v. 05, nº 01 - jan/jun 2025
ISSN 2763-8685

LATIN AMERICAN JOURNAL OF EUROPEAN STUDIES

BRIDGE WATCH
JEAN MONNET POLICY DEBATE

LACES
Latin American Center of European Studies

Co-funded by the European Union

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https://dx.doi.org/10.51799/2763-8685v5n1018

SELECTION PROCESSES AND REPRESENTATIVENESS WITHIN THE FRAMEWORK OF JUDICIAL INDEPENDENCE:

a Latin American empirical study[1/2/3]

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ABSTRACT: This article provides a comparative analysis of judicial selection and appointment processes in ten Latin American countries: Argentina, Bolivia, Brazil, Chi-

1. A.B. de Moura, N. Posenato, N. C. Rodrigues, "Selection processes and representativeness within the framework of judicial independence: a Latin American empirical study," *Latin American Journal of European Studies* 5, no. 1 (2025): 434 et seq.
2. This article was developed within the framework of the Jean Monnet Network "BRIDGE Watch: Valores y Democracia entre la Unión Europea y América Latina" (101126807), co-funded by Erasmus+ Programme. The support of the European Commission for the production of this publication does not constitute an endorsement of its contents, which reflect the views of the authors alone. The Commission cannot be held responsible for any use that may be made of the information contained herein.
3. Sections 1, 1.1, 1.2, 1.3 and the *Final Considerations*, were authored by Naiara Posenato. Sections 2, including 2.1, 2.2, 2.3, 2.4, 2.5 and the *Introduction*, were authored by Aline Beltrame de Moura and Nuno Cunha Rodrigues.
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le, Colombia, Ecuador, Mexico, Paraguay, Peru, and Uruguay. It examines how institutional frameworks shape the selection, nomination, and term length of judges in both lower and higher courts, highlighting differences in meritocratic, political, and electoral approaches. The study was developed as a result of an academic partnership between the Jean Monnet Network "BRIDGE Watch: Valores y Democracia entre la Unión Europea y América Latina", co-funded by Erasmus+ Programme and the Inter-American Juridical Committee of the OAS. Based on data from national experts within the BRIDGE Watch network, the article identifies how these procedures affect judicial independence, representativeness, and public trust. By presenting regional trends and variations, it offers insights for reforms and the promotion of Rule of Law and democracy in Latin America.

KEY-WORDS: Judicial Independence; Selection Processes; Latin America.

PROCESOS DE SELECCIÓN EN EL MARCO DE LA INDEPENDENCIA JUDICIAL: UN ESTUDIO EMPÍRICO LATINOAMERICANO

RESUMEN: Este artículo ofrece un análisis comparativo de los procesos de selección y nombramiento judicial en diez países de América Latina: Argentina, Bolivia, Brasil, Chile, Colombia, Ecuador, México, Paraguay, Perú y Uruguay. Examina cómo los marcos institucionales configuran los procedimientos de selección, nominación y duración del mandato de jueces tanto en tribunales inferiores como superiores, destacando diferencias entre enfoques meritocráticos, políticos y electorales. El estudio se desarrolló como resultado de una cooperación académica entre la Red Jean Monnet "BRIDGE Watch: Valores y Democracia entre la Unión Europea y América Latina", cofinanciada por el Programa Erasmus+, y el Comité Jurídico Interamericano de la OEA. Basado en datos proporcionados por expertos nacionales miembros de la red BRIDGE Watch, el artículo identifica cómo estos procedimientos afectan la independencia judicial, la representatividad y la confianza pública. Al presentar tendencias y variaciones regionales, ofrece aportes relevantes para posibles reformas y para la promoción del Estado de Derecho y la democracia en América Latina.

PALABRAS CLAVE: Independencia Judicial; Procesos de Selección; América Latina.

INTRODUCTION

Judicial independence is one of the foundational principles of the rule of law, as it constitutes a necessary condition for the protection of fundamental rights, the control of political power, and the safeguarding of minority groups. Howe-

ver, the implementation of this ideal varies considerably across Latin America, where institutional structures differ significantly from one country to another. Of particular relevance are the mechanisms for the selection and appointment of judges, as these not only determine access to the judicial career but also directly affect the legitimacy, public trust, and autonomy of the judiciary in relation to the other branches of government, thereby influencing the effectiveness of judicial independence.

In this context, the main objective of this article is to develop an empirical and comparative analysis of the constitutional and legal models governing the provision of judicial office in ten Latin American countries (Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, and Uruguay), with special emphasis on the procedures for selection, appointment, and term length of both ordinary judges and members of higher courts.

This work is the result of an academic collaboration between the Jean Monnet Network Policy Debate project "BRIDGE Watch: Values and Democracy between the European Union and Latin America" (101126807), co-funded by the European Union under the Erasmus+ programme, and the Inter-American Juridical Committee of the Organization of American States (OAS). The initiative specifically contributes to the thematic report "Selection procedures and representativeness in the context of judicial independence," under the rapporteurship of Dr. Nienke Grossman within the Committee.

The methodology adopted for the development of this article was based on empirical documentary research, with a focus on the collection and analysis of qualitative data. The information was gathered through systematized responses provided by national experts, university professors affiliated with the academic consortium of the BRIDGE Watch project, who completed a structured questionnaire aimed at describing the procedures for selecting and appointing both ordinary judges and members of high courts in their respective countries. The study included contributions from the following scholars: Martina Lourdes Rojo (Universidad del Salvador, Argentina), Boris Wilson Arias López (Universidad

Mayor de San Andrés, Bolivia), Aline Beltrame de Moura (Universidade Federal de Santa Catarina, Brazil), Fabíola Wust Zibetti (Universidad de Chile, Chile), Walter Arévalo Ramírez (Universidad del Rosario, Colombia), Danilo Vicente García Cáceres (Universidad Central del Ecuador, Ecuador), Manuel Becerra Ramírez (Universidad Nacional Autónoma de México, Mexico), Roberto Jesús Ruiz Díaz Labrano (Universidad Nacional de Asunción, Paraguay), Ena Carnero Arroyo (Universidad Nacional de Trujillo, Peru), and Pablo Guerra Arangone (Universidad de la República, Uruguay). The data systematization was coordinated by researcher Carla Lerin from the Federal University of Santa Catarina (Brazil). The methodological approach sought to respect the legal specificities of each national system while also identifying comparable elements across the various contexts.

This article aims to contribute to the legal and institutional debate on best practices in judicial governance in Latin America, offering an informed basis for potential reforms and regional policy recommendations. By fostering a critical understanding of the links between judicial selection, representativeness, and independence, the study aligns with inter-American and European commitments to strengthening democracy, the rule of law, and the protection of human rights.

