Defending the Watchdogs: How Citizens and Courts Protect the Press[*]

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Abstract

A free and independent press monitors government actions, broadcasts public grievances, and facilitates debate and dissent among citizens. Because of this, some executives run interference—censoring newspapers, harassing journalists, and shutting down media outlets—whereas other executives do not. What explains this variation? We argue that executives decide to repress or to respect the press based on the sanctions they anticipate from two important constituencies: courts and citizens. We expect that attacks are less likely when courts can make adverse rulings and when citizens can vote leaders out of office. In addition, we suggest that these constraints can function as substitutes; we anticipate the reductive effect of judicial independence wanes as the level of electoral democracy rises, making courts vital to protecting journalists in less democratic systems. We evaluate these expectations using panel data on executive branch attacks on the press in 175 countries, from 1949 to 2016, and find strong support.

Introduction

We have seen in recent years a troubling increase in attacks on the press[1] by a host of executives[2] worldwide.[3] Journalists experience on a near-daily basis censorship, harassment, physical injuries, and even death because of their work to keep executives accountable to citizens and to amplify dissent. What explains when executives do and do not assail their watchdogs? Prior scholarship has demonstrated that protest events, coup attempts, conflict onset, and other crises can prompt attacks on the media (Bjørnskov & Voigt, 2020). Some work has also shown that executives attack the media when seeking to extend their rule and to enlarge their constitutional powers (Kellam & Stein, 2016; VonDoepp & Young, 2013). Far from a phenomenon exclusive to nondemocratic regimes or conflict-affected settings, attacks on the press also occur in democratic systems and in times of peace (Bjørnskov et al., 2018; Hughes & Lawson, 2005; Kellam & Stein, 2016). Executives of all stripes often perceive their watchdogs as a nuisance if not an outright obstacle to their policy agendas and actions. Thus, many executives attempt to stifle and demobilize journalists and the firms they represent. Yet, not all executives that could attack the media do so (Egorov et al., 2009). What explains this variation?

Our answer is two-fold. First, executives interfere because the press (1) monitors them to keep them accountable to citizens and (2) amplifies dissent. Second, executives' decisions to interfere are circumscribed by the sanctions they expect from courts and citizens. Executives care about adverse court judgments because they undermine executive legitimacy. Executives also care about adverse electoral outcomes because they are office seeking.[4] In contrast to much existing work, we focused on prohibitive, rather than permissive, conditions. But how and why do courts and citizens create prohibitive conditions for media repression?

Independent courts' core function is to ensure compliance with domestic and international laws, including those that protect freedom of expression and the right of the press to operate unencumbered.[5] They derive their power from their ability to mediate disputes as an impartial third party, and they enjoy jurisdiction over individuals, organizations, corporations, and other branches

of government (Larkins, 1996). Independent courts' responsibility to provide a horizontal check on the executive is, perhaps, the most significant (Magaloni, 2003; Tsebelis, 2002). They can nullify executive actions and award damages to injured parties. In addition to these reactive measures, they can proactively create and reinforce legal frameworks to protect the press (Pérez-Liñan & Castagnola, 2009; VonDoepp & Young, 2016). Independent courts—which can reliably issue rulings against executives and executive agencies, and supply and strengthen legal protections—raise the costs of infringing on media freedom (VonDoepp & Young, 2016). Thus, we argue that more independent courts make executive attacks on the media less likely. Less independent courts, by contrast, do not have this constraining effect.

For their part, citizens in many countries determine whether or not an executive is in power and for how long. They value and rely on the press to keep leaders accountable, articulate public grievances, and organize debate and dissent (Besley & Prat, 2006; Sen, 1999). Thus, they seek to protect it. One way citizens do this is by removing from office leaders who attack journalists and press firms. Citizens can accomplish this through elections; protesting conditions that force leaders to resign; and, in some political systems, coups. The more legitimate and regularized of these removal tactics is voting. Citizens of electoral democracies raise the costs of contravening press freedom in the clearest and most easily anticipated way: They can credibly vote leaders out of office (Whitten-Woodring & Van Belle, 2017). In this way, citizens in more democratic systems make executive attacks on the press less likely.

A general theme thus emerges: Executives "set policy at their ideal points" (Leiras et al., 2015, p. 177). When they stand to face a judicial or electoral check, executives will be less likely to assail the press. When they lack these checks, they will be more likely to harass and harm media outlets and personnel. In developing our theory, we built on insights from previous studies on media freedom and human rights. In particular, human rights scholarship convincingly demonstrates that judicial action and citizen mobilization are the primary means by which compliance with human rights

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obligations is achieved (Ackermann, 1989; Cross, 1999; La Porta et al., 2004; Maduna, 1989; Nsereko, 1993; Simmons, 2009). We built on these research fields by making a third argument, our main argument and central contribution: The institutional constraints that judicial independence and electoral democracy impose on executives can function as substitutes. Essentially, judicial independence's reductive effect on executive attacks on the media wanes as the level of electoral democracy rises. To our knowledge, our article is the first to consider the theoretical and empirical interaction of judicial and electoral institutions, and to establish that courts are especially vital for protecting journalists in less democratic and nondemocratic systems.[6]

To evaluate our expectations, we analyzed panel data on executive attacks on the media across 175 countries, from 1949 to 2016. We focused on three types of attacks: (1) censorship of traditional media like newspapers, television, and radio; (2) harassment, including physical violence; and (3) Internet censorship.[7] We found strong support for our three hypotheses for executive censorship of traditional media and harassment of media personnel. Of note, we detected a ceiling effect: Judicial independence loses statistical significance at the highest levels of electoral democracy. In terms of executive censorship of the Internet, we found mixed support. Mixed results suggest, however preliminarily, that the institutional mechanisms used to protect traditional media may not extend to Internet content—an important issue, as journalists increasingly use digital media to rapidly transmit information to citizens. Our results are robust to a series of different model specifications and estimation approaches, including Monte Carlo simulations that incorporate latent variable uncertainty for the data on media attacks, judicial independence, and electoral democracy.

Our research represents a theoretical and empirical contribution to the scholarship on judicial politics, electoral politics, and human rights. Theoretically, we drew on disparate threads of the literatures on media freedom and human rights to argue when leaders are more and less likely to perpetrate attacks against the journalists and press firms. What's more, we took seriously courts' ability to constrain repression in illiberal regimes—in particular, repression of media outlets and

personnel. In so doing, we challenged conventional notions of unrestrained executives in settings with lower levels of electoral democracy.

