 3E**

<b>TIMELINE OF ELECTORAL LAW: ECUADOR</b>		
<b>DATE IN EFFECT</b>	<b>EVENT/ LAW</b>	<b>TITLE/NOTES</b>
January 15, 1978 (published 1979)	Constitution	<b>Constitucion</b> Approved in Referendum (January 15, 1978); R.O. No. 800 (March 27 1979) <a href="http://www.cortenacional.gob.ec/cnj/images/pdf/constituciones/43%201978%20Texto%20Original.pdf">http://www.cortenacional.gob.ec/cnj/images/pdf/constituciones/43%201978%20Texto%20Original.pdf</a> ( <a href="http://www.constitutionnet.org/files/1978-codificada-en-1993.pdf">http://www.constitutionnet.org/files/1978-codificada-en-1993.pdf</a> ) “The 1978 constitution, approved in a popular referendum, inaugurated the last transition to democracy in Ecuador and was in force until 1997.” (Negretto, 2013, 196)
February 27, 1978	Law	<b>Ley de Elecciones</b> Registro Oficial No. 534
May 4, 1978	Law	<b>Reglamento a la Ley de Partidos Políticos</b> <a href="http://pdba.georgetown.edu/Electoral/Ecuador/pp1978.html">http://pdba.georgetown.edu/Electoral/Ecuador/pp1978.html</a>
Julio 6, 1978	TSE Resolution	<b>Resolución del Tribunal Supremo Electoral 0</b> Registro Oficial No. 623 Reforms electoral law (addresses cases of people not voting for medical reasons)
August 28, 1978	TSE Resolution	<b>Resolución del Tribunal Supremo Electoral 0</b> Registro Oficial No. 658 Reforms electoral law (addresses holding elections again in provinces where voting was declared null)
October 18, 1978	Executive Decree	<b>Decreto Supremo 2921</b> Registro Oficial 693 Reforms electoral law (sets up new TSE, calls for addressing vote irregularities, sets up transition to new government/constitution)
October 30, 1978	TSE Resolutions	<b>Resolución del Tribunal Supremo Electoral 0</b> Registro Oficial 701 Reforms electoral law (Two TSE resolutions without numbers: one derogates resolution in RO 658 re null elections, ratifies July elections; the other details some of the TSE’s duties, organization, meeting procedures)
January 29, 1979	Executive Decree	<b>Decreto Supremo 3182</b> Registro Oficial 761 Reforms electoral law (adds language that TSE is an autonomous organization and independent of the of the other functions of the state, adds details and specifics)
February 15, 1979	Executive Decree	<b>Decreto Supremo 3234</b> Registro Oficial 774 Reforms electoral law (adds some specifics to candidacy qualifications, some details to dates and procedures for citizens)



		failing to vote)
May 7, 1979	TSE Resolution	<b>Resolución del Tribunal Supremo Electoral 0</b> Registro Oficial 826 Reforms electoral law (clarification regarding quotients)
February 28, 1980	Legislative decree	<b>Decreto Legislativo 0</b> Registro Oficial 136 Reforms electoral law (specifics on how to elect the citizen representatives to the Tribunal de Garantias Constitucionales though electoral colleges)
July 9, 1981	TSE Resolution	<b>Resolución del Tribunal Supremo Electoral 0</b> Registro Oficial 34 Reforms electoral law (slight revision – again – to the provision on people who don't vote because of illness needing doctor note)
February 10, 1982	Law	<b>Ley 84</b> Registro Oficial 180 Reforms electoral law (establish provisions for direct elections for local positions)
April 26, 1983	Law	<b>Ley 125</b> Registro Oficial 479 Reforms electoral law (regarding electoral lists and IDs)
July 27, 1983	TSE Resolution	<b>Resolución del Tribunal Supremo Electoral 0</b> Registro Oficial 544 Reforms electoral law (interprets/specifies Art 47 of electoral law regarding candidacy requirements)
September 14, 1983	TSE Resolution	<b>Resolución del Tribunal Supremo Electoral 0</b> Registro Oficial 578 Reforms electoral law (to remove the resolution regarding Art 47 because doesn't align with new reforms; doesn't effect IEP)
November 7, 1983	Court Ruling	<b>Resolución de la Corte Suprema de Justicia 1</b> Registro Oficial 612 Reforms electoral law (suspends Arts. 104-107 of Elections Law because they go against spirit of constitution – limited campaign propaganda)
November 23, 1983	Law	<b>Ley 147</b> Registro Oficial 625 Reforms electoral law (slightly changes appointment and regulations of TSE)
April 16, 1984	Court Ruling	<b>Resolución de la Corte Suprema de Justicia 0</b> Registro Oficial 725 Reforms electoral law (regarding new Canton)
5/23/1984 – 8/4/1984	Constitutional reforms	<b>Codificación de la Constitución Política de la República del Ecuador</b> R.O. No. 763 (June 12, 1984) R.O. No. 569 (promulgation of September 1, 1983) Reduced term from five to four years (See QP2 notes) <a href="http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador84.html">http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador84.html</a>

		<a href="http://countrystudies.us/ecuador/57.htm">http://countrystudies.us/ecuador/57.htm</a>
September 6, 1984	Constitutional Reform	<b>Constitutional reform</b> Published in R.O. No. 19 of September 6, 1984 (Interprets a transitional clause to the June 12 codification of the constitution, thereby ending the terms of the Supreme Court, Tribunal Fiscal, and Contentious Administrative Tribunal magistrates) <a href="http://www.explored.com.ec/noticias-ecuador/historia-de-cambios-constitucionales-22360.html">http://www.explored.com.ec/noticias-ecuador/historia-de-cambios-constitucionales-22360.html</a>
October 25, 1985	Law	<b>Ley 9 - Ley Reformatoria a las Leyes de Regimen Municipal, de Regimen Provincial y de Elecciones</b> Registro Oficial No. 300 Reforms electoral law (to harmonize laws with reforms; concludes with a letter from the president who is upset the TSE, Congress, and TGC did not hold elections at the right time)
February 28, 1986	Law	<b>Ley 21 – Ley Reformatoria a la Ley de Elecciones</b> Registro Oficial No. 385 Reforms electoral law (adds specifics on ID, presidential second round, req for quorum in TSE, details on local EMBs)
March 26, 1986	Court Ruling	<b>Resolución del Tribunal Constitucional 0</b> Registro Oficial No. 403 Reforms electoral law (Congress decides to null the resolution by the TGC and ratify the Transition Disposition #7 of Ley 21 regarding reelection for members of congress) – does not effect IEP, but interesting battle between congress and the court
June 2, 1986	Referendum	Regarding independent political participation
July 31, 1986	Legislative Resolution	<b>Resolución Legislativa 0</b> Registro Oficial No. 490 Reforms electoral law (regarding minimum vote % for political parties)
October 23, 1986	Law	<b>Ley 37</b> Registro Oficial No. 549 Reforms electoral law (regarding Ecuadorians living abroad voting)
December 12, 1986	Law (& Codification )	<b>Ley Electoral No. 59, Codificación de la Ley de Elecciones 7</b> Registro Oficial No. 604 (January 15, 1987) <a href="http://pdba.georgetown.edu/Electoral/Ecuador/ley59.html">http://pdba.georgetown.edu/Electoral/Ecuador/ley59.html</a>
March 26, 1987	Court Ruling	<b>Resolución del Tribunal de Garantías Constitucionales</b> Registro Oficial No. 652 (page 21), ratificada por el Plenario de las Comisiones Legislativas mediante Resolución publicada en el Registro Oficial 658 de 3 abril de 1987 (652 suspends the effects of Arts. 75, 76, 77, and 78 of the Elections Law (RO 604) for unconstitutionality re Ecuadorians voting abroad
April 3, 1987	Ratification of	<b>Ratifica la Resolución del Tribunal de Garantías Constitucionales</b>

	Resolution [not counted]	Registro Oficial No. 658 (approved March 17, 1987, has Congress ratify the decision in 652 above)
July 2, 1987	Law	<b>Ley 65 – Ley de Reformas a las Leyes de Regimen Municipal, de Regimen Provincial y de Elecciones</b> Registro Oficial No. 720
September 15, 1988	Constitutional Reform	<b>Constitutional reform</b> Registro Oficial No. 26 (September 16, 1988) Interprets articles 101, 111, and 116 of the constitution to establish the periods of justices, members of TSE, and Tribunal de Garantias Constitucionales to end August 10, every 4 years <a href="http://www.explored.com.ec/noticias-ecuador/historia-de-cambios-constitucionales-22360.html">http://www.explored.com.ec/noticias-ecuador/historia-de-cambios-constitucionales-22360.html</a>
January 5, 1990	Law	<b>Ley No. 58</b> Registro Oficial No. 349 (specifies timing, ID, ballot design, details on vote tabulation, procedures for declaring results, impugnation)
February 16, 1990	Law	<b>Reglamento a la Ley de Elecciones No. 1257-A, 1990</b> <a href="http://pdba.georgetown.edu/Electoral/Ecuador/ley1257-A.html">http://pdba.georgetown.edu/Electoral/Ecuador/ley1257-A.html</a>
August 23, 1990	Law	<b>Ley No. 101</b> Registro Oficial No. 506 (reforms Art 112 of the constitution adding a prohibition for the press to publish public opinion polls regarding elections during the 30 days leading up to election. Violators will be sanctioned by TSE)
November 12, 1991	Law	<b>Ley 131 – Ley Reformatoria a la Ley de Elecciones</b> Registro Oficial No. 810 (regarding timing of elections)
February 11, 1992	Law	<b>Ley Reformatoria a la Ley de Elecciones No. 140</b> Registro Oficial No. 872 (regarding voter lists)
February 24, 1992	Court Ruling	<b>R. 040-92 TCG</b> Registro Oficial No. 881 (regarding non-native Ecuadorians serving in local office)
May 7, 1992	Law	<b>Ley No. 02</b> Registro Oficial No. 930 (re finance/Central Bank)
November 30, 1992	Law	<b>Ley de Presupuestos del Sector Público</b> Registro Oficial Suplemento No. 76
December 23, 1992/ 1993	Constitutional Reform	<b>Constitutional Reform</b> Registro Oficial No. 93 (Reorganized Supreme Court) <a href="http://www.explored.com.ec/noticias-ecuador/historia-de-cambios-constitucionales-22360.html">http://www.explored.com.ec/noticias-ecuador/historia-de-cambios-constitucionales-22360.html</a> <a href="http://www.vicepresidencia.gov.ec/docs/constitucion/constitucionde1978codificadaen1993.pdf">http://www.vicepresidencia.gov.ec/docs/constitucion/constitucionde1978codificadaen1993.pdf</a>
October	Law	<b>Ley Reformatoria de la Ley de Elecciones s/n</b>

30, 1995		Registro Oficial Suplemento No. 812 (necessary modifications due to the constitutional reforms implemented per the referendum (consulta popular) on August 28, 1994, published in the Registro Oficial No. 618 of January 24, 1995) (specifics regarding address change, independent candidacies, ballot format; Article 13 calls for TSE to propose an electoral reform to submit to the president)
November 26, 1995	Referendum	<b>Consulta Popular 1995</b> Sixto Duran Ballen proposed 11 constitutional reforms, including ability to dissolve congress and replacing the TGC and the Supreme Court's sala constitucional with a Tribunal Constitucional. All measures were defeated.
Jun 18, 1996	Constitutional Reform	<b>Constitución Política de la República del Ecuador</b> Registro Oficial No. 969 <a href="http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador96.html#mozTocId778685">http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador96.html#mozTocId778685</a> <a href="http://www.icpcolombia.org/archivos/reflexiones/reforma_constitucional_en_ecuador.pdf">http://www.icpcolombia.org/archivos/reflexiones/reforma_constitucional_en_ecuador.pdf</a> (re-instated minimum percentage votes for political party inscription, and permitted alliances)
June 10, 1996	Law	<b>Ley Reformatoria de la Ley de Elecciones No. 120</b> Registro Oficial No. 963 (minor change to # of days can't print polls)
December 17, 1996	Law	<b>Ley Reformatoria a la Ley de Elecciones No. 17</b> Registro Oficial No. 90
February 13, 1997	Constitution	<b>Constitution (with reforms through January 1998 – see below for specifics on when what reforms were made)</b> Registro Oficial No. 2 <a href="#">Source: Oceana Publications Inc. (English)</a>
February 24, 1997	Executive Decree	<b>Decreto Ejecutivo 36</b> Registro Oficial No. 9 (Gives procedures to establish electoral colleges to designate justices per 1996 constitution [interim president Alarcon])
May 25, 1997	Referendum	<b>Consulta Popular</b> (remove Bucaram)
May 27, 1997	Constitutional Reform	<b>Ley 10 – Reformas a la Constitución de la República del Ecuador</b> Registro Oficial No. 73 (forbids those who've been convicted or disqualified from being candidates, prohibits members of congress from holding other positions besides professor, gives them immunity during service, can serve sentences unless Congress authorizes, corresponds end date of VP term with that of president, as well as appointed positions)
June 9, 1997	Constitutional Reform	<b>Ley 11 – Reformas a la Constitución Política de la República del Ecuador Codificada</b>