1. JUDICIAL INDEPENDENCE WITHIN THE FRAMEWORK OF THE RULE OF LAW

With the consolidation of liberal democracies and the emergence of contemporary constitutional justice, the judiciary has progressively expanded its sphere of action alongside the legislative and executive branches. This process has enabled judges to intervene in areas of increasing political relevance, as well as to contribute to the strengthening of the protection of individual rights.[7]

7. This dynamic is also referred to as "judicialization". The literature on the subject, both in the fields of law and political science, is too extensive to be surveyed here, even in summary form. A seminal text on the topic is C. Neal Tate and Torbjörn Vallinder, *The Global Expansion of Judicial Power* (New York: New York University Press, 1995). For an overview and contextual analysis, see the volume Carlo Guarnieri e Patrizia Pederzoli, *Il sistema giudiziario: L'espansione giudiziaria nelle democrazie contemporanee* (Bologna: Il Mulino, 2017), *passim*.

This development underscores the increasing need to safeguard judicial independence.

Judicial independence is not a prerogative or privilege granted in the interest of the judge, but rather a precondition for the rule of law and a fundamental guarantee of the right to a fair trial.[8] For rights and freedoms to be fully effective in a democratic system, the formal primacy of the law over the authority of government actors and private individuals is not sufficient. It is essential to have real and effective judicial oversight capable of ensuring that acts of public authority comply with the legal order, and that every individual's fundamental right to an impartial adjudication, based solely on the law and free from improper influence, is upheld.

The protection of judicial independence, as a means of limiting the arbitrary exercise of political power, has become one of the central aims of modern constitutionalism. This trend can be observed across national legal systems, although significant differences persist in how it is implemented, differences that stem from legal traditions, institutional structures, the status and career path of judges, among other factors. Within this framework, legal safeguards are established to protect both the independence of individual judges and the judiciary as an institution.

One of the fundamental safeguards of judicial independence lies in the system for selecting and appointing judges, which must be governed by certain basic principles, even though significant differences exist between legal cultures, as well as between states with consolidated liberal democracies and those still in the process of strengthening their own democratic frameworks. One of the areas most affected by this tension is the process of judicial selection and

8. V. *inter alia, The Bangalore Principles of Judicial Conduct* (The Bangalore Draft Code of Judicial Conduct 2001, adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices, The Hague, November 25–26, 2002), UN Doc. E/CN.4/2003/65 (2002), Value 1: Independence, "Judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair trial."

appointment, as evidenced by recent reform initiatives in various parts of the world[9], including Latin America.

As the powers attributed to the judiciary expand, there is also a parallel increase in the demand for effective judicial accountability mechanisms. The greater the power and influence exercised by judges in public life, the more essential it becomes to ensure that their actions are subject to oversight and evaluation within a transparent institutional framework that upholds the rule of law[10]. Judges who engage in corrupt practices, abuse the privileges of their office, or fail to uphold the principles of independence, impartiality, and professional integrity must be subject to removal through appropriate institutional mechanisms.

1.1 Definition and Dimensions of Judicial Independence

Judicial independence is a relational, complex, and multifaceted concept. Numerous theories and interpretations have been proposed on the subject, and a wide range of vocabulary has been employed to describe the different perspectives through which it is articulated[11]. For the limited purposes of this analysis, it may be defined as the condition under which judges are able to act without restrictions, undue influence, pressure, threats, or interference, whether direct or indirect, from any authority, whether *de jure* or *de facto*.

Judicial independence encompasses two fundamental dimensions. On the one hand, external or institutional independence refers to the autonomy of the judicial system from external influences, particularly those exerted by the other branches of government, namely, the legislative and executive powers[12]. On

9. Kate Malleson, "Introduction", in *Appointing judges in an age of judicial power. Critical perspectives from around the world*, ed. Kate Malleson and Peter H. Russell (University of Toronto Press, 2006), 4.

10. In this regard, and for further bibliographic references, v. Nuno Garoupa and Tom Ginsburg, *Guarding the Guardians: Judicial Councils and Judicial Independence*, John M. Olin Program in Law and Economics Working Paper no. 444 (2008), 18.

11. For an analytical reconstruction of the various theories proposed to outline the principle v. David Kosař and Samuel Spáč, "Judicial Independence", *The Cambridge Handbook of Constitutional Theory*, ed Richard Bellamy and Jeff (Cambridge University Press, 2025), 869 ss.

12. By instance, "*...a situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable, or where the latter is able to control or direct the former, is incompatible with the notion of an independent tribunal.*" Cfr. Leandro Despouy,

the other hand, internal independence refers to each judge's ability to decide freely, based on the analysis of the facts and in accordance with the Constitution and the law, without being subject to pressure, even from hierarchical superiors within the judiciary itself[13]. Scholarly doctrine sometimes classifies these two dimensions under the heading of structural independence, in order to distinguish them from impartiality, understood as behavioral independence, which refers to a judge's ability to act without bias or favoritism in the specific context of a case, with respect to the parties involved[14].

Contemporary debates emphasize that judicial independence is not limited to its existence as an institutional reality, but also encompasses an equally important dimension related to public perception. In this regard, it is important to distinguish between actual independence, referring to the effective ability of judges to adjudicate cases autonomously and free from undue influence, and perceived independence, which reflects the extent to which the public believes that judicial decisions are made freely and without external pressure. This public perception is essential for the social legitimacy of the judicial system as a whole; its absence can have serious consequences, such as an increased reliance on informal dispute resolution mechanisms, or even resort to private violence, as well as subjugation to forms of power, whether individual, state, or corporate, grounded in force or coercion, to the detriment of the rule of law[15].

Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, UN Human Rights Council, A/HRC/11/41 (March 24, 2009), §18, p. 7.

13. In other words, judges must perform their functions with full autonomy from higher judicial authorities. For example, the allocation of cases within each court must be based on objective and pre-established criteria, in order to safeguard the right of the parties to be judged by an independent and impartial judge. See Committee of Ministers of the Council of Europe, *Judges: Independence, Efficiency and Responsibilities*, Recommendation CM/Rec(2010)12 and Explanatory Memorandum (Strasbourg: Council of Europe, November 17, 2010), §24, p. 9. This autonomy does not, however, exclude the possibility of judicial decisions being reviewed by higher courts through legally established appeals, nor does it disregard the value that each national legal system assigns to the case law and precedents established by Supreme or High Courts. As stated in Article 4 of the *Statute of the Ibero-American Judge*, adopted during the VI Ibero-American Summit of Presidents of Supreme and High Courts of Justice, held in Santa Cruz de Tenerife, Canary Islands, Spain, on 23–25 May 2001.
14. David Kosař and Samuel Spáč, "Judicial Independence", 868.
15. Jan van Zyl Smit, *Judicial Appointments in Latin America: The Implications of Tenure and Appointment Processes* (London: Bingham Centre for the Rule of Law, 2016), §11, 4.

In order to ensure judicial independence, a more or less structured set of safeguards has been established to protect judges in the exercise of their functions. Taken as a whole, these guarantees define not only the special status and institutional position of individual judges, but also that of the judiciary as a whole in relation to the other branches of government. They are instrumental in preserving both the perception of impartiality and autonomy, and the effective implementation of these principles in practice.