Empirically, our article represents a unique attempt to evaluate cross-nationally and cross-temporally the correlates of media freedom—in particular, courts' ability to rule against and citizens' ability to vote out belligerent executives. Moreover, we leveraged latent variables and their posterior distributions to make more reliable inferences about the determinants of executive attacks on the media.

Why executives attack the media

Traditional media–executive relations typically feature a mutual dependence between leaders and the press that can be symbiotic at times.[8] Leaders use media to promote their message, amplify policy positions, or take credit for political victories. This can come in the form of paid advertisement, journalists featuring the administration in news coverage, or through direct quotes in media content.[9]

Media, on the other hand, produce content covering leaders, executive actions, and the behavior of public officials. Given the newsworthiness of executives, producing content that features them in part helps keep advertisers and subscribers interested in their news product. Executives may also fund public media in some cases. However, independent media can also use their platform to publish criticism of leaders, hold them accountable for corrupt behavior, as well as amplify opposition and public dissent. Whereas leaders might prefer to use media as a tool for governance, independent media can act in ways that executives cannot control and may even oppose. In some cases, the executive completely co-opts the media, either directly or indirectly, so that coercion is unnecessary to control the narrative.[10]

A free and independent press poses a twin set of problems for executives around the world. First, the press is a vehicle for transparency: It monitors and reports on executive actions and thus keeps administrations accountable to their citizens (Besley & Burgess, 2001; Donohue et al., 1995;

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Whitten-Woodring, 2009). As an example, free media help to reduce corruption and political rents by making private knowledge public and decreasing asymmetric information (Besley & Burgess, 2001; Charron, 2009; Dyck & Zingales, 2002; Kaufmann, 2006; Reinikka & Svensson, 2005; Svaleryd & Vlachos, 2006). Second, the press is a vessel for criticism: It can provoke outrage around maladministration, amplify public grievances, and encourage protest. Consider, for example, Serbian journalists' reporting on official vote fraud in September 2000. Citizens descended into the streets of Belgrade in outrage. Mass demonstrations, referred to as the Bulldozer Revolution, resulted in President Slobodan Milošević's removal from power (Thompson & Kuntz, 2004, p. 168). The press's ability to publish, broadcast, and disseminate news content in a free and open media system is, thus, crucial to accountability and good governance (McQuail, 2010; Norris, 2006). However, executives around the world do not universally respect the press and its vital watchdog role.

The press can turn domestic and international audiences against an executive, making untenable leaders' retention of power. To elaborate, on the domestic side, leaders can be pushed out, either through elections, resignation, or irregular removal procedures like coups. On the international side, leaders can incur substantial reputational costs, notably a loss of prestige and, in the case of nondemocratic regimes, the closing-off of international sources of revenue for patronage networks (Ahmed, 2012; Bueno de Mesquita et al., 2003; Kono & Montinola, 2009; Solomon & Zvobgo, 2020). To preempt or to mitigate against the nuisance of the press, many executives deploy a repertoire of practices to stifle journalists and their work. These practices include censoring the news, harassing journalists, and shutting down media firms.

Much scholarship has explored the conditions under which executives attack press outlets and personnel but neglected why, even facing those conditions, executives may forgo doing so. Some studies have demonstrated that executives assail journalists and press firms when they cross a known, acceptable threshold of discourse (provocation theory; see Kasoma, 1997; Lucas, 2003; Ngok, 2007; Zaffiro, 1993), whereas other studies have shown that executives attack the press during key

political events like coup attempts, major protests, proposed constitutional reforms, and presidential elections (political events theory; see VonDoepp & Young, 2013). Whereas much work has focused on these permissive conditions, comparatively little attention has been paid to prohibitive conditions (Kellam & Stein, 2016, is a notable exception). We aim to change this.

How courts and citizens protect the media

There are two key institutions that can create prohibitive conditions for executives to attack the media: judicial and electoral institutions.[11] Scholarship on human rights has demonstrated that judicial action and citizen mobilization are key mechanisms of state compliance with human rights and fundamental liberties (Simmons, 2009). So, as with the rights and liberties of citizens, we should expect judicial independence and electoral democracy to influence the rights and liberties of the press.

To begin, courts can protect press freedom by providing a horizontal check on the executive, nullifying unlawful executive actions and indemnifying injured parties. Courts derive their power to do this from their role in government as third-party arbiters of disputes. In addition, courts draw their power from domestic and international norms about orderly dispute resolution (Clark, 2009; Hayo & Voigt, 2007; Leiras et al., 2015; Vanberg, 2000, 2005). The domestic political-institutional landscape can also empower courts. Indeed, judges may be emboldened to make adverse rulings against executives when executives and legislatures are more politically fragmented (Ferejohn et al., 2007; Franck, 2009; Iaryczower et al., 2002; McCubbins et al., 2006; Stephenson, 2003). Independent judiciaries—wherein judges can credibly rule against executives and executive agencies—increase the costs of executive attacks on the media, making such attacks less likely (Waisbord, 2002).

Take, for example, the 2004 Malawian Supreme Court ruling against the executive, which had shut down a radio station as punishment for broadcasting an interview with a member of the opposition party. Not only did the Court order the immediate reopening of the station, it also enjoined

compensation for the radio station for advertising revenue lost during the closure (Whitten-Woodring & Van Belle, 2014, p. 197). Likewise, in 2000, the Ghanaian Supreme Court ruled that the president could no longer choose the Ghana Broadcast Corporation's leadership. As a consequence of this ruling, broadcast journalists and their press counterparts have been able to operate more freely in Ghana, leading watchdog groups to consistently rank the country as an open media environment (Media Institute of Southern Africa, 2004). Thus, not only can courts protect media outlets and personnel after they have been attacked (VonDoepp & Young, 2016), they can also protect media outlets and personnel from being attacked in the first place.[12] Judges' demonstrated willingness and ability to make adverse rulings against their executive counterparts increases the costs of perpetrating abuses subject to judicial review. And, even in the absence of specific complaints and unfavorable rulings, executives who face a strong judicial counterweight behave differently than executives who do not (Zvobgo et al., 2020). Thus, we produce our first hypothesis:

Hypothesis 1: Executives facing more independent courts will be less likely to perpetrate attacks on the media.

Whereas scholars like Keith (2002) held that "only an independent and impartial judiciary may effectively guarantee the protection of human rights" by applying a check on the excesses of the executive, we propose that citizens are also crucial to the preservation of rights, including those of the press (p. 195). Whereas courts can protect media freedom via a horizontal check on the executive, citizens do so via a vertical check.

