

Mandates, Geography, and Networks: Diffusion of Criminal Procedure Reform in Mexico

Matthew C. Ingram

ABSTRACT

Why have some Mexican states proceeded faster than others in the revolutionary transformation of overhauling criminal procedure? Contributing an original index of criminal procedure reform across Mexico's 32 states from 2002 to 2011 and building on existing research on policy diffusion, this article seeks to answer this question. It finds that the 2008 constitutional reform at the federal level exerts a strong positive effect (federal mandate); being situated in a neighborhood of states that have reformed has a counterintuitive negative effect (spatial proximity); and having a governor from the same party as governors of other states that have reformed has a positive influence (network affinity). These findings yield a better understanding of the vertical, cross-level and horizontal, cross-unit diffusion of reform, with implications for understanding how to overcome challenges to criminal justice reform in Mexico, Latin America, and elsewhere.

A revolutionary transformation in criminal procedure has been spreading across Latin America since the 1990s. Langer (2007) notes that between 1992 and 2006, 14 countries and several subnational units in the region moved away from the inquisitorial style of criminal procedure traditionally associated with the civil law tradition and toward a more accusatorial system of criminal procedure historically associated with the common law tradition. The change constitutes the "deepest transformation that Latin American criminal procedures have undergone in nearly two centuries" (Langer 2007, 617). It promises stronger protections for both victims and defendants in the criminal justice sector by enhancing due process rights, and it is truly transformational because it requires meaningful changes to the entire criminal justice system, from police and other first responders to prisons and other postsentencing oversight (Langer 2007; Shirk 2010; Ingram and Shirk 2010; Tiede 2012).

This policy trend reached Mexico in the 2000s, first at the subnational level in the state of Nuevo León (2003), followed by a failed federal reform effort in 2004, and finally a successful federal constitutional reform in 2008, mandating that all 32 states (including the Federal District of Mexico City) and the federal government adopt key changes in criminal procedure by 2016.

Matthew C. Ingram is an assistant professor of political science at the Rockefeller College of Public Affairs and Policy, University at Albany, State University of New York. mingram@albany.edu

This article documents and explains the uneven progress of the 2008 reform across Mexico's 32 subnational jurisdictions. Existing research on criminal procedure reform in Latin America has focused on examining the content and normative significance of the regional and national transformations from inquisitorial to accusatorial systems (e.g., Shirk 2010; Zwier and Barney 2012), especially since they are part of a broader global and regional transformation in criminal procedure that dates back at least to Italy's prominent 1988 reform (Grande 2000; Amodio 2004) and started spreading through Latin America in the early 1990s (Langer 2007). Research has begun to examine the effects of the reform in countries where it is complete (e.g., Chile; see Tiede 2012), but much less scholarly attention has been directed at identifying the political origins of these reforms.

Explanations of the causes of reform are particularly important because this new policy has spread very unevenly across the region, and in some countries the reform has either not yet begun, is still under way, or has stalled or been rolled back. This unevenness is particularly meaningful in the region's large federal systems, where the reform has not yet been adopted (Brazil), was adopted early but stalled subnationally (Argentina), or was adopted late and has been implemented very unevenly, including recent counterreforms that have rolled back changes (Mexico; e.g., Ríos Espinosa and Cerdio 2012).

Drawing attention to the criminal procedure reform in the Mexican states, one justice on the Mexican Supreme Court, Juan Silva Meza, bemoaned alarming "asymmetry" in the implementation and operation of the new criminal procedure system across the states (Fuentes 2013). Another colleague on Mexico's highest court, José Ramón Cossío, called the 2008 federal reform the most important legal transformation since the nineteenth century (Fuentes 2013). He also noted that Mexico was facing a "crisis of state" if the new criminal justice system was not implemented well. So, in the most tragic or ironic of twists, the end result of failed implementation could be the erosion or deterioration of public confidence in institutions, especially in the very courts the reform was meant to improve. In a country, and region, where confidence in justice institutions is already low, this could be a heavy blow to the judiciary.

Focusing on the origins or sources of criminal procedure reform across the Mexican states also has implications for the spread of reform in other large federal systems like Argentina or Brazil, and for the broader pattern of reform implementation in the region as a whole, contributing to a better understanding of the patterns and causes of criminal justice reform in contemporary Latin America. More generally, this research builds on existing studies of the diffusion of innovations (Rogers 2003); the growing comparative and cross-national literature on policy diffusion (e.g., Weyland 2005), especially the portion of this literature that employs spatial and network approaches to examine diffusion processes (e.g., Simmons and Elkins 2004; Brinks and Coppedge 2006; Simmons et al. 2008); and particularly the portion of this literature that focuses on the horizontal interdependence of units in subnational politics (Harbers and Ingram 2014).

In this context of current research on policy diffusion and criminal justice reform, this study asks, why have some Mexican states proceeded faster than others

in transforming their criminal procedure system? Analyzing an original index built from administrative data and by coding statutes and constitutions across Mexico's 32 states, this study measures the progress of reform over ten years and offers answers to this question.

The study begins by clarifying the process of criminal procedure reform in Mexico. It describes the content of reform efforts—focusing on state-level codes of criminal procedure—as well as variation in the pace of reform efforts across the Mexican states. It proceeds to explain the measure of reform, the index, which covers criminal procedure reform from 2002 to 2011. Subsequently, drawing on existing theories of policy diffusion and institutional change, especially the spread of legal ideas and institutional change in the justice sector in new democracies, it outlines theories that help understand variation in reform across Mexico's states. Specific hypotheses and empirical implications flow from these theories.

The empirical analysis employs time-series cross-sectional regressions to examine the origins of variation in the reform index. Principal findings include the positive effect of federal reform initiatives (federal mandate), the unexpected negative effect of geographic neighborhoods of reform (spatial proximity effect), and the positive effect of having a governor who belongs to the same party as governors in states that have reformed (network affinity effect). These findings suggest that the reform process follows a pattern of both vertical, federal-to-state diffusion and horizontal, state-to-state diffusion, while at the same time encountering barriers shaped by geographic relations.

CRIMINAL PROCEDURE REFORM IN MEXICO

On June 18, 2008, a federal reform in Mexico mandated a package of changes to the criminal justice system throughout the country, covering 33 jurisdictions: the federal justice system and all 32 states, including the Federal District of Mexico City. Although portions of the reform dealt with changes to the criminal justice system in general, the emphasis on investigatory and adjudicatory practices—and on improving due process in general—justifies referring to the reform as principally one of criminal procedure.

In broad terms, the 2008 reform sought to bring about a transition from a mixed-inquisitorial system of criminal procedure, historically associated with the civil law tradition of continental Europe, to an accusatorial system of criminal procedure, historically associated with the common law tradition of England and its colonies, including the United States. In more concrete terms, the reform means dramatic changes in the daily operation of the criminal process, from policing, investigations, and prosecutions to the full range of court procedures (pretrial, trial, and sentencing) and even postsentencing supervision of compliance and enforcement, including behavior in custody.