		Registro Oficial Suplemento 82 (Adds to constitution Art. 100 letter “A” – if president is definitively missing, his position will be taken by first, VP, second, pres of Congress, third, Supreme Court president; also, add 14 <sup>th</sup> transition disposition calling for presidential and national elections)
July 31, 1997	Constitutional Reform	<b>Ley s/n – Reformas a la Constitucion Política</b> Registro Oficial No. 120 (reforms constitution with regard to Supreme Court justices – terminate terms, but stay ‘til replaced, designate how to appoint new ones with “Comission Calificadora”; reform to TSE members from seven parties’ lists instead of named by Congress)
September 1, 1997	Constitutional Reform	<b>Ley 18 – Reformas a la Constitucion Política</b> Registro Oficial Suplemento 142 (extends number of days to finalize “Comision Calificadora”)
January 14, 1998	Legislative Resolution	<b>Resolucion Legislativa 000</b> Registro Oficial Suplemento 235 Replaces Ley 11 disposition transition clause 14 setting election date
August 11, 1998	Constitution	<b>Constitution</b> Registro Oficial 1 <a href="http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador98.html">http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador98.html</a>
March 25, 1998	Law	<b>Ley Reformatoria a la Ley de Elecciones No. 71</b> Publicada en registro Oficial Suplemento 283 de 25 de Marzo 1998
January 25, 1999	TSE Resolution	<b>Resolucion del Tribunal Supremo Electoral 0</b> Registro Oficial 115 Reglamento Organico Funcional del Tribunal Supremo Electoral
April 27, 2000	Executive Decree	<b>Decreto Ejecutivo No. 345</b> Registro Oficial 73 of May 9, 2000 Derogated in 2002 by Decreto Ejecutivo 2806 (no impact on indicators)
March 17, 2000	Law	<b>Reformas a la Ley de Elecciones (Ley 2000-1)</b> Registro Oficial No. 20 Ley Reformatoria a la Ley de Elecciones, a la Ley de Regimen Provincial, a la Ley de Regimen Municipal y a la Ley de Decentralizacion del Estado, (adjusts law per reforms, adds gender quota, change to D’Hont formula) <a href="http://pdba.georgetown.edu/Electoral/Ecuador/2000ref.html">http://pdba.georgetown.edu/Electoral/Ecuador/2000ref.html</a> <a href="http://www.derechoecuador.com/articulos/detalle/archive/legislacion/leyes/2008/03/26/ley-de-elecciones">http://www.derechoecuador.com/articulos/detalle/archive/legislacion/leyes/2008/03/26/ley-de-elecciones</a> (scroll half-way down)
March 22, 2000	Law	<b>Ley Orgánica de Control del Gasto Electoral y de la Propaganda Electoral (Ley 5)</b> Registro Oficial Suplemento No. 41 (regulations issued by executive decree in July 2002; Derogated

		by 2009 Ley Organica Elec/Codigo Dem)
July 11, 2000	Law	<b>Ley de Elecciones, 2000 (Codificacion)</b> Registro Oficial No. 117 (classified as Organic Law per Legislative Resolution No. 22-058 in Registro Oficial No. 280 of March 8, 2001 (also saved); Derogated on April 27, 2009 by Ley No. 2 in Registro Oficial No. 578 (also saved, see 2009) Derogated by 2009 Ley Organica Elec/Codigo Dem)
November 1, 2000	Law	<b>Codificacion de la Ley de Partidos Politicos</b> <a href="http://pdba.georgetown.edu/Electoral/Ecuador/pp2000.html">http://pdba.georgetown.edu/Electoral/Ecuador/pp2000.html</a> Registro Oficial No. 196, Per art 139 #2 of the constitution, sets regulations for political parties, pretty standard, TSE fully in charge. Derogated by 2009 Ley Organica Elec/Codigo Dem
July 11, 2001	TSE Resolution	<b>Resolucion del Tribunal Supremo Electoral 2</b> Registro Oficial No. 366 Reglamento Interno de Tribunales Provinciales y Supremo Electoral
March 20, 2002	TSE Resolution	<b>Resolucion del Tribunal Supremo Electoral 191</b> Registro Oficial No. 538 Registro Electoral de Movimientos Politicos Independientes (first time?)
July 11, 2002	Executive Decree	<b>Decreto Ejecutivo 2806</b> Registro Oficial No. 616 Reglamento a la Ley de Control del Gasto y Propaganda Electoral (from March 2000) (derogated by Executive Decree 1865 in September 2006 (Registro Oficial Sup 364) <a href="http://www.oas.org/electoralmissions/Portals/4/MOE_Ecuador/marco_legal/Ecuador-Reglamento%20Ley%20Control%20de%20Gasto%20y%20Propaganda%20Electoral.pdf">http://www.oas.org/electoralmissions/Portals/4/MOE_Ecuador/marco_legal/Ecuador-Reglamento%20Ley%20Control%20de%20Gasto%20y%20Propaganda%20Electoral.pdf</a>
August 13, 2002	Law	<b>Ley Reformatoria a la Ley de Elecciones (Ley 2002-76)</b> Registro Oficial No. 639 (Adds transition disposition to electoral law so local officials can extend period to next election)
December 20, 2004	Legislative Resolution	<b>Resolucion Legislativa 25-160</b> Registro Oficial No. 485 (starting p. 6) Congress declares that justices of the Tribunal Constitucional and Tribunal Supremo Electoral were appointed incorrectly and removes and replaces them until they're replaced in 2007 (Exercised Congressional power?!)
December 5, 2005	Law	<b>Ley Organica de Regimen Municipal, Codificacion 16</b> Registro Oficial Suplemento 159 (called for by Art 139 and 60 of Constitution) (Derogated by Organic Code of Autonomous Territorial Organization Decentralization Ley No. 00 Registro Oficial Suplemento 303 of 10/19/2010)
June 20,	TSE	<b>Resolucion del TSE 7</b>

2006	Resolution	Registro Oficial No. 295 Instructivo para los Sujetos Politicos del Proceso Electoral (regarding accounting of campaign spending; derogated in 2009 by TSE Resolution)
September 26, 2006	Executive Decree	<b>Decreto Ejecutivo 2006</b> Registro Oficial Sup 364 Reglamento a la Ley de Control del Gasto y Propaganda Electoral, responding to reforms in the law per RO Sup No. 241 of March 31, 2006 (unlike 2002 Decree 2806, this specifies consequences: in Art. 8 if exceed spending, can freeze bank account) (derogated by Law No. 2 [electoral law] in RO Sup 578 on April 27, 2009) <a href="http://www.ecuador.org/esp/boletines/Pronunciamento_situacion_pais.doc">http://www.ecuador.org/esp/boletines/Pronunciamento_situacion_pais.doc</a>
January 25, 2007	Executive Decree	<b>Decreto Ejecutivo 2</b> Registro Oficial No. 8 TSE shall organize a Consulta Popular to decide whether or not to approve the convocation of a constituent assembly to write a new constitution (Correa took office January 15; considered unconstitutional by many because a new constitution should have approval of 2/3 of the legislature, but technically he's only calling for a consulta)
February 27, 2007	Executive Decree	<b>Decreto Ejecutivo 148</b> Registro Oficial Suplemento 33 (March 5, 2007) Estatuto de Funcionamiento de la Asamblea Nacional Constituyente – sets parameters for the Constituent Assembly
March 1, 2007	TSE Resolution	<b>Resolucion PLE-TSE-13</b> Sets April 15 date for Consulta Popular
March 6, 2007	Legislative Resolutions	<b>Resoluciones Nos. R-28-053 and R-28-054</b> Removes TSE president and freezes TSE accounts
March 7, 2007	TSE Resolution	<b>Resolucion</b> TSE dismisses 57 members of congress who approved the above resolutions because can't remove members of TSE without proper hearings <a href="http://www.ecuadorinmediato.com/Noticias/news_user_view/texto_de_la_resolucion_del_tse_que_ordena_la_destitucion_de_57_legisladores--50245">http://www.ecuadorinmediato.com/Noticias/news_user_view/texto_de_la_resolucion_del_tse_que_ordena_la_destitucion_de_57_legisladores--50245</a>
December 11, 2007	TSE Res?	<b>Reglamento de funcionamiento de la Asamblea Constituyente</b> Registro Oficial Suplemento 236 (December 20, 2007)
May 26, 2008	TSE Resolution	<b>Resolucion del Tribunal Supremo Electoral 6</b> Reglamento de Contratacion durante los Procesos Electorales (codification of contracting during elections, giving itself power to name committee, more control over many steps, registries, exonerates TSE from the Law of Public Contracting during electoral periods)
July 10,	Mandate of	<b>Decreto Legislativo 12</b>

2008	Constituent Assembly	Mandato Constituyente 12 Suspension de Elecciones (postpones local elections until after constitution approved, allows Ecuadoreans living outside to vote for constitution)
September 28, 2008	Constitution	<b>Constitution</b> Registro Oficial No. 449 on October 20, 2008 (approved by Referendum) <a href="http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador08.html">http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador08.html</a> (Article 17 of the Transition Regime of the Constitution says the Constituent Assembly will meet five days after the proclaimed referendum results to form the legislative and budget commission maintaining the political proportions of the Constituent Assembly) – see No. 23, below
October 20, 2008	Mandate of Constituent Assembly	<b>Decreto Legislativo 1</b> Registro Oficial No. 449 Regimen de Transicion de la Constitucion de la Republica del Ecuador (Art. 18 states the Constituent Assembly will appoint the Transitional CNE and TCE to facilitate immediate realization of the electoral process)
October 24, 2008	Mandate of Constituent Assembly	<b>Mandato Constituyente No. 22</b> Names members of the CNE and the TCE, to hold position until process designated in the Constitution occurs See victor hugo’s 7/29 email; current Secretary of the Presidency was in transitional CNE
October 25, 2008	Mandate of Constituent Assembly	<b>Mandato Constituyente No. 23</b> “De Conformacion de la Comision Legislativa y de Fiscalizacion <a href="http://www.edicioneslegales-informacionadicional.com/leyes/MANDATO_23.pdf">http://www.edicioneslegales-informacionadicional.com/leyes/MANDATO_23.pdf</a> (procedures for legislature)
November 28, 2008	CNE Resolution	<b>Resolucion del Consejo Nacional Electoral 15</b> Registro Oficial No. 489 (December 16, 2008) Instructivo para la Reinscripcion de los Partidos Politicos Sets up instructions, per the 12 <sup>th</sup> Transition Disposition of the 2008 Constitution: "En el plazo de cuarenta y cinco días desde la entrada en vigencia de esta Constitución, los partidos y movimientos políticos deberán reinscribirse en el Consejo Nacional Electoral y podrán conservar sus nombres, símbolos y número"
December 30, 2008	TSE Resolution	<b>Resolucion del Tribunal Supremo Electoral 9</b> Registro Oficial No. 510 (January 20, 2009) Instructivo para Inscripcion y Calificacion de Candidaturas (details for registering candidates, more difficult for parties, short one-month time frame, lots of requirements, parties that didn’t participate in 2007 have to get signatures)
February 17, 2009	TSE Resolution	<b>Resolucion del Tribunal Supremo Electoral 8</b> Registro Oficial No. 530



		Plan de Cuentas para Registrar el Gasto Electoral (CNE dictating new norms for monitoring campaign spending; derogates 2006 resolution, adds more regulations, steps, forms, deadlines, etc.)
April 27, 2009	Law	<b>Ley Organica Electoral,Codigo de la Democracia</b> Ley s/n, Registro Oficial Suplemento 578 de 27 de Abril del 2009 Asamb Nacional, Comision Legislativa y de Fiscalizacion Oficio No. SCLF-2009-172
September 9, 2009	Law	<b>Ley Organica del Consejo de Participacion Ciudadana y Control Social</b> Registro Oficial No. 22 (Reglamento in May 2010)
September 29, 2009	Law	<b>Ley Organica Reformatorio a la Ley Organica de Regimen Provincial</b> Registro Oficial No. 36 (regarding local offices, prefects, to comply with new constitution)
October 22, 2009	Law	<b>Ley Organica de Garantias Juridiccionales y Control Constitucional</b> Registro Oficial Sup 52 (juridical norms, procedures for courts, hierarchy of law, details on constitutionality)
April 20, 2010	Law	<b>Ley Organica de Participacion Ciudadana</b> Registro Oficial No. 175
October 19, 2010	Law	<b>Codigo Organico de Organizacion Territorial, Autonomia y Descentralizacion</b> Organic Code of Autonomous Territorial Organization Decentralization Ley No. 00 Registro Oficial Suplemento 303
May 7, 2010	CPCCS Resolution	<b>Resolucion del Consejo de Participacion Ciudadana 6 – Reglamento de Funcionamiento del Pleno del CPCCS</b> RO 188
July 22, 2010	CNE resolution	<b>PLE-CNE-3-22-7-2010 – Codificacion del Reglamento para la Inscripcion de Partidos, Movimientos Politicos y Registro de Directivas</b> (requires parties present several documents, including act of foundation, declaration of principles, government plan, symbols/emblems, names/organization, constitution of directives in at least half the provinces, all with ID, signatures, etc., and certified copy of internal regulations including a list of seven different details, names/ID/signatures of supporters – have to have registered 1.5% of national electoral registry; can present candidates if this is successfully completed six months before election process; procedures for submitting the documents – more ‘actas’; and the parties have to publish for form within four days at their cost; requirements for notification of internal democratic procedures) <a href="http://cne.gob.ec/images/d/organizaciones/documento1.pdf">http://cne.gob.ec/images/d/organizaciones/documento1.pdf</a>
September	Coup?	<b>Correa taken by police in uprising</b>