1.2 Relevant International and Regional Standards on Judicial Independence

Since the mid-20th century, a body of ideas has emerged aimed at strengthening the rule of law and the institutions that support it, both at the national and international levels. The protection of fundamental rights, advanced through international, and especially regional, instruments such as the European Convention on Human Rights (ECHR)[16] and the American Convention on Human Rights (Pact of San José)[17], is closely linked to the recognition of judicial guarantees as institutional safeguards. These guarantees are essential preconditions for the enforceability of other rights, thereby strengthening the role of judicial power and judges in ensuring their effective realization.

Specific texts issued by both international organizations and official bodies, as well as by independent groups, establish standards on judicial independence with varying levels of detail, offering a broad and structured perspective on the elements that must be ensured. At the universal level, two key instruments stand out: the United Nations Basic Principles on the Independence of the Judiciary,

16. The issue of judicial independence is encompassed within the framework of the Right to a fair trial, as enshrined in ECHR Article 6 – Right to a fair trial: "1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

17. Article 8 of the American Convention on Human Rights sets out the elements of due process of law, and provides that: "Article 8 – Right to a fair trial 1. Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against them or for the determination of their rights and obligations of a civil, labor, fiscal, or any other nature."

adopted by the General Assembly in 1985[18], and the Bangalore Principles of Judicial Conduct, endorsed by the United Nations Economic and Social Council in 2002 and subsequently adopted by the UN Commission on Human Rights in Resolution 2003/43, with the support of more than eighty countries from diverse legal traditions[19].

At the regional level in Europe, reference should be made to Recommendation No. R (94) 12 of the Committee of Ministers of the Council of Europe and Opinion No. 1 (2001) of the Consultative Council of European Judges (CCJE), both of which reaffirm the standards concerning judicial independence and security of tenure[20]. In the Asia-Pacific region, the Beijing Statement of Principles of the Independence of the Judiciary in the Lawasia region (1995) represents a significant milestone[21]. Within the Commonwealth context, the Latimer House Principles on the Three Branches of Government (2003) stand out as a key reference[22].

In the Americas, one of the most significant documents is the Statute of the Ibero-American Judge, adopted in May 2001 by representatives of the judiciaries of 20 Ibero-American countries. It establishes common parameters regarding impartiality, security of tenure, accountability, and the duties of judges[23]. This effort was reinforced by the Declaration of Minimum Principles on the Independence of Judiciaries and Judges in Latin America, known as the Campeche Declaration, adopted by the General Assembly of the Latin American

18. United Nations, *Basic Principles on the Independence of the Judiciary* (adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, August 26-September 6, 1985; endorsed by General Assembly resolutions 40/32 of November 29, 1985 and 40/146 of December 13, 1985).

19. *The Bangalore Principles of Judicial Conduct*.

20. Consultative Council of European Judges (CCJE), *Opinion No. 1 (2001) on Standards Concerning the Independence of the Judiciary and the Irremovability of Judges* (Strasbourg: Council of Europe, 2001).

21. Law Association for Asia and the Pacific (LAWASIA), *Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region* (adopted in Beijing, China, August 1995).

22. Commonwealth Secretariat, *Commonwealth (Latimer House) Principles on the Accountability of and the Relationship Between the Three Branches of Government* (adopted by Law Ministers and endorsed by Commonwealth Heads of Government, Abuja, Nigeria, 2003).

23. Cumbre Iberoamericana de Presidentes de Cortes Supremas y Tribunales Supremos de Justicia, *Estatuto del Juez Iberoamericano* (adopted at the VI Cumbre, Santa Cruz de Tenerife, Canarias, España, May 23-25, 2001).

Federation of Judges, which also called for permanent judicial appointments as a core safeguard of independence[24]. Subsequently, in 2013, the Inter-American Commission on Human Rights published a dedicated report entitled *Guarantees for the Independence of Justice Operators*, which focuses on the institutional and functional protection of judicial actors[25].

Although these instruments vary in origin and scope, they converge in affirming that judicial independence requires normative, institutional, and functional guarantees aimed at preventing external interference and ensuring the impartiality of adjudicators.

1.3 Selection and Appointment Processes: International Standards and Comparative Perspectives

The selection and appointment of judges is a decisive element in safeguarding judicial independence. Any form of dependency on the authority responsible for the appointment seriously undermines a judge's ability to render decisions that are impartial, legitimate, and of high technical quality.[26] The absence of adherence to certain fundamental parameters may create space for a high degree of discretion on the part of the appointing authorities, which could result in the selection of individuals who are not necessarily the most qualified for the position[27].

At present, internationally accepted standards regarding judicial selection procedures are generally based on the principle of merit and promote the depoliticization of appointment processes[28]. Broad consensus supports the view

24. General Assembly of the Latin American Federation of Judges (FLAM), *Declaration of Minimum Principles Concerning the Independence of the Judicial Branch and Judges in Latin America ("Campeche Declaration")* (adopted at Campeche, Mexico, 2008).

25. Inter-American Commission on Human Rights, *Guarantees for the Independence of Justice Operators: Towards strengthening of access to justice and the rule of law in the Americas*, OEA/Ser.L/V/II (December 5, 2013).

26. Garoupa and Ginsburg, Tom, *Guarding the Guardians*, 2.

27. See also Inter-American Commission on Human Rights, *Guarantees for the Independence of Justice Operators*, 27.

28. See European Commission for Democracy through Law (Venice Commission), Judicial Appointments, Report adopted at the 70th Plenary Session (Venice, 16–17 March 2007), CDL-AD(2007)028, Opinion No. 403/2006, §3, 2.

that evaluations should be carried out objectively, according to pre-established criteria, and through procedures that are public, transparent, and non-discriminatory, without prejudice to any legitimate requirement of nationality established by the country concerned.

Merit is primarily associated with legal and technical competence[29] and is sometimes linked to qualities such as efficiency, or prior professional experience. In addition, ethical and behavioural aspects, such as integrity and, more broadly, independence, may also be considered relevant[30]. In some legal systems, there is a growing trend towards greater representativeness within the judiciary, promoting gender equity and the inclusion of minority groups, with the aim of addressing historical patterns of discrimination[31].

Due to the special functions they perform, the selection and appointment criteria for judges of higher and constitutional courts often differ from those applicable to judges of ordinary courts. These high jurisdictions play a particularly significant role in their interaction with the other political branches of the State and issue decisions with far-reaching social and political implications[32]. Accordingly, many higher courts follow a "recognition-based judiciary" model,

29. See United Nations, *Basic Principles on the Independence of the Judiciary* (1985), Principle 10: "Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law"; *Statute of the Ibero-American Judge* (2001), art. 11: "Selection and appointment procedures shall be conducted by bodies predetermined by law, applying procedures that are likewise predetermined and public, and that objectively assess the professional knowledge and merits of the candidates"; Law Association for Asia and the Pacific (LAWASIA), *Beijing Statement of Principles of the Independence of the Judiciary* (1995), principles 11-12. "To enable the judiciary to achieve its objectives and perform its functions, it is essential that judges be chosen on the basis of proven competence, integrity and independence. [...] The mode of appointment of judges must be such as will ensure the appointment of persons who are best qualified for judicial office. It must provide safeguards against improper influences being taken into account so that only persons of competence, integrity and independence are appointed."