However, this reform did not install a new system of criminal procedure. Instead, it required the states and the federal justice system to approve local legisla-

tion and then implement said changes in order for the reform to become operational. Aside from police training and some exceptional measures aimed at fighting organized crime (e.g., extended *arraigo*, electronic surveillance, and asset forfeiture), all other aspects of the 2008 constitutional reform are governed primarily by one key piece of legislation that must be passed and implemented in each of the 33 jurisdictions: a new code of criminal procedure (called either *código procesal penal* or *código de procedimientos penales*; hereafter CCP).¹

The new CCP is undoubtedly the centerpiece of the reform. It is not just the heart and soul of the new procedural regime; its effective date also marks the end of the effectiveness of the old procedural regime. Given that all crimes need to be processed under the old code as long as the new code is not yet effective, this means that long lags exist after the formal start of the new system until all the cases initiated under the old system are concluded. In Chihuahua, for instance, which was generally regarded as a leading state in implementing the reform, the new code took effect in the first judicial district in January 2007 and was effective in the entire state by the end of 2008.² Yet four years later, in late 2012, cases were entering under the old procedural regime.³ And this was the most advanced state, where one district (Rayón) already had 100 percent of new criminal cases entering under the new procedural regime, and the state as a whole was hearing 87 percent of all new cases under the new system by the end of 2011! If these kinds of lags were present in the most advanced state, more severe lags were likely in states where the reform had been approved but had not yet taken effect, or worse, where it was still being debated and not yet even approved. Thus, measuring progress in the adoption and implementation of the reform requires assessing the extent to which each jurisdiction has passed the CCP and made it operational.

MEASURING CHANGES IN CRIMINAL PROCEDURE: THE REFORM INDEX

An original reform index captures variation in criminal procedure reform across space (states) and over time (years). Thus, the unit of analysis for this aggregate measure of reform is the “state-year.” That is, the measure captures reform progress for each state (32 jurisdictions, including Mexico City) and for each year in the timespan 2002–2011 (through December 31, 2011). The temporal and spatial coverage of the measure also offers numerous opportunities to examine causes of variation in the index.

The aggregate index is a composite measure of various developments, including the key piece of local legislation mentioned above, the CCP.⁴ The seven components of the index include

1. Presence of CCP reform bill, or *iniciativa* (1 if a reform bill is circulating in the state legislature, 0 otherwise)
2. Approval of CCP (1 if new CCP approved, 0 otherwise)
3. Full reform of CCP (1 if new CCP represents a completely new law, not merely minor, cosmetic adjustments to existing CCP, and new CCP regulates all

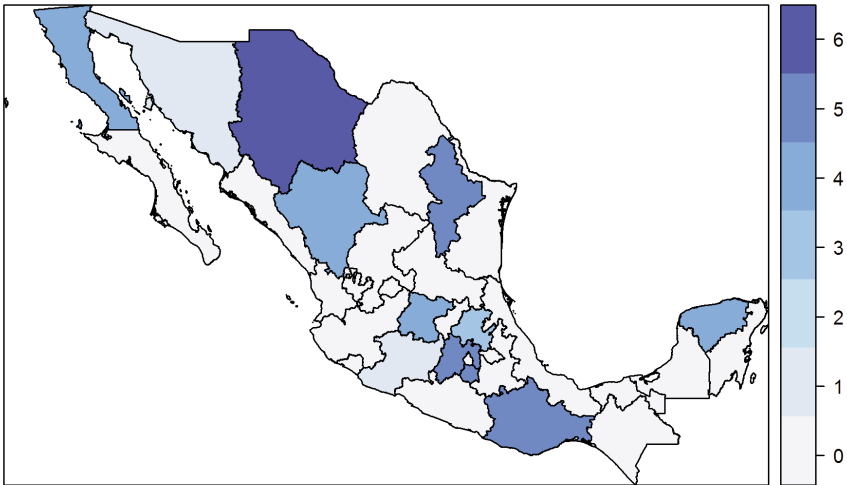
crimes in the jurisdiction in which it will take effect; 0 otherwise. For example, the State of Mexico received a 0 before 2009 because its reform consisted of simply adding or adjusting a small set of articles to the existing, traditional CCP. Also, Nuevo León received a 0 because its reform initially applied only to a subset of crimes.

4. Implementation of CCP (1 if new CCP is at least partially operational in the state, 0 otherwise)
5. Age of CCP implementation (years that CCP has been at least partially operational in state; 0 if not implemented; normalized relative to maximum value that year so that the range is 0–1)⁵
6. Geographic coverage of CCP (proportion of judicial districts or municipalities, as percentage of total, in which new CCP has been implemented; 0 if not implemented; normalized relative to maximum value that year so that range is 0–1)
7. New cases entering new, reformed system (as a percentage of all new criminal cases entering both reformed and traditional system; 0 if not implemented; normalized relative to maximum value that year so that range is 0–1)

The data for the index come mainly from archival sources. Primary documents include state constitutions and the CCP legislation itself, as well as internal regulatory documents of the courts (*leyes orgánicas*) and annual “state of the courts” reports (*informes anuales*). Secondary sources supplement those documents and consist of government reports, policy briefs, academic research, and journalistic accounts. The main secondary source consists of official reports and updates issued by SETEC (Secretaría Técnica del Consejo de Coordinación para la Implementación del Sistema de Justicia Penal), a federal agency within the Interior Ministry (*Secretaría de Gobierno*, SEGOB) that tracks and promotes the reform’s implementation. (See the online appendix for a full list of primary and secondary government sources.) SETEC’s information on the reform’s progress was used primarily to fill gaps in the data where official state documents were unavailable or inaccessible.

In order to maximize the generalizability and usefulness of the reform beyond the particular setting of Mexico or the Mexican states, every variable was evaluated against a theoretical maximum. In the case of dichotomous variables (0,1) and proportions (0–1), this evaluation was straightforward. However, one variable posed a challenge in this regard: the age of the CCP. What should be the theoretical maximum for the age of reform? Here, the study drew on existing research on “veils of ignorance” in constitutional law (Vermeule 2001) and generational effects to propose that a reform is likely to be accepted and respected by politicians if it has outlived two or more electoral cycles, and accepted and respected by institutional insiders (in this case, judges, prosecutors, et al.), and maybe even internalized (i.e., taken for granted as appropriate), if it has survived at least one generation of resistance from career professionals. This is especially relevant in the context of a major transformation like the 2008 criminal procedure reform, since senior professionals are likely to be reluctant to learn, support, and operate a new system at the tail end of

Figure 1. 2011 Reform Index



their careers, especially if doing so undermines the status, authority, and privilege they may have acquired under the old system. After all, this kind of transformation requires even the most senior of judges to learn an entirely new way of doing business. With this in mind, the theoretical maximum for reform age was set at 25.