All executives require support from citizens to exist, if perhaps only from a segment of the population (Bueno de Mesquita et al., 2003; Hale, 2015). Although citizens in different political systems do not enjoy equal degrees of power, they nevertheless shape executive choices. This is especially true in contexts with greater electoral uncertainty—that is, democracies (VonDoepp & Ellett, 2011). In democratic systems, citizens regularly remove from power leaders who do not

effectively manage foreign policy, the economy, or other domestic concerns, including press freedom. Citizens mobilize based on the value of the good in question and the probability that they will succeed in their demands (Simmons, 2009). Because the press provides citizens low-cost information that enhances their participation in the electoral process, citizens value the press and recoil from executives who attack it (Besley & Prat, 2006; Sen, 1999). And, in political environments where citizens choose who is and who is not in office—that is, countries with higher levels of electoral democracy—they will be more likely to punish a belligerent executive. Simply put, attacks on the press are more costly in electoral democracies and are, thus, less likely.

Consider, for instance, Ukraine, where President Leonid Kuchma's government assailed journalists reporting on corruption, maladministration, and other misdeeds. Kuchma's and his government's popularity declined with each successive attack. This prompted the 2004 Orange Revolution that ultimately brought down the administration (McFaul, 2005). Slovakia provides a more recent example. In 2018, the murder of a journalist triggered mass protests that forced Prime Minister Robert Fico to resign (Haughton et al., 2019). These examples illustrate citizens' potential sensitivity to executive perpetrated attacks against media (and overall assaults on democracy).

To be sure, citizens in some parts of the world favor restrictions on personal and collective freedoms (Berggren & Gutmann, 2020; Buchanan & Congleton, 2006). However, citizens in more democratic systems—who a priori espouse more liberal values and are better empowered to select and remove leaders—are both better able and more likely to mobilize to protect the press's rights and freedoms. They are also more dependent on the low-cost information a free media produces, so they have an incentive to protect it when possible. Thus, we produce our second hypothesis:

Hypothesis 2: Executives in more democratic systems will be less likely to perpetrate attacks on the media.

We build on this pair of arguments and offer a third argument, our central argument: We submit that the institutional constraints that judicial independence and electoral democracy impose on executives can function as substitutes. More precisely, we propose that judicial independence's reductive effect on executive attacks on the media wanes as the level of electoral democracy rises. Countries with high levels of electoral democracy typically also enjoy high levels of independence, meaning that journalists and press firms in these settings enjoy two sources of protection and two types of recourse. These are the systems in which leaders have the greatest concerns about sanctions. Even if one institution fails an outlet or a journalist by not applying a check, the other may yet do so. By contrast, countries with low levels of electoral democracy do not necessarily also have low levels of judicial independence.[13] This means that media outlets and personnel in these settings may yet receive protection from and find recourse before courts. Indeed, this is where courts as a protective institution are most vital. Thus, we produce our third hypothesis:

Hypothesis 3: The reductive effect of judicial independence wanes as the level of democracy rises.

We acknowledge that executives might forego attacking media where democratic norms are highly respected by leaders and society as a whole. But we are only likely to see democratic norms constrain repressive behavior in consolidated democracies, where levels of electoral democracy and judicial independence are already high. These are not the situations and contexts in which we are most interested.[14]

Research design

To evaluate these expectations, we analyzed panel data on executive attacks on the media across 175 countries, from 1949 to 2016. We describe these data and the statistical models we use below.

Dependent variables

To measure executive attacks on the media, we used three latent variables from the Varieties of Democracy (V-Dem) Project (Coppedge et al., 2020) that deal with different types of attacks on the media.

Traditional censorship

We used the executive censorship efforts variable to measure direct or indirect attempts to censor traditional media such as newspapers, television, and radio.[15] V-Dem generates the latent variable by surveying experts on the degree of censorship in a country and then uses a Bayesian item response theory (IRT) model to evaluate their responses and capture the construct. The variable is continuous and runs from -3.327 to 3.142, with higher values indicating higher levels of censorship efforts.

Media harassment

Although censorship covers important aspects of executive attacks on the media, it does not cover the extent to which executives harass the media, for example, by threatening journalists with libel suits, arrest, and imprisonment or by compromising their physical integrity. To assess such attacks, we used V-Dem's journalist harassment variable. The variable is continuous and runs from -3.917 to 3.181, with higher values indicating higher levels of harassment.

Internet censorship

Censorship efforts can go beyond traditional media like newspapers, television, and radio, and extend to Internet content. We used the executive Internet censorship efforts variable to measure restrictions on political information online. The variable is continuous and runs from -1.846 to 4.205, with higher values indicating higher levels of Internet censorship.

Independent variables

Judicial independence

We used Linzer and Staton's (2015) latent measure of *de facto* judicial independence. Noting the weaknesses of previous measures, the authors used an IRT model to synthesize multiple direct or approximate judicial independence measures. Five of the eight evaluate judicial autonomy, judicial influence, or both (Cingranelli & Richards, 2010; Feld & Voigt, 2003; Howard & Carey, 2004; Keith, 2012; Ríos-Figueroa & Staton, 2014). The remaining three indicators provide indirect measures of judicial independence, such as executive constraints (Marshall & Jaggers, 2017); law and order, which captures popular observance of the law (PRS Group, 2013); and property rights protection (Gwartney & Lawson, 2007; Ríos-Figueroa & Staton, 2014). The latent measure is a continuous variable between 0 and 1, where 0 represents the least independent and 1 is the most independent.

Electoral democracy

To measure electoral democracy, we used V-Dem's index of the same name. This measure captures the level to which a country experiences free and fair elections and electoral competition for leadership, as well as other factors that contribute to this aim. Liberal democracies may also have internalized democratic norms that yield respect and protection for media. Using a more basic democracy measure allowed us to focus on citizens' ability to vote leaders out of office, without introducing potentially confounding factors associated with a broader definition of democracy encompassing respect for human rights and fundamental liberties. The variable is continuous and runs from 0 to 1, with higher values indicating greater electoral democracy.

We preferred this measurement over variables that capture more expansive conceptualizations of democracy. We were most interested in citizens' ability to reliably remove leaders at the ballot box. In addition, the continuous structure of the measure allowed us to examine subtle changes in a country's electoral democracy—an advantage over binary or ordinal democracy

variables. For instance, the measure does not assume that all countries in a single category (such as democracy or dictatorship) possess the same level of electoral democracy and instead allows for variation. We also noted that V-Dem's measure highly correlates with other common binary and ordinal variables that also measure electoral democracy.