30. In some common law systems, there is growing tension between the traditional emphasis on formalist legal-technical skills and the increasing demand for communicative, practical, and interpersonal abilities. See Malleson, *Judicial Appointments*, 9.

31. See Commonwealth Secretariat, *Commonwealth (Latimer House) Principles on the Three Branches of Government* (2003), IV(a).

32. Malleson, *Judicial Appointments*, 5 "*The rationale for judicial independence in the various types of courts also needs to be differentiated. The reason for ensuring that judges appointed at trial level are independent of their appointers is to ensure that judges can decide cases impartially as between the parties – without being affected by 'fear or favour,' as is commonly articulated in the judicial oath sworn by judges on taking office. In the top review courts, however, where judges are often called upon to decide between the competing ideologies, values, or policies which underlie the law, the notion of impartiality is more problematic.*" (6)

which allows for the appointment of distinguished jurists from outside the judicial career, including legal practitioners, academics, and, in some cases, political figures. While this model is characteristic of common law systems, it is also found in the highest courts of several civil law jurisdictions[33].

In practice, national legal systems implement judicial selection criteria in diverse ways, giving varying degrees of importance to factors such as technical competence, interpersonal skills, or the candidate's prior professional experience. These variations are largely shaped by the institutional structure of the judiciary and the model of judicial career in place. Although such structures differ considerably across legal traditions, they generally fall between two ideal types of judicial organization: the bureaucratic model and the professional model, typically associated with civil law and common law systems, respectively. In systems characterized by a bureaucratic judiciary, judges are selected through technically structured procedures such as competitive public examinations, which primarily assess candidates' legal knowledge. These exams are generally aimed at recent law graduates with little or no professional experience. This model emphasizes early socialization within the judicial career as a means of professional training and consolidation. In contrast, professional judiciary systems adopt selection mechanisms designed to recruit jurists with a well-established professional trajectory, particularly in legal practice, thereby fostering prior socialization in broader legal contexts[34].

Both models present, at first glance, distinct advantages and challenges. In the case of the bureaucratic model, one may question whether competitive examinations should serve as the sole determining criterion for entry into the judiciary, or whether factors such as prior professional experience and personal competencies should also be taken into account. Conversely, in the professional model, concerns may arise regarding the objectivity, transparency, and fairness

33. See Van Zyl Smit, *Judicial Appointments in Latin America*, §30, 9–10.

34. See John Henry Merryman and Rogelio Pérez-Perdomo, The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America, 3rd ed. (Stanford: Stanford University Press, 2007), 34 ff.

of the selection process, particularly when it is mediated by mechanisms of cooptation or institutional discretion[35].

These models also raise important questions regarding the development of judicial careers over time, with significant implications for the guarantee of judicial independence. In the bureaucratic model, the judiciary is structured hierarchically, with promotion mechanisms based on competitive evaluation. This logic can generate institutional pressures, whether real or perceived, that may influence how judges decide cases, encouraging alignment with internal expectations or those of higher-ranking authorities, even when such alignment conflicts with their legal conscience or interpretation of the law[36]. Unlike in civil law systems, judges in common law jurisdictions generally have fewer formal opportunities for promotion, which tends to reduce the potential for political interference in their decision-making through the expectation of advancement to higher judicial office.

In addition to judicial appointment systems based on various criteria focused on the technical qualifications of candidates, there are also electoral models in which judges are chosen either directly by the people or indirectly by parliament, in partisan or non-partisan contexts. This model has attracted increasing attention in recent years, in line with the broader trend toward enhancing judicial accountability, as it is often perceived as conveying greater democratic legitimacy[37]. However, such an approach offer few garanties os professional competence and also entails significant risks, including the potential politicization of the selection process and the involvement of judges in dynamics typical of electoral campaigns, particularly in contexts marked by deep social polarization and uncertainty regarding the country's institutional trajectory[38].

35. See Venice Commission, Report on Judicial Appointments, CDL-AD(2007)028, §36.
36. Garoupa and Ginsburg, *Guarding the Guardians*, 9.
37. For a descriptive overview of the arguments for and against the elective system, see, among others, Charles Gardner Geyh, Who Is to Judge? The Perennial Debate over Whether to Elect or Appoint America's Judges (New York: Oxford University Press, 2019).
38. Aníbal Pérez Liñán and Andrea Castagnola, "Institutional Design and External Independence: Assessing Judicial Appointments in Latin America" (APSA 2011 Annual Meeting Paper, 2011), 4, https://ssrn.com/abstract=1901127.

Judicial appointment methods also vary, even within a single legal system, with frequent distinctions between procedures applicable to higher courts and those used for lower courts. These procedures may include political appointments - whether unilateral, by a single branch such as the executive (single-body mechanism), or involving collaboration between branches, such as the executive and the legislature (cooperative mechanism). Appointments may also be made cooperatively, by bodies composed exclusively of judges, or through judicial councils with pluralistic representation. Representative appointment mechanisms enable two or more bodies to each appoint a number of members to a court[39]. Lastly, hybrid systems exist in which the nominating body belongs to one category (e.g., a judicial council), while the authority that formalizes the appointment resides in another (e.g., a political authority)[40].

The formal text of a constitution does not always reflect the actual functioning of judicial appointment mechanisms. In practice, executive bodies that appear to hold broad or unchecked powers of appointment under constitutional provisions may, in fact, operate within significant limits imposed by statutory norms or established conventions, effectively transforming such mechanisms into cooperative or professional systems[41].

All methods exhibit both strengths and weaknesses. Popular elections provide direct democratic legitimacy but expose candidates to political pressure and risks of clientelism. Judicial cooptation tends to ensure technical competence,

39. For example, in the Italian Constitutional Court, the fifteen judges are appointed through a mixed system that reflects a balance among the branches of government. Specifically, five judges are appointed by the President of the Republic, five are elected by Parliament in joint session (i.e., by both the Chamber of Deputies and the Senate), and the remaining five are elected by the highest judicial bodies: three by the Court of Cassation, one by the Council of State, and one by the Court of Auditors. This structure is designed to ensure a pluralistic composition and to preserve the independence of the Court from any single institutional influence.