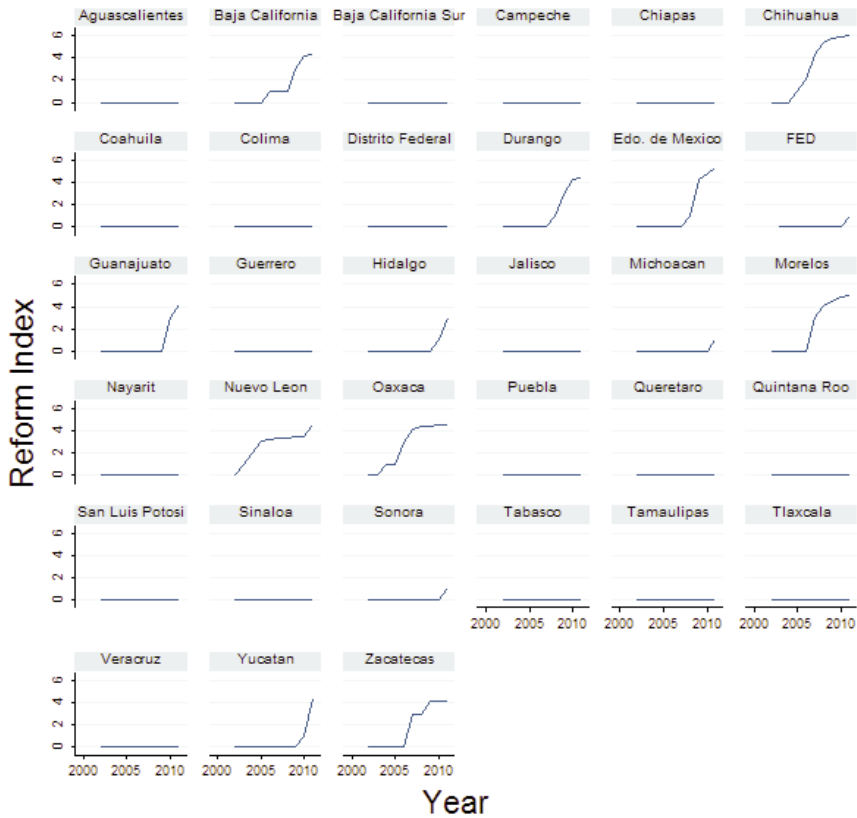
Figure 1 offers an overview of the aggregate measure of reform based on the index for the year 2011. Darker colors identify those states where the reform had advanced the farthest, and lighter colors identify those states that were farther behind.

Figure 2 offers a longitudinal view of the index across all states from 2002 to 2011, a complete view of the measure of reform analyzed in this study. This graph shows the stark temporal and spatial variation in the Mexican reform process. Notably, this graph also shows the sigmoid (S-shaped) curve characteristic of the diffusion of innovations (Rogers 2003, 11).

WHY REFORM? THEORY AND WORKING HYPOTHESES

Theoretical expectations regarding the origins of criminal procedure reform derive from scholarship on policy diffusion and institutional change, especially in new democracies. The discussion here focuses on three main explanatory factors: vertical and horizontal pressures of policy diffusion in federal systems, electoral competition, and ideology.

Figure 2. Reform Index, 2002–2011



Policy Diffusion

Studies of policy diffusion have a long pedigree in the social sciences, dating back to at least the 1960s (e.g., Rogers 2003). In political science, current studies examine the diffusion of various forms of economic and political liberalization (Simmons and Elkins 2004; Weyland 2005; Simmons et al. 2008). Though current research firmly establishes that diffusion occurs across various policy areas, less attention has been paid to the causal mechanisms underlying diffusion (Shipan and Volden 2008, 2012). The present study is designed to test whether diffusion of criminal procedure reforms is occurring across the Mexican states, but also seeks to illuminate the vertical and horizontal mechanisms underpinning diffusion.

In federal countries like Mexico, best practices or policies, like those of criminal procedure reforms, may be fomented by vertical cross-level and horizontal cross-unit factors, promoting the diffusion of these best policies and practices. Vertically, the

federal government may send informal signals about a preferred policy standard—via speeches, federal reform patterns, or model codes—or may even pass formal legislation that requires subnational units to conform to a particular policy standard. The high-profile federal judicial reform of 1994, which created a judicial council, reduced the size of the high court and replaced all its members, and expanded mechanisms of constitutional review (Finkel 2008; Ríos-Figueroa 2007; Staton 2010), was largely understood as the former, an informal signal. There was no formal requirement that states follow suit in creating judicial councils or pursuing other elements of the federal reform, but informally, state governments understood the federal reform as a strong signal of the central government's preferred institutional arrangement. Due perhaps to the informal nature of this signal, even 20 years later (in 2014), not all states had judicial councils, and the ones that did exist varied widely (see, e.g., Ingram 2016). The promoters of the 2008 federal criminal procedure reform appear to have learned a lesson from this experience: in 2008, the reform explicitly mandated that all states adopt the reform's core features, and gave states an eight-year window—until 2016—to complete the task. Thus, a key empirical implication is that, all else being equal, we should expect higher scores on the reform index after 2008 than before that year.

Crucially, 2008 is not the only year in which the federal government signaled its preferences for criminal procedure reform. The first reform initiative took place in 2004 under the Fox administration (Presidencia 2004), at least partly in response to a scathing 2002 report by the UN human rights rapporteur (Shirk and Ríos Cazares 2007, 35–38). Given that this 2004 federal reform initiative would have sent signals about preferred or best practices in criminal justice, we should also expect scores on the reform index to be higher after 2004 than in 2002 or 2004.

Quite apart from those vertical, top-down, centrifugal forces promoting reform, states in federal systems may also learn from each other in a more horizontal, cross-unit fashion of policy diffusion. The earliest subnational reformers began experimenting with changes to their criminal procedure codes in 2003, long before the federal reform, and it would be reasonable to expect that these early reformers could pass their experiences on to other states.

We may anticipate that this diffusion or spread of criminal procedure policies can occur in either of two ways: as a function of patterns of reform among a state's geographic neighbors (what can be called a spatial or geographic proximity effect) and as a function of patterns of reform among states governed by the same party (a network affinity effect).

Evidence in favor of anticipating a geographic proximity effect derives deductively from the "first law of geography": "everything is related to everything else, but near things are more related than distant things" (Tobler 1970). Additionally, reviewing state documents to build the reform index analyzed here uncovered numerous examples of states that had not yet reformed seeking advice from judges and other representatives from states that had already initiated the reform process, or sending representatives to examine reforms in other states. All else being equal, the proximity effect anticipates that states would send and receive representatives to

and from nearby states rather than distant states. The network affinity effect anticipates that states would be more likely to send and receive representatives from states governed by the same party, despite geographic distance, since both states can then promote their reform efforts to their party's advantage.