Control variables

We controlled for several potentially confounding factors commonly cited in the literature. First, we controlled for the media's ability to criticize the government. Specifically, we used the Global Media Freedom's (GMF) binary media freedom variable (Whitten-Woodring & Van Belle, 2017). We may see fewer executive attacks against media in countries where the press is generally not or inferential critical of officials. A 0 indicates a media system in which criticism of the government is disallowed. A 1 indicates a media system in which government criticism is allowed.[16]

Second, we controlled for the level of respect for basic human rights using Fariss's latent measure (Fariss, 2019). This helped guard against positive findings that were driven by repression in general rather than repression targeted at the media.

Third, we accounted for educational attainment, using V-Dem's education variable. Alemán and Kim (2015) found that more educated publics espouse more democratic values. In our context, this may translate into better educated citizens not tolerating executive attacks on the press. The variable captures the extent to which high-quality, basic education is guaranteed to citizens aged 6 to 16.

Fourth, we included a measure for the flow of information developed by Dreher et al. (2008). Executives may elect to not attack media in places where access to media content remains limited. The variable is constructed using data from television and Internet usage. This continuous variable runs from 1 to 100, with higher values indicating higher media information flows.

Fifth, we included a measure of intrastate conflict in a country (Themnér & Wallensteen, 2011). As with respect for basic human rights, accounting for internal conflict helps guard against positive findings that are driven by violence in general rather than violence against the press. The variable is ordinal and runs from 0 to 2, with higher scores indicating greater conflict intensity. A 0 indicates no conflict, 1 represents a minor conflict between 25 and 999 battle-related deaths, and 2 represents conflict with at least 1,000 deaths.

Finally, we controlled for economic factors—namely, foreign aid as a percentage of gross national income (GNI), natural resources rents as a percentage of gross domestic product (GDP), and the natural log of GDP per capita in current US dollars. We drew foreign aid, resource rents, and GDP per capita from the World Bank Development Indicators (World Bank, 2017).

Estimation approach

Our dependent variables were continuous and vary both across units and over time. We therefore estimated panel, OLS models with country-fixed effects to control for unit heterogeneity. This allowed us to assess the effect of the institutional variables within a country over time, an important aspect of our theory. We also included year-fixed effects to control for global dynamics. We lagged all right-hand side independent and control variables by one year to ensure that the measurement was temporally prior to the dependent variable. Finally, we specified robust (HC1) standard errors. Our unit of analysis was country-year and, due to data availability, our analysis of traditional censorship and media harassment covered 1949 to 2016 in the base models without controls and 1971 to 2016 in the full models with controls. For Internet censorship, our analysis covered 1993 to 2016. We also noted that the conditional nature of our third hypothesis required an interaction term for judicial independence and electoral democracy. We expressed the main model's simplified version as

$$y_{i,t} = \alpha_0 + \beta_1 x_{i,\,t-1} + \beta_2 z_{i,\,t-1} + \beta_3 x * z_{i,\,t-1} + \beta_4 a_{i,\,t-1} + \delta_i + \lambda_t + \varepsilon_{i,\,t.}$$

where *y* represents various executive attacks against media variables, *x* represents judicial independence, *z* represents electoral democracy, *x* * *z* is the interaction between judicial independence and electoral democracy, a represents a set of control variables including year effects, α is the constant, δ represents unit-fixed effects, λ signifies year dummies, and ε is a disturbance term.

Our theory implies three specific outcomes. First, that the judicial independence coefficient is negative and statistically significant ($p < .05$). This result will show the reductive effect of judicial independence on various executive attacks against the media in support of Hypothesis 1. We expected a similar relationship for the electoral democracy coefficient in support of Hypothesis 2. We also expected that the magnitude and significance of judicial independence would decrease as the level of electoral democracy increases. Essentially, the interaction term should be positive and statistically significant ($p < .05$), indicating the reductive effect itself wanes as the level of electoral democracy rises. For ease of comprehension, we plotted the marginal effect of judicial independence on executive attacks across levels of electoral democracy—visual evidence that the magnitude and significance of judicial independence's reductive effect on media attacks decreases as electoral democracy increases.

Hypothesis testing

Main results

Results estimating various attacks on the media appear in Table 1. Models 1 and 2 estimated *traditional censorship* in both the base and full models. Consistent with our expectations, both the coefficients for *judicial independence* and *electoral democracy* were negative and statistically significant ($p < .001$). Models 3 and 4, which estimated *media harassment*, mirrored these results: Both pairs of coefficients were negative and statistically significant ($p < .001$). By contrast, Models 5 and 6, which estimated Internet censorship, did not produce the expected results. *Judicial independence* was not statistically significant in either Model 5 or Model 6, whereas *electoral democracy* was statistically significant ($p < .001$) in both. Overall, these results provide evidence of

both *judicial independence* and *electoral democracy*'s negative effect on media censorship and harassment. Thus, we found support for Hypothesis 1 and Hypothesis 2.

Table 1. Judicial independence and executive attacks against media, 1949–2016.

	(1) Trad. Media	(2) Trad. Media	(3) Media Harassment	(4) Media Harassment	(5) Internet	(6) Internet
Judicial Independence	-2.661***	-2.381***	-2.449***	-2.458***	-.878	-.502
	(.412)	(.517)	(.41)	(.511)	(.696)	(.735)
Electoral Democracy	-4.474***	-3.976***	-4.824***	-4.073***	-2.973***	-2.440***
	(.359)	(.373)	(.339)	(.302)	(.694)	(.681)
Jud. Ind.*Elec. Demo.	2.03**	1.75*	3.416***	3.441***	1.914	1.062
	(.624)	(.774)	(.58)	(.689)	(1.119)	(1.133)
Open Media		-.289*		.269		.019
		(.114)		(.238)		(.141)
Education		-.055		-.03		-.022
		(.067)		(.072)		(.068)
Information Flows		-.002		-.006		-.005
		(.004)		(.004)		(.005)
ln(GDP p/c)		.074		.187**		.22*
		(.059)		(.057)		(.096)
Aid (% GNI)		-.007*		-.004		.003
		(.003)		(.003)		(.003)
Resource Wealth		-.002		-.008**		-.002
		(.002)		(.002)		(.004)
Conflict		-.014		.017		.022
		(.057)		(.05)		(.049)
Human Rights		-.085*		-.074		-.023
		(.037)		(.04)		(.046)

Notes: Standard errors in parentheses; All independent variables and controls lagged ($t - 1$) Intercepts not reported; Country and year effects. *p < .05, **p < .01, ***p < .001.

We will elaborate on these results by discussing their substantive importance. Specifically, we report the percentage change in the dependent variable's standard deviation when estimated values from the independent variable move from the first to the third quartile—that is, go from lower estimated values to higher ones.[17] When judicial independence moved from the first to the third quartile in Model 2, we observed, on average, a roughly -76.8% change in the standard deviation of executive attempts to censor traditional media. This suggests that as the level of *judicial independence*

increases, the level of *traditional media censorship* decreases by 76.8%. We will evaluate substantive

effects for Models 4 and 6 below.

