

Summary of Dissertation Chapters

Essays on Judicial Independence and Development

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My dissertation is a contribution to our understanding of the conditions for establishment of rule of law in society, religious observance and its consequences for institutional design and development. Below I summarize the three chapters of my dissertation.

Chapter 1 - Judicial Independence and Development: Evidence from Pakistan

In many countries of the world, including the United States, Singapore and South Africa, the President appoints judges to the superior courts. This seems counterintuitive to the principle of the “separation of powers” (Montesquieu, 1748). It is argued, however, for instance by the framers of US constitution, that the separation of powers or the independence of judiciary is ensured by removing the power of dismissal from the President, for instance via the institution of “life-time appointment” (Madison, Hamilton, and Jay, 1788).

In this paper, we provide causal evidence that the institution of Presidential appointment exerts considerable influence on judicial decision-making and development. We study a 2010 change in the judicial selection procedure in Pakistan, from a system of Presidential appointment like in the United States or Brazil to a system of appointment by peer judges as in many European countries such as Sweden or the UK.

We exploit the staggered implementation of the reform across district courts of Pakistan to estimate the effect of the reform on judicial decision-making and economic development. The results indicate that the Presidential appointment of judges substantially affects judicial decisions: a 10% rise in judges selected by the judicial commission reduces State Wins by about 4 percentage points. We present evidence that this reduction in State Wins reflects an improvement in the quality of judicial decisions, consistent with the anecdotal accounts. First, judges appointed by the judicial commission are more efficient, with a 10% rise in judicial-commission judges reducing case delay by about two months. Second, judicial-commission judges are more likely to rule based on case merits or evidence than the specific technicalities of the law: a 10% increase in judges appointed by the judicial-commission increases merit rulings by 5.5 percentage points. Furthermore, the judges appointed by peers also impact measures of local development. In particular, a 10% increase in judges appointed by judge peers increases local income by about 6% percentage points.

We next document the mechanisms, and first the type of cases behind these results. These turn out to be politically salient cases involving *land* and political-rights disputes with the State. Judges appointed by judge peers are much less likely to allow government to expropriate private property from the citizens than judges appointed by the President. Next, we also ask which type of judges are driving the results. We find that Presidential and judicial-

commission judges are similar in terms of many characteristics such as age, tenure, gender and experience. Nevertheless, those appointed by the judicial commission are 15% less likely to have run for political office (in lawyers bar associations) prior to their appointment. This is consistent with Presidential selection favoring more political judges (who rule in favor of the State more often, take longer to adjudicate and are less likely to rule on the merits of the case).

Chapter 2 – Religious Leaders and Rule of Law

History is replete with instances where religious leaders shaped the trajectories of societies. Be it Pope Urban II famously setting the stage for the crusades at the Council of Clermont, or Imam Al-Ghazali issuing his notorious fatwa against science and rationality in 11th century Persia. At least since the Enlightenment, scholars have believed that religious leaders influence institutions (Spinoza, 1670; Smith, 1776; Marx, 1844). More recently, scholars have begun to disentangle how religious authorities may impact institutions (North, Wallis, Weingast, 2009; Kuran, 2011; Chaney, 2013; Rubin, 2017; Barro and McCreary, 2019). Yet despite these efforts, we lack systematic empirical evidence on how religious leaders influence institutions, in particular how religious leaders impact rule of law.

In this paper, we provide evidence for how historical religious institutions (shrines) impact rule of law and how their influence is explained by the rise of religious leaders (shrine elites) to political power. We focus on a large developing country, Pakistan, where throughout its political history, local politics was dominated by large landowning “feudal” politicians (Gilmartin, 1988). These traditional elites controlled most of economic resources and alternated power at State and local levels. However, in 1999, Pakistan transitioned to a military dictatorship that would last for about 10 years. This disrupted the balance of power of these traditional elites. The military regime, through a local government reform, weakened the relatively secular traditional elite and ushered the rise of a new breed of politicians: the dynastic shrine leaders. These religious leaders, known as the *sajjada nasheen* or the “wearers of the holy turban” derived their legitimacy from religion. They commanded voluntary compliance through their religious credentials as direct descendants of Prophet Muhammad of Islam (Aziz, 2001; Malik and Mirza, 2020). As a result, these religious politicians faced different electoral costs when they ran for elections and influenced State institutions such as Courts relative to secular politicians. We show that the rise of these religious leaders to political office deteriorated rule of law and resulted in more rulings in favor of the government, in particular in cases involving expropriation of private property from citizens. We argue that religious leaders were better able to influence Courts, as their religious credentials or “legitimacy” allowed them to both rise to politics and exert arbitrary power relative to secular politicians.