Furthermore, politicians who belong to the same party, even if they come from different states, are more likely to share policy lessons with each other in various forums, such as the regular meetings of governors or political parties. For instance, the 2009 "state of the courts" report (Informe 2009) in Oaxaca—a state that had already reformed and had a PRI governor—documented visits related to the reform from judicial personnel of 15 states. Of these 15 states, 8 also had PRI governors and 7 did not. However, only 1 of the 8 PRI states was a geographic neighbor, while 2 of the 7 non-PRI states were neighbors. Although not dispositive, this qualitative evidence supports the general argument here that geographic proximity has a positive effect regardless of party, while partisan affinity has a positive effect regardless of geographic distance.

An empirical implication that flows from the spatial proximity argument is that a state's score on the index should increase as the average score of its contiguous neighbors increases. That is, as the "neighborhood mean" of reform rises, reform should also take place in the home, focal state. A spatial lag of the reform index captures this proximity effect. In contrast, an empirical implication of the network affinity effect is that a state's score on the index should increase as the average score on the index increases among states with a governor from the same political party. A network lag of the reform index captures this network effect.

H1a. Reform scores will vary positively with the onset of federal reform efforts.

H1b. Reform scores will vary positively with the scores of neighboring states (spatial lag).

H1c. Reform scores will vary positively with the scores of states in the same partisan network (network lag).

Electoral Competition

Existing research finds that electoral competition exerts an upward pressure on the performance of government and institutions. Findings in Mexico show that electoral competition positively influences legislative performance and institutionalization (Beer 2003; Solt 2004), electoral districting (Reynoso 2005), fiscal policy and performance (Boyce 2005; Flamand 2006), and educational spending (Hecock 2006). Most relevant to the present study, political competitiveness translates into more protections for human rights (Beer and Mitchell 2004) and stronger judicial budgets in the Mexican states (Beer 2006; Ingram 2013, 2016).⁶

It is notable that although the general expectation is for competition to benefit justice institutions, a contrasting prediction is possible. Specifically, one way that competition might not produce stronger institutional change is that, indirectly, competition makes divided government more likely. A core insight of veto player theory

(Tsebelis 2002) supports this expectation: competition in previously noncompetitive contexts generates a larger number of relevant actors and therefore makes policy change more difficult. That is, competition can generate less reform, not more. Thus, increasing competition inhibits institutional improvements, resulting in less change. This “indirect negative effect” of competition (Ingram 2013) is largely about structural opportunities for reform, tapping into debates about veto constraints and strategic bargaining (Geddes 1996; Negretto 2006; Pozas-Loyo and Ríos-Figueroa 2010). Even where best practices are in circulation, policy proposals filter through these constraints and bargaining processes, producing slow or no policy change.

The discussion above of the optimistic and more pessimistic expectations regarding competition yields the following hypotheses:

H2a. The reform index will vary positively with electoral competition.

H2b. The reform index will vary negatively with electoral competition.

Ideology

Strengthening the judiciary is expected to be a policy priority for left- and right-leaning actors more than for centrist or nonideological actors. Leftist parties tend to favor democracy promotion, whereas parties on the right favor market promotion. Both favor improvements in the justice sector, but for programmatically different reasons. On the left, parties seek to enhance the real effect of individual rights and liberties. On the right, parties tend to emphasize the security and predictability of commercial transactions, as well as public safety issues.

The work of Morton and Knopf (2000) on the Liberal Party in Canada offers support for this expectation from the comparative literature on political ideology and judicial reform, and Epp’s 1998 work on “support structures for legal mobilization” suggests that parties with strong links to activist networks, like the PRD in Mexico, will promote legal change and exert greater pressure on the judiciary for increased performance. Gillman’s thesis of “partisan coalitions” (2002, 2008) also supports the expectation that partisan alignments on the left and right will shape institutional change, but with systematically different motivations.

Work on Mexico suggests a similar link between programmatic party commitments and policy change in the justice sector. Mizrahi (1999) finds that crime control increased with the presence of the rightist PAN, and Ingram (2012, 2013, 2016) finds right- and left-leaning actors promoting judicial council reforms and both left and right pushing judicial spending up, though the left exerts a stronger effect than the right. Populist, clientelist, and other parties not easily classified along a left-right spectrum are expected to signal support for democracy-oriented policies to maintain a populist appearance. However, these gestures will lack programmatic commitments necessary for adequate funding or long-term support, and therefore are expected to have little effect.

In Mexico, political parties evolved out of a dominant-party system under the PRI, which ruled national politics until 2000. Due to its patrimonial and corporatist

structure, as well as its hegemonic and authoritarian tradition, the PRI is not expected to be one of the ideological actors driving positive changes in judicial performance. Instead, the PRI has generally been regarded as a nonideological, populist party (Coppedge 1997, 6) and is therefore expected to have a negative relationship with institutional change and judicial spending at the state level. Additionally, in spite of passing judicial reform at the federal level in 1994, the PRI's motivations for this reform remain unclear.⁷

Conversely, the rightist PAN and the center-left PRD are both ideological parties that have strong commitments to judicial reform. The PAN is a conservative party with strong business ties, a free market ideology, and a vocal stance on increasing public safety (Mizrahi 2003; Shirk 2005). It is reasonable to expect the PAN to pressure for reform in the area of commercial and business law and to pressure for greater efficiency in commercial transactions.

Business interests also favor public order and security for their investments, so the PAN is expected to exert a positive influence on judicial spending, both as a general indicator of judicial strength and as an indicator of a secure environment for investment and other business activity. The PRD is a progressive party of the left, with strong ties to social movements and activist networks (see, e.g., Bruhn 1999). The PRD is therefore expected to pressure for reform in the area of public justice and criminal procedures. Ingram (2016) found support for these general expectations regarding all three parties. In sum, judicial strengthening is expected where either the PAN or PRD govern, but no significant improvement is expected where the PRI governs, yielding the following hypothesis:

H3. The reform index will vary positively with both leftist and rightist governors.