An even bigger change in the standard deviation occurred when *electoral democracy* moves

from the first to the third quartile, -142.3%. For Model 4, we found similarly large effects for *judicial*

independence and *electoral democracy* with -82.2% and -151.2% changes in the dependent variable's

standard deviation, respectively. Finally, we found another substantively large effect for *electoral*

democracy in Model 6, -89.3%. Overall, these results indicate not only statistically significant effects

but substantively large ones as well. *Electoral democracy* appears to have a particularly sizable effect

To evaluate Hypothesis 3, we examined the interaction terms. In Model 2 (censorship of

traditional media), the interaction term, *judicial independence*electoral democracy* was positive and

statistically significant ($p < .05$). Per expectation, the models indicated that the reductive effect of

judicial independence decreases as the level of *electoral democracy* increases. We also found a similar

result in Model 4 (media harassment), where the interaction term was positive and statistically

significant ($p < .001$).

For *Internet censorship* in Models 5 and 6, the interaction terms were positive but statistically

insignificant. This suggests, if tentatively, that the expected interactive relationship does not extend

to the digital landscape.[18]

Consistent with Hypothesis 3, the results indicated that judicial independence's significant,

reductive effect on executive censorship of traditional media was tempered as electoral democracy

increased. The same pattern emerged when we examined media harassment. We graphed Model 2

and 4's interaction term in Figure 1 to illustrate and further investigate these relationships. Figure

1(a–b) both indicate that judicial independence has a significant reductive effect on attacks against

media in countries with lower levels of electoral democracy (see the left-hand side of the plots).

However, this reductive effect decreases as the level of electoral democracy rises (see negative values

on the y-axis getting smaller as one moves from left to right along the x-axis). The figures go further

and suggest a ceiling effect, a threshold at which *judicial independence* loses statistical significance at higher levels of electoral democracy (see the confidence intervals encompass 0). The threshold is about .87 for *traditional censorship* and about .54 for *media harassment*.[19]

We observed a few interesting associations among our control variables. Although they do not bear directly on our theory, we think that they are worth noting. *Human rights* is negative and statistically significant ($p < .05$) in the *traditional censorship* model and negative and significant, although at the less-reliable 90% confidence level, in the *media harassment* model ($p = 0.67$). These results suggest that greater human rights respect is, on average, negatively associated with executive censorship of traditional media and media harassment. However, the data suggest that it is not related to executives' decision to censor the Internet.

We also found that *open media* is negative and statistically significant ($p < .05$) in Model 2, although insignificant in Model 4 and 6. Open media systems decrease, on average, executive censorship of traditional media but not media harassment or censorship of digital media. *Resource wealth* is negative and statistically significant ($p < .01$) in Model 4 but not the others. Higher dependence on resource wealth is associated with lower levels of media harassment. Greater foreign aid dependence is also negatively correlated with executive censorship of traditional media, but not media harassment and censorship of digital media. Finally, *education*, *information flows*, and *conflict* yield no statistically significant results in any models.

Overall, these results support our three hypotheses. Judicial independence and electoral democracy have negative, statistically significant effects on censorship of traditional media and media harassment. The effects are also substantively large, with electoral democracy carrying particular influence. In addition, we found support for the reductive effect of judicial independence on executive censorship of traditional media and executive harassment of media, but not at the highest levels of electoral democracy. Our marginal effects plots indicate a ceiling, where judicial

independence's effect decreases and then loses statistical significance when levels of electoral democracy are high, although the threshold differs between the different attack types.

Figure 1. Marginal effect of judicial independence across electoral democracy levels, 1971-2016
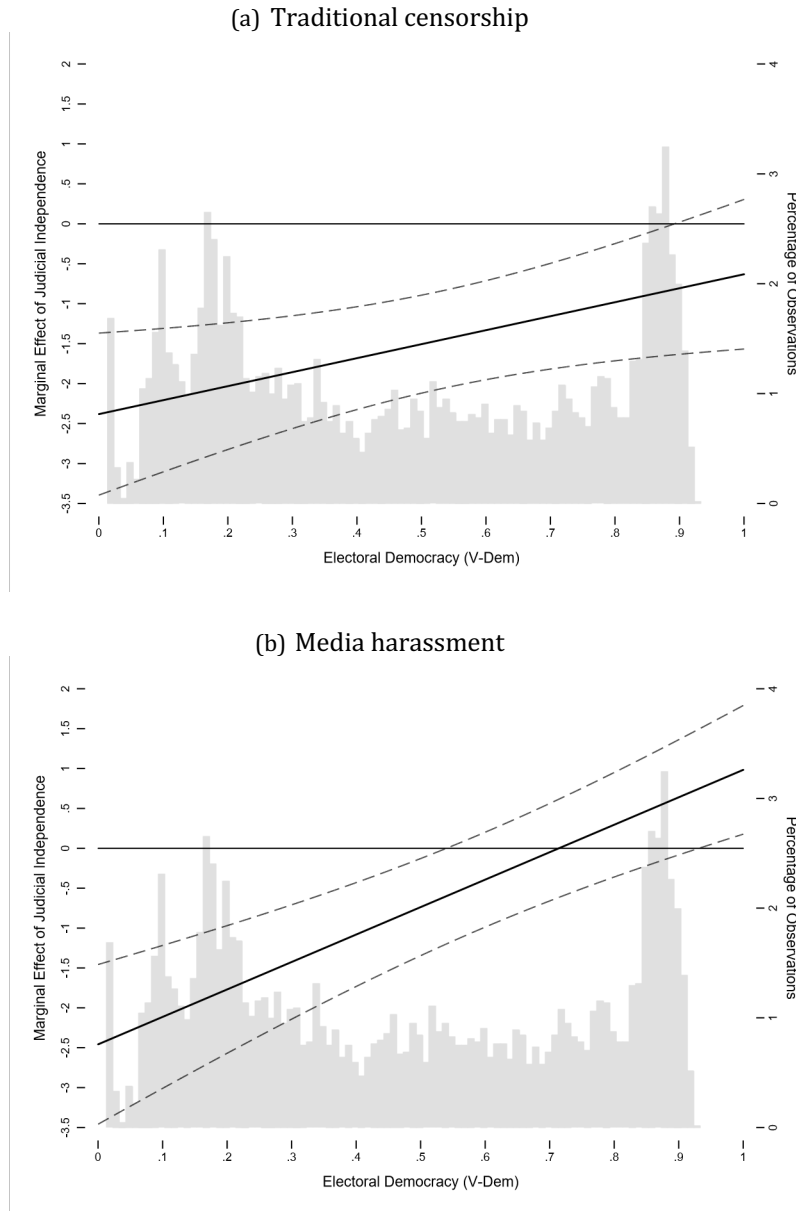
(a) Traditional censorship

(b) Media harassment

Note: The figure shows the marginal effect of judicial independence across different levels of electoral democracy from Models 2 and 4. It also presents a histogram of the sample's electoral democracy scores in the background. Figures 1a and 1b show the magnitudes of judicial independence's statistically significant effect decrease as levels of electoral democracy increases. Judicial independence becomes insignificant for countries at or above .87 electoral democracy in Figure 1a, whereas Figure 1b shows the threshold at about .54.