30, 2010		
December 30, 2010	Law	<p><b>Ley Organica Reformatoria a la Ley Organica Electoral y de Organizaciones Politicas de la Republica del Ecuador,Codigo de la Democracia</b></p> <p>Adds transition disposition 6 regarding fondo partidario, stating that until the next elections are held, as if they're in good standing, parties will receive from the fund based on participation and results in the 2009 elections.</p>
January 17, 2011	Presidential proposal	<p><b>Oficio No. T. 5715-SNJ-I 1-55</b></p> <p>Correa submitted proposal for Constitutional reform and Popular Consult to Constitutional Court for approval, including Decreto Ejecutivo de 21 de febrero del 2011 which reforms the judicial function</p>
February 15, 2011	Court ruling	<p><b>Resolucion de la Corte Constitucional 1 – Dictamen de Constitucionalidad de Referendum</b></p> <p>RO Sup 391 (February 23, 2011)</p> <p>States that some questions must go through constituent assembly before can be decided by consulta popular “No pueden someterse a referéndum textos expresos de leyes o reformas legales, salvo que antes hayan sido negados por la Asamblea Nacional, órgano privativo para conocer en dos debates las leyes y sus reformas. Sin embargo, en forma audaz, el doctor Alexis Mera introduce como parte del anexo 5 el texto de reformas del Código Orgánico de la Función Judicial, en el Decreto Ejecutivo de 21 de febrero del 2011 y luego, en demostración de sumisión, el Consejo Nacional Electoral lo acepta en su resolución de 8 de marzo del 2011.” [*but still, CNE went ahead?!]</p> <p>(<a href="http://www.eluniverso.com/2011/04/25/1/1363/esta-dispuesto-perderle-miedo-miedo.html">http://www.eluniverso.com/2011/04/25/1/1363/esta-dispuesto-perderle-miedo-miedo.html</a>)</p> <p><a href="http://www.cpcs.gov.ec/docs/normativaDocs/811734.pdf">http://www.cpcs.gov.ec/docs/normativaDocs/811734.pdf</a></p>
May 7, 2011	Referendum (and Popular Consult)	<p><b>Approval of Correa’s Constitutional Reforms and Popular Consult</b></p> <p>(changed appointment of judicial council)</p> <p><a href="http://www.eluniverso.com/2011/02/16/1/1355/preguntas-consulta-referendum-sus-anexos.html">http://www.eluniverso.com/2011/02/16/1/1355/preguntas-consulta-referendum-sus-anexos.html</a></p> <p><a href="https://freedomhouse.org/report/freedom-world/2012/ecuador">https://freedomhouse.org/report/freedom-world/2012/ecuador</a></p>
May 11, 2011	Law	<p><b>Ley Organica Reformatoria a la Ley Organica Electoral y de Organizaciones Politicas – Codigo de la Democracia – y a la Ley Organica de Participacion Ciudadana que Regulan la Revocatoria de Mandato</b></p> <p>Registro Oficial No. 445</p> <p>Art 9 – Art 89 sets elections for Pres/VP concurrent with National Assembly; Art 19 changes the seat assignment quotient for national seats in Assembly; Reforms regarding revoke and direct democracy</p> <p>Reviewed by Constitutional Court (2015):</p>

		<a href="https://www.corteconstitucional.gob.ec/sentencias/relatoria/relatoria/fichas/019-15-SIN-CC.pdf">https://www.corteconstitucional.gob.ec/sentencias/relatoria/relatoria/fichas/019-15-SIN-CC.pdf</a> (from my reading, the court agreed with the National Assembly's reforms re % needed for revoke)
December 9, 2011	CNE Resolution	<b>Estatuto para el Funcionamiento del Instituto de Investigacion y Analisis Politico Electoral</b>
January 2012	Line-item Veto	<b>Correa vetoed part of electoral reforms</b> ("Among other changes, he altered the parliamentary seat-allocation formula in a way that appeared to benefit the ruling party and restricted media coverage during the campaign period." Freedom House 2013)
February 6, 2012	Law	<b>Ley Organica Reformatoria a la Ley Organica Electoral y de Organizaciones Politicas de la Republica del Ecuador,Codigo de la Democracia</b> Registro Oficial No. 634 (Art. 19 changes seat assignment method, later ruled unconstitutional; Art. 21 prohibits government propaganda during elections, but with 4 broad exceptions, also prohibits private actors, and prohibits media from promoting or preferring, directly or indirectly, whether through reports or otherwise, a determined candidate or political tendency; Art 25 adds that any infraction of Codigo's Art 275 re campaign rules and reporting results in suspension of political rights for up to a year and financial penalty)
September 5, 2012	CNE Resolution	<b>Estatuto Organico de Gestion Organizacional por Procesos del CNE</b> Registro Oficial No. 782 (32 pages of structure, instructions, lists of duties)
October 17, 2012	Court Ruling	<b>Resolucion de la Corte Constitucional No. 28</b> Registro Oficial Suplemento 811 Declares unconstitutionality of Art. 19 of Ley Organica Reformatoria a la Ley Organica Electoral y Organizaciones Politicas (which reforms Art 164 of the Codigo de la Democracia RO 634), ruling the CNE to apply the previous method of seat assignment in place since before the reforms, the Hare quotient. (see note on reformed copy of Codigo de la Democracia, compared to original in RO 578). Quotient was one way, changed in codigo, then codigo reform changed, then court ruled to change back.
October 22, 2012	CNE Resolution	<b>PLE-CNE-1-17-10-2012</b> Registro Oficial Segundo Suplemento No. 814 Convokes general elections for 2013, splits up the provinces so there are more districts, so if Guayas elects 20 members of assembly, they are distributed five each in four circumscriptions; Art. 10 – the state will cover financing of all electoral propaganda in the media and prohibit all other) <a href="http://www.derechoecuador.com/productos/producto/catalogo/regi">http://www.derechoecuador.com/productos/producto/catalogo/regi</a>

		<a href="#">stros-oficiales/2012/octubre/code/20557/registro-oficial-no-814--lunes-22-de-octubre-del-2012-segundo-suplemento</a>
June 25, 2013	Law	<b>Ley Organica de Comunicacion</b> Registro Oficial No 22 Example of more restrictions on the media

## APPENDIX 5A: EEP Methodology and Search Strategy

### *Keyword Search*

Exercised Executive Power (EEP) is defined as actions presidents take to change or impact national election management, processes, or outcomes.<sup>149</sup> Episodes should meet the following criteria:

1. Action should be carried out by Executive
  - a. Taken directly by president (two forms)
    - i. Formal – executive decree, veto, institutional appointment,<sup>150</sup> etc.
    - ii. Informal – threat, policy announcement, abuse of financing or media, etc.
  - b. Promoted indirectly by president (various actors)
    - i. Proposed through president’s ruling party
    - ii. Implemented through executive-controlled/directed institutions (such as comptroller, ministries, law enforcement, etc.)
2. Action has potential to influence or change conduct of national elections<sup>151</sup>
  - a. Impact electoral timing, districts (set boundaries, authority to define), rules, procedures, candidacies, institutions, legislation, etc.
  - b. Impact electoral management or outcomes

Episodes of EEP were identified and analyzed through event analysis and expert interviews. Event analysis uses standardized search and records data from print media to gather information, in this case collecting any mention of executive actions to exercise power over elections over two decades. This method is similar to “protest event analysis” (Koopmans and Rucht 2002, Hochstetler, 2006). The comprehensive search was conducted electronically on the several journals published by the company Latin News, the most commonly known being Latin America Weekly Report (LAWR).<sup>152</sup> Based in London, LAWR self-claims to be “the leading source of

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<sup>149</sup> The main focus is outcome or management/conduct of elections. For example, this does not include things like the president himself voting, or talking to her friend about voting for someone, or campaigning. Those are all election activities, but what I specifically focus on, as a follow-up to the research on IEP, are actions that affect electoral outcomes or how elections are conducted.

<sup>150</sup> Presidents do not typically appoint IEG members directly. If a president's party appointed government-supportive IEG members and this is permitted per the constitution, it is not counted as an example of EEP because it was part of a routine process and was carried out by the party. However, if LAWR articles or expert interviews revealed that the president actively appointed friendly members outside the regular procedures, intervened to influence the process, or pursued legislation to ‘stack’ the IEG, that is considered EEP because in this sense, the appointment could affect electoral outcome in the president’s favor.

<sup>151</sup> I focus on national level-events. Events at the sub-national level are worth noting, especially when they are initiated or executed by the executive, but they are not reported consistently enough to account for systematically (only the most notorious events are reported, which would not be an accurate representation of local electoral events).

<sup>152</sup> The additional publications are: Latinnews Daily Briefing, Informe Latinoamericano, Latin American Special Reports, Informes Especiales, Election Watch, and Andean Group. Andean Group reports appear

political and economic intelligence on Latin America since 1967” ([www.lantinnews.com](http://www.lantinnews.com)). The publication notes electoral processes closely, hence it captures relevant executive behavior in that realm. Searching LAWR publications provided information that helped me to develop concise descriptions of major events while avoiding tracking detailed discussions across potentially conflicting local daily news reports. Searching one news source contributed to consistency in findings across countries, avoiding the risk of potential biases from various local publications. If LAWR is biased, its slant is likely similar across countries.

To broadly capture the most relevant information at the beginning, I began each search using LAWR’s online search mechanism<sup>153</sup> using the country name together with the keywords for the country’s IEGs in Spanish and English from 1979 to the present (for example, “Colombia” and “National Electoral Council”). While this time period is beyond the scope of the EEP analysis (1993 – 2013), it allowed me to understand the broader electoral context in each country, before and after the identified potential cases. This added scope also allowed collection of data on subsequent dynamics pertaining to laws or decrees that were passed or instances of EEP that occurred during the study timeframe. For keywords from the remaining indicators (such as constitutional reform, Supreme Court, etc.), I searched key words from January 1, 1993 through December 31, 2015. I searched the additional two years (2013-2015) because of the benefit to understanding outcomes that directly resulted from EEP or changes to IEP.<sup>154</sup> For example, a scandal regarding a Colombian Constitutional Court judge exposed in 2015 revealed issues with President Uribe’s appointments made in 2006 and 2009. Table 5A.1 lists the keywords searched for Colombia. Lists for Ecuador and Venezuela were similar, with differences based on the number and names of that countries’ electoral institutions.

<b>Table 5A.1</b> <b>Example of EEP Search Words: Colombia</b> (each key word or set of keywords were searched together with the word “Colombia”)
“consejo nacional electoral”; “national electoral council”; “registraduria”; “council of state”; “consejo de estado”; “magistrad” <sup>155</sup> ; “magistrate”; “supreme court”; “corte suprema”; “constitutional court”; “corte constitucional”; “tribunal nacional de garantias”; “commission for the coordination and monitoring of electoral processes” (Spanish & English); “CNE”; “budget”; “presupuesto”; “Registraduria” and “budget”; “budget” and “electoral”; “presupuesto” and “electoral”; “legislation” and “elect”; “decree” and “elect”; “Veto”; “circunscripción”; “district” and “elect”; “distrito” and “elec”; “constitutional reform”; “amendment”; “referendum/a”; and “Plebiscite”

monthly. The Andean Group countries are Bolivia, Colombia, Ecuador, Peru, and Venezuela. Latinnews Daily Briefing appears daily, but does not always contain information on all countries, only relevant events. Latin American Weekly Report is a weekly summary of relevant events in each country. Informe Latinoamericano provides the same in Spanish. Latin American Special Reports appear periodically for noteworthy events, such as an election or corruption scandal (with Informes Especiales providing the same in Spanish). Election Watch provides coverage during elections.

<sup>153</sup> LAWR was accessed through U.C. Irvine’s online subscription remotely via VPN service.

<sup>154</sup> I failed to note this time limit when searching for Colombia, so I accidentally searched all key words for 1979 – 2015, which provided a very comprehensive understanding of prior events in that country.

<sup>155</sup> “Magistrad” was used so it would capture both the masculine and feminine uses in Spanish (Magistrado and Magistrada).

I searched the most relevant, overarching key words (like the IEGs) first, because this typically captured most notable electoral events. Then, searching additional, more specific key words provided information on those indicators, and served as a double-check that I did not miss any election-related events. If there was something noteworthy to find in LAWR, I found it given this method.

I skimmed all relevant articles from the keyword searches for events involving executives in the electoral process, to determine if the president acted through institutions, legislation, campaigns, etc. I summarized or cut and pasted the articles' information into a table organized by IEP indicator categories (such as "Created electoral law" or "Changed electoral district" – See Chapter 4), in chronological order for further analysis. These episodes comprise the universe of possible cases for further EEP investigation. Eventually, information on some episodes might have been listed multiple times under separate indicators in the EEP table (for example, one event such as changing the electoral law might have involved proposal by the president, then Congress passing legislation, then review by the IEG, then approval by the Court). To cull and accurately describe such events, I later reviewed the data from all articles within the time period relating to that event and aggregated them in to a summary description of the episode (see below). This included the story from when it was first announced or introduced until the effort concluded, meaning it ultimately passed, failed, or was abandoned.