DATA AND METHODS

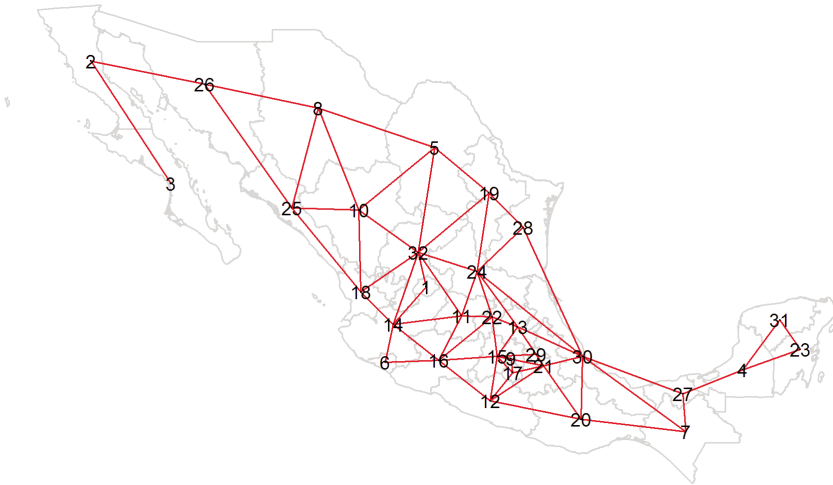
The unit of analysis is the "state-year," covering all 32 Mexican states (including the Federal District of Mexico City) over ten years (2002–2011). All explanatory variables are lagged one year, so these variables are all measured at time t and the dependent variable is measured at time $t + 1$ to reduce concerns about endogeneity.

Data

Alongside the dependent variable, an original index of criminal procedure reform (0–7), key explanatory variables include both spatial and network lags of the dependent variable, federal reform efforts in 2004 and 2008, and measures of electoral competition and party identification.

Spatial and network lags of the dependent variable capture two forms of horizontal, state-by-state diffusion. The spatial lag is constructed by identifying the contiguous neighbors of a state and calculating the average value of the dependent variable for those neighbors. The network lag is constructed by identifying, by year, all of the states with a governor from the same political party. As with the spatial lag,

Figure 3. Mexican States Connected by Contiguity

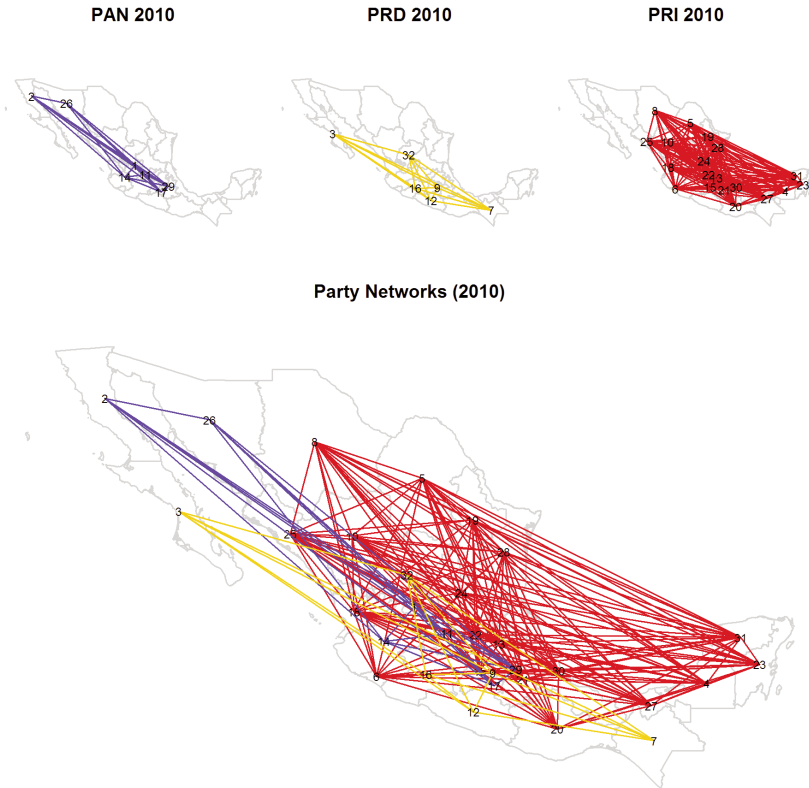


the value of the network lag is the average value of the dependent variable among those states composing the partisan network. Readers will note that the neighbors in the spatial lag never change; that is, the neighbors of state A in 2001 are the same as in 2011. However, the members of a state's party network change with each gubernatorial election, which occurred irregularly across states during the time span examined here.

To clarify further, figures 3 and 4 report maps of the Mexican states (generated in R v3.2.0; R Core Team 2015). In figure 3, the red lines show how connectedness among the states is conceptualized and operationalized in terms of geographic contiguity (i.e., first-order queen contiguity). In contrast, figure 4 shows how connectedness is conceptualized and operationalized in terms of partisan network affinity, with each color representing a separate party network. Figure 4 uses data from 2010 to illustrate network connectedness, but these connections vary year by year.

Unlike the spatial matrix of geographic connectedness, the party affinity matrix of network relations shows that some states are not connected despite being geographic neighbors, and other states are connected despite being geographically distant. For instance, Baja California (code 2) and Baja California Sur (code 3) are geographic neighbors, and therefore connected in terms of spatial proximity, but their governors were from different parties in 2010, so they are not connected in terms of network affinity. Similarly, Sonora (code 26) and Chihuahua (code 8) are neighbors, but they did not have governors from the same party, so they are connected in the spatial proximity matrix but not in the network affinity matrix. Conversely, Chihuahua and Quintana Roo (code 22) could hardly be farther apart geographically, but they both had governors from the PRI in 2010; thus, they are not connected in the spatial proximity matrix but are connected in the network affinity matrix.

Figure 4. Mexican States Connected by Party Networks, 2010



Two dichotomous variables capture federal reform efforts: *2008reform* (1 if year is 2008 or later; 0 otherwise) identifies time points on or after the federal constitutional reform of 2008; and *2004effort* (1 if year is 2004 or later; 0 otherwise) identifies time points on or after the Fox administration's early reform effort. Notably, *2004effort* also captures the early subnational reform process in the northern state of Nuevo León.

All calculations of electoral competition and party identification come from data on state elections from the Centro de Investigación para el Desarrollo (CIDAC). The primary measure of electoral competition is the effective number of candidates (ENC; see Laakso and Taagepera 1979). ENC is often used to measure party system fragmentation. However, by also capturing movement toward multi-partyism, ENC adequately captures competitiveness in a system like Mexico's, where the baseline, historical condition is single-party dominance. Alternative measures include ENC-Molinar (Molinar 1991), margin of victory, and majority distance (Schedler 2005). Party identification captures the governor's party and is measured as a series of three dichotomous variables: *PRD-governor* (1 = PRD gover-

Table 1. Summary Statistics

Variable	N	Mean	Standard Deviation	Minimum	Maximum
Index (t+1)	344	0.74	1.52	0	6.07
ENC	344	2.50	0.35	1.95	3.37
ENC-Molinar	344	2.04	0.35	1.38	2.97
Margin of victory	344	0.11	0.09	0.01	0.36
Majority distance	344	-0.01	0.06	-0.15	0.13
PAN governor	344	0.28	0.45	0	1
PRD governor	344	0.19	0.40	0	1
PRI governor	344	0.55	0.50	0	1
2008 reform	344	0.35	0.48	0	1
Pop density (log)	344	4.19	1.31	1.81	8.68
GDP/cap (log)	344	11.07	0.41	10.22	12.12
Index (spatial lag)	312	0.64	1.00	0	5.20
Index (network lag)	312	0.54	0.57	0	2.40

nor, 0 otherwise), *PRI-governor*, and *PAN-governor*. *PRI-governor* is the base, omitted category.