Robustness checks

Here, we briefly describe robustness checks to the above empirical analysis. The additional estimation approaches and model specifications include incorporating latent variable uncertainty using Monte Carlo simulations, alternative electoral democracy and judicial independence measures, a regional analysis, and inclusion of other potentially confounding factors. The upshot is that these checks did not change our inferences.

Monte Carlo simulations

In the main analysis, different data managers generated several of the variables we included in our models using latent class analysis (LCA), item response theory (IRT) modeling. Latent variable models assume researchers cannot directly observe a construct and instead estimate a posterior distribution around a point estimate that represents uncertainty of the concept's measurement. The models in Table 1 use the means of these posterior distributions. To take into account the variable's measure of uncertainty, we incorporated the posterior distribution's standard deviation in a Monte Carlo simulation analysis. This approach relaxes the assumption that the means of the posterior distributions precisely measure the concept and, instead, incorporates information on raters' reliability.

Each simulation runs the regression model 1,000 times and randomly draws from the posterior distribution, estimating a beta coefficient and standard error each time. The procedure then returns a mean of each variable's beta coefficients and standard errors for each of the 1,000 estimations. We ran the simulations for the latent dependent and independent variables in our main analysis: *traditional censorship*, *media harassment*, *Internet censorship*, *judicial independence*, and *electoral democracy*. The simulations yielded similar results and did not cause us to alter our inferences. We provide these tables and more detail on this estimation strategy in the Online Appendix.

Alternative measures of electoral democracy and judicial independence

We re-estimated the models using an alternative measure of electoral democracy. In accordance with our theory, we only considered variables that emphasize electoral competition and participation, ignoring those that evaluate a more expansive conceptualization of democracy. To that end, we employed the five-category measure from Goldstone et al. (2010). Using the executive recruitment and competitiveness of political participation components of the Polity dataset (West African Journalists Association, 2001), they create five ordinal categories: full autocracy, partial autocracy, partial democracy, partial democracy with factionalism, and full democracy. The data run from 0 to 4, with larger values indicating greater electoral democracy.

The regression results using this alternative measure reflected patterns in the main analysis. When we graphed the marginal effect of judicial independence on executive attacks against the media across the five democracy categories in Figure 2(a), they showed a significant reductive effect in autocracies, partial autocracies, partial democracies, partial democracies with factionalism, and full democracies. Consistent with our expectations, the reductive effect of judicial independence on media harassment decreased as we moved up categories of electoral democracy. Figure 2(b) shows a similar pattern. We also detected a ceiling effect here: Judicial independence does not have a statistically significant effect for full democracies in this sample. We provide the full results in the Online Appendix. As with the findings in our main Table 1, both judicial independence and the interaction term were insignificant for Internet censorship.
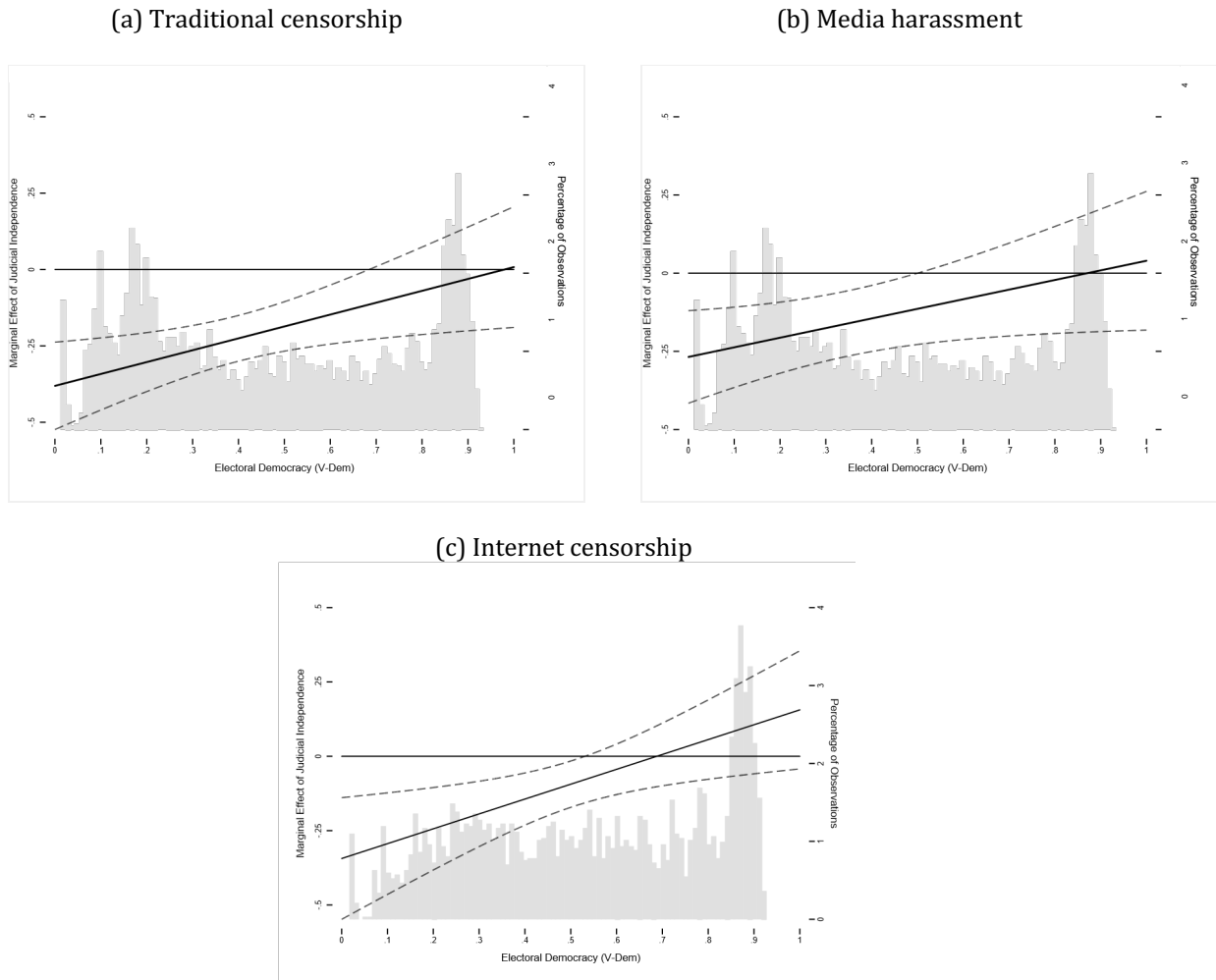
Figure 2. Marginal effect of judicial independence, Goldstone et al.'s (2010) electoral democracy
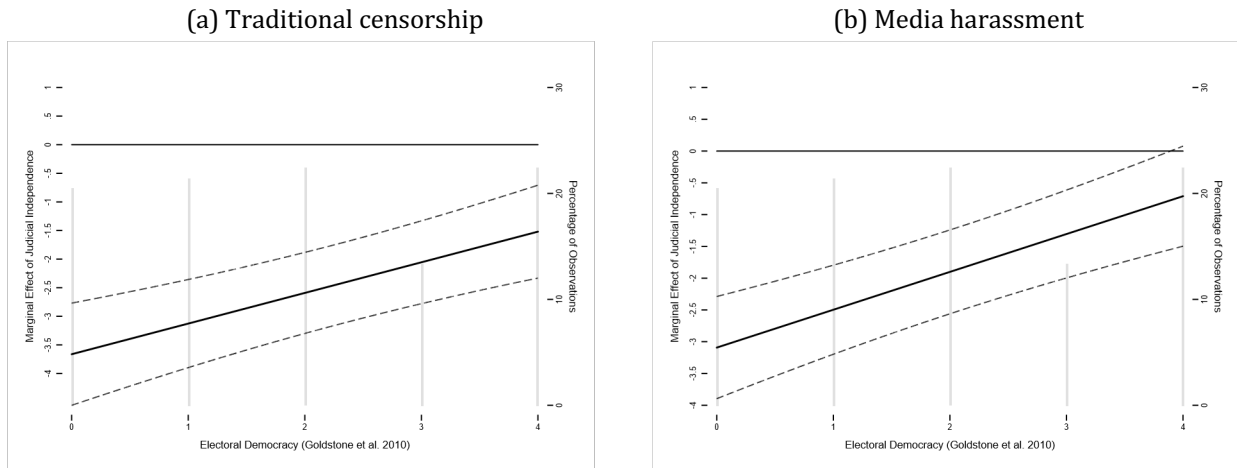
(a) Traditional censorship   (b) Media harassment