I then reviewed the cases and evaluated them against my criteria for EEP (see above) to determine if they qualified. I sought insights from two fellow political scientists who are experts in this region to check my selection of cases for validity against those criteria. I also used my experience studying political events and elections in the region since 1993 to evaluate what comprised separate events and determine when a new event qualified as a different episode based on whether the outcome differed. While this was somewhat subjective, and some overlap is inevitable as one event could lead to or be linked with another, it was largely clear when events qualified as a separate episode because I could identify separate objectives by the president. In the event there were presidential actions that were related but sought different outcomes, I would count them as separate events.

To track how many articles I searched, I cut and pasted the list of all the results (article titles) for each key word into a Word document so I could check off each article after it was reviewed. Approximately 2,000 articles were searched each for Colombia, Ecuador, and Venezuela. Some of the articles are duplicates (because Colombia and Venezuela are sometimes mentioned in the same article along with a key word such as "Supreme Court"). These articles are counted twice, because they appear separately in the lists mentioned above, but they were also reviewed twice and checked for separate key words or countries of interest. It should be noted that many articles were not relevant to my search, for example, "Colombia" and "Supreme Court" revealed many articles about issues not concerning elections, such as security, but they were all checked. Conducting such a comprehensive review provided a clear picture of the overall political role of the Supreme Court (and other institutions) in in each country, which was helpful for understanding the broader political context.

Through this systematic approach, I was able catch all salient cases of EEP over elections across countries. At the end of each country search, I was finding the same articles about the same instances of EEP repeatedly appearing, suggesting I had collected all notable actions of the president vis-à-vis elections covered by LAWR publications. Even if I have not captured every single event, because I searched the same way across countries, it is fair to make relative comparisons. This is particularly true since I'm looking for the 'major' national events.

Another check of the thoroughness of my search resulted from searching key words in both English and Spanish. There were occasions when I searched a word in the other language (possibly days later), would come across something important/interesting, and when I went to record it in the EEP table I noticed the incident was already noted (from when it was found in an article in the other language). In addition, a search for one key word, for example, "constitutional court," sometimes raised an issue that was also discovered under "constitutional reform," providing yet another double-check. Often when I went to record an issue raised from the latter search, I would find that it was already noted, confirming my search criteria are consistent.

Another check of the robustness of the search resulted from searching in several LAWR publications. Because key words appeared in separate articles and multiple publications, this allowed for additional review of the same issues, and more security that I did not miss any issue.

### *Case Selection*

The data from these articles were then reviewed carefully to cull instances of executives exercising power over elections, or empirical examples of EEP. This involved reading all the summaries or snippets of cut and pasted LAWR articles (74 pages of text for Colombia, 99 for Ecuador, 155 for Venezuela) to determine which events qualify as EEP (criteria above). In addition, I reviewed my notes from interviews with experts in each country to search for additional incidents.<sup>156</sup> While each interview varied based on the nature of the person's expertise, across meetings I asked the following same question (nuanced somewhat if I was asking a member of government or the ruling party): "What are the most salient examples of when presidents exercised power over elections since 1990, or incidents when you were surprised the president did not act?" Most EEP episodes were collected from the LAWR search, with only a small handful added based on interviews. Most notable events raised during interviews were uncovered in the LAWR search, confirming the systematic nature of the print media search.

While this search may not necessarily capture every time presidents acted to influence elections, I believe it allowed me to identify events of significance. For example, I do not catch every single appointment presidents made to each IEG, but I likely did capture instances in which presidents sought to make critical appointments, or sought to make appointments in a way outside their established powers. I am confident of this because, across my three country cases, there are many groups (parties, opposition movements, media, international observers, etc.) that are incentivized to reveal examples of presidents seeking to affect elections or electoral

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<sup>156</sup> Meetings were held in Ecuador during two weeks in August 2015, Colombia during one week in November 2015, and via phone and Skype to Venezuela during April and May 2016. See Appendix 5.B for a list experts interviewed.



outcomes (particularly when they do so by overstepping democratic boundaries). I can thus surmise that I have likely captured the majority of the significant instances of EEP.

**APPENDIX 5B:  
List of Interviews**

<b>Name, Title/Affiliation</b>	<b>Date<sup>157</sup></b>	<b>Place</b>
<b>Colombia:</b>		
Jose Fernando Florez Ruiz, Universidad Externado	8/11/2014	Email
Gabriela Serrano, International Republican Institute	11/23/2015	Bogota, Colombia
Pedro Pablo Vanegas Gil, Universidad Externado	11/23/2015	Bogota, Colombia
Mario Ruiz, United Nations Development Program	11/23/2015	Bogota, Colombia
Camilo Mancera, Misión de Observación Electoral	11/24/2015	Bogota, Colombia
Laura Wills-Otero, Congreso Visible and Universidad Andina	11/25/2015	Bogota, Colombia
Felipe Garcia Echeverri, V.P. of Consejo Nacional Electoral (CNE)	11/25/2015	Bogota, Colombia
Fernando Mayorga, Universidad Rosario	11/25/2015	Bogota, Colombia
Miguel Silva, Galileo 6, former advisor to President Gaviria	11/26/2015	Bogota, Colombia
Renato Contreras Ortega, Legal Advisor, CNE	11/26/2015	Bogota, Colombia
Miguel Garcia Sanchez, Universidad de los Andes	11/27/2015	Bogota, Colombia
Armando Novoa García, Magistrate, CNE	11/27/2015	Bogota, Colombia
Yolima Carrillo, Magistrate, CNE	11/30/2015	Bogota, Colombia
<b>Ecuador:</b>		
Catherine Conaghan, Queen's University	5/29/2015	Puerto Rico (LASA)
Nubia Villacis, V.P. Consejo Nacional Electoral	7/27/2015	Quito, Ecuador
Pablo Andrade, Universidad Andina	7/28/2015	Quito, Ecuador
Pamela Astruizaga, International Republican Institute	7/28/2015	Quito, Ecuador
Marco Proaño, Quito mayor's office	7/29/2015	Quito, Ecuador
Victor Ajila, Tribunal Contencioso Electoral (TCE)	7/29/2015	Quito, Ecuador
Guillermo Gonzalez, V.P. TCE	7/29/2015	Quito, Ecuador
Ruth Hidalgo, Participación Ciudadana	7/29/2015	Quito, Ecuador
Cristhian Parreño, International Institute for Democracy and Electoral Assistance	7/30/2015	Quito, Ecuador
Dr. Carlos Aguinaga, Lawyer, former TSE President	7/30/2015	Quito, Ecuador
Cesar Ricaurte, Fundamedios	7/30/2015	Quito, Ecuador
Luis Verdesoto and Gloria Ardaya, academics, electoral experts	7/30/2015	Quito, Ecuador
Roberto Iturrabe, CNE's Instituto de Democracia	8/4/2015	Quito, Ecuador
Fausto Camacho, Observatorio Electoral, former TSE Magistrate	8/5/2015	Quito, Ecuador
David Rosero, formerly CPCCS, civic leader	8/5/2015	Quito, Ecuador

<sup>157</sup> For some contacts, there were multiple emails or meetings. In those cases, I noted the correspondence or interaction that was cited.

Cesar Montufar, Universidad Andina Simón Bolívar	8/6/2015	Quito, Ecuador
Teodoro Bustamante, FLACSO	8/11/2015	Quito, Ecuador

**Venezuela:**

Brian Crisp, Washington University in St. Louis	11/9/2013	Email
Raul Sanchez-Urribarri, LaTrobe University	9/2/2015	Emails
Maria Teresa Romero, academic, formerly with Fundación Pensamiento y Acción	4/20/2016	Phone calls
José Enrique Molina Vega, University of Zulia	4/21/2016 <sup>158</sup>	Emails
Andres Araya, Consultant, Asociación Costa Rica Íntegra Contacto Transparencia Internacional	4/25/2017	Skype
Javier Corrales, University of Amherst	4/27/2017	Phone calls
Vicente Diaz, Consultant, Formerly with CNE	4/27/2017	Phone call
Jennifer McCoy, Carter Center	5/30/2016	New York (LASA)
Miriam Kornblith, National Endowment for Democracy, Formerly CNE Magistrate	10/3/2016	Bogota, Colombia
Michael Coppedge, University of Notre Dame	4/29/2017	Lima, Peru (LASA)

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<sup>158</sup> Molina provided expertise via email on several occasions beginning in November 2013.

**APPENDIX 5C:  
Brief Description of EEP Episodes by Country in Chronological Order<sup>159</sup>**

A brief description of each EEP episode is provided below, along with an approximation of the duration of each event (0-3 months; 3-6 months; 6-12 months; or more than a year).<sup>160</sup>

**Colombia**

1. **1996:** President Samper calls for early elections or plebiscite to decide his fate after being accused of using US\$6 million in drug cartel money for his campaign (which arguably helped him win by a narrow margin). Congress rejects idea, but ultimately absolves him in impeachment proceedings. (LAWR 2/8/1996, 6/20/1996, 7/4/1996, 5/30/1996) [3-6 months]
2. **1998:** President Pastrana sought to pass electoral reforms but failed. (Andean Group 6/22/1999, Shugart, Moreno, and Fajardo 2006) [more than a year]
3. **2002 – 2004:** President Uribe’s proposed political and electoral reforms approved by Congress, 15 out of 19 approved by the Constitutional Court, but failed in referendum due to insufficient turnout. (LAWR 10/22/2002, 7/15/2003, 1/5/2004, 10/21/2003; Shugart, Moreno, and Fajardo 2006). [more than a year]
4. **2003 – 2005:** President Uribe wins constitutional reform, proposed by his party in Congress and approved by Constitutional Court, to allow presidential reelection. Later accused of bribing members of Congress. (LAWR 9/29/2003, 12/21/2004, 10/25/2005, 11/15/2005; Andean Group 9/9/2003) [more than a year]
5. **2008 – 2009:** President Uribe wins approval of laws to reform Congress and political parties by creating an ‘empty seat’ if members are convicted, increasing vote threshold, and funding campaigns. (Andean Group August 2008, LAWR 6/25/2009) [more than a year]
6. **2008:** President Uribe called for referendum on whether to ‘re-do’ 2006 presidential elections after accusations he bribed members of Congress to approve the constitutional amendment to approve reelection. He later backtracked. (Informe Latinoamericano 5/30/2008, 7/4/2008, 7/7/2008, 7/10/2008, 7/11/2008) [0-3 months]
7. **2007 – 2010:** President Uribe’s party loses effort to reform constitution again to gain a third presidential term after Constitutional Court decision. (Latinnews 10/11/2007, 11/13/2009, 3/1/2010; Informe Latinoamericano 3/20/2009, 8/28/2009, LAWR 8/27/2009, 9/3/2009, /4/2010; Andean Group August 2009, September 2009, March 2010) [more than a year].
8. **2010:** President Uribe violated “Guarantee Law” (designed/intended to limit incumbency advantage) by using executive office for election campaign. (Andean Group January 2010, Weekly Report 6/3/2010) [6-12 months]

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<sup>159</sup> More details regarding each event are available upon request (katjan@uci.edu).

<sup>160</sup> I do not provide actual length of time because it would be difficult to gauge. Information is not always available regarding when discussions for a particular action or reform started (within a party or between members of Congress or in the president’s head). It would also be difficult to trace start/stop dates beyond what is provided in the newspapers, and even then one cannot be sure if the media reported an event immediately or only once it was considered ‘newsworthy.’

9. **2013:** President Santos violated “Guarantee Law” by using executive office for his presidential campaign. (Latinnews 10/9/2013) [more than a year]
10. **2013:** President Santos proposed, to Congress, and later withdrew, a reform extending his term from four to six years, without reelection. Latinnews 4/23/2013, 6/12/2013) [0-3 months]

### Ecuador

1. **1994 – 1995:** President Duran Ballen struggled to push electoral and political reform through Congress, followed by disputes with the IEG regarding the constitutionality of the plebiscite, however most measures passed on August 28, 1994 vote, with another plebiscite set for 1995. Vice President later exposed the government’s corruption, bribing deputies and judges for passage of the legislation. There were threats to impeach the president, but did not occur. All 11 proposals in second plebiscite on constitutional reform in November 1995 were defeated. (LAWR 2/3/1994, 3/31/1994, 3/17/1994, 7/14/1994, 8/18/1994, 9/8/1004, 10/20/1994, LAWR 1/12/1995, 10/12/1995; Andean Group 4/21/1991) [more than a year]
2. **1997 – 1998:** President Alarcon (elected by Congress after President Bucaram was ousted) called for plebiscite to ratify his mandate and support creation of a constituent assembly (CA) on constitutional reform in August 1998, which was approved. Protests for sooner reform forced move of CA election to November 1997. In February 1998, CA approved extension of presidential term and abolished mid-term elections. (LAWR 10/19/2004, Latinnews Daily 10/21/2004, 11/26/2004, 12/8/2004, 12/10/2004, 12/15/2004, 12/22/2004, 1/20/2005; Informe Latinoamericano 10/6/2004, 10/27/2004, 1/19/2005, 3/9/2005, 4/6/2005). [more than a year]
3. **2004 – 2005:** President Gutierrez, lacking sufficient support in Congress, called for referendum to reform constitution to reduce size of Congress, allow presidential reelection, and ‘depoliticize’ the Supreme Court. Abandoned effort to also reform seat-allocation system. Coincides with his dismissal of Supreme Court justices. He then sought referendum to reform judicial system and legitimize new Supreme Court. Congress ultimately rejects reforms, after Gutierrez dismisses Supreme Court again, and Gutierrez is ousted. (Latinnews Daily 1/24/2005, 4/18/2005, 4/19/2005, 7/11/2005, Informe Latinoamericano 4/13/2005, LAWR 4/12/2005, 4/19/2005). [more than a year]
4. **2005:** President Palacio seeks referendum on electoral and political reforms. Forced to allow congressional debate. 17-question proposal blocked by the IEG, so he proposed one question to approve constituent assembly. The IEG refused, leading to protests, so the IEG president resigned. Congress blocked government proposal. (Andean Group May 2005; Latinnews Daily 7/22/2005, 10/3/2005, 10/18/2005, 12/6/2005, 1/11/2006; Informe Latinoamericano 6/29/2005) [6-12 months]
5. **2006 – 2007:** President Correa sought to bypass Congress, and decreed to the IEG a call for a referendum to approve a constituent assembly. After the IEG stalled and sought to consult Congress, Correa supporters rallied and he threatened to dissolve IEG. Congress approved referendum, but 58 members argued text was not agreed upon and appealed to Constitutional Court. Congress also votes to remove the IEG president, who, with Correa’s support, then removed 57 of the 58 members of Congress. Constitutional Court

tried to reinstate members, but Congress (now more aligned Correa) voted to remove the court's justices and approved referendum. (Andean Group October 2006, May 2007; Informe Latinoamericano 11/29/2006, 3/16/2007, 4/27/2007; LAWR 1/11/2007, 2/15/2007, 4/26/2007; Latinnews Daily 1/29/2007, 1/31/2007, 3/7/2007, 3/9/2007, 3/9/2007, 3/21/2007, 4/25/2007) [3-6 months]