40. See Despouy, *Promotion and Protection of All Human Rights*, §24, 8.

41. A discrepancy between constitutional provisions and actual practice can be observed in the Netherlands. While the Constitution formally provides for the appointment of Supreme Court judges by the king—on the binding advice of the government and from a shortlist submitted by the lower house of parliament—this procedure, though ostensibly cooperative, is largely professional in practice, as the shortlist is typically based on recommendations made by the Supreme Court itself. See Ten Kate, J. and van Koppen, P. J., 'The Netherlands: Toward a Form of Judicial Review', in C. N. Tate and T. Vallinder (eds), *The Global Expansion of Judicial Power,* New York: New York University Press, 1995.

yet it may lead to conservatism and corporatism. Appointments by political authorities can enhance institutional legitimacy, but they also risk undermining judicial independence[42].

As an alternative, the involvement of independent bodies in nomination processes has been proposed. In general, international standards recommend that all matters relating to the selection, appointment, promotion, and discipline of judges should fall, at least in part, under the responsibility of an authority that is independent of both the executive and legislative branches, particularly with regard to lower courts[43]. Many states have established specific bodies endowed with autonomy and independence to play an exclusive or complementary role in such procedures[44]. The Venice Commission recommends that the membership of such bodies should not be composed exclusively of judges, in order to avoid situations of "corporatism."[45] Similarly, the Inter-American Commission on Human Rights has stated that Judicial Councils should be autonomous from Supreme Courts and should not be chaired by the president of the highest court within the jurisdiction[46].

The length and stability of judicial appointments are also matters that require appropriate safeguards in order to protect judges from external pressures or conflicts of interest, elements that are essential to maintaining an independent judiciary. International standards indicate that permanent appointments are generally preferable in this regard[47]. However, in the case of higher or constitutional courts, fixed-term appointments may be considered acceptable, provided they

42. See CCJE, Opinion No. 1 (2001), §33, 8.

43. In the case of constitutional courts, given their inherently more political nature and function, the involvement of the legislative branch in the appointment process may be justified, provided that it is carried out on the basis of transparent rules and pre-established criteria.

44. On composition, functions, and limits, and for further bibliography, see extensively Garoupa and Ginsburg, *Guarding the Guardians*, *passim*.

45. See Venice Commission, *Report on Judicial Appointments* (CDL-AD(2007)028), Opinion No. 403/2006, §42, [27]–[30].

46. IACHR, *Guarantees for the Independence of Justice Operators*, 2013, 10, 246.

47. See, *inter alia*, CCJE, *Opinion No. 1 (2001)*, §48, 12; UN, *Basic Principles on the Independence of the Judiciary*, Principle 12.

are of substantial duration and non-renewable[48]. Judicial tenure should extend until mandatory retirement age or until the expiration of a fixed term, which must be clearly defined and established in advance.

2. PROCEDURES IN LATIN AMERICA

The development of this study was based on empirical documentary research focused on the collection and analysis of qualitative data regarding the selection and appointment processes of judges in ten Latin American countries: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, and Uruguay. The study resulted from an academic partnership between the Jean Monnet Network Policy Debate project "BRIDGE Watch: Values and Democracy between the European Union and Latin America" and the Inter-American Juridical Committee of the Organization of American States (OAS), with the aim of contributing to the thematic report *Selection processes and representativeness within the framework of judicial independence*, under the rapporteurship of Dr. Nienke Grossman.

Data collection was conducted through a structured questionnaire addressed to national experts affiliated with the BRIDGE Watch project, all of whom are university professors with extensive research experience. The questionnaire requested a detailed description of the legal frameworks governing the selection, appointment, and term lengths of judges in both ordinary and high courts of their respective countries. The responses were systematized to allow for comparison across different legal contexts, while respecting national specificities. The adopted methodology enabled the identification of regional patterns, institutional variations, and the main challenges faced by the countries in promoting judicial independence and representativeness in the appointment of judges.

48. See Jan van Zyl Smit, *The Appointment, Tenure and Removal of Judges under Commonwealth Principles: A Compendium and Analysis of Best Practice* (Report of Research Undertaken by the Bingham Centre for the Rule of Law, 2015), 19.

2.1 Constitutional and Legal Framework

With regard to the constitutional and legal framework guiding the selection and appointment of judges in the ten Latin American countries analyzed, the normative foundation lies primarily in the National Constitutions[49] of each country, some of them underwent subsequent reforms, and is often complemented by infra-constitutional norms, such as organic laws of the judiciary and judicial codes.

In general terms, the guiding principles of judicial selection and appointment processes in Latin American countries reveal the existence of shared normative guidelines, albeit applied with variations depending on the country and the judicial level. Thus, there is a common normative basis that primarily combines merit, transparency, citizen participation, independence, and ethics as pillars of judicial selection in the region.

Merit emerges as a central principle, particularly in lower courts, where public competitive examinations assess knowledge, skills, experience, and integrity (as in Argentina, Brazil, Colombia, Ecuador, Paraguay, Peru, and Uruguay). In Mexico, even after the 2024 constitutional reform[50] that introduced popular elections, technical and academic criteria continue to be required. Transparency is emphasized as an essential principle in countries such as Argentina, Peru, Ecuador, Colombia, and Mexico, through mechanisms that include public consultations and hearings, the disclosure of information, and social oversight. Citizen participation is formally integrated into processes such as consultations and challenges (Argentina, Colombia, Ecuador, and Peru), and, in the case of

49. Argentina, *Constitución de la Nación Argentina*, 1994; Bolivia, *Constitución Política del Estado Plurinacional de Bolivia,* 2009; Brazil, *Constituição da República Federativa do Brasil,* 1988; Chile, *Constitución Política de la República de Chile*, 1980; Colombia, *Constitución Política de Colombia*, 1991; Ecuador, *Constitución de la República del Ecuador*, 2008; Mexico, *Constitución Política de los Estados Unidos Mexicanos*, 1917; Paraguay, *Constitución Nacional de la República del Paraguay*, 1992; Peru, *Constitución Política del Perú*, 1993; Uruguay, *Constitución de la República Oriental del Uruguay*, 1967.

50. On September 15, 2024, the Decree amending, adding, and repealing various provisions of the Political Constitution of the United Mexican States regarding the reform of the Judiciary was published in the Official Gazette of the Federation (*Diario Oficial de la Federación – DOF*).

Mexico, it has been radically expanded through the adoption of popular elections for judges.

Judicial independence is repeatedly cited as a central objective of selection rules, aiming to ensure impartiality and to protect the judiciary from external interference (as reflected in the reforms and safeguards provided in Argentina, Colombia, Chile, Ecuador, Mexico, and Uruguay). Finally, principles such as integrity, probity, ethics, and moral uprightness are emphasized to ensure that selected judges not only meet technical requirements but also demonstrate exemplary moral conduct (Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, and Peru).

With regard to higher courts, the applicable normative framework is generally defined directly by the National Constitutions, and it is common for the appointment process to involve the joint participation of the Executive Branch (President of the Republic) and the Legislative Branch (Senate or equivalent assembly). For lower courts, several countries, such as Argentina, Bolivia, Ecuador, Paraguay, Peru, and Uruguay, have constitutionally established Judicial Councils or equivalent bodies responsible for conducting the selection and appointment processes at the first instance level.