Control variables include GDP per capita (logged) and population density (population divided by the area of the state in square kilometers). All data for these measures are from the Instituto Nacional de Estadística y Geografía (INEGI).⁸ The GDP measure captures the overall level of wealth or development in the state, controlling for the amount of resources the state might be able to invest in a reform, and population density controls for the demographic pressures that are generally associated with higher crime rates and therefore might create incentives for reforming the criminal justice system. There was one gap in GDP data (Campeche 2007), which was filled with the average of the two adjoining years, 2006 and 2008. There are no remaining gaps in the dataset. Table 1 reports all summary statistics.

Methods

The unit of analysis, the “state-year,” provides multiple observations (years) in each Mexican state, generating a time-series, cross-section (TSCS) dataset. Conventional OLS methods are inappropriate for TSCS data, since the errors are expected to be correlated both across time points in individual panels and across panels in individual years (see, e.g., Long and Ervin 2000; Beck and Katz 1995).

Several model specifications offer corrections for data with TSCS structure, including fixed effects models (FEM), random effects models (REM), models with panel-corrected standard errors (PCSEs), population-averaged or generalized estimating equations (GEE), lagged dependent variables (LDV), and models with robust-cluster standard errors (see Beck and Katz 1995; Achen 2000; Huber and Stephens 2001; Zorn 2001; Plümper et al. 2005; Huber et al. 2006). Of these alternatives,

PCSE and AR models are more appropriate where there are more time points (t) than panels (N); that is, where the data are temporally dominated ($t > N$) rather than cross-sectionally dominated ($N > t$) (see Giraudy 2010, 68–69). Liang and Zeger also advocate for GEE models where there are few time points in each panel.

The current dataset does not meet the criterion of temporal domination, and there are relatively few time points (fewer than 10) in several panels. Separately, FEMs and LDV models are also not appropriate when explanatory variables have level effects and are time invariant; that is, they change slowly over time. Under these conditions, FEMs may absorb the effect of these variables, inappropriately washing out their significance (Plümper et al. 2005; Achen 2000). Last, GEE models are best suited for datasets that are cross-sectionally dominated ($N > t$), where the number of time points is relatively low ($t < 10$), and where the number of time points is not the same (i.e., unbalanced) across panels (Liang and Zeger 1986; Zorn 2001).

Given the discussion above and the unbalanced, cross-sectionally dominated structure of the TSCS dataset, this analysis employs a GEE model, following Liang and Zeger (1986), Zorn (2001), Hecock (2006), and Ingram (2013, 2016). All models were implemented in Stata SE v12.1, with some robustness checks in R v3.2.0 (R Core Team 2015). Data, do-files, and R code are available from the author.

RESULTS

Table 2 reports all results from GEE models of the reform index. Model 1 is the full model representing the complete analysis as motivated by the theoretical discussion, including both the spatial and network lags in a single model. The remaining models offer various robustness checks, unpacking the full model in various ways to examine the stability of key results and a finer-grained analysis.

Model 1 reports the most complete results, including both the spatial lag and the network lag in the same model. Surprisingly, the spatial lag exerts an unexpected negative and significant effect on reform. Specifically, for every one-unit increase in the reform index among a state's neighbors, there is about a quarter-point decrease (-0.26) in the reform index in the home, focal state. However, the network lag exerts a positive and significant effect (though only at the .10 level), and the magnitude of the effect of the network lag is larger (.36) than the effect of the spatial lag, suggesting that the positive influence of network affinity can overcome the negative effect of spatial proximity. Pressing these results further, the negative effect of the spatial lag on its own is fairly stable (model 2) but the positive effect of the network lag is relatively unstable, going from significance at the .10 level (model 1) to losing statistical significance on its own (model 3).

These results survived several robustness checks. Some readers may wonder whether the spatial and network measures are not capturing any effect of unit interdependence but instead simply reflecting, first, an absence of central government coercion (before 2008), and then its presence (after 2008). This possibility was tested by generating a random graph, and from this graph generating a set of sub-

Table 2. GEE Models of Reform Index

	1	2	3	4	5	6
ENC	-0.63** (0.29)	-0.71** (0.28)	-0.63** (0.29)	-0.67** (0.27)	-0.39* (0.22)	-0.70*** (0.27)
PAN governor	-0.08 (0.22)	-0.072 (0.22)	-0.12 (0.22)	-0.16 (0.20)	-0.30* (0.17)	-0.15 (0.20)
PRD governor	-0.14 (0.32)	-0.30 (0.30)	-0.25 (0.32)	-0.32 (0.27)	-0.15 (0.21)	-0.33 (0.27)
2008 reform	1.18*** (0.22)	1.42*** (0.17)	1.04*** (0.22)	1.19*** (0.14)		1.35*** (0.13)
2004 attempt	0.34** (0.18)	0.42** (0.17)	0.31* (0.18)	0.39*** (0.15)	0.39*** (0.09)	
Spatial lag	-0.26*** (0.10)	-0.21** (0.09)				
Network lag	0.36* (0.22)		0.19 (0.21)			
Population density	-0.03 (0.13)	-0.02 (0.13)	-0.03 (0.14)	-0.017 (0.12)	-0.01 (0.08)	-0.002 (0.12)
GDP/cap	-0.10 (0.38)	-0.08 (0.37)	-0.09 (0.39)	-0.13 (0.33)	-0.01 (0.24)	0.02 (0.33)
Constant	2.96 (4.26)	2.93 (4.21)	2.89 (4.35)	3.38 (3.78)	1.28 (2.65)	1.93 (3.76)
N	312	312	312	344	224	344
States	32	32	32	32	32	32
Years (min)	7	7	7	8	7	8
Years (max)	10	10	10	11	7	11
chi2	136.0	131.7	127.0	146.6	26.10	136.4
p	0.000	0.000	0.000	0.000	0.000	0.000

***p < 0.01, **p < 0.05, *p < 0.1

Standard errors in parentheses.

stantively meaningless versions of the lagged outcome.⁹ An auxiliary model (not reported here) showed that this random lag did not have a statistically significant effect on reform, increasing confidence in the results reported here. Also, excluding the party dummies while retaining both spatial and network lags or only the network lag (models not reported) showed no meaningful departure from these results. Taken together, these results and robustness checks support the conclusion that reform among nearby states has a harmful, negative effect on reform in the home, focal state, and that reform within the partisan network has a beneficial, positive (though weaker) effect.