6. **2007:** President Correa, after winning majority in Constituent Assembly (CA) called for resignations from all institutions, replacing all members of the IEG and high courts. Also called for CA to dissolve Congress. CA declared Congress "in recess." (Andean Group November 2007; LAWR 12/6/2007, 11/22/2007, 12/6/2007) [0-3 months]
7. **2007 – 2008:** President Correa commissioned working party to draft new constitution, while his supporters dominated the CA. New constitution overhauls all institutions, concentrating some powers in the executive and allowing presidential reelection to a longer term. Also has "transition regime" that favored government intervention. Correa threatened to leave office if constitution not adopted, which was approved by referendum on 9/28/2008. (Latinnews Daily 9/21/2007, 10/1/2007, 7/25/2008, 9/11/2008, 9/29/2008; Andean Group October 2007, August 2008, April 2011; Informe Latinoamericano 7/25/2008) [more than a year]
8. **2008:** President Correa-led CA appointed interim justices to the IEG and courts. They selected supportive "congresillo" to appoint the new, fifth branch of government that would make future, permanent appointments. Constitution states this should have been handled by Congress. (LAWR 10/2/2008, 11/13/2008; Latinnews Daily 10/1/2008, 11/3/2008, 11/6/2008, 10/21/2008, 10/23/2008, Andean Group November 2008; Interview with Ajila 7/29/2015) [3-6 months]
9. **2008 – 2009:** President Correa violated electoral law by referring to rivals and criticizing opponent, then rejected the IEG-imposed fine. (Informe Latinoamericano 4/3/2009; Andean Group March 2009, December 2008) [3-6 months]
10. **2010:** Correa's supporters in Congress passed electoral reforms regarding political party funding (*fondo partidario*). Opened funding to local parties, decimating resources for national organizations. (Interview with Ajila 7/29/2015) [short]
11. **2011 - 2012:** Congress passed electoral reforms including revoke of mandate and direct democracy, with favorable terms for presidential involvement, electoral system reforms benefitting the ruling party, and media restrictions during campaigns. President Correa used line-item veto on proposed changes to law that authorized major fines against media and changed seat-allocation system. Constitutional Court was called on to evaluate and ruled in Correa's favor. The IEG delayed elections so new rules would apply. Election results under new system gave Correa's party 71% of Assembly after winning 57% of the vote. (Latinnews Daily 1/18/2012, 2/27/2012; LAWR 1/19/2012, 4/26/2012, 3/14/2013) [6-12 months]
12. **2011:** President Correa threatened to dissolve Congress and call new elections for president and Congress if his government lost support in May plebiscite (over judicial reform, among other reforms). He also hinted he could use referenda and plebiscites to work around Congress, in face of August local recall vote. (Latinnews Daily 8/11/2011) [6-12 months]
13. **2012:** Congress passed reform requiring new registration process for political parties. After the IEG approved two parties, President Correa denounced fraud in the signature collection process. The IEG reevaluated, declaring thousands of signatures invalid and

disqualified 17 of 28 parties. (Informe Latinoamericano 9/20/2012, 10/18/2012). [3-6 months]

- 14. 2013:** President Correa's party initiated reform to allow indefinite presidential reelection. Correa denied ambition, but later asserted his goal to guarantee the irreversibility of the "Citizens Revolution." Ultimate outcome (approval of unlimited reelection) occurs outside the period of this study. Congress approved the constitutional reform without referendum, despite opposition protest. (Latinnews Daily 8/7/2013; Weekly Report 3/6/2014) [3-6 months]

### Venezuela

- 1. 1993:** President Perez pushed electoral reform bill through Congress despite opposition from ruling parties, winning partial 'uni-nominal' ballots. Opposition had hoped to keep 'closed list' system, which helped facilitate patronage. The vote, however, occurred in July, just after Perez was impeached in May. (LAWR 2/25/1993, 3/18/1993) [6 – 12 months]
- 2. 1993 – 1994:** President Caldera campaigned heavily on the need for a referendum to convene a constituent assembly. The effort was motivated by calls to reform the electoral system so more assembly seats are elected directly. He was unsuccessful in effort to rewrite the constitution. (LAWR 7/29/1993, 2/24/1994; Canache and Kulischek 1998:14-15) [6 months]
- 3. 1998 – 1999:** President Chávez sought approval from Congress for a referendum on calling a constituent assembly. The opposition argued the constitution did not allow this. Instead, Chavez called for referendum by decree to approve constituent assembly (CA), which the electorate approved. (LAWR 12/15/1998, 1/5/1999, 4/27/1999, 5/25/1999; Andean Group 1/26/1999; Carter Center 2000, 17) [3-6 months]
- 4. 1999:** Chavez won majority of CA seats through a unique electoral seat-assignment method (challenged by the opposition). He dominated the rapid rewrite of the constitution, which resulted in enhanced executive power over elections. (LAWR 6/29/1999, 8/10/1999, 7/6/1999, 11/16/1999, 11/23/1999; Carter Center 2001) [6-12 months]
- 5. 2000:** The Chávez-dominated CA appointed a transitional, mini-congress ("congresillo") to rule for approximately one year until new elections held. It appointed favorable candidates to the new Supreme Court and IEG (Consejo Nacional Electoral). Procedures were widely questioned for not complying with the new constitution. (Andean Group 1/25/2000; Carter Center 2000, 2001; Corrales and Penfold 2011, 20; LAWR 4/11/2000, 7/20/2004, 9/5/2000) [6-12 months]
- 6. 2003 – 2004:** President Chávez tried to block a referendum seeking to recall him from office. IEG disqualifies many petition signatures, the dispute embroiled the Supreme Court, international observers, and protesters. Ultimately a referendum was held and Chavez prevailed. (Andean Group 4/25/2003, 3/2/2004, 4/6/2004, 10/5/2004; Corrales and Penfold 2011, 24; LAWR 12/3/2002, 4/29/2003, 8/5/2003, 5/13/2003, 6/10/2003, 7/29/2003, 8/5/2003; Informe Latinoamericano 7/22/2003; Latinnews Daily 10/2/2003, 9/15/2003, 10/7/2003, 3/24/2004, 8/16/2004; Kornblith and Jawahar 2004). [more than a year]

7. **2003 – 2004:** Following the referendum, a representative of Chávez’s ruling party in Congress, Luis Tascon, published the list of citizens who signed the petition supporting the recall referendum election. Widespread reports of discrimination against those citizens followed (blocked from jobs, contracts, official documents, etc.). (Andean Group April 2007, Corrales and Penfold 2011, 27) [6-12 months]
8. **2003 – 2004:** President Chávez gained approval of a constitutional reform law that added 12 justices to the previous 20 in the Supreme Court, and changed the threshold to approve their appointment from two-thirds requirement to simple majority in Congress (which his party held). This occurred after a long dispute over naming IEG justices, in which Chavez had faced opposition in Congress and eventual Supreme Court involvement (his support among justices was split at the time). The new appointment threshold and additional seats on the bench allowed him to dominate the future court. (Informe Latinoamericano 5/20/2003, 3/2/2004; LAWR 7/8/2003, 8/12/2003, 8/19/2003; Latinnews Daily 8/26/2003) [more than a year]
9. **2005:** After resignation of two IEG justices, President Chávez’s ruling party delayed the appointment votes in the assembly, requiring the Supreme Court to decide the nominations. The Court appointed two government-friendly justices, leaving the EMB with only one independent justice of the five. (European Union 2006; Alvarez 2009; Corrales 2013) [6-12 months]
10. **2006:** President Chávez decreed any type of public assembly on election day (December 3) unlawful, in face of ongoing protests. Opposition claimed this thwarted their movements to monitor the process on election day. (Latinnews Daily 11/29/2006) [0-3 months]
11. **2007:** President Chávez asked Congress and it passed an ‘enabling law’ granting him decree powers for a year, which he used to seek increased “participatory” democracy and indefinite reelection. (Weekly Report 1/11/2007; Latinnews Daily 2/2/2007) [0-3 months]
12. **2007:** President Chávez called for referendum to amend 33 articles of the constitution, including reforms to state power over sub-national elected offices and indefinite presidential reelection to 7-year terms. He gained approval in Congress and the Supreme Court. Despite efforts to sweeten the deal with shortened work week, offers of raises, and promises for new hospitals, the referendum was defeated. (Andean Group September 2007; Latinnews Daily 7/24/2007, 8/23/2007, 9/17/2007, 11/13/2007, 12/7/2007; LAWR 10/11/2007, 12/5/2007). [6-12 months]
13. **2008:** President Chávez pushed through Congress, then won the referendum vote to reform the constitution such that all elected offices can be reelected indefinitely (no term limits), despite opposition citing the constitution’s ban on introducing the same reform during a single legislative term. (Andean Group February 2009; Corrales and Penfold 2011, 38; LAWR 7/31/2008, 12/4/2008, 12/18/2008, 2/19/2009; Latinnews Daily 1/6/2009) [6-12 months]
14. **2009 – 2010:** President Chávez won approval of electoral law that reformed seat assignment system, benefitting ruling party (more seats elected directly, fewer by proportional representation) and permitted the IEG to redraw electoral districts. The new districts were widely argued to give more weight to rural areas where Chávez’s party was stronger, which in fact led to disproportionate results. (LAWR 8/6/2009, 9/23/2010, 9/30/2010; Andean Group August 2009, January 2010, September 2010) [more than a year]



- 15. 2010:** After losing its supermajority in Congressional elections in September, President Chávez's party accelerated appointment of Supreme Court justices and quickly passed "Popular Power" laws to create more "direct" democracy. His party approved 9 justices and 32 alternates and passed five laws in the month before new members of Congress took office. (Latinnews Daily 11/5/2010; Andean Group December 2010). [3-6 months]
- 16. 2011:** President Chávez's supporters in IEG advanced presidential election date for first time in country's history. Opposition claimed the shortened period hurt their campaign and benefitted Chávez who was battling cancer. (Informe Latinoamericano 9/15/2011) [0-3 months]
- 17. 2012:** Government-controlled IEG created regulations for the Ley Resorte<sup>161</sup>, such that it allowed government intervention in media channels and advertising during electoral campaigns, resulting in major imbalance during campaign and outcry from observers and the opposition. (Latinnews Daily 9/13/2012) [0 – 3 months]<sup>162</sup>
- 18. 2012:** President Chávez's party sought "constituent process" to reform constitutions' succession rules to avoid new elections if Chavez dies. (Latinnews Daily 11/12/2012, Andean Group November 2012) [0 – 3 months]
- 19. 2013:** Government-controlled IEG refused to conduct full recount of very close presidential election to replace Chávez, despite calls from opposition and one independent-minded IEG rector. (Latinnews Daily 4/15/2013, 4/17/2013, 4/18/2013; LAWR 4/18/2013) [0 – 3 months]

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<sup>161</sup> The "Ley de Responsabilidad Social en Radio y Television" was approved by the Assembly in December 2010.

<sup>162</sup> During this and the following case, Chavez was very ill and receiving cancer treatment in Cuba. We can assume he gave commands from there, but it would be difficult to verify.