The increase of State victories in land disputes with the government in high shrine density districts opens the possibility to estimate the total value of additional land expropriated by the government due to the influence of shrine leaders. Using values of land mentioned in the judgment texts, we estimate that one standard deviation increase in shrine density results in additional land expropriated worth 0.06% of GDP every year. This is equivalent to a loss of about USD 180 million every year or slightly more than what the federal government spent on health care in 2016.

Chapter 3 – Ramadan Spirit and Criminal Acquittals: Causal Evidence from Pakistan

The establishment of Rule of Law is one of the most fundamental features of state building. Yet, like other major institutions, Rule of Law is shaped by history, incentives, and values. Religious values, in particular, may strongly influence how the law is interpreted and justice dispensed.

In this paper, we present causal estimate of the effects of religious practice on judicial decisions and consequent economy-wide losses. We do so by focusing on fasting in the observance of the Islamic holy month of Ramadan in Pakistan, the second largest Muslim-majority country, containing over 10% of the world’s Muslims (World Population Review, 2020). Fasting during Ramadan, made obligatory in the Quran (Chapter 2, Verse 183), is one of the Five Pillars of Islam and understood as compulsory by over a billion Muslims worldwide (Pew, 2018). The religious practice has a well-defined rule that all adult Muslims must fast from sunrise to sunset for one month. Since the daily length of Ramadan fasting varies over the seasons according to the lunar calendar and latitude, this provides a source of exogenous variation in the intensity of religious practice. We are thus able to address the causal identification issues that would otherwise confound attempts to link religious practice with judicial decision-making.

The large size of Pakistan and the seasonal variation introduced by the rotating Islamic calendar provide us with a rich source of variation in the intensity of our treatment variable. To give a concrete example, when Ramadan falls in winter, the daily fasting will be longer in Karachi than in Abbottabad because Karachi is closer to the equator. Nevertheless, when Ramadan falls in summer, the daily fasting will be longer in Abbottabad than in Karachi. This interaction of latitude and the fact that the Islamic calendar is not synchronized with the solar cycle provides us plausibly exogenous variation in the prescribed strictness of fasting.

Using District Court level monthly data spanning almost the entire history of Pakistan, we show that more intense Ramadan fasting has a negative effect on criminal convictions. Quantitatively, our estimates indicate that an additional hour of Ramadan fasting increases criminal acquittals by about 1 percentage point. For instance, when Ramadan fell in December, the fast was about 12 hours long in Karachi, while it was only 10 hours long in Abbottabad, hence, our estimates indicate convictions will be 2 percentage points lower in Karachi than in Abbottabad. This is equivalent to a reduction of 4% in conviction rate. Therefore, our estimates indicate a substantial increase in acquittal verdicts in times of more demanding Ramadan fasting.

The finding of increased acquittals during Ramadan is in stark contrast to the existing literature, which finds that physiological deprivation leads judges to make harsher decisions. We provide evidence in favor of a mechanism whereby during Ramadan, judges view convicting as more costly. In other words, physiologically deprived fasting judges become particularly lenient in view of the religious spirit associated with Ramadan. This is consistent with both the evidence we present and the anthropological literature linking Ramadan fasting to a shared sense of forgiveness and restraint (Rouse and Hoskins, 2004; Osanloo, 2006). Indeed, the Arabic word for fasting is Sawm, which literally means “restraint”. We label this reluctance to convict while fasting the Ramadan Spirit.