The 2008 federal reform and the earlier 2004 initiative exert positive and significant effects, and the magnitude of these effects is fairly stable. The result for the 2008 reform persists largely unchanged from model 1 to model 6, and the same can

be said for the 2004 initiative from model 1 to model 5. Models 4 and 5 examine two temporal periods in greater detail. Model 4 examines the entire timespan (2002–11), revealing that events in both 2004 and 2008 had a positive and significant influence on the incidence of reform after each of those time points. All the previous findings remain the same, and the 2008 federal reform remains statistically significant and retains the magnitude of its effect on subnational patterns of reform. The 2004 reform initiative also has a positive and statistically significant relationship with reform. The magnitude of the effect of 2008 is much larger (indeed, about three times larger). Model 5 examines the 2004 initiative further by restricting the timespan to 2001–2007, the years before the landmark 2008 reform. Here, the variable for the 2004 initiative retains its significance, direction, and magnitude.

Furthermore, across all models, electoral competition exerts a negative and significant effect, and the magnitude of this effect is also fairly uniform. Additional versions of model 6 (not reported here) with alternative measures of competition (ENC-Molinar, margin of victory, and majority distance) also showed that competition had a negative and statistically significant relationship with reform. These results cut against hypothesis H2a and strongly support H2b. Additional models excluding the Federal District (also not reported) showed no meaningful differences. In contrast, hypothesis 3 receives no support in either model in table 2. In comparison to the base category (*PRI-governor*), having a PRD governor or a PAN governor does not have a statistically significant relationship with reform.

The most striking result in these models is the positive and statistically significant effect of the 2008 federal reform, supporting H1a. All else being equal, a state will score between 1.04 and 1.42 points higher on the reform index after 2008 than before that year's reform, suggesting the federal reform has been the principal driver of local changes in criminal procedure.

Last, regarding the control variables, none of them is statistically significant. Thus, areas with denser populations—that is, states with larger populations and urban areas, both of which proxy for higher crime rates and prison populations—do not tend to seek criminal procedure reform more than states with less density. Also, GDP does not have a statistically significant relationship with reform, suggesting that a state's material resources do not have a meaningful relationship with reform.

DISCUSSION

The federal 2008 reform is the strongest predictor—in terms of consistency and magnitude of effect—of subnational variation in reform. Combined with the 2004 federal reform initiative, the results strongly support the conclusion that vertical, top-down pressures for reform have a meaningful effect across subnational units. One policy implication is that major reforms should follow a similar model, including a constitutionalized federal mandate.

Horizontal, state-to-state dynamics matter as well, as suggested by the findings regarding the spatial and network lags of the reform index, though these findings were surprising and less stable, respectively. The finding regarding the negative

effect of spatial proximity to reform was unexpected, and has a wide range of implications for policy change. First, to clarify, the result strongly supports the counter-intuitive proposition that if there are two states, A and B, and A is near other states that have reformed and B is not, then A is less likely to reform than B. In this regard, state A may be acting as a barrier to reform. In the same way, some spatial studies of violent crime find, some spatial units act as barriers to the spread of crime; for example, “barrier counties” in U.S. studies of homicide (Messner et al. 1999).

Drawing on the broader literature on policy diffusion, there are several reasons why this might be the case: lack of local resources or capabilities for reform, opposition to reform, negative consequences of reform among the state’s neighbors, or at least the local perception that reform among neighbor states is failing or has failed (see, e.g., Shipan and Volden 2012). Though the current study does not distinguish among these possible underlying mechanisms, the finding does identify areas where reform advocates could focus in order at least to better diagnose the nature of the problem, and where researchers could focus—perhaps with more qualitative approaches—to clarify the local dynamics of reform.

If local capabilities or resources are an obstacle to reform, then efforts should be directed at building these local capabilities and resources, including financial resources but also extending to technical expertise, among others. If opposition to reform is a hindrance, then a different set of skills and strategies is required, and reform advocates should try to understand better the nature of this opposition. For instance, are politicians hindering the reform process because they are invested in the traditional system? Are local judges and other legal professionals invested in that system too, and therefore resistant to change? Or is there a popular perception that reform is too protective of defendants, thereby “coddling criminals”? In this regard, opposition to reform and the possible negative consequences of reform—real or perceived—are connected, and reform advocates may need to engage in better information strategies, educating the public about the rationale for and benefits of the reform.

The findings regarding diffusion along partisan networks are weaker but also have policy implications, suggesting that agents of reform should seek to influence policy debates in forums where governors and other state-level political elites or national party leaders are circulating. Furthermore, if one party or political actor is more active than others in various policy or government forums (e.g., conferences, meetings, inter-jurisdictional working groups), then resources would be well spent in shaping the views of that well-connected party or actor. Network tools not discussed here can help identify degrees of connectedness for that kind of purpose (e.g., Wasserman and Faust 1994). Combining the findings regarding both proximity and affinity, one particularly effective strategy for influencing reform throughout subnational units may be to target initial reform efforts in a state with multiple neighbors of the same party—that is, in the geographic core of a partisan cluster—thereby using the positive effect of network affinity to overcome the negative effect of spatial proximity.

Contrasting with some of the more optimistic accounts of the benefits of electoral competition, this kind of competition does not appear to promote criminal procedure reform in Mexico. The uniform direction of the relationship across all

four measures of competition (only results for ENC reported here) and across all models supports the conclusion that criminal procedure reform is more difficult in electorally competitive environments.

In combination, the negative effect of spatial proximity to reform and the negative effect of electoral competition suggest that reform is least likely in highly competitive states in neighborhoods of reform. Indeed, highly competitive polities are precisely the places where controversial reform projects can be exploited by political adversaries, magnifying the potential problems or failures associated with a reform. Therefore, given the clear existence of at least some political opposition to due process reform as too “soft on crime,” opposition that has even led to some counterreforms that restricted due process rights (e.g., Ríos Espinosa and Cerdio 2012), and also professional opposition to reform among some more senior judges (e.g., Ingram et al. 2011), it is not surprising that these antireform arguments would be leveraged and amplified in electorally competitive arenas.

CONCLUSIONS

This study makes two primary contributions. It offers an original index of criminal procedure reform across all 32 Mexican states from 2002 to 2011, a key timespan for this type of institutional change; and an empirical analysis of the causes of variation in the reform index, drawing on insights from spatial and network analysis. The methods that generated the index, including the use of theoretical maximum values rather than maximum local change, yield a procedure that could be used for capturing other kinds of legal change in other parts of the world. The analysis yields four core findings.

1. Federal constitutional reform with a clear mandate to all states exerts a positive effect on subnational patterns of reform (federal mandate).
2. The average level of reform among a state’s geographic neighbors exerts a negative effect (spatial proximity effect).
3. The average level of reform among states governed by the same party—the partisan network—has a positive, though weaker, effect (network affinity effect).
4. Electoral competition has a harmful, negative effect on reform.