**Appendix 5D:  
EEP Case Comparison Tables**

<b>EEP CASE COMPARISON: COLOMBIA</b>						
<b>YEAR/ PRES.</b>	<b>STRATEGY</b>	<b>IMPACT CONST.</b>	<b>STRATEGY QUESTION-ED?<sup>164</sup> (Publicly reported as illegal or unconstitutional)</b>	<b>OUTCOME (DV)</b>	<b>DURATION</b>	<b>PRIMARY INSTNS. INVOLVED &amp; THEIR ALIGNMENT</b>
	<i>Sought institutional change (New law, reform, const'l. change, etc.)</i>	<i>Yes</i>		<i>Achieved apparent aims</i>	<i>Long<sup>165</sup></i>	
	<i>Called for elections (recall, plebiscite, etc.)</i>	<i>No</i>		<i>Failed to achieve apparent aims</i>	<i>Medium</i>	<i>Support the president</i>
	<i>Engaged in informal behavior<sup>163</sup> (irregular appointment, threat, violation, etc.)</i>		<i>Yes</i>	<i>Partially achieved apparent aims</i>	<i>Short</i>	<i>Oppose the president</i>
			<i>No</i>			<i>Neutral/Mixed</i>
1. Samper (1996)	Call for elections & informal behavior (Called for early elections or plebiscite after impeachment for violating campaign rules)	No	Yes (Accused of Campaign finance abuse/tried to avoid impeachment through elections)	Achieved apparent aims (didn't get elections, but evaded impeachment after winning tight race with illicit funds)	Short	Executive, Congress (mixed – opposed plebiscite but voted to absolve/not impeach), Consejo de Estado (support), Constitutional Court (neutral)
2. Pastrana (1998)	Institutional change (Reform to electoral system)	Yes	No	Failed to achieve apparent aims (unable to pass)	Long	Executive, Congress (oppose), public

<sup>163</sup> This is executive action outside of changing formal institutions, and implies “extra-institutional” behavior, i.e., the president did something that was illegal/unconstitutional.

<sup>164</sup> The president did something that was publicly reported to be illegal/unconstitutional.

<sup>165</sup> Estimate of the duration of each event based on media reports: 0-6 months (Short); 6-12 months (Medium); and more than a year (Long).

				widely sought reforms)		(support – elected him on campaign promise for electoral reform)
3. Uribe (2002-2003)	Institutional Change (Reform to electoral system and political reform)	Yes	No	Partially achieved apparent aims (major effort, one reform enacted by Congress, another failed in referendum)	Long	Executive, Congress (support), Constitutional Court (mixed – approved 15 of his 19 proposed points), Public (opposed – failed referendum)
4. Uribe (2003-2005)	Institutional Change (Constitutional reform)	Yes	Yes (alleged bribery of Congress)	Achieved apparent aims (amended constitution to allow presidential reelection)	Long	Executive, Congress (support), Constitutional Court (support)
5. Uribe (2008-2009)	Institutional Change (Reform to electoral system)	Yes	No (although spawned from need to address corruption in Congress)	Achieved apparent aims (Congress passed watered down version that creates empty seat if legislator convicted; changed % to register political parties)	Long	Executive, Congress (support)
6. Uribe (2008)	Called for Elections (referendum on whether to re-do presidential	No	Yes (threat to re-do election after	Partially achieved apparent aims (no	Short	Executive, Supreme Court (opposed), Constitution

	election)		exposed bribery to approve reelection amendment)	referendum, bolstered popularity)		al Court (support)
7. Uribe (2007-2010)	Institutional Change  (Constitutional reform for another reelection)	Yes	Yes (ultimately declared unconstitutional)	Failed to achieve apparent aims (Constitutional Court ruled against)	Long	Executive, Congress (support, reluctantly), international influence (opposed), EMB (opposed), Constitutional Court (opposed)
8. Uribe (2010)	Informal behavior  (Campaign abuse/violation of <i>Ley de Garantias</i> )	No	Yes (opposition claimed law violated)	Partially achieved apparent aims (refuted charges, but agreed to suspend weekly public TV broadcast of his assemblies)	Medium	Executive, Opposition groups (oppose), Attorney General (oppose)
9. Santos (2013)	Informal behavior  (Campaign abuse/violation of <i>Ley de Garantias</i> )	No	Yes (opposition claimed law violated)	Achieved apparent aims	Short	Executive, Opposition groups (opposed)
10. Santos (2013)	Institutional Change  (Constitutional reform to allow longer term)	Yes	?Yes	Failed to achieve apparent aims (sought longer, single term)	Short	Executive, Congress (oppose)

EEP CASE COMPARISON: ECUADOR						
YEAR/ PRES.	STRATEGY	IMPACT CONST	STRATEGY QUESTIO	OUTCOME	DURATION	PRIMARY INSTNS. INVOLVE
	<i>Sought</i>					

	<i>institutional change (New law, reform, const'l. change, etc.)</i>  <i>Called for elections (recall, plebiscite, etc.)</i>  <i>Engaged in informal behavior (irregular appointment, threat, violation, etc.)</i>	<i>.?</i>  <i>Yes</i>  <i>No</i>	<b>N-ED?</b>  <i>Yes</i>  <i>No</i>	<i>Achieved apparent aims</i>  <i>Failed to achieve apparent aims</i>  <i>Partially achieved apparent aims</i>	<i>Long</i>  <i>Medium</i>  <i>Short</i>	<b>D &amp; THEIR ALIGNMENT</b>  <i>Support the president</i>  <i>Oppose the president</i>  <i>Mixed/Neutral</i>
1. Duran Ballen (1994-1995)	Institutional Change & Call for elections (Electoral and political reforms to constitution)	Yes	Yes	Partially achieved apparent aims (first plebiscite, 8/1994, passed requirement for Congress to consider reforms; lost in second plebiscite 11/1995; included measures for reelection, to dissolve Congress and restructure court)	Long	Executive, VP from different party (Mixed), Congress (opposed), EMB (opposed), Supreme Court & Constitutional Court (pres threatened to go to them, unclear if they ruled - mixed), public vote approved then opposed (mixed) <sup>166</sup>
2. Alarcon (1997-	Institutional Change (Electoral and	Yes	Yes	Achieved apparent aims (plebiscite	Long	Executive, Congress (support),

<sup>166</sup> Former President Hurtado weighed in (Latinnews Archive 3/31/1994) and the Church decried “the escalating conflict of powers was putting Ecuador’s democratic institutions in jeopardy” (RA-94-02).

1998)	Political reforms to constitution)			approved constituent assembly, extended presidential term and approved removal of former president)		Supreme Court (opposed), public vote (support)
3. Gutierrez (2004-2005)	Institutional change (Electoral, political, and judicial reform)	Yes	Yes	Failed to achieve apparent aims (sought major reforms including reelection, reduce size of Congress; abandoned seat-allocation reform; dismissed Court; gets ousted)	Long	Executive, Congress (opposed), Supreme Court (opposed)
4. Palacio (2005)	Institutional Change (Electoral and political reform)	Yes	Yes	Failed to achieve apparent aims (sought electoral reforms then referendum for constituent assembly, blocked by EMB and Congress)	Medium	Executive, Congress (opposed), EMB (opposed), public (opposed/protests)
5. Correa (2006-2007)	Institutional change & call for election (Call referendum for Constituent Assembly)	Yes	Yes	Achieved apparent aims (bypassed congress, used EMB support/removal of members of Congress to gain	Short	Executive, Congress (opposed, until 57 members removed), EMB (supported), public

				referendum for constituent assembly)		(supported), Constitutional Tribunal (opposed)
6. Correa (2007)	Informal behavior (Dissolution of Congress and EMBs)	No (although indirectly)	Yes	Achieved apparent aims (Won majority in constituent assembly, had CA declare Congress “in recess,” dismissed EMB and Court justices	Short	Executive, Constituent Assembly (support), Congress (opposed), EMB (support), Supreme Court (opposed), Tribunal Constitucional (opposed)
7. Correa (2007-2008)	Institutional Change (Constitutional replacement)	Yes	Yes	Achieved apparent aims (dominated constitution drafting, reduce political party influence, increase executive power, gained favorable ‘transition regime’)	Long	Executive, Constituent Assembly (support), public (support)
8. Correa (2008)	Informal behavior (Appointments)	No	Yes	Achieved apparent aims (dominates transition regime to name appointment body, EMB and courts)	Medium	Executive, Constituent Assembly (support), “Congresillo” (support), EMB (support), Court (support), CPCCS (support)

9. Correa (2008- 2009)	Informal behavior (Campaign abuse)	No	Yes	Achieved apparent aims (violated campaign rules, rejected EMB fine)	Short	Executive, EMB (support)
10. Correa (2010)	Institutional Change (Electoral law reform – “ <i>fondo partidario</i> ”)	No	No (but questionabl e)?Yes	Achieved apparent aims (sets state funding for electoral campaigns to got to local parties, hurt national opposition parties)	Short	Executive, Congress (support), EMB (support)
11. Correa (2011- 2012)	Institutional Change (Electoral reform/line item veto)	No	Yes (reform within a year of elections)	Achieved apparent aims (direct democracy measures favorable to president, restrict media, and seat- allocation favoring ruling party; won greater portion of Congress)	Mediu m	Executive, Congress (support), Constitution al Court (support), EMB (support)
12. Correa (2011)	Informal behavior (Threat to dissolve Congress and call new elections)	No	No (Questiona ble)	Partially achieved apparent aims (didn’t follow through, but won plebiscite on controversial judicial reform)	Mediu m	Executive, Congress (mixed), public (support)



13. Correa (2012)	Institutional change (Electoral reform)	No	No, but questionable ?Yes (discredited opposition through fraud claims)	Achieved apparent aims (Passed complicated legislation and helped block political party registrations)	Medium	Executive, Congress (support), EMB (support), political parties (oppose)
14. Correa (2013) <sup>167</sup>	Institutional change (reform constitution for indefinite reelection)	Yes	Yes	Partially achieved (passed legislation but compromised by agreeing not to run – after period of study)	Short	Executive, Congress, EMB (support)

<b>EPP CASE COMPARISON: VENEZUELA</b>						
<b>YEAR/ PRES.</b>	<b>STRATEGY</b>	<b>IMPACT CONST. ?</b>	<b>STRATEGY QUESTION- ED?</b>	<b>OUTCOME</b>	<b>DURATION</b>	<b>PRIMARY INSTNS. INVOLVED &amp; THEIR ALIGNMENT</b>
	<i>Sought institutional change (New law, reform, const'l. change, etc.)</i>	<i>?</i>	<i>Yes</i>	<i>Achieved apparent aims</i>	<i>Long</i>	
	<i>Called for elections (recall, plebiscite, etc.)</i>	<i>Yes</i>	<i>No</i>	<i>Failed to achieve apparent aims</i>	<i>Medium</i>	<i>Support the president</i>
	<i>Engaged in informal behavior (irregular appointment, threat, violation, etc.)</i>	<i>No</i>		<i>Partially achieved apparent aims</i>	<i>Short</i>	<i>Oppose the president</i>
						<i>Mixed/Neutral</i>
1. Perez (1993)	Institutional change (Reform organic voting law)	No	No	Partially achieved apparent aims (In July, Congress	Medium	Executive, Congress (mixed)

<sup>167</sup> This attempt was initiated during the period of study, with partial success, but completed after 2013.

				agreed to half the seats be elected directly and half by party list, but Perez was impeached May 21, 1993)		
2. Caldera (1993-1994)	Institutional change (sought referendum on need for constitutional reform)	Yes	Yes (constitution lacks provision for replacement)	Failed to achieve apparent aims	Medium	Executive, Public (support), Congress (oppose)
3. Chavez (1998-1999)	Institutional Change & Call for elections (call for constituent assembly)	Yes	Yes (abnormal seat assignment, government collusion)	Achieved apparent aims (called for referendum by decree, voters approved)	Medium	Executive, Congress (oppose), public (support)
4. Chavez (1999)	Institutional Change (Constitutional replacement)	Yes	Yes (allowed little debate, threatened to dissolve opposing institutions)	Achieved apparent aims (with majority in CA & government coordination, new constitution increased executive power)	Medium	Executive, Constituent Assembly (support), public (support)
5. Chavez (2000)	Informal Behavior (Appointments)	No	Yes (questioned by Carter Center, Ombudsman, opposition)	Achieved apparent aims (used majority power in 'congresillo' to appoint EMB and Court justices)	Medium	Executive, Constituent Assembly/ "congresillo" (support), Ombudsman (oppose), Supreme Court (support)
6. Chavez (2003-2004)	Informal Behavior (Attempt to block recall vote)	No	Yes	Achieved apparent aims (overcame after major	Long	Executive, Congress (mixed), EMB

				institutional and political battles)		(mixed), Supreme Court (support), international observers (oppose), public protests (mixed)
7. Chavez (2003-2004)	Informal Behavior (Punish/Intimidate electoral opposition)	No	Yes	Partially achieved intended results (Used domination of institutions to punish/discriminate against opposition/referendum supporters)	Medium	Executive, member of Congress (support), government institutions (support)
8. Chavez (2003-2004)	Institutional Change (Constitutional reform to judiciary)	Yes	Yes	Achieved apparent aims (stacks court/highest electoral authority)	Long	Executive, Congress (mixed), Supreme Court (mixed)
9. Chavez (2005)	Informal Behavior (Biased EMB appointments)	No	No (but questionable)	Achieved apparent aims (ruling party delayed EMB appointments so Supreme Court named four pro-government members)	Short	Executive, Congress (support), Supreme Court (support)
10. Chavez (2006)	Institutional Change (Rule to restrict opposition)	No	No (by decree, but questionable)	Achieved apparent aims (decreed can't assemble on election day to intimidate political rivals, thwart protests)	Short	Executive