Note: The figure shows the marginal effect of judicial independence across different levels of an alternative electoral democracy measure (Goldstone et al., 2010). It also presents a histogram of the sample's electoral democracy scores in the background. Figures 2a and 2b show the marginal effects of judicial independence's statistically significant effect decrease as levels of electoral democracy increases. Judicial independence becomes insignificant for full democracies in Figure 2b.

Finally, we substituted Linzer and Staton's (2015) latent judicial independence variable with VDem's measure of high court independence. The V-Dem variable captures whether or not a country's high court hands down decisions that reflect the executive's directives regardless of its genuine interpretation of the law. Like the Linzer and Staton variable used in the main analysis, this measure is continuous and runs from 0 to 1, with higher scores indicating greater levels of high court independence. Both the regression results and graphed marginal effects in Figure 3 provide evidence that is generally consistent with the main analysis. However, the interaction effect absent in previous models for Internet censorship materializes in this analysis, both in the regression results and the marginal effects plots. Taken together the results remain consistent, and we present them in full in the Online Appendix.

Figure 3. Marginal effect of judicial independence, V-Dem's high-court independence

(a) Traditional censorship

(b) Media harassment

(c) Internet censorship

Note: The figure shows the marginal effect of an alternative judicial independence measure (V-Dem's high court independence) across different levels of electoral democracy. It also presents a histogram of the sample's electoral democracy scores in the background. Figures 3a, 3b, and 3c show the marginal effect of judicial independence's statistically significant effect decrease as levels of electoral democracy increases. Judicial independence becomes insignificant for countries at or above .67 electoral democracy in Figure 3a, .48 in Figure 3b, and .53 in Figure 3c.

Geographic region and other potentially confounding factors

Given potential concerns of overfitting and pairwise sample deletion, we limited the number of control variables in the article's main models. However, in a supplementary analysis, we examined several other potentially confounding factors, including economic and national capabilities, political constraints, colonial background, coup events, presidential and national elections, boycotts of national elections, protests, divided government, the Cold War (binary variable), and executive

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attacks on the judiciary. The upshot is that our findings are robust and remain consistent with the inclusion of these variables. We describe the variables we used and present the results of this supplementary analysis in the Online Appendix. Finally, we stratified the sample by six world regions to determine if the micro-level findings support the macro-level results. Overall, the results largely comport with the main findings for most regions. We provide these results in more detail and a list of countries in each regional group in the Online Appendix.

Discussion

We found broad and consistent support for our theory that judicial independence and electoral democracy have independent, reductive effects on executive attacks on the media, of note, censorship efforts of traditional media and media harassment. The data further show that judicial independence's effect is conditional on the level of electoral democracy: As the level of electoral democracy rises, judicial independence's reductive effect gets smaller. The data also indicate a ceiling effect for judicial independence in reducing executive censorship of traditional media and media harassment: The effect vanishes at higher levels of electoral democracy. The results are robust to Monte Carlo simulations that incorporate latent variable uncertainty, alternative measures of electoral democracy and judicial independence, a regional analysis, and the inclusion of additional, potentially confounding factors.

Interestingly, we did not observe stable effects for executive censorship of the Internet. Models estimating Internet censorship did not produce statistically significant results for either judicial independence or the interaction terms. However, alternative models offered some evidence of the conditional effect of judicial independence on our outcomes of interest.

In this regard, this article offers at least two contributions to the scholarly literature. First, it expands the literature's theoretical state by crafting a theory that encompasses the interaction of political institutions and the effect of that interaction on executives' proclivity to attack the media.