These findings relate to vertical (federal reform efforts) and horizontal (proximity and affinity effects) aspects of policy diffusion, as well as to the local political dynamics of reform. Diffusion arguments can be unsatisfying if they include no explanation of the motives or mechanisms underlying the spread or transfer of policies. This critique applies to the spatial proximity argument, since there is no clear motive or mechanism that accompanies geographic adjacency or proximity. That is, proximity tells us that something about geographic distance is important, but does not shed light on how or why policy diffuses.

Still, the discussion here identifies possible areas where reform advocates can focus further attention, including the local capabilities for reform, opposition to reform, and perception that reform is failing.

In contrast, the vertical argument and the network affinity argument do illuminate mechanisms. The vertical diffusion argument highlights the importance of clear policy directives in the form of a constitutional mandate with a clear timeline to reform (here, the eight-year window states were given in 2008 to complete local reforms). Complementing this argument, the network affinity argument sheds light on mechanisms of diffusion in that partisan connections across states serve as conduits for criminal procedure policies. Future research could shed additional light on the mechanisms by which influence travels along these networks, and could also examine whether other policy areas are more or less influenced by these partisan networks.

Regarding Mexico's current political context, subnational patterns of reform slowed dramatically at the end of the timeframe analyzed here, as the presidential election of 2012 was decided. The leading candidate and eventual winner, Enrique Peña Nieto (PRI), had expressed support for a single, national code of criminal procedure. If approved, a national CCP would have applied to all federal criminal cases, and would also have forced all subnational jurisdictions to assimilate its content, so the local reform process stagnated until the national landscape became clearer. In early 2014, a national code was indeed approved. Future research that examines the content of this national change and its implications for local institutions could clarify what future patterns of reform will look like, and also whether this 2014 mandate exerted as powerful an effect as its precursor in 2008 or even the earlier initiative in 2004.

Future research that examines the spatial and network dependence of reforms also promises additional insights. Specifically, spatial dependence can take many forms beyond simple contiguity, as operationalized here. Network dependence can also be operationalized in myriad ways. One possible avenue of network-related research could examine the quantity and quality of relational ties among political elites across the states, capturing these partisan networks in a finer way. This kind of research would be time- and resource-intensive but could further illuminate the motives and mechanisms of the policy diffusion examined here.

Overall, the account of reform here distills to three core points.¹⁰

1. Norm diffusion through networks is weak or slow, if it happens at all (though if it happens, it may be more resilient to reversal; that is, "stickier").
2. Networks based on spatial proximity and shared partisanship are probably unreliable tools for shaping legal institutions at the state level. After all, these networks are simply vectors and have no inherent content, so tradition and norms of resistance are as likely to be channeled through them as are progressive notions about reform, and spatial proximity may even generate backlash.
3. In order for the reforms to occur (in a timely fashion), there must be some formal mandate.

In short, the strongest finding emphasizes the need for a vertical, national mandate and the weakness and uncertainty of the progressive influence allowed by subnational, horizontal vectors of diffusion (spatial and network effects). Presumably, the federal mandate must have at least some minimal amount of legitimacy in order to be effective, but all else being equal, it is this mandate that matters most.

NOTES

A previous version of this paper was presented at the 2015 workshop on Latin American Criminal Justice at the UCLA School of Law, the 2014 Conference on Law and Social Order at Emory University, and the 2014 meeting of the Latin American Studies Association. An early version of the reform index reported here was presented at the Woodrow Wilson Center for International Scholars, Washington, DC, on December 4, 2012. I thank attendees and discussants in these settings, including Miguel Basañez, Marcelo Bergman, Dan Brinks, Tom Clark, Joseph Doherty, Gustavo Fondevila, Janice Gallagher, Thea Johnson, Maximo Langer, Veronica Michel, Bethany Nanamaker, Rodrigo Nunes, Eric Olson, Octavio Rodríguez-Ferreira, Astrid Liliana Sánchez Mejía, David Shirk, Jeffrey Staton, Lydia Tiede, Robert Varenik, Carlos Vilalta, Duncan Wood, and Paul Zwier. I am also grateful to four anonymous reviewers for two rounds of helpful comments, as well as to the editors and journal staff. All remaining errors are my own. The online appendix with supplemental data can be accessed at <http://mattingram.net/Research>.

1. *Arraigo* is an exceptional and controversial form of pretrial, investigatory custody reserved for persons suspected of involvement in organized crime. Under the terms of the 2008 reform, a suspect could be held, virtually incommunicado, for a period of 40 days, also renewable once (i.e., a total of 80 days; see revised Article 16 of the constitution).

2. For an in-depth and excellent critical analysis of some of the counterreforms in Chihuahua, see Ríos Espinosa and Cerdio 2012.

3. These cases are probably crimes that occurred before the effective date of the reform but were not discovered until after that date; crimes that are “continuous,” “permanent,” or “ongoing” until they cease completely (e.g., kidnaping, disappearance); and other crimes for which the date for formal court procedures to start can sometimes be far removed from the real, temporal beginning of the criminal activity. These long lags or “tails” of traditional cases are to be expected. In Chile, for instance, which installed a new criminal procedure system between 2000 and 2005 and is the regional standard for successful implementation of criminal procedure reform, new criminal cases were still being processed in the traditional, non-reformed system up until 2010, five years after the reform was fully operational throughout the entire country (Tiede 2012).

4. Various aggregation rules are possible, including weighting different components of the index or using a principal components approach or other latent variable model to estimate the unobserved phenomenon of reform. I generated a principal component based on all the components above, and this variable was highly correlated with the simple additive measure ($r = 0.99$). Given this high level of correlation, the more intuitive, additive index was retained as the core measure of the outcome of interest. For further details on the construction and validity of the index, see the online appendix.

5. Regarding age of implementation, comparative studies often use the longevity of institutions to assess the degree of institutionalization or the depth of an institution’s roots in society (e.g., Mainwaring and Scully 1995, 13–14). All else being equal, we should expect that a reform that has been operational longer, even if only partially, should be more rooted or established than a reform that began implementation more recently.

6. Despite a long list of research findings supporting the positive relationship between electoral competition and government performance, there are exceptions. For example, Cleary (2007) finds no relationship between electoral competition and the responsiveness of municipal governments in Mexico, measured as the provision of public utilities (potable water and sewerage) and the generation of local revenue.

7. Finkel (2008) notes that the PRI no longer controlled a supermajority of votes in the lower chamber of Congress, so it needed the help of the PAN to change the constitution. The PAN, however, wanted a stronger reform, so the PRI was forced into approving a stronger positive change. In short, the ideology of the PAN, not that of the PRI, played a significant role: “the combination of an insecure ruling party seeking insurance and an opposition party pushing for greater judicial empowerment determined the final judicial reform package” (Finkel 2008, 102).

8. I am grateful to Doug Hecock for sharing his original (2006) data and recent updates.

9. I thank an anonymous reviewer for this suggestion.

10. I thank an anonymous reviewer for emphasizing these points, and for language used in this paragraph.

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