

Constitutional Courts as Mediators: Armed Conflict, Civil-Military Relations, and the Rule of Law in Latin America. By Julio Ríos-Figueroa. New York: Cambridge University Press, 2016.

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Comparative constitutional law is a vibrant field of study, especially in Latin America. The confluence of democratization and major economic reforms following the demise of authoritarian regimes (in the 1980s and early 1990s) generated a nearly consensual belief that the 1990s were an era of great hopes regarding civil liberties, political stability, and wealth distribution in the region.

Almost three decades later, it seems that such optimistic prediction was not entirely fulfilled. Even if a wave of constitutional changes inscribed transformative socioeconomic rights in many countries' legal orders (the "new Latin American constitutionalism" of Colombia 1991, Venezuela 1999, Ecuador 2008, and Bolivia 2009), political stability, and economic growth remained somewhat fragile.

The recurrent crises of presidential systems and an unprecedented flood of impeachments swept Latin America in the 1990s: in just over a decade, six presidents faced an impeachment process and four of them were removed from office (Pérez-Liñán 2007). The frequent and widespread mobilization of the impeachment mechanism challenged many of the dominant views among political scientists, reopening important questions in the literature about Latin American democracies, both on structure and functioning.

The new institutional balance that is perceived in Latin America involves the understanding of the role of an important political and strategic actor: Constitutional Courts. Performing an increasingly active position in several of the most politically sensitive national issues, the courts emerge as neutral and reliable instances aimed to protect democratic regimes. For this reason, traditional framings and the mere reproduction of the common sense about judiciary competences are becoming outdated.

What lessons can be drawn from these experiences? Do these phenomena corroborate the narratives that emphasize the institutional fragility of Latin American democracies? Despite the discussion around its causes, what does political fragmentation and constitutional changes imply for practical functioning of institutions?

Ríos-Figueroa departs from this context to create a bold and compelling perspective on the structure, democratic position and strategic behavior of Courts. Combining a stimulating narrative and

both qualitative and quantitative methods, *Constitutional Courts as Mediators* articulates a strong thesis about the role played by constitutional courts as democratic mediators, particularly in dealing with often tense civil–military relations. Focusing on how the accessibility to constitutional justice conditions the production of mediator-like jurisprudence, Ríos-Figueroa demonstrates an impressive command of a range of complex content: conflict resolution, judicial politics, and comparative constitutional law.

Ríos-Figueroa argues that to the extent that constitutional courts are (1) highly accessible, (2) have ample powers of judicial review, and (3) are independent, they are more likely to obtain and credibly transmit relevant information, in a way that helps them address the underlying informational causes of their conflict (24). Situated in a privileged position in the political system, the courts enable a dialogue between among the court, the public, and the political actors runs both ways (19–20), and can be instrumental in striking a democratically accepted balance.

In this sense, *Constitutional Courts* mirrors what mediators do in conflict resolution: they facilitate dialogue, enabling the parties to reach a conclusive and mutually satisfactory agreement that transcends the present conflict. As such, courts hold a special institutional place to reduce the uncertainty that surrounds civil–military relations.

The argument is developed in three main parts. First, the author frames the specific case to present his thesis: the important role played by courts in cases regarding civil–military relations. The second chapter explores in depth the “Theory of Constitutional Courts as Mediators,” explaining how Constitutional Courts obtain, process, and transmit information to parties in a way that reduces the uncertainty that lies at the roots of the conflict. The case studies presented in the following chapters constitute the empirical basis taken by Ríos-Figueroa to assess his theory. The cases entail situations in which individuals or groups with legal standing (e.g., legislators, NGOs, citizens, military personnel) challenge the military before the constitutional court. Each case is categorized into the conceptual framework developed by the author (on a gradual scale of mediating characteristics), and in the last section the author offers a thoughtful review of how democratic conflict solving will be assumed as a great challenge for Constitutional Courts.

Ríos-Figueroa’s approach has great potential to explain other types of conflicts that demand the attention of Constitutional Courts in the twenty-first century. One example is the “meaningful engagement” strategy developed by Constitutional Court of South Africa, particularly on housing rights conflicts and eviction cases, as illustrated by the well-known *Olivia Road* case in 2008 (Liebenberg 2012).

In *Olivia Road*, the Court stated that the parties (the municipality and the occupiers of buildings) were required to “engage with each other meaningfully and as soon as it is possible to resolve their differences and difficulties” (Liebenberg 2012: 14). The outcome of the engagement was a detailed agreement on how to improve the safety and health conditions in the buildings involved in the dispute. “Meaningful engagement” has subsequently been used mainly in eviction cases. This can be seen as a successful example of a mediating strategic role played by the Courts.

Although stimulating, such solutions need to be examined carefully by constitutional thinkers. There is a fine balance between localized settlement negotiations and normative guidelines promoted in a transparent way by Courts. Despite these shortcomings, there is still a gap in the refinement of such dialogic engagement initiatives. *Constitutional Courts as Mediators* takes major steps in providing a creative approach to judicial behavior, and represents an impressive contribution and an essential resource for any scholar, judge, or politician interested in capturing the nuances of the jurisprudence of Constitutional Courts in a powerful perspective.

References

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Feminist Judgments: Rewritten Opinions of the United States Supreme Court. By Kathryn M. Stanchi, Linda L. Berger, and Bridget J. Crawford (Eds.). New York: Cambridge University Press, 2016.

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This collection of feminist rewritings of U.S. Supreme Court decisions is the most recent contribution to the burgeoning field of feminist judgments projects that have already emerged in a number of common law jurisdictions, including Canada, England/Wales, Northern/Ireland, Australia, and New Zealand. While feminist