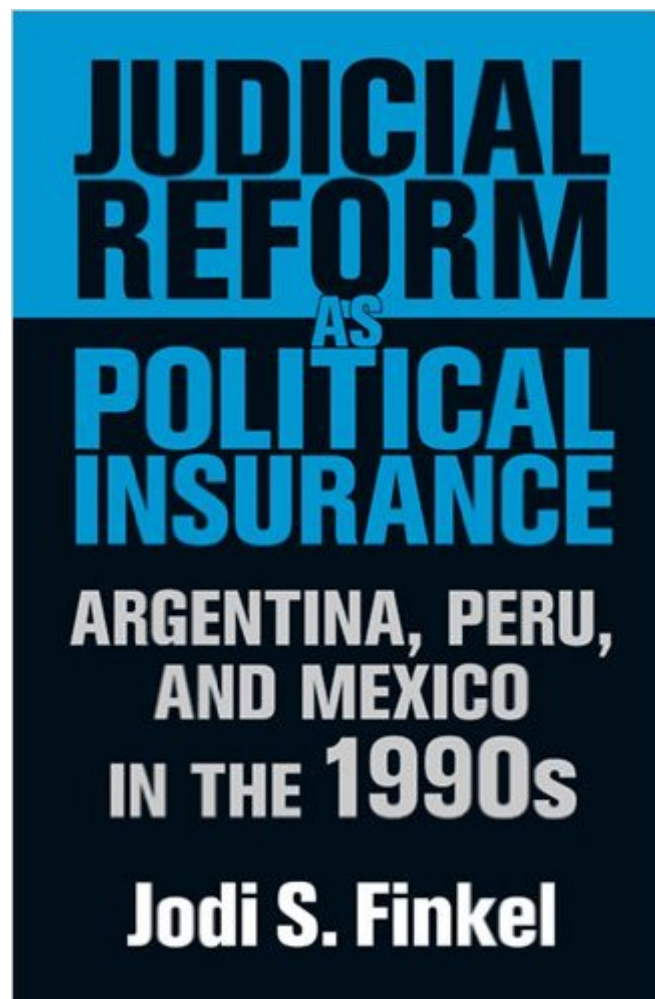


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Judicial Reform As Political Insurance: Argentina, Peru, And Mexico In The 1990s (ND Kellogg Inst Int'l Studies)



Synopsis

During the 1990s, judicial reform swept Latin America. While some of the region's supreme courts have been able to exercise increased power as a result of these reforms, others have not. Why do some instances of judicial reform appear to be leading to the development of a powerful judiciary while others have failed to do so? In this careful analysis, Jodi S. Finkel investigates judicial reform in Argentina, Mexico, and Peru. She suggests that while ruling parties can be induced to initiate judicial reforms by introducing constitutional revisions, they often prove unwilling to implement these constitutional changes by enacting required legislation. To understand the outcomes of judicial reform, as well as to predict where reforms are likely to empower courts, it is necessary to examine the political incentives faced by politicians at the implementation phase. Finkel argues that the implementation of judicial reform may serve the ruling party as an insurance policy, in that a strong judicial branch reduces the risks faced by a ruling party once it loses power and becomes the opposition. Finkel suggests that as the ruling party's probability of reelection declines, the likelihood of the enactment of reforms resulting in an empowered judiciary increases. "This book will be of interest for those in Latin American studies, where it should be well-received due to the author's close familiarity with and authority on the countries about which she writes; for scholars in the law and society field, where it supports and complements the work of Ginsburg and Hirschl; and to those in the policy field, to whom the book offers several important lessons." "Lisa Hilbink, University of Minnesota "By highlighting politicians' interest in protection against future threats, Jodi Finkel convincingly explains their seemingly paradoxical decision to enact judicial reforms that limit their own power. Her book constitutes a particularly interesting, thoughtful, and theoretically significant contribution to the burgeoning literature on judicial politics in Latin America." Kurt Weyland, Lozano Long Professor of Latin American Politics, University of Texas at Austin "In this lucid study, Jodi Finkel extends our understanding of the politics of judicial empowerment with three case studies from Latin America. Well written and tightly argued, the book makes a convincing case that the incentives of politicians, rather than pressure from civil society or external actors, are the key factor to explain variation in judicial reform. Finkel has made a major contribution to the nascent literature on judicial politics in Latin America." "Tom Ginsburg, University of Illinois

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Customer Reviews

Jodi Finkel's study of courts in Latin America expands upon the rational-strategic argument of judicial empowerment presented by Ran Hirschl and Tom Ginsburg of courts as political insurance. Finkel's study takes the argument one step further by differentiating between initiation and implementation of judicial reforms. The former costs political leaders little, while the latter could end up empowering courts to rule against the regime. It is only when the political elite fears losing power that they actually implement judicial reforms. Finkel's case studies demonstrate her thesis very well. However, in some aspects the book just wasn't thorough enough. For example, she did not discuss standing or access to the courts as a variable. Also, I wasn't fully convinced by her rejection of economic factors. I would like to have seen discussion of how dependent each country was on FDI, for example. Finally, even though the book was published in 2008, she seems to ignore much of the literature on this subject between 2001-2008, including Ginsburg's *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*. Nonetheless, Finkel makes an important distinction in separating formal legal reforms and actual substantive implementation. Recommended for scholars of comparative law and courts.

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