In addition, complementary norms detail the constitutional procedures, such as the *Decreto relativo al Consejo de la Magistratura* in Argentina[51], the *Ley Estatutaria de la Administración de Justicia* in Colombia[52], the *Ley Orgánica de la Junta Nacional de Justicia*[53] and the *Ley Orgánica del Tribunal Constitucional* in Peru[54], the *Código Orgánico de la Función Judicial* in Ecuador[55], as well

51. Argentina. *Law No. 24.937 – Law of the National Council of the Judiciary*. Official Gazette, December 10, 1997; Argentina. *Decree No. 222/2003- Procedure for the exercise of the authority granted to the President of the Nation by Article 99, Section 4, of the Constitution of the Argentine Nation for the appointment of Supreme Court Justices. Regulatory framework for the preselection of candidates to fill vacancies*. Official Gazette, June 19, 2003.
52. Colombia. *Statutory Law on the Administration of Justice, Law 270 of 1996*. Enacted March 7, 1996.
53. Peru. *Organic Law of the National Board of Justice, Law No. 30916*. Enacted March 20, 2019.
54. Peru. *Organic Law of the Constitutional Court, Law No. 28301*. Enacted August 31, 2004.
55. Ecuador. *Organic Code of the Judicial Function, Law No. 2009-024*. Official Register Supplement No. 544, March 9, 2009. Last amended March 10, 2022.

as the controversial *Ley Orgánica del Poder Judicial y de Organización de los Tribunales* in Uruguay[56] [57].

2.2 Eligibility Requirements

Judicial eligibility requirements in Latin American countries reflect high standards of qualification, professional experience, and moral integrity, thereby reinforcing public confidence and the legitimacy of the judiciary.

For higher courts, eligibility criteria tend to be even more stringent. In addition to requiring a law degree, a minimum period of legal experience is typically demanded, ranging from five to fifteen years depending on the country. Professional experience as a lawyer, judge, prosecutor, public defender, or university professor is commonly accepted. Distinction in one's legal career is often valued, underscoring the importance of meritocracy and technical competence.

Moral integrity, an unblemished reputation, and ethical conduct are central requirements and are explicitly stipulated in nearly all of the countries analyzed. In addition to these criteria, some jurisdictions establish minimum age thresholds for appointments to the highest judicial positions. In Argentina (*Corte Suprema de Justicia de la Nación*), Bolivia (*Corte Suprema de Justicia*), and Mexico *(Suprema Corte de Justicia de la Nación*, after the 2024 reform), the candidate must be at least 30 years old. For the *Tribunal Constitucional Plurinacional* of Bolivia, the minimum age is 35; in Brazil (*Supremo Tribunal Federal*), the candidate must be between 35 and 70 years of age; and in Peru (*Corte Suprema*), at least 45.

Some countries adopt distinctive and innovative approaches to the composition of their higher courts, such as Chile and Brazil. In the Chilean system, five justices of the Corte Suprema must be selected from among lawyers external to the judicial career, with at least fifteen years of professional practice and a record

56. Uruguay. *Law No. 19.830 of 2019. Reform of aspects of the organization and administration of the judicial career*. Montevideo. Official Gazette, July 18, 2019.

57. Uruguay. *Supreme Court Judgment No. 549/2022*, July 20, 2022. The Supreme Court of Justice of Uruguay declared several articles of Law No. 19.830/2019 unconstitutional for infringing upon the exclusive competences of the Judiciary and violating the principle of separation of powers. The challenged provisions (Articles 1, 2, 3, 6, 7, 8, and 10) were formally repealed by *Law No. 20.212*, November 6, 2023.

of notable distinction. Similarly, Brazil applies the so-called *quinto constitucional* (constitutional fifth), a provision that reserves one-fifth of the seats in certain courts for practicing lawyers and members of the Public Prosecutor's Office. These mechanisms aim to ensure professional diversity in the composition of the judiciary, preventing exclusive occupation of these positions by career judges.

It is also noteworthy that Ecuador's Constitution and Bolivia's legislation promotes gender parity in the composition of the *Corte Constitucional* and of the *Tribunal Supremo de Justicia,* respectively, while Mexico enshrines this principle across all levels of the judiciary, reflecting institutional commitments to gender equality and representativeness. In countries that adopt popular elections to select judges, such as Bolivia and Mexico, party affiliation is prohibited among candidates, as a safeguard for judicial impartiality and independence.

The selection of lower court judges in the countries analyzed is predominantly based on competitive public processes that prioritize merit, assessing legal knowledge, professional experience, technical aptitude, and moral and ethical integrity. Common requirements include a minimum academic qualification, generally a law degree, prior professional or academic experience in the legal field, and successful performance in public competitive exams. In Mexico, for example, following the 2024 constitutional reform, *magistrados de circuito y de distrito* (federal judges) must hold a law degree, have at least five years of proven legal activity, and demonstrate good reputation.

In summary, although normative and structural differences exist among Latin American countries, there is a shared pattern of valuing technical qualifications, legal experience, and moral integrity as essential prerequisites for entering the judiciary. The prevailing trend is the strengthening of meritocracy at the lower levels through rigorous public examinations, while appointments to higher courts remain influenced by political or institutional considerations, often combined with prior technical screening. Experiences in Chile and Brazil demonstrate efforts to diversify judicial profiles through the inclusion of lawyers and prosecutors, while Peru stands out with its institutionalized meritocratic

model. Initiatives promoting gender equity, such as in Ecuador and Mexico, and the prohibition of political affiliation in electoral systems, as seen in Bolivia and Mexico, further reveal a regional concern for judicial representativeness and impartiality. Despite national particularities, the countries in the region converge on the importance of criteria that ensure legitimacy, diversity, and the independence of the judiciary.

2.3 Selection Procedures

The procedures for selecting judges in Latin American countries reveal a wide variety of models, reflecting different legal traditions and institutional frameworks across the region.

In higher courts, selection procedures are more diverse and complex. Bolivia and Mexico (following the 2024 reform) have adopted popular elections to choose members of their supreme courts, although candidates must first be preselected through legislative processes. In other countries, judicial appointments are primarily made by the Executive Branch with approval from the Legislature, such as in Argentina (*Corte Suprema*), Brazil (*Supremo Tribunal Federal* and *Superior Tribunal de Justiça*), Chile (*Corte Suprema*), and Paraguay (*Corte Suprema de Justicia*). In Uruguay, members of the *Suprema Corte de Justicia* are elected by the *Asamblea General*, and in Colombia by the Senate of the Republic.

Often, these selection processes are guided by lists prepared by other bodies, such as judicial councils or the courts themselves. In Argentina, the process is characterized by broad transparency and citizen participation. In Chile, Senate approval requires a two-thirds majority of sitting members, while in Uruguay, election by the *Asamblea General* also demands a qualified two-thirds majority, with both chambers voting jointly.