More precisely, an executive decides to repress or to respect the press based on the sanctions he or she anticipates from courts and citizens. Next, the article uses latent variables and their posterior distributions to make more reliable inferences about the determinants of executive attacks on the media. Monte Carlo simulations allowed us to incorporate uncertainty and relax the assumption that the point estimates capture the construct perfectly. This is especially valuable for modeling phenomena difficult to observe like executives assailing their watchdogs.

Our research introduces a puzzle for future work: Judicial independence appears to reduce executive censorship of traditional media and media harassment. Indeed, the data generally indicate that independent courts discourage attacks on "brick and mortar" media outlets and deter physical integrity rights violations for journalists. But the data do not indicate the same relationship or effect for websites and social media. Perhaps judges do not see Internet content—which is, by comparison to the other media, very new—as an essential component of media freedom. Alternatively, it could be that, in countries with lower levels of literacy and where Internet coverage is less reliable, judges may be inclined to prioritize protecting traditional media over online media because prospective voters rely more on the former than the latter, especially the radio. The Internet also represents a newer legal frontier: Many countries may still be deciding what online content the law should protect and what constitutes permissible content. Scholars replicating our work with new data on Internet censorship in 20 years may find substantially different results.

Other researchers may also want to investigate the influence of the legislature. Law-making bodies may enact laws to protect media and discourage executive attacks against them. For instance, Ghana's legislature introduced a law to decriminalize libel and slander in 2001 (Human Rights Watch, 2010). Yet, because executives and legislators in many systems represent the same ideological and partisan interests, legislatures may be unlikely to provide a horizontal check on the excesses of the executive. In fact, legislatures that are aligned with executives may promulgate laws that infringe on media freedom. In addition, future research might explore the international community's influence.

Our results indicate that greater foreign aid dependence is negatively associated with censorship of traditional media. This suggests that global actors may be playing a role. In 2010 for instance, the European Court of Human Rights ordered the release of an Azerbaijani journalist who had been sentenced to eight years in prison for writing unflattering news articles about the executive (Human Rights Watch, 2010).

Overall, this article provides insight into the institutions that shape executive behavior, specifically, its orientation and actions toward media firms and personnel. The results shed light on the importance of separation of powers among branches of government, as well as citizen action, for protecting freedom of the press—a crucial arm of accountability and an essential vehicle of good governance.

Notes

1. We use the terms "journalists," "the media," and "the press" interchangeably.
2. We use the term "executive" to mean the executive branch of government that leads the country's governance and is responsible for carrying out laws and implementing policy.
3. Reporters without Borders (2020) found a 13% decrease in its measure of media freedom worldwide since the media watchdog group began its current index in 2013, and Maerz et al. (2020) found autocracies in the majority of countries worldwide as of 2020, with attacks against the media as a key factor and becoming more severe.
4. Ours is a logic of consequences argument. Certainly, a logic of appropriateness may operate in some contexts, constraining leaders' decisions to repress the media for reasons other than judicial and electoral sanctions. However, we are most interested in those political contexts in which a logic of appropriateness does not operate—that is, where democratic norms (among them prohibitions on repression) are not established.
5. See, for example, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the American and European human rights conventions.
6. Some scholars have considered the relationship between electoral democracy and judicial independence on personal freedom; that is, "the extent to which people can make the choices they want in personal and public life without being dominated by others" (Berggren & Gutmann, 2020, 166).
7. For this variable, data coverage begins in 1993 and concludes in 2016 with the rest of our data.
8. Van Dalen (2021) described this classic relationship first articulated by Blumler and Gurevitch (1995) and Cook (1998).
9. With the advent of new and social media, leaders have been able to bypass these conventional routes to bring messages directly to citizens and even a global audience (Van Dalen, 2021, p. 2715), although traditional mediums (especially television) remain an important conduit for leaders in some countries (IREX, 2021).

10. As an example, see Mexico under the Institutional Revolutionary Party's (PRI) single-party dictatorship during much of the twentieth century. Lawson (2002) described this relationship between the executive and media in Mexico as a "culture of collusion," in which "physical repression, direct government ownership, and official punishment for receiving banned information were all rare" (pp. 26–28).

11. In this first articulation of our theory of the interaction of institutions that influence the likelihood of executive attacks on the media, we excluded the legislature. We did this first because executives and legislators in a multiplicity of systems around the world often represent the same ideological and partisan interests. Thus, it is reasonable to suppose that the legislature is unlikely to provide a horizontal check on the executive. Put another way, the legislature's preferences and actions are already reflected in executive decision making and policy. Relatedly, the legislature and its constituent members are not expected to be independent of the executive whereas judges are expected to be independent. For this reason, judges often have institutional powers and protections that legislators lack—for example, longer tenures—that make possible adverse rulings. In like manner, citizens are not obliged to the executive as legislators might be, and citizens can remove leaders through various means. Hence, our focus on judicial and electoral institutions. Of course, building on our work, scholars should consider the role and influence of legislatures.

12. Although we only discuss two such occurrences to save space, courts often get involved in press-related cases. Media watchdog groups like Freedom House, IFEX, Committee to Protect Journalists, and Reporters Without Borders routinely report such cases salient to media freedom on their websites and in annual reports.

13. Examples include postpartition India, Jim Crow-era United States, apartheid South Africa, much of the United Arab Emirates' history, and post-World War II Greece. See the Appendix (Section B, Supplementary Material) for further discussion.

14. We acknowledge that populist movements in some countries produce democratically elected leaders who position themselves against traditional media, who they sometimes characterize as "fake news media." Leaders from these movements might attack the press, regardless of the level of democracy. Notwithstanding, these movements do not currently enjoy national majorities in most instances and they certainly do not enjoy a global majority.

15. Indirect censorship involves awarding of broadcast frequencies, withdrawal of financial support, influence over printing facilities and distribution networks, selected distribution of advertising, onerous registration requirements, prohibitive tariffs, and bribery.

16. Although we acknowledge that this control is related to the dependent variables, it remains an important inclusion to control for the general environment in which media function. In countries with a generally open environment and an established practice of criticizing government, executives may be less likely to perpetrate attacks against the media. Nevertheless, we ran models excluding this control and our inferences did not change. See Online Appendix.

17. In choosing the range to examine percent change, we opted for the first and third quartile to follow the precedent set in previous work (Solis & Antenangeli, 2017, pp. 1126–1127).

18. As a further check, we ran Models 1–4 using the same time period as the internet censorship models (Models 5–6) to ensure these results were not a function of this particular time period (1993–2016). Our inferences did not change when we ran the analysis on this truncated time period. See the Online Appendix for these confirmatory results.

19. We provide the Internet censorship figure in the Online Appendix. It shows judicial independence is statistically insignificant at all values of electoral democracy (Marshall and Jaggers, 2017).

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