11. Chavez (2007)	Institutional Change (enabling law for one year of decree powers)	No	No (although questionable)	Achieved apparent aims (legislature approved his request for decree powers to push electoral reforms)	Short	Executive, Congress (support)
12. Chavez (2007)	Institutional Change & Call for Elections (Constitutional reform referendum)	Yes	No (although questionable)	Failed to achieve apparent aims (despite major effort for unlimited reelection and other reforms)	Medium	Executive, Congress (support), Supreme Court (support), EMB (mixed/one dissenter), public (opposed)
13. Chavez (2008)	Institutional Change & Call for Elections (Constitutional reform referendum)	Yes	Yes (broke rule against introducing failed reform in same year)	Achieved apparent aims (voters approved unlimited reelection)	Medium	Executive, Congress (support), EMB (support), public (support)
14. Chavez (2009- 2010)	Institutional Change (Electoral reform)	No	No, but questionable (little debate, opposition charged blatant gerrymandering)	Achieved apparent aims (reformed seat assignment system, grants EMB power to redraw districts, won more seats with redistricting)	Long	Executive, Congress (support), EMB (support)
15. Chavez (2010)	Institutional change & Informal Behavior (Rushed appointments and electoral reforms after electoral loss)	No	No (but speed was questionable)	Achieved apparent aims (favorable court justices and vague new 'participatory' democracy laws)	Short	Executive, Congress (support)

16. Chavez (2011)	Call for elections (move date up two months)	No	No (questionable - first time in Venezuelan democratic history date changed)	Achieved apparent aims (Shorten campaign for Cancer-ridden Chavez)	Short	Executive, EMB (support)
17. Chavez (2012)	Institutional Change (EMB regulates Ley Resorte so government gets obligatory coverage)	No	No (Questionable)	Achieved apparent aims (allows government media intervention during campaigns)	Short	Executive, EMB (support)
18. Chavez (2012)	Institutional Change (Electoral reform)	Yes	No (Questionable)	Failed to achieve apparent aims (party sought constitutional reform to avoid new elections if Chavez died)	Short	Executive (?), Vice President, Congress (support)
19. Maduro (2013)	Informal Behavior (EMB denied full election recount)	No	Yes	Achieved apparent aims (EMB denies opposition demand for full recount of close presidential race)	Short	Executive, EMB (support)

## Appendix 6 EEP INDEPENDENT VARIABLES DATA

This table provides data collected on three of the independent variables discussed for hypotheses in this Chapter: popularity (presidential approval ratings), mandate (president has majority in Congress or not), and political and economic upheaval (episodic occurrences).

	Power balance		Political and Economic Upheaval
	Popularity	Mandate	
PRES. (one-three month period when episode initiated)	(average approval ratings for 1-3 months prior to episode) <sup>168</sup>	President has minority or majority in Congress <sup>169</sup>	Episodic occurrences <sup>170</sup> : Coup, impeachment, severe economic or political crisis, security conflict, major social disruption, etc. during 9 months preceding EEP attempt
V1. Perez (Jan-Mar 93)	<b>29.197% LOW</b> <sup>171</sup>	<b>MINORITY</b> <sup>172</sup>	Yes: Caracazo '89, two coup attempts '92, pres. impeached (LAWR 9/23/93)
V2. Caldera (Dec93-Feb 94)	<b>55.35</b> (Feb '94) <b>HI</b>	<b>MINORITY</b> <sup>173</sup>	Yes: Econ crisis, former pres removed (LAWR 9/23/93) <sup>174</sup>
E1. Duran Ballen	35.68% <sup>175</sup> <b>LOW</b>	<b>MINORITY</b> <sup>176</sup>	Yes: Strikes, protests (LAWR 12/23/1993)

<sup>168</sup> Source: Carlin, Ryan E., Jonathan Hartlyn, Timothy Hellwig, Gregory J. Love, Cecilia Martinez-Gallardo, and Matthew M. Singer. 2016. Executive Approval Database 1.0. Available for download at [www.executiveapproval.org](http://www.executiveapproval.org). LOW = less than 40%; MED = 41-49%; HIGH = and more that 50%.

<sup>169</sup> Sources: Nohlen 2005, IFES (<http://www.electionguide.org/elections/>), and Negretto 2006. ([http://isites.harvard.edu/fs/docs/icb.topic925740.files/Week%208/Negretto\\_Minority.pdf](http://isites.harvard.edu/fs/docs/icb.topic925740.files/Week%208/Negretto_Minority.pdf)) (unless otherwise noted).

<sup>170</sup> Based on systematic search of Latin American Weekly Reports for the 12 months surrounding the EEP change (nine months preceding and three months following) to capture language regarding crisis preceding the change. Searched “crisis” and “country name” and read surrounding articles to verify the context. When necessary, also checked with experts to gauge whether ‘crisis’ was indeed extraordinary (as opposed to typical ‘crises’ of challenged democracies). Determined “yes” is there was an extraordinary, national disturbance that could be termed a crisis, such as a coup, impeachment, severe economic or political turmoil, security conflict, major social disruption, etc. during the nine months preceding an EEP attempt.

<sup>171</sup> Additional observations: 10/92 61% polled thought govt bad<sup>171</sup>; 11/92 92% disapprove (Chicago Tribune 11/27/1992).

<sup>172</sup> House: 97 of 202 (48.3%); Senate: 22 of 46 (47.8%).

<sup>173</sup> House: 26 of 203 (12.8%); Senate: 6 of 50 (12%).

<sup>174</sup> Faced battles in Congress (Andean Group 3/10/1994), turned bitter (LAWR 8/4/1994).

<sup>175</sup> Very unpopular due to govt. austerity reforms: “90%...disapproved of its programme” (Andean Group 8/4/94)

<sup>176</sup> Lower Chamber (PUR and PCE): 9 of 77 (11.7%).

(Jan – Mar 94)			Growing uncertainty/crisis (LAWR 2/24/94); “governability crisis” (LAWR 3/3/1994)
C1. Samper <sup>177</sup> (Jan – Mar 96)	44.36% <sup>178</sup> <b>MED</b>	<b>MAJORIT Y</b> <sup>179</sup>	Yes: Narco-funding scandal (Congress supports him (LAWR 2/15/96); VP threatened to resign, opposed moving up elections; increased calls to step down (LAWR 4/11/96)
E2. Alarcon (June 97) <sup>180</sup>	66.14% <sup>181</sup> <b>VERY HIGH</b>	<b>MINORIT Y</b> <sup>182</sup>	Yes: Crisis after Bucaram removed (Alarcon appointed by Congress, conflict with VP)
V3. Chavez (Feb 99)	54.8% <b>HIGH</b>	<b>MINORIT Y</b> <sup>183</sup>	Yes: tension/alarm over elections (LAWR 7/28/1998) Mounting economic crisis (LAWR 9/15/1998)
V4. Chavez (Apr – June 99)	54.18% <b>HIGH</b>	<b>MINORIT Y</b> <sup>184</sup>	No: Ongoing economic crisis but govt assurances (LAWR 9/15/1998, Andean Group 10/6/1998), calm after election, awaiting Chavez (“unknown quantity” next steps (Andean Group 12/15/1998, LAW 3/23/1999); poss. recession (7/27/1999) <sup>185</sup>
C2. Pastrana (July – Sept 98)	43.35% <b>MED</b>	<b>MINORIT Y</b> <sup>186</sup>	No: Ongoing economic problems, unem-ployment (LAWR 4/28/1998); but not worst (LAWR 1/27/1998, 9/29/1998); potential peace talks (LAWR 7/28/1998)

<sup>177</sup> Elected June 19, 1994.

<sup>178</sup> Reports of 42% before crisis broke, only 30% after (10/95); Feb 6, 96 poll shows 43% believe he’s guilty 2/96); more than 40% believe he should stay if acquitted again (3/96); opposition to Samper increased from 42% December to 55% (5/96). LAWR 8/31/95; (LAWR 9/7/95), (LAWR 10/19/95), (LAWR 2/29/96), (LAWR 3/7/96), (LAWR 5/16/96). Dropping: 52% believe he should stay (8/95); 51% approve, 70% think should stay (9/95).

<sup>179</sup> Lower Chamber: 88 of 163 (53.7%); Upper Chamber: 56 of 102 (54.9%).

<sup>180</sup> Although, he started making calls for plebiscite before appointed president (April/May 1997).

<sup>181</sup> His appointment was approved by Congress and ratified by 74% in May referendum (LAWR 3/31/98), [https://books.google.com/books?id=gT7TDAAAQBAJ&pg=PA189&lpg=PA189&dq=ecuador+interim+president+alarcon+approval+ratings+1997&source=bl&ots=4mU\\_smySl3&sig=vLJDr4zyLDEef9g7UqAGe98Q6po&hl=en&sa=X&ved=0ahUKEwiZuJTLwrDQAhVlqFQKHdVuCS0Q6AEIITAB#v=onepage&q=ecuador%20interim%20president%20alarcon%20approval%20ratings%201997&f=false](https://books.google.com/books?id=gT7TDAAAQBAJ&pg=PA189&lpg=PA189&dq=ecuador+interim+president+alarcon+approval+ratings+1997&source=bl&ots=4mU_smySl3&sig=vLJDr4zyLDEef9g7UqAGe98Q6po&hl=en&sa=X&ved=0ahUKEwiZuJTLwrDQAhVlqFQKHdVuCS0Q6AEIITAB#v=onepage&q=ecuador%20interim%20president%20alarcon%20approval%20ratings%201997&f=false)

<sup>182</sup> His party, FRA, won no seats in 1996.

<sup>183</sup> House: (MVR and MAS) 59 of 207 (28.5%%); Senate: 8 of 54 (14.8%).

<sup>184</sup> House: (MVR and MAS) 59 of 207 (28.5%%); Senate: 8 of 54 (14.8%).

<sup>185</sup> If anything, Chavez’s action caused shock (Andean Group 3/2/1999).

<sup>186</sup> Lower Chamber: (PSC) 28 of 161 (17.2%); Senate: (PSC and NFD) 16 of 102 (15.7%). In the Senate, PSC has 15 seats and NFD 1. Pastrana had difficulty with the conservative party and the coalition he formed for the election (<http://repository.urosario.edu.co/bitstream/handle/10336/1797/1010166407-2010.pdf?sequence=1>). Interesting exception, because usually Colombian presidents can get a majority coalition.

V5. Chavez (Jan – Mar 2000)	49.51% <b>MED</b>	<b>MAJORIT Y (in C.A.) 187</b>	Yes (milder): Re-calculating economic forecast (LAWR 7/27/1999); Polit. polarization and rumors of military unsettled (LAWR 12/14/1999); flooding and stocks fall (LAWR 1/4/2000); Washington worry of ‘autocracy’ (Andean Group 2/29/2000)
C3. Uribe (Sep – Nov 02)	67.25% <b>VERY HIGH</b>	<b>MAJORIT Y<sup>188</sup></b>	Yes (milder): Coffee crisis, financial crisis from Argentina (LAWR 7/30/2002, 10/15/2002); fiscal reforms, some growth after recession (Andean Group 7/23/2002)
V6. Chavez (Jan – Mar 03)	34.04% <b>LOW</b>	<b>MAJORIT Y<sup>189</sup></b>	Yes: Political crisis, conflict with judges post-coup attempt (LAWR 9/10/2002); exchange rate crisis (LAWR 1/28/2003); oil strike (Andean Group 1/28/2003)
C4. Uribe (Aug – Oct 03)	69.86% <b>VERY HIGH</b>	<b>MAJORIT Y (see f/n above)</b>	No (not new): Recovering from 2001 Arg. Econ crisis, Uribe popular (LAWR E&B July 2003); Plan Colombia for guerilla conflict (LAWR Inf. Esp. 5/1/2003); UN peace talks (LAWR 6/24/2003)
V7. Chavez (Feb – Apr 04)	36.02% <b>LOW</b>	<b>MAJORIT Y</b>	Yes (milder): Economic problems (LAWR E&B Jan 2004); Risk of escalating violence, political tension (Andean Group 2/4/2004, LAWR 2/10/2004); Crisis led of referendum effort (LAWR 3/2/2004)
V8. Chavez (Sept – Nov 03)	41.51% <b>MED</b>	<b>MAJORIT Y</b>	Yes: ongoing crisis regarding referendum (LAWR 5/20/2003, 8/26/2003); economy contracting (LAWR 7/1 & 7/8/2003)
E3. Gutierrez (Oct 2004)	38.87% <b>LOW</b>	<b>MINORIT Y<sup>190</sup></b>	Yes: Political turmoil/ crisis (LAWR 2/10/2004, 6/1/2004, AG 9/7/2004); econ OK/recovering (LAWR E&B 2/2004);

<sup>187</sup> But **MINORITY in Congress** – House: 35 of 207 (16.9%); Senate: 8 of 54 (14.8%). Constituent Assembly (elected 7/1999), which Chavez claimed has authority above Congress, Chavez’s ‘Polo Patriotico’ had majority – 120 of 128 seats  
([http://www.oas.org/sap/publications/1999/moe/venezuela/pbl\\_22\\_1999\\_spa.pdf](http://www.oas.org/sap/publications/1999/moe/venezuela/pbl_22_1999_spa.pdf), p. 14).

<sup>188</sup> March 2002 elections Uribe’s liberal movement won majority  
(<http://www.electionguide.org/elections/id/284/>, <http://www.electionguide.org/elections/id/795/>) and had strong governing coalition (Interview with Miguel Silva 11/27/2016). In Colombia it is difficult to gauge a concrete number of seats, as coalitions shift, but Silva noted that most Colombian presidents have majority power over Congress – simply by the power of financial resources, usually able to gain (buy) enough members to support their proposals. Judging by Congresses approval of executive-led measures, this is true.