In Colombia, justices of the *Corte Constitucional* are elected by the Senate from a list of three candidates (*listas tríplices*) submitted respectively by the President of the Republic, the *Corte Suprema de Justicia*, and the Council of State. These lists must include lawyers from different legal specializations,

ensuring diversity in the court's final composition. Meanwhile, the judges of Colombia's *Corte Suprema de Justicia* are elected by the Full Chamber of the Court through a cooptation system, based on lists prepared and submitted by the *Consejo Superior de la Judicatura*.

In Peru, justices of the *Tribunal Constitucional* are selected through a merit-based public competition conducted by a special commission created by the National Congress. In many countries, the selection process includes additional steps such as public hearings, the evaluation of work proposals, or detailed background and merit assessments.

Notably, in Uruguay, the selection process for the *Suprema Corte de Justicia* has faced recurring criticism due to its lack of transparency, limited citizen participation, and the absence of effective accountability mechanisms. In 2023, the *Suprema Corte de Justicia* declared several provisions of Law No. 19.830/2019[58] unconstitutional, arguing that they encroached upon the exclusive powers of the Judiciary as enshrined in the Uruguayan Constitution and violated the principle of separation of powers. These concerns had already been raised in 2017, when the country was summoned by the Inter-American Commission on Human Rights to explain the state of judicial independence[59].

As for lower courts, the predominant method of judge selection is the public competitive examination process (*concurso público de provas e títulos* or *méritos y oposición*), based essentially on merit. This process is generally conducted by bodies such as the *Consejo de la Magistratura* (Argentina, Bolivia, and Paraguay), the *Consejo Nacional de Justicia* (Peru), the *Corte Suprema* (Uruguay and partially in Chile, where appellate courts also participate for certain appointments), the *Consejo de la Judicatura* (Ecuador), and State or Federal Courts in accordance with the guidelines of the *Conselho Nacional de Justiça* (Brazil). The process typically includes written and oral exams, résumé analysis, interviews, and in some cases, training after selection or probationary periods.

58. Uruguay. *Supreme Court of Justice*. Judgment No. 549/2022, July 20, 2022.

59. CAinfo. 2017. "Concerns about the Selection Process of Supreme Court Justices." *CAinfo*. Accessed May 28, 2025. https://www.cainfo.org.uy/2017/01/preocupacion-por-proceso-de-eleccion-de-ministrosas-de-la-suprema-corte-de-justicia/.

In Argentina and Chile, once the initial evaluation stages are completed, shortlists of three or five candidates are prepared, by the *Consejo de la Magistratura* in Argentina, and by the *Corte de Apelaciones* or the *Corte Suprema* in Chile, and subsequently submitted to the Executive Branch for final appointment. Ecuador and Peru incorporate mechanisms for citizen participation, allowing challenges during the process. Colombia faces particular challenges due to the high number of provisional judges, which affects systemic stability[60]. In contrast, Mexico, following the 2024 constitutional reform, introduced a major innovation by adopting direct popular elections for federal judges of circuit and district courts.

Thus, higher courts are generally filled through procedures with stronger political components involving the Executive and Legislative branches, while lower courts tend to follow merit-based systems structured around public competitive examinations and technical evaluations. Countries such as Argentina and Chile present hybrid models, combining technical shortlisting with final appointment by the Executive. Others, like Peru and Ecuador, incorporate greater citizen participation into their selection processes.

Among countries adopting popular elections for their highest courts, only Mexico extends this model to lower courts as well, while Bolivia continues to appoint judges at lower levels through merit-based examinations. Despite differing institutional designs, all models, to varying degrees, seek to balance judicial independence, democratic legitimacy, and institutional accountability.

2.4 Forms of Appointment

The formal act of appointing judges represents a central stage within Latin American judicial systems, as it officially formalizes the final decision of the selection process. Although selection mechanisms vary considerably across countries, the authority responsible for drafting and signing the act of appoint-

60. Colombia. *Statutory Law on the Administration of Justice*, Law 270 of 1996, art. 132.2.

ment reflects each country's institutional design and the degree of involvement of the Executive, Legislative, Judiciary, or electorate in legitimizing the judiciary.

In the case of higher courts, appointment methods can be categorized into distinct institutional models. The first group includes countries that adopt a presidential model with legislative oversight. In Brazil (*Supremo Tribunal Federal* and *Superior Tribunal de Justiça*) and Argentina (*Corte Suprema*), appointments are made by the President of the Republic and subject to Senate confirmation. A similar structure exists in Chile (*Corte Suprema*), where the President of the Republic appoints from a shortlist drafted by the Court itself, also requiring Senate approval. In Paraguay, the Justices of the *Suprema Corte de Justicia* are appointed by the Executive, with Senate approval, from lists submitted by the *Consejo de la Magistratura*.

A second group follows a parliamentary or legislative appointment model. In Uruguay, for example, the members of the *Suprema Corte de Justicia* are appointed exclusively by the Assemblea Geral, with no involvement from the Executive Branch. A third group adopts an institutional model, exemplified by Peru, where the *Junta Nacional de Justicia* is responsible for appointing judges and prosecutors at all levels through, public, merit-based competitions and individual evaluations. Similarly, in Ecuador, the *Pleno del Consejo de la Judicatura* holds the authority to appoint judges across all levels of the judicial career.

Lastly, a fourth group encompasses countries that have introduced direct popular elections for judicial appointments. In Mexico, following the 2024 constitutional reform, the formal appointment merely validates the results of the popular election organized by the National Electoral Institute, and Justices of the Suprema Corte de Justicia take office upon swearing an oath before the Senate. Similarly, in Bolivia, the formal appointment ratifies the results of the direct election organized by the *Órgano Electoral Plurinacional*, with the President of the State presiding over the swearing-in ceremony of the elected members of the *Tribunal Supremo de Justicia*.

As for lower courts, appointments are generally based on the outcomes of public competitive examinations. In Peru, as previously noted, responsibility lies with the *Junta Nacional de Justicia*. In Paraguay, all lower court judges are appointed by the *Corte Suprema de Justicia*, based on proposals from the *Consejo de la Magistratura*. In Argentina, final appointments are made by the president with the agreement of the Senate appoints judges on the basis of a binding shortlist submitted by the *Consejo de la Magistratura*. Additionally, in countries such as Paraguay, Uruguay the *Corte Suprema* itself participates in the appointment of judges for specific lower court positions. In Chile, the judges shall be appointed by the President of the Republic, upon the proposal of the *Corte de Apelaciones* of the respective jurisdiction. Following the same perspective, in Brazil, the appointment of lower court judges is formalized by the respective federal or state court, with the final signature provided by the President of the Republic or the Governor of the State, depending on the judicial level.

In sum, for higher courts, countries such as Brazil, Argentina, Chile, and Paraguay vest the formal act of appointment in the Executive Branch, while Uruguay assigns this responsibility exclusively to the Legislature. In Mexico and Bolivia, following popular elections, the appointment act serves merely to validate the electoral result. In Peru, the appointment of judges at all levels, including the Tribunal Constitucional, is carried out by the *Junta Nacional de Justicia*. As for lower courts, an administrative logic predominates: technical bodies and judicial institutions prepare the appointments, and the Executive, or in some cases, the Judiciary itself, merely formalizes them. This diversity reflects varying institutional balances between political influence, merit-based selection, and institutional legitimacy in the formalization of judicial careers.

2.5 Term Length

Judicial term lengths across Latin American countries exhibit considerable diversity, reflecting a wide array of institutional arrangements that seek to

balance judicial stability, periodic renewal, and political accountability. These variations depend significantly on the country and the judicial level in question.

In countries that uphold life tenure for higher courts, judges typically serve until they reach the constitutionally mandated retirement age. In Argentina, *Corte Suprema* justices hold life tenure until the age of 75, after which their continuation in office requires a five-year renewal, subject to new presidential nomination and Senate approval. In Brazil, justices of the *Supremo Tribunal Federal* and other higher courts also serve until the age of 75. Paraguay follows a similar model, where members of the *Corte Suprema de Justicia* serve with life tenure until mandatory retirement at 75. In Chile, *Corte Suprema* justices follow the same logic, retiring compulsorily at 75. These four countries thus display a clear preference for life tenure in their superior courts, albeit with age-related constraints.

Conversely, other countries have adopted fixed-term mandates for judicial appointments, typically prohibiting immediate reappointment. In Bolivia, judges of the *Tribunal Supremo de Justicia* and the *Tribunal Constitucional Plurinacional*, elected by popular vote, serve for six years without eligibility for immediate re-election. In Colombia, justices of the *Corte Constitucional* and the *Corte Suprema de Justicia* are appointed for non-renewable eight-year terms and may not remain beyond the mandatory retirement age. In Mexico, following the 2024 constitutional reform, ministers of the *Suprema Corte de Justicia de la Nación* serve for fixed twelve-year terms, with no possibility of reappointment. Ecuador grants nine-year non-renewable terms to judges of both the *Corte Constitucional* and the *Corte Nacional de Justicia*. In Uruguay, members of the *Suprema Corte de Justicia* serve ten-year terms and may not be reappointed without a five-year interval. In Peru, judges of the *Tribunal Constitucional* serve for five years, with reappointment allowed only after a hiatus equivalent to one full term, introducing a more flexible limitation compared to other systems.

As for lower courts, including first-instance judges and appellate court members, a similar diversity of models is observed. In Argentina, federal trial and

appellate judges follow the same regime as the higher courts, holding life tenure until the age of 75, with potential five-year extensions subject to reappointment, although direct re-election is not provided for. In Brazil, first- and second-instance judges also hold life tenure, with job stability until age 75, as these are career-based and not elective positions. In Chile, lower court judges remain in office as long as they fulfill the legal and regulatory requirements, but must retire by the age of 75.

In contrast, some countries adopt fixed-term mandates for lower court judges. In Mexico, *magistrados de circuito* and *de distrito* serve renewable nine-year terms, differing from the non-renewable twelve-year term applicable to the ministers of the *Suprema Corte de Justicia de la Nación*. In Uruguay, ordinary judges hold life tenure until the age of 70. Paraguay employs a hybrid system: lower court judges are initially appointed for five-year terms and, upon confirmation for two consecutive terms, gain irremovability, allowing them to remain in office until the age limit of 75, like *Corte Suprema de Justicia.*

Thus, judicial term lengths in Latin America reveal a broad spectrum of approaches at both the higher and lower court levels. In summary, countries such as Argentina, Brazil, Chile, and Paraguay maintain life tenure for judges of their highest courts until age 75, whereas Bolivia, Colombia, Ecuador, Uruguay, Mexico, and Peru opt for fixed-term mandates, generally with no immediate reappointment. For lower courts, Argentina, Brazil, Chile, and Uruguay maintain life tenure models, while Mexico and Paraguay adopt fixed terms, either with reappointments or progressive acquisition of tenure. These variations reflect distinct institutional traditions and aim to balance judicial independence, continuity, and periodic renewal within the legal systems of the region.

FINAL CONSIDERATIONS

This empirical and comparative study of judicial selection processes across ten Latin American countries highlights the coexistence of diverse appointment models and their complex impact on judicial governance. Drawing on data pro-

vided by national experts within the BRIDGE Watch network, the analysis reveals a predominant reliance on bureaucratic models of judicial selection, particularly for lower courts. Concerns emerge regarding internal judicial independence, especially where career advancement or mandate renewal is influenced by political actors or hierarchical superiors, potentially creating incentives for conformity and discouraging impartial adjudication.

In recent years, electoral models for judicial selection have gained ground in the region. The tension between judicial independence and accountability emerges as a central theme: while the election or political appointment of judges may enhance perceived democratic legitimacy, it also increases the risk of politicization and compromises impartiality. Conversely, purely technocratic or insulated procedures, though better at shielding judges from external pressures, may fail to secure public trust in the judiciary's legitimacy.

The comparative evidence points to a regional trend toward increased meritocracy in the selection of lower-court judges, accompanied by persistent challenges of politicization at the highest judicial levels. Appointments to supreme and constitutional courts often remain under the discretionary influence of the executive and legislative branches, thereby compromising judicial independence and perpetuating the risk of political interference.

Notably, the findings underscore the normative influence of international and regional standards on judicial independence throughout Latin America. In line with such standards, most systems provide judges with either life tenure until mandatory retirement or substantial, non-renewable fixed terms for appointments to high courts, reflecting a shared understanding that stability in judicial office is essential to shielding judges from external pressures. However, some jurisdictions continue to impose fixed terms for lower courts and subject judges to ongoing performance evaluations and approval procedures, practices that significantly undermine their independence.

At the same time, the study documents growing efforts to strengthen transparency and promote citizen participation in judicial selection, particularly at

lower levels, as a means of reinforcing public trust without compromising judicial autonomy. Competitive examinations, public hearings, and mechanisms for social oversight are now widely adopted, and even in systems that have introduced popular elections, these are often coupled with technical eligibility criteria to safeguard minimum professional standards.

Ultimately, the nuanced patterns revealed by this study, from innovations such as independent judicial councils and gender-parity mandates to newly implemented checks and balances, offer important insights into the evolving landscape of judicial governance.

By empirically mapping how selection, appointment, and tenure rules operate in practice, this research contributes a robust evidence base for reforms aimed at strengthening judicial independence in Latin America. It underscores that achieving an appropriate balance between independence and accountability requires a sustained commitment to merit-based procedures and institutional transparency, particularly at the highest levels of the judiciary, in order to reinforce both the legitimacy and the representativeness of the courts without compromising their essential autonomy.

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Received on 17/04/2025

Approved on 26/05/2025