<sup>189</sup> Chamber: (MVR and MAS: 98 of 165 (59.4%) in July 2000 legislative vote.

<sup>190</sup> He switched alliances, after three months in office, but PSC didn’t have majority either (and it later turned on him). No clear party coalition.



			protests (Latn. Daily 4/5/2004)
V9. Chavez (Jan 05)	45.06% <b>MED</b>	<b>MAJORIT Y</b>	No (except maybe for opposition): recall referendum defeated (AG 9/7/2004); Econ improving (LAWR E&B 9/2004); Chavez wins big in local elections (LAWR 11/9/2004)
E4. Palacio (May – July 05)	58.78% <sup>191</sup> <b>HIGH</b>	<b>MINORIT Y</b> <sup>192</sup>	Yes: Took over when Gutierrez removed by Congress
V10. Chavez (Nov 06)	47.59% <b>MED</b>	<b>MAJORIT Y</b> <sup>193</sup>	No: Commodity boom helping econ (LAWR E&B 6/2006); upcoming pres elections (AG 11/2006) [Chavez reelected]
E5. Correa (Jan 07) <sup>194</sup>	69.68% <b>VERY HIGH</b>	<b>MINORIT Y</b> <sup>195</sup>	No (uncertainty but not crisis): Cabinet resignations (Latn. D. 7/7/2006), energy shortage & domestic unrest (Latn. D. 8/4/2006), Correa elected, announces plans (LAWR E&B 12/2006)
V11. Chavez (Jan 2007)	46.62% <b>MED</b>	<b>MAJORIT Y</b> <sup>196</sup>	No: Chavez reelected, negotiating with Mercosur; econ looking good (LAWR 12/2006)
E6. Correa (Nov 07)	76.63% <b>VERY HIGH</b>	<b>MAJORIT Y</b>	Yes: Congressional crisis (LAWR 3/29/2007); institutional crisis (LAWR 4/26/2007); constituent assembly (LAWR 10/4/2007)
V12. Chavez (Jan - Mar 07)	46.61% <b>MED</b>	<b>MAJORIT Y</b> <sup>197</sup>	No: See above; Chavez on tour (LAWR 3/15/2007)
E7. Correa (Sept 07)	73.13% <b>VERY HIGH</b>	<b>MINORIT Y</b> <sup>198</sup>	Yes: See above

<sup>191</sup> See [https://books.google.com/books?id=raY-AAAAQBAJ&pg=PA37&lpg=PA37&dq=ecuador+interim+president+approval+rating+1997&source=bl&ots=YuOmpfWJpD&sig=fu2Yk3vRUx0goSQnJ5VezPmQwHg&hl=en&sa=X&ved=0ahUKEwi25Y\\_4xLDQAhXr24MKHScT3EQ6AEILDAD#v=onepage&q=ecuador%20interim%20president%20approval%20rating%201997&f=false](https://books.google.com/books?id=raY-AAAAQBAJ&pg=PA37&lpg=PA37&dq=ecuador+interim+president+approval+rating+1997&source=bl&ots=YuOmpfWJpD&sig=fu2Yk3vRUx0goSQnJ5VezPmQwHg&hl=en&sa=X&ved=0ahUKEwi25Y_4xLDQAhXr24MKHScT3EQ6AEILDAD#v=onepage&q=ecuador%20interim%20president%20approval%20rating%201997&f=false)

<sup>192</sup> Was Gutierrez's VP, took over when Gutierrez was removed, previously served Duran Ballen, no clear indication of his party or whether he had majority, but not party was dominant. He's a doctor. Made pronouncements for the Left agenda. Had adopted Gutierrez's movement, which did not control Congress (<http://www.buscabiografias.com/biografia/verDetalle/9439/Alfredo%20Palacio>)

<sup>193</sup> December 2005 national assembly elections boycotted by the opposition, Chavez wins overwhelming majority (<http://www.electionguide.org/elections/id/1293/>).

<sup>194</sup> Although he made announcements already as president-elect in late 2006.

<sup>195</sup> Correa's political movement, Alianza Pais, did not run candidates for assembly.

<sup>196</sup> December 2005 national assembly elections boycotted by the opposition, Chavez wins overwhelming majority (<http://www.electionguide.org/elections/id/1293/>).

<sup>197</sup> December 2005 national assembly elections boycotted by the opposition, Chavez wins overwhelming majority (<http://www.electionguide.org/elections/id/1293/>).

E8. Correa (Oct 08)	75.75% <b>VERY HIGH</b>	<b>MAJORIT Y</b>	Yes: Constit. Assem. replaced congress, Losing credibility, CA Pres Alarcon resigns (AG 4/2008, LAWR 6/26/2008), Colombia milit. Incursion (Latn. D. 3/10, 4/8, & 6/11/2008); econ OK (LAWR E&B 4/2008); conflict with media, banks, exprops. (Inf. Lat. 7/18/2008, Latn. D. 8/28/2008)
C5. Uribe (Apr – May 08)	78.36% <b>VERY HIGH</b>	<b>MAJORIT Y<sup>199</sup></b>	Yes: FARC uncertainty, hostages, offensive (Inf. Lat. 8/24/2007, Latn. D. 1/4/2008); October 2007 elections; Uribe popular (Latn. D. 1/24/2008); Strikes Ecuador FARC, diplomatic crisis, marches against AUC (AG 3/2008, Inf. L. 3/18/2008)
E9. Correa (Mar – Apr 09) <sup>200</sup>	68.35% <b>VERY HIGH</b>	<b>MAJORIT Y</b>	Yes (mild): Expropriation conflicts, new econ minister (LAWR 7/17/2008, AG 8/2008); worry over global econ (Latn. D. 10/29/2008); econ crisis (ALWR 11/27/2008, Latn. D. 12/15/2008, 1/7/2009); sparring with US over FARC ties (LAWR 2/26/2009)
C6. Uribe (June 08)	73.28% <b>VERY HIGH</b>	<b>MAJORIT Y<sup>201</sup></b>	Yes: FARC offensive & hostage crisis (Latn. D. 1/4 & 1/8/2008); strikes FARC in Ecuador, diplomatic conflict (LAWR /3/6/2008, Latn. D. 4/14/2008); political scandal, institutl. Crisis (Latn. D. 4/25/2009, AG 5/2008); strong Uribe support but minister quits (Latn. D. 5/2 & 6/23/2008)
C7. Uribe (Oct 07)	66.29% <b>VERY HIGH</b>	<b>MAJORIT Y<sup>202</sup></b>	YES <sup>203</sup> (mild –improving): Economic growth (LAWR E&B 4/2007); ongoing political scandal (Inf. Lat. 5/11/2007); paramilitary crisis (Latn. D. 7/26/2007); milit infiltrated by FARC (8/9/2007)
V13. Chavez (July 08)	42.19% <b>MED</b>	<b>MAJORIT Y</b>	No: Chavez criticized (LAWR S&S 11/2007); scandal with Chavez accusing US (LAWR 12/20/2007); Chavez involved in FARC peace attempts (Latn. D. 3/10 & 3/14/2008); Petrocaribe helping other countries (LAWR 4/24/2008)

<sup>198</sup> Elections took place at end of September.

<sup>199</sup> At this point, Uribe was able to get his proposals through Congress, but it was more difficult for him to form a coalition (Interview with Miguel Silva 11/27/2016).

<sup>200</sup> He was bad-mouthing Nebot in 12/2008, but defiance of CNE came later.

<sup>201</sup> Uribe was able to construct a ruling coalition throughout his two terms. At times it was more difficult/unruly than others, but he was always able to get his laws approved through Congress (see f/n 35, above). At this point he could get things through Congress, but faced problems in the Courts.

<sup>202</sup> At this point it was more difficult to create a coalition in Congress, Uribe didn't have as comfortable a majority, but he still was able to get the Ley de Referendum passed, likely because his ministers bribed members of Congress (they are still in jail, as are two members of Congress) (LAWR notes, Silva interview).

<sup>203</sup> Although there is not a new, imminent crisis, there is the ongoing conflict with the guerillas and Uribe certainly would label it a crisis as he seeks to address it.

V14. Chavez ( <i>May – Jul 09</i> )	40.87% <b>MED</b>	<b>MAJORIT Y</b>	No: Report criticized Chavez, he expels NGO and US amb., claims coup attempt (LAWR 9/25/2008); econ good (LAWR E&B 9/2008); tries to rally region against US (LAWR S&S 9/2008); econ mostly OK, budget adjustment (LAWR 10/16/2008, AG 1/2009, LAWR E&B 3/2009); upcoming regional elections (Latn. D. 11/21/2008)
E10. Correa ( <i>Sept 10</i> )	67% <b>VERY HIGH</b>	<b>MAJORIT Y</b>	No: Econ OK (LAWR E&B 1/2010); political/cabinet crisis (AG 3/2010); indigenous opposition (Inf. Lat. 4/8/2010), good int'l. rel (AG 8/2010); BUT, just after: Yes: Police coup/kidnap (LAWR 10/14 10/21/2010);
V15. Chavez ( <i>Oct – Nov 10</i> )	37.39% <b>LOW</b>	<b>MAJORIT Y<sup>204</sup></b>	Yes: Recession and energy crisis, cabinet reshuffle (LAWR 1/14 1/21/2010); growing anti-government protests (Latn. D. 1/25/2010, AG 1/2010); econ/polit crisis (Latn. D. 3/22 & 4/14/2010, AG 5/2010); trouble with Col (Latn. D. 7/23 & 7/26/2010) [Sept elections (latn.D. 8/20/2010)]
C8. Uribe ( <i>Dec 09 – Jan 10</i> )	65.92% <b>VERY HIGH</b>	<b>MAJORIT Y</b>	Yes: More FARC problems (AG 2/2009); econ recession (LAWR E&B 3/2009, Latn. D. 6/26/2009); institutional crisis (AG 6/2009); internal party coalition crisis (Latn. D. 7/24/2009); border dispute (Latn. D. 11/3/2009); unemployment (Latn. D. 12/1/2009)
E11. Correa ( <i>Jan 12</i> ) <sup>205</sup>	67.15% <b>VERY HIGH</b>	<b>MAJORIT Y</b>	NO: Some increasing opposition (Latn. D. 8/11/2011); economic growth (Inf. Lat. 10/6/2011); cabinet shuffle while popular (LAWR 11/17/2011)
V16. Chavez ( <i>Sept 11</i> )	40.51% <b>MED</b>	<b>MAJORIT Y<sup>206</sup></b>	Yes: Chavez lost majority, major rains/flooding (LAWR 12/9/2010); enabling law for decree power to address crisis (Latn. D. 12/14, 12/15/2010); econ OK, more energy problems (AG 4/2011, Latn. D. 4/1 6/15//2011); Chavez ill (AG 2/2011, Latn. D. 7/1/2011); prison riots (Latn. D. 6/23/2011); power vacuum/uncertainty (AG 7/2011)
E12. Correa	68.34% <b>VERY HIGH</b>	<b>MAJORIT Y</b>	No: Econ good (AG 2/2011)

<sup>204</sup> No longer as strong. In 2005, opposition boycotted elections, so he dominated the assembly. In 2010, the Democratic Unity Roundtable opposition party won 47.1% of the vote (to Chavez's United Socialist Party's 48.2%), but Chavez's party got 96 seats, and the opposition only 64.

<sup>205</sup> Debate over the electoral reforms was ongoing (since late 2010), but this is when President Correa vetoed changes he disliked.

<sup>206</sup> December 2010 Chavez party wins 96 of 167 seats (although it only got 48% of vote) (<http://www.electionguide.org/elections/id/1568/>).

<i>(Aug 11)</i>			
V17. Chavez <i>(Sept 12)</i>	44.01% <b>MED</b>	<b>MAJORIT Y</b>	No (not really): Increased violence, insecurity (LAWR S&S 3/2012, LAWR 5/31/2012, Latn D. 7/12/2012); econ OK (LAWR 4/19/2012); uncertainty over Chavez health, speculation (LAWR 4/26/2012, AG 5/2012)
V18. Chavez <i>(Nov 12)</i>	42.22% <b>MED</b>	<b>MAJORIT Y</b>	No (see above)
E13. Correa <i>(July 12)</i>	67.96% <b>VERY HIGH</b>	<b>MAJORIT Y</b>	No: Cabinet reshuffle (common) (Latin. D. 4/24/2012); exchanges with legislature (AG 4/2012)
C9. Santos <i>(Oct 13)</i>	35.07% <b>LOW</b>	<b>MAJORIT Y</b>	No (a little): Some rural unrest (Latn. D. 7/11, 7/13/2013); agriculture strike, violent demonstrations (Latn. D. 8/21 8/30/2013) [serious, but ag sector]; negotiating peace (LAWR 9/26/2013)
V19. Maduro <i>(Apr 13)</i>	40.08% <b>MED</b>	<b>MAJORIT Y</b>	Yes: Death of Chavez (Inf. Lat. 3/7/2013); marches, violence (Latn. D. 4/17/2013)
E14. Correa <i>(Aug 13)</i>	81.24% <b>VERY HIGH</b>	<b>MAJORIT Y</b>	No: Correa succeeding despite central bank scandal (AG 1/2013)
C10. Santos <i>(Apr 13)</i>	38.38% <b>LOW</b>	<b>MAJORIT Y</b>	No
TOTAL	HIGH: 21 MED: 14 LOW: 8		Yes: 24 No: 19